

112TH CONGRESS }
2d Session

HOUSE OF REPRESENTATIVES

{ REPORT
112-458

STUDENT SUCCESS ACT

R E P O R T

OF THE

COMMITTEE ON EDUCATION AND THE WORKFORCE

TO ACCOMPANY

H.R. 3989

TO SUPPORT STATE AND LOCAL ACCOUNTABILITY FOR PUBLIC
EDUCATION, INFORM PARENTS OF THEIR SCHOOLS' PERFORM-
ANCE

together with

MINORITY VIEWS



APRIL 27, 2012.—Committed to the Committee of the Whole House on
the State of the Union and ordered to be printed

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STUDENT SUCCESS ACT

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Mr. KLINE, from the Committee on Education and the Workforce, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 3989]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and the Workforce, to whom was referred the bill (H.R. 3989) to support State and local accountability for public education, inform parents of their schools' performance, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Student Success Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. References.
- Sec. 4. Transition.
- Sec. 5. Effective dates.
- Sec. 6. Authorization of appropriations.

TITLE I—AID TO LOCAL EDUCATIONAL AGENCIES

Subtitle A—In General

- Sec. 101. Title heading.
- Sec. 102. Statement of purpose.
- Sec. 103. Flexibility to use Federal funds.
- Sec. 104. School improvement.
- Sec. 105. Direct student services.
- Sec. 106. State administration.

Subtitle B—Improving the Academic Achievement of the Disadvantaged

- Sec. 111. Part A headings.
- Sec. 112. State plans.
- Sec. 113. Local educational agency plans.
- Sec. 114. Eligible school attendance areas.
- Sec. 115. Schoolwide programs.
- Sec. 116. Targeted assistance schools.
- Sec. 117. Academic assessment and local educational agency and school improvement; school support and recognition.
- Sec. 118. Parental involvement.
- Sec. 119. Qualifications for teachers and paraprofessionals.
- Sec. 120. Participation of children enrolled in private schools.
- Sec. 121. Fiscal requirements.
- Sec. 122. Coordination requirements.
- Sec. 123. Grants for the outlying areas and the Secretary of the Interior.
- Sec. 124. Allocations to States.
- Sec. 125. Basic grants to local educational agencies.
- Sec. 126. Adequacy of funding of targeted grants to local educational agencies in fiscal years after fiscal year 2001.
- Sec. 127. Education finance incentive grant program.
- Sec. 128. Carryover and waiver.

Subtitle C—Additional Aid to States and School Districts

- Sec. 131. Additional aid.

Subtitle D—National Assessment

- Sec. 141. National assessment of title I.

Subtitle E—Title I General Provisions

- Sec. 151. General provisions for title I.

TITLE II—GENERAL PROVISIONS FOR THE ACT

- Sec. 201. General provisions for the Act.
- Sec. 202. Repeal.
- Sec. 203. Other laws.
- Sec. 204. Amendment to IDEA.

SEC. 3. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

SEC. 4. TRANSITION.

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

SEC. 5. EFFECTIVE DATES.

(a) **IN GENERAL.**—Except as otherwise provided in this Act, this Act, and the amendments made by this Act, shall be effective upon the date of enactment of this Act.

(b) **NONCOMPETITIVE PROGRAMS.**—With respect to noncompetitive programs under which any funds are allotted by the Secretary of Education to recipients on the basis of a formula, this Act, and the amendments made by this Act, shall take effect on July 1, 2012.

(c) **COMPETITIVE PROGRAMS.**—With respect to programs that are conducted by the Secretary on a competitive basis, this Act, and the amendments made by this Act, shall take effect with respect to appropriations for use under those programs for fiscal year 2013.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

The Act (20 U.S.C. 6301 et seq.) is amended by inserting after section 2 the following:

“SEC. 3. AUTHORIZATIONS OF APPROPRIATIONS.

“(a) TITLE I.—

“(1) PART A.—There are authorized to be appropriated to carry out part A of title I \$16,651,768,000 for fiscal year 2013.

“(2) PART B.—There are authorized to be appropriated to carry out part B of title I \$3,194,000 for fiscal year 2013.

“(b) OUT YEARS.—The amounts authorized by subsection (a) shall be increased for each of fiscal years 2014 through 2018 by a percentage equal to the percentage of inflation according to the Consumer Price Index, for the calendar year ending prior to the beginning of that fiscal year.”.

TITLE I—AID TO LOCAL EDUCATIONAL AGENCIES

Subtitle A—In General

SEC. 101. TITLE HEADING.

The title heading for title I (20 U.S.C. 6301 et seq.) is amended to read as follows:

“TITLE I—AID TO LOCAL EDUCATIONAL AGENCIES”.

SEC. 102. STATEMENT OF PURPOSE.

Section 1001 (20 U.S.C. 6301) is amended to read as follows:

“SEC. 1001. STATEMENT OF PURPOSE.

“The purpose of this title is to provide all children the opportunity to graduate high school prepared for postsecondary education or the workforce. This purpose can be accomplished by—

“(1) meeting the educational needs of low-achieving children in our Nation’s highest-poverty schools, English learners, migratory children, children with disabilities, Indian children, and neglected or delinquent children;

“(2) closing the achievement gap between high- and low-performing children, especially the achievement gaps between minority and nonminority students, and between disadvantaged children and their more advantaged peers;

“(3) affording parents substantial and meaningful opportunities to participate in the education of their children; and

“(4) challenging States and local educational agencies to embrace meaningful, evidence-based education reform, while encouraging state and local innovation.”.

SEC. 103. FLEXIBILITY TO USE FEDERAL FUNDS.

Section 1002 (20 U.S.C. 6302) is amended to read as follows:

“SEC. 1002. FLEXIBILITY TO USE FEDERAL FUNDS.

“(a) ALTERNATIVE USES OF FEDERAL FUNDS FOR STATE EDUCATIONAL AGENCIES.—

“(1) IN GENERAL.—Subject to subsections (c) and (d) and notwithstanding any other provision of law, a State educational agency may use the applicable funding that the agency receives for a fiscal year to carry out any State activity authorized or required under one or more of the following provisions:

“(A) Section 1003.

“(B) Section 1004.

“(C) Subpart 2 of part A of title I.

“(D) Subpart 3 of part A of title I.

“(E) Subpart 4 of part A of title I.

“(F) Chapter B of subpart 6 of part A of title I.

“(2) NOTIFICATION.—Not later than June 1 of each year, a State educational agency shall notify the Secretary of the State educational agency’s intention to use the applicable funding for any of the alternative uses under paragraph (1).

“(3) APPLICABLE FUNDING DEFINED.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), in this subsection, the term ‘applicable funding’ means funds provided to carry out State activities under one or more of the following provisions.

“(i) Section 1003.

“(ii) Section 1004.

“(iii) Subpart 2 of part A of title I.

“(iv) Subpart 3 of part A of title I.

“(v) Subpart 4 of part A of title I.

“(B) LIMITATION.—In this subsection, the term ‘applicable funding’ does not include funds provided under any of the provisions listed in subparagraph (A) that State educational agencies are required by this Act—

“(i) to reserve, allocate, or spend for required activities;

“(ii) to allocate, allot, or award to local educational agencies or other entities eligible to receive such funds; or

“(iii) to use for technical assistance or monitoring.

“(4) DISBURSEMENT.—The Secretary shall disburse the applicable funding to State educational agencies for alternative uses under paragraph (1) for a fiscal year at the same time as the Secretary disburses the applicable funding to

State educational agencies that do not intend to use the applicable funding for such alternative uses for the fiscal year.

“(b) ALTERNATIVE USES OF FEDERAL FUNDS FOR LOCAL EDUCATIONAL AGENCIES.—

“(1) IN GENERAL.—Subject to subsections (c) and (d) and notwithstanding any other provision of law, a local educational agency may use the applicable funding that the agency receives for a fiscal year to carry out any local activity authorized or required under one or more of the following provisions:

- “(A) Section 1003.
- “(B) Subpart 1 of part A of title I.
- “(C) Subpart 2 of part A of title I.
- “(D) Subpart 3 of part A of title I.
- “(E) Subpart 4 of part A of title I.
- “(F) Subpart 6 of part A of title I.

“(2) NOTIFICATION.—A local educational agency shall notify the State educational agency of the local educational agency’s intention to use the applicable funding for any of the alternative uses under paragraph (1) by a date that is established by the State educational agency for the notification.

“(3) APPLICABLE FUNDING DEFINED.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), in this subsection, the term ‘applicable funding’ means funds provided to carry out local activities under one or more of the following provisions:

- “(i) Subpart 2 of part A of title I.
- “(ii) Subpart 3 of part A of title I.
- “(iii) Subpart 4 of part A of title I.
- “(iv) Chapter A of subpart 6 of part A of title I.

“(B) LIMITATION.—In this subsection, the term ‘applicable funding’ does not include funds provided under any of the provisions listed in subparagraph (A) that local educational agencies are required by this Act—

- “(i) to reserve, allocate, or spend for required activities;
- “(ii) to allocate, allot, or award to entities eligible to receive such funds; or
- “(iii) to use for technical assistance or monitoring.

“(4) DISBURSEMENT.—Each State educational agency that receives applicable funding for a fiscal year shall disburse the applicable funding to local educational agencies for alternative uses under paragraph (1) for the fiscal year at the same time as the State educational agency disburses the applicable funding to local educational agencies that do not intend to use the applicable funding for such alternative uses for the fiscal year.

“(c) RULE FOR ADMINISTRATIVE COSTS.—A State educational agency or a local educational agency shall only use applicable funding (as defined in subsection (a)(3) or (b)(3), respectively) for administrative costs incurred in carrying out a provision listed in subsection (a)(1) or (b)(1), respectively, to the extent that the agency, in the absence of this section, could have used funds for administrative costs with respect to a program listed in subsection (a)(3) or (b)(3), respectively.

“(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to relieve a State educational agency or local educational agency of any requirements relating to—

- “(1) use of Federal funds to supplement, not supplant, non-Federal funds;
- “(2) comparability of services;
- “(3) equitable participation of private school students and teachers;
- “(4) applicable civil rights requirements;
- “(5) section 1113; or
- “(6) section 1111.”

SEC. 104. SCHOOL IMPROVEMENT.

Section 1003 (20 U.S.C. 6303) is amended—

(1) in subsection (a)—

(A) by striking “2 percent” and inserting “7 percent”; and

(B) by striking “subpart 2 of part A” and all that follows through “sections 1116 and 1117,” and inserting “chapter B of subpart 1 of part A for each fiscal year to carry out subsection (b),”;

(2) in subsection (b)(1), by striking “for schools identified for school improvement, corrective action, and restructuring, for activities under section 1116(b)” and inserting “to carry out the State’s system of school improvement under section 1111(b)(3)(B)(iii)”;

(3) in subsection (c)—

(A) in paragraph (1), by inserting “and” at the end;

(B) in paragraph (2), by striking “need for such funds; and” and inserting “commitment to using such funds to improve such schools.”; and

- (C) by striking paragraph (3);
- (4) in subsection (d)(1), by striking “subpart 2 of part A;” and inserting “chapter B of subpart 1 of part A;”;
- (5) in subsection (e)—
 - (A) by striking “in any fiscal year” and inserting “in fiscal year 2014 and each subsequent fiscal year”;
 - (B) by striking “subpart 2” and inserting “chapter B of subpart 1 of part A”; and
 - (C) by striking “such subpart” and inserting “such chapter”;
- (6) in subsection (f), by striking “and the percentage of students from each school from families with incomes below the poverty line”; and
- (7) by striking subsection (g).

SEC. 105. DIRECT STUDENT SERVICES.

The Act (20 U.S.C. 6301 et seq.) is amended by inserting after section 1003 the following:

“SEC. 1003A. DIRECT STUDENT SERVICES.

“(a) STATE RESERVATION.—Each State shall reserve 3 percent of the amount the State receives under chapter B of subpart 1 of part A for each fiscal year to carry out this section. Of such reserved funds, the State educational agency may use up to 1 percent to administer direct student services.

“(b) DIRECT STUDENT SERVICES.—From the amount available after the application of subsection (a), each State shall award grants in accordance with this section to local educational agencies to support direct student services.

“(c) AWARDS.—The State educational agency shall award grants to geographically diverse local educational agencies including suburban, rural, and urban local educational agencies. If there are not enough funds to award all applicants in a sufficient size and scope to run an effective direct student services program, the State shall prioritize awards to local educational agencies with the greatest number of low-performing schools.

“(d) LOCAL USE OF FUNDS.—A local educational agency receiving an award under this section—

“(1) shall use up to 1 percent of each award for outreach and communication to parents about their options and to register students for direct student services;

“(2) may use not more than 2 percent of each award for administrative costs related to direct student services; and

“(3) shall use the remainder of the award to pay the transportation required to provide public school choice or the hourly rate for high-quality academic tutoring services, as determined in the provider approval process under subsection (f)(2).

“(e) APPLICATION.—A local educational agency desiring to receive an award under subsection (b) shall submit an application describing how the local educational agency will—

“(1) provide adequate outreach to ensure parents can exercise a meaningful choice of direct student services for their child’s education;

“(2) ensure parents have adequate time and information to make a meaningful choice prior to enrolling their child in a direct student service;

“(3) ensure ample availability in the public schools the local educational agency will make available for public school choice options;

“(4) determine the requirements or criteria for student eligibility for direct student services;

“(5) select a variety of providers of high quality academic tutoring from the list required under subsection (f)(2) and ensure fair negotiations in selecting such providers of high-quality academic tutoring, including online, on campus, and other models of tutoring which provide meaningful choices to parents to find the best service for their child; and

“(6) develop an estimated per pupil expenditure available for eligible students to use toward high quality academic tutoring which shall allow for adequate level of services to increase academic achievement from a variety of high-quality academic tutoring providers.

“(f) PROVIDERS AND SCHOOLS.—The State—

“(1) shall ensure that each local educational agency receiving an award to provide public school choice can provide an ample number of options to provide a meaningful choice for parents;

“(2) shall compile a list of State-approved high-quality academic tutoring providers that includes online, on campus, and other models of tutoring; and

“(3) shall ensure that each local educational agency receiving an award will provide an adequate number of high-quality academic tutoring options to ensure parents have a meaningful choice of services.”.

SEC. 106. STATE ADMINISTRATION.

Section 1004 (20 U.S.C. 6304) is amended to read as follows:

“SEC. 1004. STATE ADMINISTRATION.

“(a) **IN GENERAL.**—Except as provided in subsection (b), to carry out administrative duties assigned under subparts 1, 2, and 3 of part A of this title, each State may reserve the greater of—

“(1) 1 percent of the amounts received under such subparts; or

“(2) \$400,000 (\$50,000 in the case of each outlying area).

“(b) **EXCEPTION.**—If the sum of the amounts reserved under subparts 1, 2, and 3 of part A of this title is equal to or greater than \$14,000,000,000, then the reservation described in subsection (a)(1) shall not exceed 1 percent of the amount the State would receive if \$14,000,000,000 were allocated among the States for subparts 1, 2, and 3 of part A of this title.”.

Subtitle B—Improving the Academic Achievement of the Disadvantaged

SEC. 111. PART A HEADINGS.

(a) **PART HEADING.**—The part heading for part A of title I (20 U.S.C. 6311 et seq.) is amended to read as follows:

“PART A—IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED”.

(b) **SUBPART 1 HEADING.**—The Act is amended by striking the subpart heading for subpart 1 of part A of title I (20 U.S.C. 6311 et seq.) and inserting the following:

“Subpart 1—Improving Basic Programs Operated by Local Educational Agencies

“CHAPTER A—BASIC PROGRAM REQUIREMENTS”.

(c) **SUBPART 2 HEADING.**—The Act is amended by striking the subpart heading for subpart 2 of part A of title I (20 U.S.C. 6331 et seq.) and inserting the following:

“CHAPTER B—ALLOCATIONS”.

SEC. 112. STATE PLANS.

Section 1111 (20 U.S.C. 6311) is amended to read as follows:

“SEC. 1111. STATE PLANS.

“(a) **PLANS REQUIRED.**—

“(1) **IN GENERAL.**—For any State desiring to receive a grant under this subpart, the State educational agency shall submit to the Secretary a plan, developed by the State educational agency, in consultation with local educational agencies, teachers, school leaders, specialized instructional support personnel, other appropriate school personnel, and parents, that satisfies the requirements of this section and that is coordinated with other programs under this Act, the Individuals with Disabilities Education Act, the Carl D. Perkins Career and Technical Education Act of 2006, the Head Start Act, the Adult Education and Family Literacy Act, and the McKinney-Vento Homeless Assistance Act.

“(2) **CONSOLIDATED PLAN.**—A State plan submitted under paragraph (1) may be submitted as part of a consolidated plan under section 5302.

“(b) **ACADEMIC STANDARDS, ACADEMIC ASSESSMENTS, AND STATE ACCOUNTABILITY.**—

“(1) **ACADEMIC STANDARDS.**—

“(A) **IN GENERAL.**—Each State plan shall demonstrate that the State has adopted academic content standards and academic achievement standards aligned with such content standards that comply with the requirements of this paragraph.

“(B) SUBJECTS.—The State shall have such academic standards for mathematics and reading or language arts, and may have such standards for any other subject determined by the State.

“(C) REQUIREMENTS.—The standards described in subparagraph (A) shall—

“(i) apply to all public schools and public school students in the State; and

“(ii) with respect to academic achievement standards, include the same knowledge, skills, and levels of achievement expected of all public school students in the State.

“(D) ALTERNATE ACADEMIC ACHIEVEMENT STANDARDS.—Notwithstanding any other provision of this paragraph, a State may, through a documented and validated standards-setting process, adopt alternate academic achievement standards for students with the most significant cognitive disabilities, if—

“(i) the determination about whether the achievement of an individual student should be measured against such standards is made separately for each student; and

“(ii) such standards—

“(I) are aligned with the State academic standards required under subparagraph (A);

“(II) promote access to the general curriculum; and

“(III) reflect professional judgment as to the highest possible standards achievable by such students.

“(E) ENGLISH LANGUAGE PROFICIENCY STANDARDS.—Each State plan shall describe how the State educational agency will establish English language proficiency standards that are—

“(i) derived from the four recognized domains of speaking, listening, reading, and writing; and

“(ii) aligned with the State’s academic content standards in reading or language arts under subparagraph (A).

“(2) ACADEMIC ASSESSMENTS.—

“(A) IN GENERAL.—Each State plan shall demonstrate that the State educational agency, in consultation with local educational agencies, has implemented a set of high-quality student academic assessments in mathematics and reading or language arts. At the State’s discretion, the State plan may also demonstrate that the State has implemented such assessments in any other subject chosen by the State

“(B) REQUIREMENTS.—Such assessments shall—

“(i) be used in determining the performance of each local educational agency and public school in the State in accordance with the State’s accountability system under paragraph (3);

“(ii) be the same academic assessments used to measure the academic achievement of all public school students in the State;

“(iii) be aligned with the State’s academic standards and provide coherent and timely information about student attainment of such standards;

“(iv) be used for purposes for which such assessments are valid and reliable, be of adequate technical quality for each purpose required under this Act, and be consistent with relevant, nationally recognized professional and technical standards;

“(v)(I) in the case of mathematics and reading, be administered in each of grades 3 through 8 and at least once in grades 9 through 12;

“(II) in the case of any other subject chosen by the State, be administered at the discretion of the State;

“(vi) measure individual student academic proficiency and growth;

“(vii) at the State’s discretion—

“(I) be administered through a single annual summative assessment; or

“(II) be administered through multiple assessments during the course of the academic year that result in a single summative score that provides valid, reliable, and transparent information on student achievement;

“(viii) include measures that assess higher-order thinking skills and understanding;

“(ix) provide for—

“(I) the participation in such assessments of all students;

“(II) the reasonable adaptations and accommodations for students with disabilities necessary to measure the academic achieve-

ment of such students relative to the State's academic standards; and

“(III) the inclusion of English learners, who shall be assessed in a valid and reliable manner and provided reasonable accommodations, including, to the extent practicable, assessments in the language and form most likely to yield accurate and reliable information on what such students know and can do in academic content areas, until such students have achieved English language proficiency, as assessed by the State under subparagraph (D);

“(x) notwithstanding clause (ix)(III), provide for the assessment of reading or language arts in English for English learners who have attended school in the United States (not including Puerto Rico) for 3 or more consecutive school years, except that a local educational agency may, on a case-by-case basis, provide for the assessment of reading or language arts for each such student in a language other than English for a period not to exceed 2 additional consecutive years if the assessment would be more likely to yield accurate and reliable information on what such student knows and can do, provided that such student has not yet reached a level of English language proficiency sufficient to yield valid and reliable information on what such student knows and can do on reading or language arts assessments written in English;

“(xi) produce individual student interpretive, descriptive, and diagnostic reports regarding achievement on such assessments that allow parents, teachers, and school leaders to understand and address the specific academic needs of students, and that are provided to parents, teachers, and school leaders, as soon as is practicable after the assessment is given, in an understandable and uniform format, and to the extent practicable, in a language that parents can understand;

“(xii) enable results to be disaggregated within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English language proficiency status, by migrant status, by status as a student with a disability, and by economically disadvantaged status, except that, in the case of a local educational agency or a school, such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student; and

“(xiii) be administered to not less than 95 percent of all students, and not less than 95 percent of each subgroup of students described in paragraph (3)(B)(ii)(II).

“(C) ALTERNATE ASSESSMENTS.—A State may provide for alternate assessments aligned with the alternate academic standards adopted in accordance with paragraph (1)(D), for students with the most significant cognitive disabilities, if the State—

“(i) establishes and monitors implementation of clear and appropriate guidelines for individualized education program teams (as defined in section 614(d)(1)(B) of the Individuals with Disabilities Education Act) to apply when determining when a child's significant cognitive disability justifies assessment based on alternate achievement standards;

“(ii) ensures that the parents of such students are informed that—

“(I) their child's academic achievement will be measured against such alternate standards; and

“(II) whether participation in such assessments precludes the student from completing the requirements for a regular high school diploma as defined in section 5101(35)(A);

“(iii) demonstrates that such students are, to the extent practicable, included in the general curriculum and that such alternate assessments are aligned with such curriculum;

“(iv) develops, disseminates information about, and promotes the use of appropriate accommodations to increase the number of students with disabilities who are tested against academic achievement standards for the grade in which a student is enrolled; and

“(v) ensures that regular and special education teachers and other appropriate staff know how to administer the alternate assessments, including making appropriate use of accommodations for students with disabilities.

“(D) ASSESSMENTS OF ENGLISH LANGUAGE PROFICIENCY.—

“(i) IN GENERAL.—Each State plan shall demonstrate that local educational agencies in the State will provide for an annual assessment of

English proficiency of all English learners in the schools served by the State educational agency.

“(ii) ALIGNMENT.—The assessments described in clause (i) shall be aligned with the State’s English language proficiency standards described in paragraph (1)(E).

“(E) LANGUAGE ASSESSMENTS.—Each State plan shall identify the languages other than English that are present in the participating student population and indicate the languages for which yearly student academic assessments are not available and are needed. The State shall make every effort to develop such assessments and may request assistance from the Secretary if linguistically accessible academic assessment measures are needed. Upon request, the Secretary shall assist with the identification of appropriate academic assessment measures in the needed languages, but shall not mandate a specific academic assessment or mode of instruction.

“(F) ADAPTIVE ASSESSMENTS.—A State may develop and administer computer adaptive assessments as the assessments required under subparagraph (A). If a State develops and administers a computer adaptive assessment for such purposes, the assessment shall meet the requirements of this paragraph, except as follows:

“(i) Notwithstanding subparagraph (B)(iii), the assessment—

“(I) shall measure, at a minimum, each student’s academic proficiency against the State’s academic standards for the student’s grade level and growth toward such standards; and

“(II) if the State chooses, may be used to measure the student’s level of academic proficiency and growth using assessment items above or below the student’s grade level, including for use as part of a State’s accountability system under paragraph (3).

“(ii) Subparagraph (B)(ii) shall not be interpreted to require that all students taking the computer adaptive assessment be administered the same assessment items.

“(3) STATE ACCOUNTABILITY SYSTEMS.—

“(A) IN GENERAL.—Each State plan shall demonstrate that the State has developed and is implementing a single, statewide accountability system to ensure that all public school students graduate from high school prepared for postsecondary education or the workforce without the need for remediation.

“(B) ELEMENTS.—Each State accountability system described in subparagraph (A) shall at a minimum—

“(i) annually measure the academic achievement of all public school students in the State against the State’s academic standards adopted under paragraph (1), which may include measures of student growth toward such standards, using the assessments described in paragraph (2) and other valid and reliable academic indicators related to student achievement as identified by the State;

“(ii) annually evaluate and identify the academic performance of each public school in the State based on—

“(I) student academic achievement as measured in accordance with clause (i); and

“(II) the overall performance, and achievement gaps as compared to all students in the school, for economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and English learners, except that disaggregation of data under this subclause shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student; and

“(iii) include a system for school improvement for low-performing public schools receiving funds under this subpart that—

“(I) implements interventions in such schools that are designed to address such schools’ weaknesses; and

“(II) is implemented by local educational agencies serving such schools.

“(C) PROHIBITION.—Nothing in this section shall be construed to permit the Secretary to establish any criteria that specifies, defines, or prescribes any aspect of a State’s accountability system developed and implemented in accordance with this paragraph.

“(D) ACCOUNTABILITY FOR CHARTER SCHOOLS.—The accountability provisions under this Act shall be overseen for charter schools in accordance with State charter school law.

“(4) REQUIREMENTS.—Each State plan shall describe—

“(A) how the State educational agency will assist each local educational agency and each public school affected by the State plan to comply with the requirements of this subpart, including how the State educational agency will work with local educational agencies to provide technical assistance; and

“(B) how the State educational agency will ensure that the results of the State assessments described in paragraph (2), the other indicators selected by the State under paragraph (3)(B)(i), and the school evaluations described in paragraph (3)(B)(ii), will be promptly provided to local educational agencies, schools, teachers, and parents in a manner that is clear and easy to understand, but not later than before the beginning of the school year following the school year in which such assessments, other indicators, or evaluations are taken or completed.

“(5) TIMELINE FOR IMPLEMENTATION.—Each State plan shall describe the process by which the State will adopt and implement the State academic standards, assessments, and accountability system required under this section within 2 years of enactment of the Student Success Act.

“(6) EXISTING STANDARDS.—Nothing in this subpart shall prohibit a State from revising, consistent with this section, any standard adopted under this section before or after the date of enactment of the Student Success Act.

“(7) EXISTING STATE LAW.—Nothing in this section shall be construed to alter any State law or regulation granting parents authority over schools that repeatedly failed to make adequate yearly progress under this section, as in effect on the day before the date of the enactment of the Student Success Act.

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

“(1) the State will notify local educational agencies, schools, teachers, parents, and the public of the academic standards, academic assessments, and State accountability system developed and implemented under this section;

“(2) the State will participate in biennial State academic assessments of 4th and 8th grade reading and mathematics under the National Assessment of Educational Progress carried out under section 303(b)(2) of the National Assessment of Educational Progress Authorization Act if the Secretary pays the costs of administering such assessments;

“(3) the State educational agency will notify local educational agencies and the public of the authority to operate schoolwide programs;

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

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

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

“(7) the State educational agency will inform local educational agencies in the State of the local educational agency’s authority to transfer funds under section 1002 and to obtain waivers under section 5401;

“(d) PARENTAL INVOLVEMENT.—Each State plan shall describe how the State educational agency will support the collection and dissemination to local educational agencies and schools of effective parental involvement practices. Such practices shall—

“(1) be based on the most current research that meets the highest professional and technical standards on effective parental involvement that fosters achievement to high standards for all children;

“(2) be geared toward lowering barriers to greater participation by parents in school planning, review, and improvement; and

“(3) be coordinated with programs funded under subpart 3 of part A of title III.

“(e) PEER REVIEW AND SECRETARIAL APPROVAL.—

“(1) ESTABLISHMENT.—Notwithstanding section 5543, the Secretary shall—

“(A) establish a peer-review process to assist in the review of State plans; and

“(B) appoint individuals to the peer-review process who are representative of parents, teachers, State educational agencies, and local educational agencies, and who are familiar with educational standards, assessments, accountability, the needs of low-performing schools, and other educational

needs of students, and ensure that 75 percent of such appointees are practitioners.

“(2) APPROVAL.—The Secretary shall—

- “(A) approve a State plan within 120 days of its submission;
- “(B) disapprove of the State plan only if the Secretary demonstrates how the State plan fails to meet the requirements of this section and immediately notifies the State of such determination and the reasons for such determination;
- “(C) not decline to approve a State’s plan before—
 - “(i) offering the State an opportunity to revise its plan;
 - “(ii) providing technical assistance in order to assist the State to meet the requirements of this section; and
 - “(iii) providing a hearing; and
- “(D) have the authority to disapprove a State plan for not meeting the requirements of this subpart, but shall not have the authority to require a State, as a condition of approval of the State plan, to include in, or delete from, such plan one or more specific elements of the State’s academic standards or State accountability system, or to use specific academic assessments or other indicators.

“(3) STATE REVISIONS.—A State plan shall be revised by the State educational agency if it is necessary to satisfy the requirements of this section.

“(4) PUBLIC REVIEW.—All communications, feedback, and notifications under this subsection shall be conducted in a manner that is immediately made available to the public through the website of the Department, including—

- “(A) peer review guidance;
- “(B) the names of the peer reviewers;
- “(C) State plans submitted or resubmitted by a State, including the current approved plans;
- “(D) peer review notes;
- “(E) State plan determinations by the Secretary, including approvals or disapprovals, and any deviations from the peer reviewers’ recommendations with an explanation of the deviation; and
- “(F) hearings.

“(5) PROHIBITION.—The Secretary, and the Secretary’s staff, may not attempt to participate in, or influence, the peer review process. No Federal employee may participate in, or attempt to influence the peer review process, except to respond to questions of a technical nature, which shall be publicly reported.

“(f) DURATION OF THE PLAN.—

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

- “(A) remain in effect for the duration of the State’s participation under this subpart; and
- “(B) be periodically reviewed and revised as necessary by the State educational agency to reflect changes in the State’s strategies and programs under this subpart.

“(2) ADDITIONAL INFORMATION.—If a State makes significant changes to its State plan, such as the adoption of new State academic standards or new academic assessments, or adopts a new State accountability system, such information shall be submitted to the Secretary under subsection (e)(2) for approval.

“(g) FAILURE TO MEET REQUIREMENTS.—If a State fails to meet any of the requirements of this section then the Secretary shall withhold funds for State administration under this subpart until the Secretary determines that the State has fulfilled those requirements.

“(h) REPORTS.—

“(1) ANNUAL STATE REPORT CARD.—

“(A) IN GENERAL.—A State that receives assistance under this subpart shall prepare and disseminate an annual State report card. Such dissemination shall include, at a minimum, publicly posting the report card on the home page of the State educational agency’s website.

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

- “(i) concise; and
- “(ii) presented in an understandable and uniform format that is developed in consultation with parents and, to the extent practicable, provided in a language that parents can understand.

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

- “(i) the performance of students, in the aggregate and disaggregated by the categories of students described in subsection (b)(2)(B)(xii) (except that such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically

reliable information or the results would reveal personally identifiable information about an individual student), on the State academic assessments described in subsection (b)(2);

“(ii) the participation rate on such assessments, in the aggregate and disaggregated in accordance with clause (i);

“(iii) the performance of students, in the aggregate and disaggregated in accordance with clause (i), on other academic indicators described in subsection (b)(3)(B)(i);

“(iv) for each public high school in the State, in the aggregate and disaggregated in accordance with clause (i)—

“(I) the four-year adjusted cohort graduation rate, and

“(II) at the State’s discretion, the extended-year adjusted cohort graduation rate, calculated and reported separately for students graduating in 5 years or less and students graduating in 6 years or less;

“(v) each public school’s evaluation results as determined in accordance with subsection (b)(3)(B)(ii);

“(vi) the acquisition of English proficiency by English learners;

“(vii) the number and percentage of teachers in each category established under clause (iii) of section 2123(1)(A), except that such information shall not reveal personally identifiable information about an individual teacher; and

“(viii) the results of the assessments described in subsection (c)(2).

“(D) OPTIONAL INFORMATION.—The State may include in its annual State report card such other information as the State believes will best provide parents, students, and other members of the public with information regarding the progress of each of the State’s public elementary schools and public secondary schools.

“(2) ANNUAL LOCAL EDUCATIONAL AGENCY REPORT CARDS.—

“(A) IN GENERAL.—A local educational agency that receives assistance under this subpart shall prepare and disseminate an annual local educational agency report card.

“(B) MINIMUM REQUIREMENTS.—The State educational agency shall ensure that each local educational agency collects appropriate data and includes in the local educational agency’s annual report the information described in paragraph (1)(C) as applied to the local educational agency and each school served by the local educational agency, and—

“(i) in the case of a local educational agency, information that shows how students served by the local educational agency achieved on the statewide academic assessment and other academic indicators adopted in accordance with subsection (b)(3)(B)(i) compared to students in the State as a whole; and

“(ii) in the case of a school, the school’s evaluation under subsection (b)(3)(B)(ii).

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

“(D) DATA.—A local educational agency or school shall only include in its annual local educational agency report card data that are sufficient to yield statistically reliable information, as determined by the State, and that do not reveal personally identifiable information about an individual student.

“(E) PUBLIC DISSEMINATION.—The local educational agency shall publicly disseminate the information described in this paragraph to all schools served by the local educational agency and to all parents of students attending those schools in an understandable and uniform format, and, to the extent practicable, in a language that parents can understand, and make the information widely available through public means, such as posting on the Internet, distribution to the media, and distribution through public agencies, except that if a local educational agency issues a report card for all students, the local educational agency may include the information under this section as part of such report.

“(3) PREEXISTING REPORT CARDS.—A State educational agency or local educational agency may use public report cards on the performance of students, schools, local educational agencies, or the State, that were in effect prior to the enactment of the Student Success Act for the purpose of this subsection, so long as any such report card is modified, as may be needed, to contain the information required by this subsection.

“(4) PARENTS RIGHT-TO-KNOW.—

“(A) ACHIEVEMENT INFORMATION.—At the beginning of each school year, a school that receives funds under this subpart shall provide to each individual parent information on the level of achievement of the parent’s child in each of the State academic assessments and other academic indicators adopted in accordance with this subpart.

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

“(i) PRIVACY.—Information collected under this section shall be collected and disseminated in a manner that protects the privacy of individuals consistent with section 444 of the General Education Provisions Act.

“(j) VOLUNTARY PARTNERSHIPS.—A State may enter into a voluntary partnership with another State to develop and implement the academic assessments and standards required under this section, except that the Secretary shall not attempt to influence, incentivize, or coerce State participation in any such partnerships.

“(k) CONSTRUCTION.—Nothing in this part shall be construed to prescribe the use of the academic assessments described in this part for student promotion or graduation purposes.

“(l) SPECIAL RULE WITH RESPECT TO BUREAU-FUNDED SCHOOLS.—In determining the assessments to be used by each school operated or funded by the Bureau of Indian Education receiving funds under this subpart, the following shall apply:

“(1) Each such school that is accredited by the State in which it is operating shall use the assessments and other academic indicators the State has developed and implemented to meet the requirements of this section, or such other appropriate assessment and academic indicators as approved by the Secretary of the Interior.

“(2) Each such school that is accredited by a regional accrediting organization shall adopt an appropriate assessment and other academic indicators, in consultation with and with the approval of, the Secretary of the Interior and consistent with assessments and academic indicators adopted by other schools in the same State or region, that meet the requirements of this section.

“(3) Each such school that is accredited by a tribal accrediting agency or tribal division of education shall use an assessment and other academic indicators developed by such agency or division, except that the Secretary of the Interior shall ensure that such assessment and academic indicators meet the requirements of this section.”.

SEC. 1113. LOCAL EDUCATIONAL AGENCY PLANS.

Section 1112 (20 U.S.C. 6312) is amended to read as follows:

“SEC. 1112. LOCAL EDUCATIONAL AGENCY PLANS.

“(a) PLANS REQUIRED.—

“(1) SUBGRANTS.—A local educational agency may receive a subgrant under this subpart for any fiscal year only if such agency has on file with the State educational agency a plan, approved by the State educational agency, that is coordinated with other programs under this Act, the Individuals with Disabilities Education Act, the Carl D. Perkins Career and Technical Education Act of 2006, the McKinney-Vento Homeless Assistance Act, and other Acts, as appropriate.

“(2) CONSOLIDATED APPLICATION.—The plan may be submitted as part of a consolidated application under section 5305.

“(b) PLAN PROVISIONS.—Each local educational agency plan shall describe—

“(1) how the local educational agency will monitor, in addition to the State assessments described in section 1111(b)(2), students’ progress in meeting the State’s academic standards;

“(2) how the local educational agency will identify quickly and effectively those students who may be at risk of failing to meet the State’s academic standards;

“(3) how the local educational agency will provide additional educational assistance to individual students in need of additional help in meeting the State’s academic standards;

“(4) how the local educational agency will implement the school improvement system described in section 1111(b)(3)(B)(iii) for any of the agency’s schools identified under such section;

“(5) how the local educational agency will coordinate programs under this subpart with other programs under this Act and other Acts, as appropriate;

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

“(7) how teachers, in consultation with parents, administrators, and specialized instructional support personnel, in targeted assistance schools under sec-

tion 1115, will identify the eligible children most in need of services under this subpart;

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

“(9) how the local educational agency will ensure that migratory children who are eligible to receive services under this subpart are selected to receive such services on the same basis as other children who are selected to receive services under this subpart;

“(10) the services the local educational agency will provide homeless children, including services provided with funds reserved under section 1113(c)(3)(A);

“(11) the strategy the local educational agency will use to implement effective parental involvement under section 1118;

“(12) if appropriate, how the local educational agency will use funds under this subpart to support preschool programs for children, particularly children participating in a Head Start program, which services may be provided directly by the local educational agency or through a subcontract with the local Head Start agency designated by the Secretary of Health and Human Services under section 641 of the Head Start Act, or another comparable early childhood development program;

“(13) how the local educational agency, through incentives for voluntary transfers, the provision of professional development, recruitment programs, incentive pay, performance pay, or other effective strategies, will address disparities in the rates of low-income and minority students and other students being taught by ineffective teachers; and

“(14) if appropriate, how the local educational agency will use funds under this subpart to support programs that coordinate and integrate—

“(A) career and technical education aligned with State technical standards that promote skills attainment important to in-demand occupations or industries in the State and the State’s academic standards under section 1111(b)(1); and

“(B) work-based learning opportunities that provide students in-depth interaction with industry professionals.

“(c) ASSURANCES.—Each local educational agency plan shall provide assurances that the local educational agency will—

“(1) participate, if selected, in biennial State academic assessments of 4th and 8th grade reading and mathematics under the National Assessment of Educational Progress carried out under section 303(b)(2) of the National Assessment of Educational Progress Authorization Act;

“(2) inform schools of schoolwide program authority and the ability to consolidate funds from Federal, State, and local sources;

“(3) provide technical assistance to schoolwide programs;

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

“(5) in the case of a local educational agency that chooses to use funds under this subpart to provide early childhood development services to low-income children below the age of compulsory school attendance, ensure that such services comply with the performance standards established under section 641A(a) of the Head Start Act;

“(6) inform eligible schools of the local educational agency’s authority to request waivers on the school’s behalf under Title V; and

“(7) ensure that the results of the academic assessments required under section 1111(b)(2) will be provided to parents and teachers as soon as is practicably possible after the test is taken, in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

“(d) SPECIAL RULE.—In carrying out subsection (c)(5), the Secretary shall—

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

“(2) disseminate to local educational agencies the education performance standards in effect under section 641A(a)(1)(B) of the Head Start Act, and such agencies affected by such subsection shall plan for the implementation of such subsection (taking into consideration existing State and local laws, and local teacher contracts).

“(e) PLAN DEVELOPMENT AND DURATION.—

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

“(2) DURATION.—Each such plan shall be submitted for the first year for which this part is in effect following the date of enactment of this Act and shall remain in effect for the duration of the agency’s participation under this subpart.

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

“(f) STATE APPROVAL.—

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

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

“(A) enables schools served under this subpart to substantially help children served under this subpart to meet the State’s academic standards described in section 1111(b)(1); and

“(B) meets the requirements of this section.

“(3) REVIEW.—The State educational agency shall review the local educational agency’s plan to determine if such agency’s activities are in accordance with section 1118.

“(g) PARENTAL NOTIFICATION.—

“(1) IN GENERAL.—Each local educational agency using funds under this subpart and subpart 4 to provide a language instruction educational program shall, not later than 30 days after the beginning of the school year, inform parents of an English learner identified for participation, or participating in, such a program of—

“(A) the reasons for the identification of their child as an English learner and in need of placement in a language instruction educational program;

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

“(C) the methods of instruction used in the program in which their child is, or will be participating, and the methods of instruction used in other available programs, including how such programs differ in content, instructional goals, and the use of English and a native language in instruction;

“(D) how the program in which their child is, or will be participating, will meet the educational strengths and needs of their child;

“(E) how such program will specifically help their child learn English, and meet age-appropriate academic achievement standards for grade promotion and graduation;

“(F) the specific exit requirements for the program, including the expected rate of transition from such program into classrooms that are not tailored for English learners, and the expected rate of graduation from high school for such program if funds under this subpart are used for children in secondary schools;

“(G) in the case of a child with a disability, how such program meets the objectives of the individualized education program of the child; and

“(H) information pertaining to parental rights that includes written guidance—

“(i) detailing—

“(I) the right that parents have to have their child immediately removed from such program upon their request; and

“(II) the options that parents have to decline to enroll their child in such program or to choose another program or method of instruction, if available; and

“(ii) assisting parents in selecting among various programs and methods of instruction, if more than one program or method is offered by the eligible entity.

“(2) NOTICE.—The notice and information provided in paragraph (1) to parents of a child identified for participation in a language instruction educational program for English learners shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

“(3) SPECIAL RULE APPLICABLE DURING THE SCHOOL YEAR.—For those children who have not been identified as English learners prior to the beginning of the school year the local educational agency shall notify parents within the first 2

weeks of the child being placed in a language instruction educational program consistent with paragraphs (1) and (2).

“(4) PARENTAL PARTICIPATION.—Each local educational agency receiving funds under this subpart shall implement an effective means of outreach to parents of English learners to inform the parents regarding how the parents can be involved in the education of their children, and be active participants in assisting their children to attain English proficiency, achieve at high levels in core academic subjects, and meet the State’s academic standards expected of all students, including holding, and sending notice of opportunities for, regular meetings for the purpose of formulating and responding to recommendations from parents of students assisted under this subpart.

“(5) BASIS FOR ADMISSION OR EXCLUSION.—A student shall not be admitted to, or excluded from, any federally assisted education program on the basis of a surname or language-minority status.”.

SEC. 114. ELIGIBLE SCHOOL ATTENDANCE AREAS.

Section 1113 (20 U.S.C. 6313) is amended—

(1) by striking “part” each place it appears and inserting “subpart”; and

(2) in subsection (c)—

(A) by amending paragraph (3) to read as follows:

“(3) RESERVATIONS.—

“(A) IN GENERAL.—A local educational agency shall reserve such funds as are necessary under this subpart to provide services comparable to those provided to children in schools funded under this subpart to serve the following:

“(i) Homeless children and youths, which may include—

“(I) for homeless children and youths who are attending schools not receiving assistance under this subpart and schools receiving assistance under this subpart, providing transportation pursuant to section 722(g)(1)(J)(iii) of the McKinney-Vento Homeless Assistance Act; and

“(II) for homeless children and youths who are attending schools not receiving assistance under this subpart—

“(aa) providing support services to homeless children and youths in shelters and other locations where they may live; and

“(bb) removing barriers to homeless children and youths’ enrollment, attendance, retention, and success in school.

“(ii) Children in local institutions for neglected children.

“(iii) If appropriate, children in local institutions for delinquent children, and neglected or delinquent children in community day school programs.

“(B) AMOUNT RESERVED.—The amount of funds reserved under subparagraph (A)(i) may be based upon a needs assessment of the homeless children and youths in the local educational agency, which may include the following:

“(i) Information related to child, youth, and family homelessness in the local educational agency obtained through the coordination and collaboration under subsections (f)(4) and (g)(5) of section 722 of the McKinney-Vento Homeless Assistance Act.

“(ii) The number of homeless children and youths reported by the local educational agency to the State educational agency under section 722(f)(3) of such Act for the previous school year.

“(iii) Gaps in identification of homeless children and youths in the local educational agency, as described by the liaison designated pursuant to section 722(g)(1)(J)(ii) of such Act.”; and

(B) in paragraph (4)—

(i) by striking “subpart 2” and inserting “chapter B”; and

(ii) by striking “school improvement, corrective action, and restructuring under section 1116(b)” and inserting “school improvement under section 1111(b)(3)(B)(iii)”.

SEC. 115. SCHOOLWIDE PROGRAMS.

Section 1114 (20 U.S.C. 6314) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “part” and inserting “subpart”; and

(ii) by striking “in which” through “such families”;

(B) in paragraph (2)—

- (i) in subparagraph (A)(i), by striking “part” and inserting “subpart”; and
- (ii) in subparagraph (B)—
 - (I) by striking “children with limited English proficiency” and inserting “English learners”; and
 - (II) by striking “part” and inserting “subpart”;
- (C) in paragraph (3)(B), by striking “maintenance of effort,” after “private school children,”; and
- (D) by striking paragraph (4); and
- (2) in subsection (b)—
 - (A) in paragraph (1)—
 - (i) in subparagraph (A)—
 - (I) by striking “(including” and all that follows through “1309(2))”; and
 - (II) by striking “content standards and the State student academic achievement standards” and inserting “standards”;
 - (ii) in subparagraph (B)—
 - (I) in clause (i), by striking “proficient” and all that follows through “section 1111(b)(1)(D)” and inserting “academic standards described in section 1111(b)(1)”;
 - (II) in clause (ii), in the matter preceding subclause (I), by striking “based on scientifically based research” and inserting “evidence-based”;
 - (III) in clause (iii)(I)—
 - (aa) by striking “student academic achievement standards” and inserting “academic standards”; and
 - (bb) by striking “schoolwide program,” and all that follows through “technical education programs; and” and inserting “schoolwide programs; and”;
 - (IV) in clause (iv), by striking “the State and local improvement plans” and inserting “school improvement strategies”;
 - (iii) in subparagraph (C), by striking “highly qualified” and inserting “effective”;
 - (iv) in subparagraph (D)—
 - (I) by striking “In accordance with section 1119 and subsection (a)(4), high-quality” and inserting “High-quality”;
 - (II) by striking “pupil services” and inserting “specialized instructional support services”; and
 - (III) by striking “student academic achievement” and inserting “academic”;
 - (v) in subparagraph (E), by striking “high-quality highly qualified” and inserting “effective”;
 - (vi) in subparagraph (G), by striking “, such as Head Start, Even Start, Early Reading First, or a State-run preschool program,”;
 - (vii) in subparagraph (H), by striking “section 1111(b)(3)” and inserting “section 1111(b)(2)”;
 - (viii) in subparagraph (I), by striking “proficient or advanced levels of academic achievement standards” and inserting “State academic standards”; and
 - (ix) in subparagraph (J), by striking “vocational” and inserting “career”; and
 - (B) in paragraph (2)—
 - (i) in subparagraph (A)—
 - (I) in the matter preceding clause (i)—
 - (aa) by striking “first develop” and all that follows through “2001” and inserting “have in place”; and
 - (bb) by striking “and its school support team or other technical assistance provider under section 1117”;
 - (II) in clause (ii), by striking “part” and inserting “subpart”; and
 - (III) in clause (iv), by striking “section 1111(b)(3)” and inserting “section 1111(b)(2)”;
 - (ii) in subparagraph (B)—
 - (I) in clause (i)—
 - (aa) in subclause (I), by striking “, after considering the recommendation of the technical assistance providers under section 1117,”; and
 - (bb) in subclause (II), by striking “the No Child Left Behind Act of 2001” and inserting “Student Success Act” ;
 - (II) in clause (ii)—

- (aa) by striking “(including administrators of programs described in other parts of this title)”; and
- (bb) by striking “pupil services” and inserting “specialized instructional support services”;
- (III) in clause (iii), by striking “part” and inserting “subpart”; and
- (IV) in clause (v), by striking “Reading First, Early Reading First, Even Start.”; and
- (3) in subsection (c)—
 - (A) by striking “part” and inserting “subpart”; and
 - (B) by striking “6,” and all that follows through the period at the end and inserting “6.”.

SEC. 116. TARGETED ASSISTANCE SCHOOLS.

Section 1115 (20 U.S.C. 6315) is amended—

- (1) in subsection (a)—
 - (A) by striking “are ineligible for a schoolwide program under section 1114, or that”;
 - (B) by striking “operate such” and inserting “operate”; and
 - (C) by striking “part” and inserting “subpart”;
- (2) in subsection (b)—
 - (A) in paragraph (1)(B), by striking “challenging student academic achievement” and inserting “academic”;
 - (B) in paragraph (2)—
 - (i) in subparagraph (A)—
 - (I) by striking “limited English proficient children” and inserting “English learners”; and
 - (II) by striking “part” each place it appears and inserting “subpart”;
 - (ii) in subparagraph (B)—
 - (I) in the heading, by striking “, EVEN START, OR EARLY READING FIRST”; and
 - (II) by striking “, Even Start, or Early Reading First”;
 - (iii) in subparagraph (C)—
 - (I) by amending the heading to read as follows: “SUBPART 3 CHILDREN.—”;
 - (II) by striking “part C” and inserting “subpart 3”; and
 - (III) by striking “part” and inserting “subpart”;
 - (iv) in subparagraphs (D) and (E), by striking “part” each place it appears and inserting “subpart”;
 - (C) in paragraph (3), by striking “part” and inserting “subpart”;
- (3) in subsection (c)—
 - (A) in paragraph (1)—
 - (i) in the matter preceding subparagraph (A)—
 - (I) by striking “part” and inserting “subpart”; and
 - (II) by striking “challenging student academic achievement” and inserting “academic”;
 - (ii) in subparagraph (A)—
 - (I) by striking “part” and inserting “subpart”; and
 - (II) by striking “challenging student academic achievement” and inserting “academic”;
 - (iii) in subparagraph (B), by striking “part” and inserting “subpart”;
 - (iv) in subparagraph (C)—
 - (I) in the matter preceding clause (i), by striking “based on scientifically based research” and inserting “evidence-based”; and
 - (II) in clause (iii), by striking “part” and inserting “subpart”;
 - (v) in subparagraph (D), by striking “such as Head Start, Even Start, Early Reading First or State-run preschool programs”;
 - (vi) in subparagraph (E), by striking “highly qualified” and inserting “effective”;
 - (vii) in subparagraph (F)—
 - (I) by striking “in accordance with subsection (e)(3) and section 1119.”;
 - (II) by striking “part” and inserting “subpart”; and
 - (III) by striking “pupil services personnel” and inserting “specialized instructional support personnel”; and
 - (viii) in subparagraph (H), by striking “vocational” and inserting “career”; and
 - (B) in paragraph (2)—

- (i) in the matter preceding subparagraph (A), by striking “proficient and advanced levels of achievement” and inserting “academic standards”;
- (ii) in subparagraph (A), by striking “part” and inserting “subpart”;
- and
- (iii) in subparagraph (B), by striking “challenging student academic achievement” and inserting “academic”;
- (4) in subsection (d), in the matter preceding paragraph (1), by striking “part” each place it appears and inserting “subpart”; and
- (5) in subsection (e)—
 - (A) in paragraph (2)(B)—
 - (i) in the matter preceding clause (i), by striking “part” and inserting “subpart”; and
 - (ii) in clause (iii), by striking “pupil services” and inserting “specialized instructional support services”; and
 - (B) by striking paragraph (3).

SEC. 117. ACADEMIC ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT; SCHOOL SUPPORT AND RECOGNITION.

The Act is amended by repealing sections 1116 and 1117 (20 U.S.C. 6316; 6317).

SEC. 118. PARENTAL INVOLVEMENT.

Section 1118 (20 U.S.C. 6318) is amended—

- (1) by striking “part” each place such term appears and inserting “subpart”;
- (2) in subsection (a)—
 - (A) in paragraph (2)—
 - (i) in subparagraph (A), by striking “, and” and all that follows through “1116”; and
 - (ii) in subparagraph (D), by striking “, such as” and all that follows through “preschool programs”; and
 - (B) in paragraph (3)(A), by striking “subpart 2 of this part” each place it appears and inserting “chapter B of this subpart”;
- (3) by amending subsection (c)(4)(B) to read as follows:

“(B) a description and explanation of the curriculum in use at the school and the forms of academic assessment used to measure student progress; and”;
- (4) in subsection (d)(1), by striking “student academic achievement” and inserting “academic”;
- (5) in subsection (e)—
 - (A) in paragraph (1), by striking “State’s academic content standards and State student academic achievement standards” and inserting “State’s academic standards”;
 - (B) in paragraph (3)—
 - (i) by striking “pupil services personnel,” and inserting “specialized instructional support personnel,”; and
 - (ii) by striking “principals,” and inserting “school leaders,”; and
 - (C) in paragraph (4), by striking “Head Start, Reading First, Early Reading First, Even Start, the Home Instruction Programs for Preschool Youngsters, the Parents as Teachers Program, and public preschool and other” and inserting “other Federal, State, and local”; and
- (6) by amending subsection (g) to read as follows:

“(g) FAMILY ENGAGEMENT IN EDUCATION PROGRAMS.—In a State operating a program under subpart 3 of part A of title III, each local educational agency or school that receives assistance under this subpart shall inform such parents and organizations of the existence of such programs.”.

SEC. 119. QUALIFICATIONS FOR TEACHERS AND PARAPROFESSIONALS.

The Act is amended by repealing section 1119 (20 U.S.C. 6319).

SEC. 120. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

Section 1120 (20 U.S.C. 6320) is amended to read as follows:

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

“(a) GENERAL REQUIREMENT.—

“(1) IN GENERAL.—To the extent consistent with the number of eligible children identified under section 1115(b) in the school district served by a local educational agency who are enrolled in private elementary schools and secondary schools, a local educational agency shall—

“(A) after timely and meaningful consultation with appropriate private school officials or representatives, provide such service, on an equitable basis and individually or in combination, as requested by the officials or

representatives to best meet the needs of such children, special educational services, instructional services, counseling, mentoring, one-on-one tutoring, or other benefits under this subpart (such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) that address their needs; and

“(B) ensure that teachers and families of the children participate, on an equitable basis, in services and activities developed pursuant to this subpart.

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

“(3) EQUITY.—

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

“(B) OMBUDSMAN.—To help ensure such equity for such private school children, teachers, and other educational personnel, the State educational agency involved shall designate an ombudsman to monitor and enforce the requirements of this subpart.

“(4) EXPENDITURES.—

“(A) IN GENERAL.—Expenditures for educational services and other benefits to eligible private school children shall be equal to the expenditures for participating public school children, taking into account the number, and educational needs, of the children to be served.

“(B) OBLIGATION OF FUNDS.—Funds allocated to a local educational agency for educational services and other benefits to eligible private school children shall—

“(i) be obligated in the fiscal year for which the funds are received by the agency; and

“(ii) with respect to any such funds that cannot be so obligated, be used to serve such children in the following fiscal year.

“(5) PROVISION OF SERVICES.—The local educational agency or, in a case described in subsection (b)(6)(C), the State educational agency involved, may provide services under this section directly or through contracts with public or private agencies, organizations, and institutions.

“(b) CONSULTATION.—

“(1) IN GENERAL.—To ensure timely and meaningful consultation, a local educational agency shall consult with appropriate private school officials or representatives during the design and development of such agency’s programs under this subpart in order to reach an agreement between the agency and the officials or representatives about equitable and effective programs for eligible private school children, the results of which shall be transmitted to the designated ombudsmen under section 1120(a)(3)(B). Such process shall include consultation on issues such as—

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

“(B) what services will be offered;

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

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

“(E) the size and scope of the equitable services to be provided to the eligible private school children, and the proportion of funds that is allocated under subsection (a)(4) for such services, how that proportion of funds is determined under such subsection, and an itemization of the costs of the services to be provided;

“(F) the method or sources of data that are used under subsection (c) and section 1113(c)(1) to determine the number of children from low-income families in participating school attendance areas who attend private schools;

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

“(H) how, if the agency disagrees with the views of the private school officials or representatives on the provision of services through a contract, the local educational agency will provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to use a contractor;

“(I) whether the agency will provide services under this section directly or through contracts with public and private agencies, organizations, and institutions;

“(J) whether to provide equitable services to eligible private school children—

“(i) by creating a pool or pools of funds with all of the funds allocated under paragraph (4) based on all the children from low-income families who attend private schools in a participating school attendance area of the agency from which the local educational agency will provide such services to all such children; or

“(ii) by providing such services to eligible children in each private school in the agency’s participating school attendance area with the proportion of funds allocated under paragraph (4) based on the number of children from low-income families who attend such school; and

“(K) whether to consolidate and use funds under this subpart to provide schoolwide programs for a private school.

“(2) DISAGREEMENT.—If a local educational agency disagrees with the views of private school officials or representatives with respect to an issue described in paragraph (1), the local educational agency shall provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to adopt the course of action requested by such officials.

“(3) TIMING.—Such consultation shall include meetings of agency and private school officials or representatives and shall occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under this subpart. Such meetings shall continue throughout implementation and assessment of services provided under this section.

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

“(5) DOCUMENTATION.—Each local educational agency shall maintain in the agency’s records and provide to the State educational agency involved a written affirmation signed by officials or representatives of each participating private school that the meaningful consultation required by this section has occurred. The written affirmation shall provide the option for private school officials or representatives to indicate that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to eligible private school children. If such officials or representatives do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation that such consultation has, or attempts at such consultation have, taken place to the State educational agency.

“(6) COMPLIANCE.—

“(A) IN GENERAL.—A private school official shall have the right to file a complaint with the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, did not give due consideration to the views of the private school official, or did not treat the private school or its students equitably as required by this section.

“(B) PROCEDURE.—If the private school official wishes to file a complaint, the official shall provide the basis of the noncompliance with this section by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency.

“(C) STATE EDUCATIONAL AGENCIES.—A State educational agency shall provide services under this section directly or through contracts with public or private agencies, organizations, and institutions, if—

“(i) the appropriate private school officials or their representatives have—

“(I) requested that the State educational agency provide such services directly; and

“(II) demonstrated that the local educational agency involved has not met the requirements of this section; or

“(ii) in a case in which—

“(I) a local educational agency has more than 10,000 children from low-income families who attend private elementary schools or secondary schools in a participating school attendance area of the agency that are not being served by the agency’s program under this section; or

“(II) 90 percent of the eligible private school students in a participating school attendance area of the agency are not being served by the agency’s program under this section.

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

“(1) CALCULATION.—A local educational agency shall have the final authority, consistent with this section, to calculate the number of children, ages 5 through 17, who are from low-income families and attend private schools by—

“(A) using the same measure of low income used to count public school children;

“(B) using the results of a survey that, to the extent possible, protects the identity of families of private school students, and allowing such survey results to be extrapolated if complete actual data are unavailable;

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

“(D) using an equated measure of low income correlated with the measure of low income used to count public school children.

“(2) COMPLAINT PROCESS.—Any dispute regarding low-income data for private school students shall be subject to the complaint process authorized in section 5503.

“(d) PUBLIC CONTROL OF FUNDS.—

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

“(2) PROVISION OF SERVICES.—

“(A) PROVIDER.—The provision of services under this section shall be provided—

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

“(ii) through a contract by such public agency with an individual, association, agency, or organization.

“(B) REQUIREMENT.—In the provision of such services, such employee, individual, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

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

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

“(2) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 5503 and 5504; and

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

SEC. 121. FISCAL REQUIREMENTS.

Section 1120A (20 U.S.C. 6321) is amended—

(1) by striking “part” each place it appears and inserting “subpart”; and

(2) by striking subsection (a) and redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively.

SEC. 122. COORDINATION REQUIREMENTS.

Section 1120B (20 U.S.C. 6322) is amended—

(1) by striking “part” each place it appears and inserting “subpart”;

(2) in subsection (a), by striking “such as the Early Reading First program”; and

(3) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “, such as the Early Reading First program,”;

(B) in paragraphs (1) through (3), by striking “such as the Early Reading First program” each place it appears;

(C) in paragraph (4), by striking “Early Reading First program staff,”; and

(D) in paragraph (5), by striking “and entities carrying out Early Reading First programs”.

SEC. 123. GRANTS FOR THE OUTLYING AREAS AND THE SECRETARY OF THE INTERIOR.

Section 1121 (20 U.S.C. 6331) is amended—

- (1) in subsection (a), by striking “appropriated for payments to States for any fiscal year under section 1002(a) and 1125A(f)” and inserting “reserved for this chapter under section 1122(a)”; and
- (2) in subsection (b)—
 - (A) in paragraph (2), by striking “the No Child Left Behind Act of 2001” and inserting “the Student Success Act”;
 - (B) in paragraph (3)—
 - (i) in subparagraph (B), by striking “basis,” and all that follows through the period at the end and inserting “basis.”;
 - (ii) in subparagraph (C)(ii), by striking “challenging State academic content standards” and inserting “State academic standards”; and
 - (iii) by striking subparagraph (D); and
- (3) in subsection (d)(2), by striking “part” and inserting “subpart”.

SEC. 124. ALLOCATIONS TO STATES.

Section 1122 (20 U.S.C. 6332) is amended—

- (1) by amending subsection (a) to read as follows:
 - “(a) RESERVATION.—
 - “(1) IN GENERAL.—From the amounts appropriated under section 3(a)(1), the Secretary shall reserve 91 percent of such amounts to carry out this chapter.
 - “(2) ALLOCATION FORMULA.—Of the amount reserved under paragraph (1) for each of fiscal years 2013 to 2018 (referred to in this subsection as the current fiscal year)—
 - “(A) an amount equal to the amount made available to carry out section 1124 for fiscal year 2001 shall be used to carry out section 1124;
 - “(B) an amount equal to the amount made available to carry out section 1124A for fiscal year 2001 shall be used to carry out section 1124A; and
 - “(C) an amount equal to 100 percent of the amount, if any, by which the total amount made available to carry out this chapter for the fiscal year for which the determination is made exceeds the total amount available to carry out sections 1124 and 1124A for fiscal year 2001 shall be used to carry out section 1125 and 1125A and such amount shall be divided equally between section 1125 and section 1125A.”;
 - (2) in subsection (b)(1), by striking “subpart” and inserting “chapter”;
 - (3) in subsection (c)(3), by striking “part” and inserting “subpart”; and
 - (4) in subsection (d)(1), by striking “subpart” and inserting “chapter”.

SEC. 125. BASIC GRANTS TO LOCAL EDUCATIONAL AGENCIES.

Section 1124 (20 U.S.C. 6333) is amended—

- (1) in subsection (a)—
 - (A) in paragraph (3)—
 - (i) in subparagraph (B), by striking “subpart” and inserting “chapter”;
 - and
 - (ii) in subparagraph (C)(i), by striking “subpart” and inserting “chapter”; and
 - (B) in paragraph (4)(C), by striking “subpart” each place it appears and inserting “chapter”; and
- (2) in subsection (c)—
 - (A) in paragraph (1)(B), by striking “subpart 1 of part D” and inserting “chapter A of subpart 3”; and
 - (B) in paragraph (2), by striking “part” and inserting “subpart”.

SEC. 126. ADEQUACY OF FUNDING OF TARGETED GRANTS TO LOCAL EDUCATIONAL AGENCIES IN FISCAL YEARS AFTER FISCAL YEAR 2001.

Section 1125AA (20 U.S.C. 6336) is amended to read as follows:

“SEC. 1125AA. ADEQUACY OF FUNDING OF TARGETED GRANTS TO LOCAL EDUCATIONAL AGENCIES IN FISCAL YEARS AFTER FISCAL YEAR 2001.

“Pursuant to section 1122, the total amount allocated in any fiscal year after fiscal year 2001 for programs and activities under this subpart shall not exceed the amount allocated in fiscal year 2001 for such programs and activities unless the amount available for targeted grants to local educational agencies under section 1125 in the applicable fiscal year meets the requirements of section 1122(a).”

SEC. 127. EDUCATION FINANCE INCENTIVE GRANT PROGRAM.

Section 1125A (20 U.S.C. 6337) is amended—

- (1) by striking “part” each place it appears and inserting “subpart”;
- (2) in subsection (b)(1)—

(A) in subparagraph (A), by striking “appropriated pursuant to subsection (f)” and inserting “made available for any fiscal year to carry out this section”; and

(B) in subparagraph (B)(i), by striking “total appropriations” and inserting “the total amount reserved under section 1122(a) to carry out this section”; and

(3) by striking subsections (a), (e), and (f) and redesignating subsections (b), (c), (d), and (g) as subsections (a), (b), (c), and (d), respectively.

SEC. 128. CARRYOVER AND WAIVER.

Section 1127 (20 U.S.C. 6339) is amended by striking “subpart” each place it appears and inserting “chapter”.

Subtitle C—Additional Aid to States and School Districts

SEC. 131. ADDITIONAL AID.

(a) IN GENERAL.—Title I (20 U.S.C. 6301 et seq.), as amended by the preceding provisions of this Act, is further amended—

- (1) by striking parts B through D and F through H; and
- (2) by inserting after subpart 1 of part A the following:

“Subpart 2—Education of Migratory Children

“SEC. 1131. PROGRAM PURPOSES.

“The purposes of this subpart are as follows:

“(1) To assist States in supporting high-quality and comprehensive educational programs and services during the school year, and as applicable, during summer or intercession periods, that address the unique educational needs of migratory children.

“(2) To ensure that migratory children who move among the States, not be penalized in any manner by disparities among the States in curriculum, graduation requirements, and State academic standards.

“(3) To help such children succeed in school, meet the State academic standards that all children are expected to meet, and graduate from high school prepared for postsecondary education and the workforce without the need for remediation.

“(4) To help such children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of such children to succeed in school.

“(5) To help such children benefit from State and local systemic reforms.

“SEC. 1132. PROGRAM AUTHORIZED.

“(a) IN GENERAL.—From the amounts appropriated under section 3(a)(1), the Secretary shall reserve 2.4 percent to carry out this subpart.

“(b) GRANTS AWARDED.—From the amounts reserved under subsection (a) and not reserved under section 1138(c), the Secretary shall make allotments for the fiscal year to State educational agencies, or consortia of such agencies, to establish or improve, directly or through local operating agencies, programs of education for migratory children in accordance with this subpart.

“SEC. 1133. STATE ALLOCATIONS.

“(a) STATE ALLOCATIONS.—Except as provided in subsection (c), each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this subpart an amount equal to the product of—

“(1) the sum of—

“(A) the average number of identified eligible full-time equivalent migratory children aged 3 through 21 residing in the State, based on data for the preceding 3 years; and

“(B) the number of identified eligible migratory children, aged 3 through 21, who received services under this subpart in summer or intercession programs provided by the State during the previous year; multiplied by

“(2) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this paragraph shall not be less than 32 percent, nor more than 48 percent, of the average per-pupil expenditure in the United States.

“(b) HOLD HARMLESS.—Notwithstanding subsection (a), for each of fiscal years 2013 through 2015, no State shall receive less than 90 percent of the State’s allocation under this section for the previous year.

“(c) ALLOCATION TO PUERTO RICO.—For each fiscal year, the grant which the Commonwealth of Puerto Rico shall be eligible to receive under this subpart shall be the amount determined by multiplying the number of children who would be counted under subsection (a)(1) if such subsection applied to the Commonwealth of Puerto Rico by the product of—

“(1) the percentage that the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States, except that the percentage calculated under this subparagraph shall not be less than 85 percent; and

“(2) 32 percent of the average per-pupil expenditure in the United States.

“(d) RATABLE REDUCTIONS; REALLOCATIONS.—

“(1) IN GENERAL.—

“(A) RATABLE REDUCTIONS.—If, after the Secretary reserves funds under section 1138(c), the amount appropriated to carry out this subpart for any fiscal year is insufficient to pay in full the amounts for which all States are eligible, the Secretary shall ratably reduce each such amount.

“(B) REALLOCATION.—If additional funds become available for making such payments for any fiscal year, the Secretary shall allocate such funds to States in amounts that the Secretary determines will best carry out the purpose of this subpart.

“(2) SPECIAL RULE.—

“(A) FURTHER REDUCTIONS.—The Secretary shall further reduce the amount of any grant to a State under this subpart for any fiscal year if the Secretary determines, based on available information on the numbers and needs of migratory children in the State and the program proposed by the State to address such needs, that such amount exceeds the amount required under section 1134.

“(B) REALLOCATION.—The Secretary shall reallocate such excess funds to other States whose grants under this subpart would otherwise be insufficient to provide an appropriate level of services to migratory children, in such amounts as the Secretary determines are appropriate.

“(e) CONSORTIUM ARRANGEMENTS.—

“(1) IN GENERAL.—In the case of a State that receives a grant of \$1,000,000 or less under this section, the Secretary shall consult with the State educational agency to determine whether consortium arrangements with another State or other appropriate entity would result in delivery of services in a more effective and efficient manner.

“(2) PROPOSALS.—Any State, regardless of the amount of such State’s allocation, may submit a consortium arrangement to the Secretary for approval.

“(3) APPROVAL.—The Secretary shall approve a consortium arrangement under paragraph (1) or (2) if the proposal demonstrates that the arrangement will—

“(A) reduce administrative costs or program function costs for State programs; and

“(B) make more funds available for direct services to add substantially to the educational achievement of children to be served under this subpart.

“(f) DETERMINING NUMBERS OF ELIGIBLE CHILDREN.—In order to determine the identified number of migratory children residing in each State for purposes of this section, the Secretary shall—

“(1) use the most recent information that most accurately reflects the actual number of migratory children;

“(2) develop and implement a procedure for monitoring the accuracy of such information;

“(3) develop and implement a procedure for more accurately reflecting cost factors for different types of summer and intersession program designs;

“(4) adjust the full-time equivalent number of migratory children who reside in each State to take into account—

“(A) the unique needs of those children participating in evidence-based or other effective special programs provided under this subpart that operate during the summer and intersession periods; and

“(B) the additional costs of operating such programs; and

“(5) conduct an analysis of the options for adjusting the formula so as to better direct services to migratory children, including the most at-risk migratory children.

“(g) NONPARTICIPATING STATES.—In the case of a State desiring to receive an allocation under this subpart for a fiscal year that did not receive an allocation for the

previous fiscal year or that has been participating for less than 3 consecutive years, the Secretary shall calculate the State's number of identified migratory children aged 3 through 21 for purposes of subsection (a)(1)(A) by using the most recent data available that identifies the migratory children residing in the State until data is available to calculate the 3-year average number of such children in accordance with such subsection.

“SEC. 1134. STATE APPLICATIONS; SERVICES.

“(a) APPLICATION REQUIRED.—Any State desiring to receive a grant under this subpart for any fiscal year shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

“(b) PROGRAM INFORMATION.—Each such application shall include—

“(1) a description of how, in planning, implementing, and evaluating programs and projects assisted under this subpart, the State and its local operating agencies will ensure that the unique educational needs of migratory children, including preschool migratory children, are identified and addressed through—

“(A) the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;

“(B) joint planning among local, State, and Federal educational programs serving migratory children, including language instruction educational programs under chapter A of subpart 4; and

“(C) the integration of services available under this subpart with services provided by those other programs;

“(2) a description of the steps the State is taking to provide all migratory students with the opportunity to meet the same State academic standards that all children are expected to meet;

“(3) a description of how the State will use funds received under this subpart to promote interstate and intrastate coordination of services for migratory children, including how the State will provide for educational continuity through the timely transfer of pertinent school records, including information on health, when children move from one school to another, whether or not such a move occurs during the regular school year;

“(4) a description of the State's priorities for the use of funds received under this subpart, and how such priorities relate to the State's assessment of needs for services in the State;

“(5) a description of how the State will determine the amount of any subgrants the State will award to local operating agencies, taking into account the numbers and needs of migratory children, the requirements of subsection (d), and the availability of funds from other Federal, State, and local programs; and

“(6) a description of how the State will encourage programs and projects assisted under this subpart to offer family literacy services if the programs and projects serve a substantial number of migratory children whose parents do not have a regular high school diploma or its recognized equivalent or who have low levels of literacy.

“(c) ASSURANCES.—Each such application shall also include assurances that—

“(1) funds received under this subpart will be used only—

“(A) for programs and projects, including the acquisition of equipment, in accordance with section 1136; and

“(B) to coordinate such programs and projects with similar programs and projects within the State and in other States, as well as with other Federal programs that can benefit migratory children and their families;

“(2) such programs and projects will be carried out in a manner consistent with the objectives of section 1114, subsections (b) and (d) of section 1115, subsections (b) and (c) of section 1120A, and part C;

“(3) in the planning and operation of programs and projects at both the State and local agency operating level, there is consultation with parents of migratory children for programs of not less than one school year in duration, and that all such programs and projects are carried out—

“(A) in a manner that provides for the same parental involvement as is required for programs and projects under section 1118, unless extraordinary circumstances make such provision impractical; and

“(B) in a format and language understandable to the parents;

“(4) in planning and carrying out such programs and projects, there has been, and will be, adequate provision for addressing the unmet education needs of preschool migratory children;

“(5) the effectiveness of such programs and projects will be determined, where feasible, using the same approaches and standards that will be used to assess the performance of students, schools, and local educational agencies under subpart 1;

“(6) to the extent feasible, such programs and projects will provide for—

“(A) advocacy and outreach activities for migratory children and their families, including informing such children and families of, or helping such children and families gain access to, other education, health, nutrition, and social services;

“(B) professional development programs, including mentoring, for teachers and other program personnel;

“(C) high-quality, evidence-based family literacy programs;

“(D) the integration of information technology into educational and related programs; and

“(E) programs to facilitate the transition of secondary school students to postsecondary education or employment without the need for remediation; and

“(7) the State will assist the Secretary in determining the number of migratory children under paragraph (1) of section 1133(a).

“(d) PRIORITY FOR SERVICES.—In providing services with funds received under this subpart, each recipient of such funds shall give priority to migratory children who are failing, or most at risk of failing, to meet the State’s academic standards under section 1111 (b)(1) .

“(e) CONTINUATION OF SERVICES.—Notwithstanding any other provision of this subpart—

“(1) a child who ceases to be a migratory child during a school term shall be eligible for services until the end of such term;

“(2) a child who is no longer a migratory child may continue to receive services for one additional school year, but only if comparable services are not available through other programs; and

“(3) secondary school students who were eligible for services in secondary school may continue to be served through credit accrual programs until graduation.

“SEC. 1135. SECRETARIAL APPROVAL; PEER REVIEW.

“The Secretary shall approve each State application that meets the requirements of this subpart, and may review any such application using a peer review process.

“SEC. 1136. COMPREHENSIVE NEEDS ASSESSMENT AND SERVICE-DELIVERY PLAN; AUTHORIZED ACTIVITIES.

“(a) COMPREHENSIVE PLAN.—

“(1) IN GENERAL.—Each State that receives assistance under this subpart shall ensure that the State and its local operating agencies identify and address the unique educational needs of migratory children in accordance with a comprehensive State plan that—

“(A) is integrated with other programs under this Act or other Acts, as appropriate;

“(B) may be submitted as a part of a consolidated application under section 5302, if—

“(i) the unique needs of migratory children are specifically addressed in the comprehensive State plan;

“(ii) the comprehensive State plan is developed in collaboration with parents of migratory children; and

“(iii) the comprehensive State plan is not used to supplant State efforts regarding, or administrative funding for, this subpart;

“(C) provides that migratory children will have an opportunity to meet the same State academic standards under section 1111(b)(1) that all children are expected to meet;

“(D) specifies measurable program goals and outcomes;

“(E) encompasses the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;

“(F) is the product of joint planning among such local, State, and Federal programs, including programs under subpart 1, early childhood programs, and language instruction educational programs under chapter A of subpart 4; and

“(G) provides for the integration of services available under this subpart with services provided by such other programs.

“(2) DURATION OF THE PLAN.—Each such comprehensive State plan shall—

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

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

“(b) AUTHORIZED ACTIVITIES.—

“(1) FLEXIBILITY.—In implementing the comprehensive plan described in subsection (a), each State educational agency, where applicable through its local educational agencies, shall have the flexibility to determine the activities to be provided with funds made available under this subpart, except that such funds first shall be used to meet the identified needs of migratory children that result from their migratory lifestyle, and to permit these children to participate effectively in school.

“(2) UNADDRESSED NEEDS.—Funds provided under this subpart shall be used to address the needs of migratory children that are not addressed by services available from other Federal or non-Federal programs, except that migratory children who are eligible to receive services under subpart 1 may receive those services through funds provided under that subpart, or through funds under this subpart that remain after the agency addresses the needs described in paragraph (1).

“(3) CONSTRUCTION.—Nothing in this subpart shall be construed to prohibit a local educational agency from serving migratory children simultaneously with students with similar educational needs in the same educational settings, where appropriate.

“SEC. 1137. BYPASS.

“The Secretary may use all or part of any State’s allocation under this subpart to make arrangements with any public or private agency to carry out the purpose of this subpart in such State if the Secretary determines that—

“(1) the State is unable or unwilling to conduct educational programs for migratory children;

“(2) such arrangements would result in more efficient and economic administration of such programs; or

“(3) such arrangements would add substantially to the educational achievement of such children.

“SEC. 1138. COORDINATION OF MIGRATORY EDUCATION ACTIVITIES.

“(a) IMPROVEMENT OF COORDINATION.—

“(1) IN GENERAL.—The Secretary, in consultation with the States, may make grants to, or enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, and other public and private entities to improve the interstate and intrastate coordination among such agencies’ educational programs, including through the establishment or improvement of programs for credit accrual and exchange, available to migratory students.

“(2) DURATION.—Grants or contracts under this subsection may be awarded for not more than 5 years.

“(b) STUDENT RECORDS.—

“(1) ASSISTANCE.—The Secretary shall assist States in developing and maintaining an effective system for the electronic transfer of student records and in determining the number of migratory children in each State.

“(2) INFORMATION SYSTEM.—

“(A) IN GENERAL.—The Secretary, in consultation with the States, shall ensure the linkage of migratory student record systems for the purpose of electronically exchanging, among the States, health and educational information regarding all migratory students. The Secretary shall ensure such linkage occurs in a cost-effective manner, utilizing systems used by the States prior to, or developed after, the date of enactment of this Act. The Secretary shall determine the minimum data elements that each State receiving funds under this subpart shall collect and maintain. Such minimum data elements may include—

“(i) immunization records and other health information;

“(ii) elementary and secondary academic history (including partial credit), credit accrual, and results from State assessments required under section 1111(b)(2);

“(iii) other academic information essential to ensuring that migratory children achieve to the States’s academic standards; and

“(iv) eligibility for services under the Individuals with Disabilities Education Act.

“(B) The Secretary shall consult with States before updating the data elements that each State receiving funds under this subpart shall be required to collect for purposes of electronic transfer of migratory student information and the requirements that States shall meet for immediate electronic access to such information.

“(3) NO COST FOR CERTAIN TRANSFERS.—A State educational agency or local educational agency receiving assistance under this subpart shall make student

records available to another State educational agency or local educational agency that requests the records at no cost to the requesting agency, if the request is made in order to meet the needs of a migratory child.

“(4) REPORT TO CONGRESS.—

“(A) IN GENERAL.—Not later than April 30, 2013, the Secretary shall report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives the Secretary’s findings and recommendations regarding the maintenance and transfer of health and educational information for migratory students by the States.

“(B) REQUIRED CONTENTS.—The Secretary shall include in such report—

“(i) a review of the progress of States in developing and linking electronic records transfer systems;

“(ii) recommendations for maintaining such systems; and

“(iii) recommendations for improving the continuity of services provided for migratory students.

“(c) AVAILABILITY OF FUNDS.—The Secretary shall reserve not more than \$10,000,000 of the amount reserved under section 1132 to carry out this section for each fiscal year.

“(d) DATA COLLECTION.—The Secretary shall direct the National Center for Education Statistics to collect data on migratory children.

“SEC. 1139. DEFINITIONS.

“As used in this subpart:

“(1) LOCAL OPERATING AGENCY.—The term ‘local operating agency’ means—

“(A) a local educational agency to which a State educational agency makes a subgrant under this subpart;

“(B) a public or private agency with which a State educational agency or the Secretary makes an arrangement to carry out a project under this subpart; or

“(C) a State educational agency, if the State educational agency operates the State’s migratory education program or projects directly.

“(2) MIGRATORY CHILD.—The term ‘migratory child’ means a child who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent or spouse, in order to obtain, temporary or seasonal employment in agricultural or fishing work—

“(A) has moved from one school district to another;

“(B) in a State that is comprised of a single school district, has moved from one administrative area to another within such district; or

“(C) resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

“Subpart 3—Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk

“SEC. 1141. PURPOSE AND PROGRAM AUTHORIZATION.

“(a) PURPOSE.—It is the purpose of this subpart—

“(1) to improve educational services for children and youth in local and State institutions for neglected or delinquent children and youth so that such children and youth have the opportunity to meet the same State academic standards that all children in the State are expected to meet;

“(2) to provide such children and youth with the services needed to make a successful transition from institutionalization to further schooling or employment; and

“(3) to prevent at-risk youth from dropping out of school, and to provide dropouts, and children and youth returning from correctional facilities or institutions for neglected or delinquent children and youth, with a support system to ensure their continued education.

“(b) PROGRAM AUTHORIZED.—From amounts appropriated under section 3(a)(1), the Secretary shall reserve 0.3 of one percent to carry out this subpart.

“(c) GRANTS AWARDED.—From the amounts reserved under subsection (b) and not reserved under section 1004 and section 1159, the Secretary shall make grants to State educational agencies that have plans submitted under section 1154 approved to enable such agencies to award subgrants to State agencies and local educational

agencies to establish or improve programs of education for neglected, delinquent, or at-risk children and youth.

“SEC. 1142. PAYMENTS FOR PROGRAMS UNDER THIS SUBPART.

“(a) AGENCY SUBGRANTS.—Based on the allocation amount computed under section 1152, the Secretary shall allocate to each State educational agency an amount necessary to make subgrants to State agencies under chapter A.

“(b) LOCAL SUBGRANTS.—Each State shall retain, for the purpose of carrying out chapter B, funds generated throughout the State under subpart 1 of this part based on children and youth residing in local correctional facilities, or attending community day programs for delinquent children and youth.

“CHAPTER A—STATE AGENCY PROGRAMS

“SEC. 1151. ELIGIBILITY.

“A State agency is eligible for assistance under this chapter if such State agency is responsible for providing free public education for children and youth—

“(1) in institutions for neglected or delinquent children and youth;

“(2) attending community day programs for neglected or delinquent children and youth; or

“(3) in adult correctional institutions.

“SEC. 1152. ALLOCATION OF FUNDS.

“(a) SUBGRANTS TO STATE AGENCIES.—

“(1) IN GENERAL.—Each State agency described in section 1151 (other than an agency in the Commonwealth of Puerto Rico) is eligible to receive a subgrant under this chapter, for each fiscal year, in an amount equal to the product of—

“(A) the number of neglected or delinquent children and youth described in section 1151 who—

“(i) are enrolled for at least 15 hours per week in education programs in adult correctional institutions; and

“(ii) are enrolled for at least 20 hours per week—

“(I) in education programs in institutions for neglected or delinquent children and youth; or

“(II) in community day programs for neglected or delinquent children and youth; and

“(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this subparagraph shall not be less than 32 percent, nor more than 48 percent, of the average per-pupil expenditure in the United States.

“(2) SPECIAL RULE.—The number of neglected or delinquent children and youth determined under paragraph (1) shall—

“(A) be determined by the State agency by a deadline set by the Secretary, except that no State agency shall be required to determine the number of such children and youth on a specific date set by the Secretary; and

“(B) be adjusted, as the Secretary determines is appropriate, to reflect the relative length of such agency’s annual programs.

“(b) SUBGRANTS TO STATE AGENCIES IN PUERTO RICO.—

“(1) IN GENERAL.—For each fiscal year, the amount of the subgrant which a State agency in the Commonwealth of Puerto Rico shall be eligible to receive under this chapter shall be the amount determined by multiplying the number of children counted under subsection (a)(1)(A) for the Commonwealth of Puerto Rico by the product of—

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

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

“(2) MINIMUM PERCENTAGE.—The percentage in paragraph (1)(A) shall not be less than 85 percent.

“(c) RATABLE REDUCTIONS IN CASE OF INSUFFICIENT APPROPRIATIONS.—If the amount reserved for any fiscal year for subgrants under subsections (a) and (b) is insufficient to pay the full amount for which all State agencies are eligible under such subsections, the Secretary shall ratably reduce each such amount.

“SEC. 1153. STATE REALLOCATION OF FUNDS.

“If a State educational agency determines that a State agency does not need the full amount of the subgrant for which such State agency is eligible under this chapter for any fiscal year, the State educational agency may reallocate the amount that will not be needed to other eligible State agencies that need additional funds to

carry out the purpose of this chapter, in such amounts as the State educational agency shall determine.

“SEC. 1154. STATE PLAN AND STATE AGENCY APPLICATIONS.

“(a) STATE PLAN.—

“(1) IN GENERAL.—Each State educational agency that desires to receive a grant under this chapter shall submit, for approval by the Secretary, a plan—

“(A) for meeting the educational needs of neglected, delinquent, and at-risk children and youth;

“(B) for assisting in the transition of children and youth from correctional facilities to locally operated programs; and

“(C) that is integrated with other programs under this Act or other Acts, as appropriate.

“(2) CONTENTS.—Each such State plan shall—

“(A) describe how the State will assess the effectiveness of the program in improving the academic, career, and technical skills of children in the program;

“(B) provide that, to the extent feasible, such children will have the same opportunities to achieve as such children would have if such children were in the schools of local educational agencies in the State;

“(C) describe how the State will place a priority for such children to obtain a regular high school diploma, to the extent feasible; and

“(D) contain an assurance that the State educational agency will—

“(i) ensure that programs assisted under this chapter will be carried out in accordance with the State plan described in this subsection;

“(ii) carry out the evaluation requirements of section 1171; and

“(iii) ensure that the State agencies receiving subgrants under this chapter comply with all applicable statutory and regulatory requirements.

“(3) DURATION OF THE PLAN.—Each such State plan shall—

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

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

“(b) SECRETARIAL APPROVAL AND PEER REVIEW.—

“(1) SECRETARIAL APPROVAL.—The Secretary shall approve each State plan that meets the requirements of this chapter.

“(2) PEER REVIEW.—The Secretary may review any State plan with the assistance and advice of individuals with relevant expertise.

“(c) STATE AGENCY APPLICATIONS.—Any State agency that desires to receive funds to carry out a program under this chapter shall submit an application to the State educational agency that—

“(1) describes the procedures to be used, consistent with the State plan under section 1111, to assess the educational needs of the children to be served under this chapter;

“(2) provide an assurance that in making services available to children and youth in adult correctional institutions, priority will be given to such children and youth who are likely to complete incarceration within a 2-year period;

“(3) describes the program, including a budget for the first year of the program, with annual updates to be provided to the State educational agency;

“(4) describes how the program will meet the goals and objectives of the State plan;

“(5) describes how the State agency will consult with experts and provide the necessary training for appropriate staff, to ensure that the planning and operation of institution-wide projects under section 1156 are of high quality;

“(6) describes how the programs will be coordinated with other appropriate State and Federal programs, such as programs under title I of Public Law 105–220, career and technical education programs, State and local dropout prevention programs, and special education programs;

“(7) describes how the State agency will encourage correctional facilities receiving funds under this chapter to coordinate with local educational agencies or alternative education programs attended by incarcerated children and youth prior to and after their incarceration to ensure that student assessments and appropriate academic records are shared jointly between the correctional facility and the local educational agency or alternative education program;

“(8) describes how appropriate professional development will be provided to teachers and other staff;

“(9) designates an individual in each affected correctional facility or institution for neglected or delinquent children and youth to be responsible for issues

relating to the transition of such children and youth from such facility or institution to locally operated programs;

“(10) describes how the State agency will endeavor to coordinate with businesses for training and mentoring for participating children and youth;

“(11) provides an assurance that the State agency will assist in locating alternative programs through which students can continue their education if the students are not returning to school after leaving the correctional facility or institution for neglected or delinquent children and youth;

“(12) provides assurances that the State agency will work with parents to secure parents’ assistance in improving the educational achievement of their children and youth, and preventing their children’s and youth’s further involvement in delinquent activities;

“(13) provides an assurance that the State agency will work with children and youth with disabilities in order to meet an existing individualized education program and an assurance that the agency will notify the child’s or youth’s local school if the child or youth—

“(A) is identified as in need of special education services while the child or youth is in the correctional facility or institution for neglected or delinquent children and youth; and

“(B) intends to return to the local school;

“(14) provides an assurance that the State agency will work with children and youth who dropped out of school before entering the correctional facility or institution for neglected or delinquent children and youth to encourage the children and youth to reenter school and obtain a regular high school diploma once the term of the incarceration is completed, or provide the child or youth with the skills necessary to gain employment, continue the education of the child or youth, or obtain a regular high school diploma or its recognized equivalent if the child or youth does not intend to return to school;

“(15) provides an assurance that effective teachers and other qualified staff are trained to work with children and youth with disabilities and other students with special needs taking into consideration the unique needs of such students;

“(16) describes any additional services to be provided to children and youth, such as career counseling, distance education, and assistance in securing student loans and grants; and

“(17) provides an assurance that the program under this chapter will be coordinated with any programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) or other comparable programs, if applicable.

“SEC. 1155. USE OF FUNDS.

“(a) USES.—

“(1) IN GENERAL.—A State agency shall use funds received under this chapter only for programs and projects that—

“(A) are consistent with the State plan under section 1154(a); and

“(B) concentrate on providing participants with the knowledge and skills needed to make a successful transition to secondary school completion, career or technical training, further education, or employment without the need for remediation.

“(2) PROGRAMS AND PROJECTS.—Such programs and projects—

“(A) may include the acquisition of equipment;

“(B) shall be designed to support educational services that—

“(i) except for institution-wide projects under section 1156, are provided to children and youth identified by the State agency as failing, or most at-risk of failing, to meet the State’s academic standards; and

“(ii) supplement and improve the quality of the educational services provided to such children and youth by the State agency; and

“(iii) afford such children and youth an opportunity to meet State academic standards; and

“(C) shall be carried out in a manner consistent with section 1120A and part C (as applied to programs and projects under this chapter).

“(b) SUPPLEMENT, NOT SUPPLANT.—A program under this chapter that supplements the number of hours of instruction students receive from State and local sources shall be considered to comply with the supplement, not supplant the requirement of section 1120A (as applied to this chapter) without regard to the subject areas in which instruction is given during those hours.

“SEC. 1156. INSTITUTION-WIDE PROJECTS.

“A State agency that provides free public education for children and youth in an institution for neglected or delinquent children and youth (other than an adult correctional institution) or attending a community day program for such children and

youth may use funds received under this chapter to serve all children in, and upgrade the entire educational effort of, that institution or program if the State agency has developed, and the State educational agency has approved, a comprehensive plan for that institution or program that—

“(1) provides for a comprehensive assessment of the educational needs of all children and youth in the institution or program serving juveniles;

“(2) provides for a comprehensive assessment of the educational needs of youth aged 20 and younger in adult facilities who are expected to complete incarceration within a 2-year period;

“(3) describes the steps the State agency has taken, or will take, to provide all children and youth under age 21 with the opportunity to meet State academic standards in order to improve the likelihood that the children and youth will complete secondary school, obtain a regular high school diploma or its recognized equivalent, or find employment after leaving the institution;

“(4) describes the instructional program, specialized instructional support services, and procedures that will be used to meet the needs described in paragraph (1), including, to the extent feasible, the provision of mentors for the children and youth described in paragraph (1);

“(5) specifically describes how such funds will be used;

“(6) describes the measures and procedures that will be used to assess and improve student achievement;

“(7) describes how the agency has planned, and will implement and evaluate, the institution-wide or program-wide project in consultation with personnel providing direct instructional services and support services in institutions or community day programs for neglected or delinquent children and youth, and with personnel from the State educational agency; and

“(8) includes an assurance that the State agency has provided for appropriate training for teachers and other instructional and administrative personnel to enable such teachers and personnel to carry out the project effectively.

“SEC. 1157. THREE-YEAR PROGRAMS OR PROJECTS.

“If a State agency operates a program or project under this chapter in which individual children or youth are likely to participate for more than one year, the State educational agency may approve the State agency’s application for a subgrant under this chapter for a period of not more than 3 years.

“SEC. 1158. TRANSITION SERVICES.

“(a) **TRANSITION SERVICES.**—Each State agency shall reserve not less than 15 percent and not more than 30 percent of the amount such agency receives under this chapter for any fiscal year to support—

“(1) projects that facilitate the transition of children and youth from State-operated institutions to schools served by local educational agencies; or

“(2) the successful re-entry of youth offenders, who are age 20 or younger and have received a regular high school diploma or its recognized equivalent, into postsecondary education, or career and technical training programs, through strategies designed to expose the youth to, and prepare the youth for, postsecondary education, or career and technical training programs, such as—

“(A) preplacement programs that allow adjudicated or incarcerated youth to audit or attend courses on college, university, or community college campuses, or through programs provided in institutional settings;

“(B) worksite schools, in which institutions of higher education and private or public employers partner to create programs to help students make a successful transition to postsecondary education and employment; and

“(C) essential support services to ensure the success of the youth, such as—

“(i) personal, career and technical, and academic counseling;

“(ii) placement services designed to place the youth in a university, college, or junior college program;

“(iii) information concerning, and assistance in obtaining, available student financial aid;

“(iv) counseling services; and

“(v) job placement services.

“(b) **CONDUCT OF PROJECTS.**—A project supported under this section may be conducted directly by the State agency, or through a contract or other arrangement with one or more local educational agencies, other public agencies, or private organizations.

“(c) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to prohibit a school that receives funds under subsection (a) from serving neglected and delinquent children and youth simultaneously with students with similar educational needs, in the same educational settings where appropriate.

“SEC. 1159. TECHNICAL ASSISTANCE.

“The Secretary shall reserve not more than 1 percent of the amount reserved under section 1141 to provide technical assistance to and support State agency programs assisted under this chapter.

“CHAPTER B—LOCAL AGENCY PROGRAMS**“SEC. 1161. PURPOSE.**

“The purpose of this chapter is to support the operation of local educational agency programs that involve collaboration with locally operated correctional facilities—

“(1) to carry out high quality education programs to prepare children and youth for secondary school completion, training, employment, or further education;

“(2) to provide activities to facilitate the transition of such children and youth from the correctional program to further education or employment; and

“(3) to operate programs in local schools for children and youth returning from correctional facilities, and programs which may serve at-risk children and youth.

“SEC. 1162. PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES.

“(a) LOCAL SUBGRANTS.—With funds made available under section 1142(b), the State educational agency shall award subgrants to local educational agencies with high numbers or percentages of children and youth residing in locally operated (including county operated) correctional facilities for children and youth (including facilities involved in community day programs).

“(b) SPECIAL RULE.—A local educational agency that serves a school operated by a correctional facility is not required to operate a program of support for children and youth returning from such school to a school that is not operated by a correctional agency but served by such local educational agency, if more than 30 percent of the children and youth attending the school operated by the correctional facility will reside outside the boundaries served by the local educational agency after leaving such facility.

“(c) NOTIFICATION.—A State educational agency shall notify local educational agencies within the State of the eligibility of such agencies to receive a subgrant under this chapter.

“(d) TRANSITIONAL AND ACADEMIC SERVICES.—Transitional and supportive programs operated in local educational agencies under this chapter shall be designed primarily to meet the transitional and academic needs of students returning to local educational agencies or alternative education programs from correctional facilities. Services to students at-risk of dropping out of school shall not have a negative impact on meeting the transitional and academic needs of the students returning from correctional facilities.

“SEC. 1163. LOCAL EDUCATIONAL AGENCY APPLICATIONS.

“Each local educational agency desiring assistance under this chapter shall submit an application to the State educational agency that contains such information as the State educational agency may require. Each such application shall include—

“(1) a description of the program to be assisted;

“(2) a description of formal agreements, regarding the program to be assisted, between—

“(A) the local educational agency; and

“(B) correctional facilities and alternative school programs serving children and youth involved with the juvenile justice system;

“(3) as appropriate, a description of how participating schools will coordinate with facilities working with delinquent children and youth to ensure that such children and youth are participating in an education program comparable to one operating in the local school such youth would attend;

“(4) a description of the program operated by participating schools for children and youth returning from correctional facilities and, as appropriate, the types of services that such schools will provide such children and youth and other at-risk children and youth;

“(5) a description of the characteristics (including learning difficulties, substance abuse problems, and other needs) of the children and youth who will be returning from correctional facilities and, as appropriate, other at-risk children and youth expected to be served by the program, and a description of how the school will coordinate existing educational programs to meet the unique educational needs of such children and youth;

“(6) as appropriate, a description of how schools will coordinate with existing social, health, and other services to meet the needs of students returning from correctional facilities and at-risk children or youth, including prenatal health

care and nutrition services related to the health of the parent and the child or youth, parenting and child development classes, child care, targeted reentry and outreach programs, referrals to community resources, and scheduling flexibility;

“(7) as appropriate, a description of any partnerships with local businesses to develop training, curriculum-based youth entrepreneurship education, and mentoring services for participating students;

“(8) as appropriate, a description of how the program will involve parents in efforts to improve the educational achievement of their children, assist in dropout prevention activities, and prevent the involvement of their children in delinquent activities;

“(9) a description of how the program under this chapter will be coordinated with other Federal, State, and local programs, such as programs under title I of Public Law 105–220 and career and technical education programs serving at-risk children and youth;

“(10) a description of how the program will be coordinated with programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable;

“(11) as appropriate, a description of how schools will work with probation officers to assist in meeting the needs of children and youth returning from correctional facilities;

“(12) a description of the efforts participating schools will make to ensure correctional facilities working with children and youth are aware of a child’s or youth’s existing individualized education program; and

“(13) as appropriate, a description of the steps participating schools will take to find alternative placements for children and youth interested in continuing their education but unable to participate in a traditional public school program.

“SEC. 1164. USES OF FUNDS.

“Funds provided to local educational agencies under this chapter may be used, as appropriate, for—

“(1) programs that serve children and youth returning to local schools from correctional facilities, to assist in the transition of such children and youth to the school environment and help them remain in school in order to complete their education;

“(2) dropout prevention programs which serve at-risk children and youth;

“(3) the coordination of health and social services for such individuals if there is a likelihood that the provision of such services, including day care, drug and alcohol counseling, and mental health services, will improve the likelihood such individuals will complete their education;

“(4) special programs to meet the unique academic needs of participating children and youth, including career and technical education, special education, career counseling, curriculum-based youth entrepreneurship education, and assistance in securing student loans or grants for postsecondary education; and

“(5) programs providing mentoring and peer mediation.

“SEC. 1165. PROGRAM REQUIREMENTS FOR CORRECTIONAL FACILITIES RECEIVING FUNDS UNDER THIS SECTION.

“Each correctional facility entering into an agreement with a local educational agency under section 1163(2) to provide services to children and youth under this chapter shall—

“(1) where feasible, ensure that educational programs in the correctional facility are coordinated with the student’s home school, particularly with respect to a student with an individualized education program under part B of the Individuals with Disabilities Education Act;

“(2) if the child or youth is identified as in need of special education services while in the correctional facility, notify the local school of the child or youth of such need;

“(3) where feasible, provide transition assistance to help the child or youth stay in school, including coordination of services for the family, counseling, assistance in accessing drug and alcohol abuse prevention programs, tutoring, and family counseling;

“(4) provide support programs that encourage children and youth who have dropped out of school to re-enter school and obtain a regular high school diploma once their term at the correctional facility has been completed, or provide such children and youth with the skills necessary to gain employment or seek a regular high school diploma or its recognized equivalent;

“(5) work to ensure that the correctional facility is staffed with effective teachers and other qualified staff who are trained to work with children and youth with disabilities taking into consideration the unique needs of such children and youth;

“(6) ensure that educational programs in the correctional facility are related to assisting students to meet the States’s academic standards;

“(7) to the extent possible, use technology to assist in coordinating educational programs between the correctional facility and the community school;

“(8) where feasible, involve parents in efforts to improve the educational achievement of their children and prevent the further involvement of such children in delinquent activities;

“(9) coordinate funds received under this chapter with other local, State, and Federal funds available to provide services to participating children and youth, such as funds made available under title I of Public Law 105–220, and career and technical education funds;

“(10) coordinate programs operated under this chapter with activities funded under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable;

“(11) if appropriate, work with local businesses to develop training, curriculum-based youth entrepreneurship education, and mentoring programs for children and youth; and

“(12) consult with the local educational agency for a period jointly determined necessary by the correctional facility and local educational agency upon discharge from that facility to coordinate educational services so as to minimize disruption to the child’s or youth’s achievement.

“SEC. 1166. ACCOUNTABILITY.

“The State educational agency—

“(1) may require correctional facilities or institutions for neglected or delinquent children and youth to demonstrate, after receiving assistance under this chapter for 3 years, that there has been an increase in the number of children and youth returning to school, obtaining a regular high school diploma or its recognized equivalent, or obtaining employment after such children and youth are released; and

“(2) may reduce or terminate funding for projects under this chapter if a local educational agency does not show progress in the number of children and youth obtaining a regular high school diploma or its recognized equivalent.

“CHAPTER C—GENERAL PROVISIONS

“SEC. 1171. PROGRAM EVALUATIONS.

“(a) SCOPE OF EVALUATION.—Each State agency or local educational agency that conducts a program under chapters A or B shall evaluate the program, disaggregating data on participation by gender, race, ethnicity, and age, not less than once every 3 years, to determine the program’s impact on the ability of participants—

“(1) to maintain and improve educational achievement;

“(2) to accrue school credits that meet State requirements for grade promotion and high school graduation;

“(3) to make the transition to a regular program or other education program operated by a local educational agency;

“(4) to complete high school (or high school equivalency requirements) and obtain employment after leaving the correctional facility or institution for neglected or delinquent children and youth; and

“(5) as appropriate, to participate in postsecondary education and job training programs.

“(b) EXCEPTION.—The disaggregation required under subsection (a) shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student.

“(c) EVALUATION MEASURES.—In conducting each evaluation under subsection (a), a State agency or local educational agency shall use multiple and appropriate measures of student progress.

“(d) EVALUATION RESULTS.—Each State agency and local educational agency shall—

“(1) submit evaluation results to the State educational agency and the Secretary; and

“(2) use the results of evaluations under this section to plan and improve subsequent programs for participating children and youth.

“SEC. 1172. DEFINITIONS.

“In this subpart:

“(1) ADULT CORRECTIONAL INSTITUTION.—The term ‘adult correctional institution’ means a facility in which persons (including persons under 21 years of age) are confined as a result of a conviction for a criminal offense.

“(2) AT-RISK.—The term ‘at-risk’, when used with respect to a child, youth, or student, means a school-aged individual who

“(A) is at-risk of academic failure; and

“(B) has a drug or alcohol problem, is pregnant or is a parent, has come into contact with the juvenile justice system in the past, is at least 1 year behind the expected grade level for the age of the individual, is an English learner, is a gang member, has dropped out of school in the past, or has a high absenteeism rate at school.

“(3) COMMUNITY DAY PROGRAM.—The term ‘community day program’ means a regular program of instruction provided by a State agency at a community day school operated specifically for neglected or delinquent children and youth.

“(4) INSTITUTION FOR NEGLECTED OR DELINQUENT CHILDREN AND YOUTH.—The term ‘institution for neglected or delinquent children and youth’ means—

“(A) a public or private residential facility, other than a foster home, that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of their parents or guardians; or

“(B) a public or private residential facility for the care of children who have been adjudicated to be delinquent or in need of supervision.

“Subpart 4—English Language Acquisition, Language Enhancement, and Academic Achievement

“SEC. 1181. PURPOSES.

“The purposes of this subpart are—

“(1) to help ensure that English learners, including immigrant children and youth, attain English proficiency and develop high levels of academic achievement in English;

“(2) to assist all English learners, including immigrant children and youth, to achieve at high levels in the core academic subjects so that those children can meet the same State academic standards that all children are expected to meet, consistent with section 1111(b)(1);

“(3) to assist State educational agencies, local educational agencies, and schools in establishing, implementing, and sustaining high-quality, flexible, evidence-based language instruction educational programs designed to assist in teaching English learners, including immigrant children and youth;

“(4) to assist State educational agencies and local educational agencies to develop and enhance their capacity to provide high-quality, evidence-based instructional programs designed to prepare English learners, including immigrant children and youth, to enter all-English instruction settings; and

“(5) to promote parental and community participation in language instruction educational programs for the parents and communities of English learners.

“CHAPTER A—GRANTS AND SUBGRANTS FOR ENGLISH LANGUAGE ACQUISITION AND LANGUAGE ENHANCEMENT

“SEC. 1191. FORMULA GRANTS TO STATES.

“(a) IN GENERAL.—In the case of each State educational agency having a plan approved by the Secretary for a fiscal year under section 1192, the Secretary shall reserve 4.4 percent of funds appropriated under section 3(a)(1) to make a grant for the year to the agency for the purposes specified in subsection (b). The grant shall consist of the allotment determined for the State educational agency under subsection (c).

“(b) USE OF FUNDS.—

“(1) SUBGRANTS TO ELIGIBLE ENTITIES.—The Secretary may make a grant under subsection (a) only if the State educational agency involved agrees to expend at least 95 percent of the State educational agency’s allotment under subsection (c) for a fiscal year—

“(A) to award subgrants, from allocations under section 1193, to eligible entities to carry out the activities described in section 1194 (other than subsection (e)); and

“(B) to award subgrants under section 1193(d)(1) to eligible entities that are described in that section to carry out the activities described in section 1194(e).

“(2) STATE ACTIVITIES.—Subject to paragraph (3), each State educational agency receiving a grant under subsection (a) may reserve not more than 5 percent of the agency’s allotment under subsection (c) to carry out the following activities:

“(A) Professional development activities, and other activities, which may include assisting personnel in—

“(i) meeting State and local certification and licensing requirements for teaching English learners; and

“(ii) improving teacher skills in meeting the diverse needs of English learners, including in how to implement evidence-based programs and curricula on teaching English learners.

“(B) Planning, evaluation, administration, and interagency coordination related to the subgrants referred to in paragraph (1).

“(C) Providing technical assistance and other forms of assistance to eligible entities that are receiving subgrants from a State educational agency under this chapter, including assistance in—

“(i) identifying and implementing evidence-based language instruction educational programs and curricula for teaching English learners;

“(ii) helping English learners meet the same State academic standards that all children are expected to meet;

“(iii) identifying or developing, and implementing, measures of English proficiency; and

“(iv) strengthening and increasing parent, family, and community engagement.

“(D) Providing recognition, which may include providing financial awards, to subgrantees that have significantly improved the achievement and progress of English learners in—

“(i) reaching English language proficiency, based on the State’s English language proficiency assessment under section 1111(b)(2)(D); and

“(ii) meeting the State academic standards under section 1111(b)(1).

“(3) ADMINISTRATIVE EXPENSES.—From the amount reserved under paragraph (2), a State educational agency may use not more than 40 percent of such amount or \$175,000, whichever is greater, for the planning and administrative costs of carrying out paragraphs (1) and (2).

“(c) RESERVATIONS AND ALLOTMENTS.—

“(1) RESERVATIONS.—From the amount reserved under section 1191(a) for each fiscal year, the Secretary shall reserve—

“(A) 0.5 percent of such amount for payments to outlying areas, to be allotted in accordance with their respective needs for assistance under this chapter, as determined by the Secretary, for activities, approved by the Secretary, consistent with this chapter; and

“(B) 6.5 percent of such amount for national activities under sections 1211 and 1222, except that not more than \$2,000,000 of such amount may be reserved for the National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs described in section 1222.

“(2) STATE ALLOTMENTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), from the amount reserved under section 1191(a) for each fiscal year that remains after making the reservations under paragraph (1), the Secretary shall allot to each State educational agency having a plan approved under section 1192(c)—

“(i) an amount that bears the same relationship to 80 percent of the remainder as the number of English learners in the State bears to the number of such children in all States, as determined by data available from the American Community Survey conducted by the Department of Commerce or State-reported data; and

“(ii) an amount that bears the same relationship to 20 percent of the remainder as the number of immigrant children and youth in the State bears to the number of such children and youth in all States, as determined based only on data available from the American Community Survey conducted by the Department of Commerce.

“(B) MINIMUM ALLOTMENTS.—No State educational agency shall receive an allotment under this paragraph that is less than \$500,000.

“(C) REALLOTMENT.—If any State educational agency described in subparagraph (A) does not submit a plan to the Secretary for a fiscal year, or submits a plan (or any amendment to a plan) that the Secretary, after reasonable notice and opportunity for a hearing, determines does not satisfy

the requirements of this chapter, the Secretary shall reallocate any portion of such allotment to the remaining State educational agencies in accordance with subparagraph (A).

“(D) SPECIAL RULE FOR PUERTO RICO.—The total amount allotted to Puerto Rico for any fiscal year under subparagraph (A) shall not exceed 0.5 percent of the total amount allotted to all States for that fiscal year.

“(3) USE OF DATA FOR DETERMINATIONS.—In making State allotments under paragraph (2) for each fiscal year, the Secretary shall determine the number of English learners in a State and in all States, using the most accurate, up-to-date data, which shall be—

“(A) data from the American Community Survey conducted by the Department of Commerce, which may be multiyear estimates;

“(B) the number of students being assessed for English language proficiency, based on the State’s English language proficiency assessment under section 1111(b)(2)(D), which may be multiyear estimates; or

“(C) a combination of data available under subparagraphs (A) and (B).

“SEC. 1192. STATE EDUCATIONAL AGENCY PLANS.

“(a) PLAN REQUIRED.—Each State educational agency desiring a grant under this chapter shall submit a plan to the Secretary at such time and in such manner as the Secretary may require.

“(b) CONTENTS.—Each plan submitted under subsection (a) shall—

“(1) describe the process that the agency will use in awarding subgrants to eligible entities under section 1193(d)(1);

“(2) provide an assurance that—

“(A) the agency will ensure that eligible entities receiving a subgrant under this chapter comply with the requirement in section 1111(b)(2)(B)(x) to annually assess in English learners who have been in the United States for 3 or more consecutive years;

“(B) the agency will ensure that eligible entities receiving a subgrant under this chapter annually assess the English proficiency of all English learners participating in a program funded under this chapter, consistent with section 1111(b)(2)(D);

“(C) in awarding subgrants under section 1193, the agency will address the needs of school systems of all sizes and in all geographic areas, including school systems with rural and urban schools;

“(D) subgrants to eligible entities under section 1193(d)(1) will be of sufficient size and scope to allow such entities to carry out high-quality, evidence-based language instruction educational programs for English learners;

“(E) the agency will require an eligible entity receiving a subgrant under this chapter to use the subgrant in ways that will build such recipient’s capacity to continue to offer high-quality evidence-based language instruction educational programs that assist English learners in meeting State academic standards;

“(F) the agency will monitor the eligible entity receiving a subgrant under this chapter for compliance with applicable Federal fiscal requirements; and

“(G) the plan has been developed in consultation with local educational agencies, teachers, administrators of programs implemented under this chapter, parents, and other relevant stakeholders;

“(3) describe how the agency will coordinate its programs and activities under this chapter with other programs and activities under this Act and other Acts, as appropriate;

“(4) describe how eligible entities in the State will be given the flexibility to teach English learners—

“(A) using a high-quality, evidence-based language instruction curriculum for teaching English learners; and

“(B) in the manner the eligible entities determine to be the most effective; and

“(5) describe how the agency will assist eligible entities in increasing the number of English learners who acquire English proficiency.

“(c) APPROVAL.—The Secretary, after using a peer review process, shall approve a plan submitted under subsection (a) if the plan meets the requirements of this section.

“(d) DURATION OF PLAN.—

“(1) IN GENERAL.—Each plan submitted by a State educational agency and approved under subsection (c) shall—

“(A) remain in effect for the duration of the agency’s participation under this chapter; and

“(B) be periodically reviewed and revised by the agency, as necessary, to reflect changes to the agency’s strategies and programs carried out under this subpart.

“(2) ADDITIONAL INFORMATION.—

“(A) AMENDMENTS.—If the State educational agency amends the plan, the agency shall submit such amendment to the Secretary.

“(B) APPROVAL.—The Secretary shall approve such amendment to an approved plan, unless the Secretary determines that the amendment will result in the agency not meeting the requirements, or fulfilling the purposes, of this subpart.

“(e) CONSOLIDATED PLAN.—A plan submitted under subsection (a) may be submitted as part of a consolidated plan under section 5302.

“(f) SECRETARY ASSISTANCE.—The Secretary shall provide technical assistance, if requested, in the development of English proficiency standards and assessments.

“SEC. 1193. WITHIN-STATE ALLOCATIONS.

“(a) IN GENERAL.—After making the reservation required under subsection (d)(1), each State educational agency receiving a grant under section 1191(c)(2) shall award subgrants for a fiscal year by allocating in a timely manner to each eligible entity in the State having a plan approved under section 1195 an amount that bears the same relationship to the amount received under the grant and remaining after making such reservation as the population of English learners in schools served by the eligible entity bears to the population of English learners in schools served by all eligible entities in the State.

“(b) LIMITATION.—A State educational agency shall not award a subgrant from an allocation made under subsection (a) if the amount of such subgrant would be less than \$10,000.

“(c) REALLOCATION.—Whenever a State educational agency determines that an amount from an allocation made to an eligible entity under subsection (a) for a fiscal year will not be used by the entity for the purpose for which the allocation was made, the agency shall, in accordance with such rules as it determines to be appropriate, reallocate such amount, consistent with such subsection, to other eligible entities in the State that the agency determines will use the amount to carry out that purpose.

“(d) REQUIRED RESERVATION.—A State educational agency receiving a grant under this chapter for a fiscal year—

“(1) shall reserve not more than 15 percent of the agency’s allotment under section 1191(c)(2) to award subgrants to eligible entities in the State that have experienced a significant increase, as compared to the average of the 2 preceding fiscal years, in the percentage or number of immigrant children and youth, who have enrolled, during the fiscal year preceding the fiscal year for which the subgrant is made, in public and nonpublic elementary schools and secondary schools in the geographic areas under the jurisdiction of, or served by, such entities; and

“(2) in awarding subgrants under paragraph (1)—

“(A) shall equally consider eligible entities that satisfy the requirement of such paragraph but have limited or no experience in serving immigrant children and youth; and

“(B) shall consider the quality of each local plan under section 1195 and ensure that each subgrant is of sufficient size and scope to meet the purposes of this subpart.

“SEC. 1194. SUBGRANTS TO ELIGIBLE ENTITIES.

“(a) PURPOSES OF SUBGRANTS.—A State educational agency may make a subgrant to an eligible entity from funds received by the agency under this chapter only if the entity agrees to expend the funds to improve the education of English learners, by assisting the children to learn English and meet State academic standards. In carrying out activities with such funds, the eligible entity shall use evidence-based approaches and methodologies for teaching English learners and immigrant children and youth for the following purposes:

“(1) Developing and implementing new language instruction educational programs and academic content instruction programs for English learners and immigrant children and youth, including programs of early childhood education, elementary school programs, and secondary school programs.

“(2) Carrying out highly focused, innovative, locally designed, evidence-based activities to expand or enhance existing language instruction educational programs and academic content instruction programs for English learners and immigrant children and youth.

“(3) Implementing, within an individual school, schoolwide programs for restructuring, reforming, and upgrading all relevant programs, activities, and op-

erations relating to language instruction educational programs and academic content instruction for English learners and immigrant children and youth.

“(4) Implementing, within the entire jurisdiction of a local educational agency, agencywide programs for restructuring, reforming, and upgrading all relevant programs, activities, and operations relating to language instruction educational programs and academic content instruction for English learners and immigrant children and youth.

“(b) ADMINISTRATIVE EXPENSES.—Each eligible entity receiving funds under section 1193(a) for a fiscal year shall use not more than 2 percent of such funds for the cost of administering this chapter.

“(c) REQUIRED SUBGRANTEE ACTIVITIES.—An eligible entity receiving funds under section 1193(a) shall use the funds—

“(1) to increase the English language proficiency of English learners by providing high-quality, evidence-based language instruction educational programs that meet the needs of English learners and have demonstrated success in increasing—

“(A) English language proficiency; and

“(B) student academic achievement in the core academic subjects;

“(2) to provide high-quality, evidence-based professional development to classroom teachers (including teachers in classroom settings that are not the settings of language instruction educational programs), school leaders, administrators, and other school or community-based organization personnel, that is—

“(A) designed to improve the instruction and assessment of English learners;

“(B) designed to enhance the ability of teachers and school leaders to understand and implement curricula, assessment practices and measures, and instruction strategies for English learners;

“(C) evidence-based in increasing children’s English language proficiency or substantially increasing the subject matter knowledge, teaching knowledge, and teaching skills of teachers; and

“(D) of sufficient intensity and duration (which shall not include activities such as one-day or short-term workshops and conferences) to have a positive and lasting impact on the teachers’ performance in the classroom, except that this subparagraph shall not apply to an activity that is one component of a long-term, comprehensive professional development plan established by a teacher and the teacher’s supervisor based on an assessment of the needs of the teacher, the supervisor, the students of the teacher, and any local educational agency employing the teacher, as appropriate; and

“(3) to provide and implement other evidence-based activities and strategies that enhance or supplement language instruction educational programs for English learners, including parental and community engagement activities and strategies that serve to coordinate and align related programs.

“(d) AUTHORIZED SUBGRANTEE ACTIVITIES.—Subject to subsection (c), an eligible entity receiving funds under section 1193(a) may use the funds to achieve one of the purposes described in subsection (a) by undertaking one or more of the following activities:

“(1) Upgrading program objectives and effective instruction strategies.

“(2) Improving the instruction program for English learners by identifying, acquiring, and upgrading curricula, instruction materials, educational software, and assessment procedures.

“(3) Providing to English learners—

“(A) tutorials and academic or career education for English learners; and

“(B) intensified instruction.

“(4) Developing and implementing elementary school or secondary school language instruction educational programs that are coordinated with other relevant programs and services.

“(5) Improving the English language proficiency and academic achievement of English learners.

“(6) Providing community participation programs, family literacy services, and parent outreach and training activities to English learners and their families—

“(A) to improve the English language skills of English learners; and

“(B) to assist parents in helping their children to improve their academic achievement and becoming active participants in the education of their children.

“(7) Improving the instruction of English learners by providing for—

“(A) the acquisition or development of educational technology or instructional materials;

“(B) access to, and participation in, electronic networks for materials, training, and communication; and

- “(C) incorporation of the resources described in subparagraphs (A) and (B) into curricula and programs, such as those funded under this chapter.
- “(8) Carrying out other activities that are consistent with the purposes of this section.
- “(e) ACTIVITIES BY AGENCIES EXPERIENCING SUBSTANTIAL INCREASES IN IMMIGRANT CHILDREN AND YOUTH.—
- “(1) IN GENERAL.—An eligible entity receiving funds under section 1193(d)(1) shall use the funds to pay for activities that provide enhanced instructional opportunities for immigrant children and youth, which may include—
- “(A) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;
- “(B) support for personnel, including paraprofessionals who have been specifically trained, or are being trained, to provide services to immigrant children and youth;
- “(C) provision of tutorials, mentoring, and academic or career counseling for immigrant children and youth;
- “(D) identification, development, and acquisition of curricular materials, educational software, and technologies to be used in the program carried out with awarded funds;
- “(E) basic instruction services that are directly attributable to the presence in the local educational agency involved of immigrant children and youth, including the payment of costs of providing additional classroom supplies, costs of transportation, or such other costs as are directly attributable to such additional basic instruction services;
- “(F) other instruction services that are designed to assist immigrant children and youth to achieve in elementary schools and secondary schools in the United States, such as programs of introduction to the educational system and civics education; and
- “(G) activities, coordinated with community-based organizations, institutions of higher education, private sector entities, or other entities with expertise in working with immigrants, to assist parents of immigrant children and youth by offering comprehensive community services.
- “(2) DURATION OF SUBGRANTS.—The duration of a subgrant made by a State educational agency under section 1193(d)(1) shall be determined by the agency in its discretion.
- “(f) SELECTION OF METHOD OF INSTRUCTION.—
- “(1) IN GENERAL.—To receive a subgrant from a State educational agency under this chapter, an eligible entity shall select one or more methods or forms of instruction to be used in the programs and activities undertaken by the entity to assist English learners to attain English language proficiency and meet State academic standards.
- “(2) CONSISTENCY.—Such selection shall be consistent with sections 1204 through 1206.
- “(g) SUPPLEMENT, NOT SUPPLANT.—Federal funds made available under this chapter shall be used so as to supplement the level of Federal, State, and local public funds that, in the absence of such availability, would have been expended for programs for English learners and immigrant children and youth and in no case to supplant such Federal, State, and local public funds.
- “SEC. 1195. LOCAL PLANS.**
- “(a) PLAN REQUIRED.—Each eligible entity desiring a subgrant from the State educational agency under section 1193 shall submit a plan to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require.
- “(b) CONTENTS.—Each plan submitted under subsection (a) shall—
- “(1) describe the evidence-based programs and activities proposed to be developed, implemented, and administered under the subgrant that will help English learners increase their English language proficiency and meet the State academic standards;
- “(2) describe how the eligible entity will hold elementary schools and secondary schools receiving funds under this chapter accountable for annually assessing the English language proficiency of all children participating under this subpart, consistent with section 1111(b);
- “(3) describe how the eligible entity will promote parent and community engagement in the education of English learners;
- “(4) contain an assurance that the eligible entity consulted with teachers, researchers, school administrators, parents and community members, public or

private organizations, and institutions of higher education, in developing and implementing such plan;

“(5) describe how language instruction educational programs carried out under the subgrant will ensure that English learners being served by the programs develop English language proficiency; and

“(6) contain assurances that—

“(A) each local educational agency that is included in the eligible entity is complying with section 1112(g) prior to, and throughout, each school year; and

“(B) the eligible entity is not in violation of any State law, including State constitutional law, regarding the education of English learners, consistent with sections 1205 and 1206.

“(c) TEACHER ENGLISH FLUENCY.—Each eligible entity receiving a subgrant under section 1193 shall include in its plan a certification that all teachers in any language instruction educational program for English learners that is, or will be, funded under this subpart are fluent in English and any other language used for instruction, including having written and oral communications skills.

“CHAPTER B—ADMINISTRATION

“SEC. 1201. REPORTING.

“(a) IN GENERAL.—Each eligible entity that receives a subgrant from a State educational agency under chapter A shall provide such agency, at the conclusion of every second fiscal year during which the subgrant is received, with a report, in a form prescribed by the agency, on the activities conducted and students served under this subpart that includes—

“(1) a description of the programs and activities conducted by the entity with funds received under chapter A during the two immediately preceding fiscal years, including how such programs and activities supplemented programs funded primarily with State or local funds;

“(2) a description of the progress made by English learners in learning the English language and in meeting State academic standards;

“(3) the number and percentage of English learners in the programs and activities attaining English language proficiency based on the State English language proficiency standards established under section 1111(b)(1)(E) by the end of each school year, as determined by the State’s English language proficiency assessment under section 1111(b)(2)(D);

“(4) the number of English learners who exit the language instruction educational programs based on their attainment of English language proficiency and transitioned to classrooms not tailored for English learners;

“(5) a description of the progress made by English learners in meeting the State academic standards for each of the 2 years after such children are no longer receiving services under this subpart;

“(6) the number and percentage of English learners who have not attained English language proficiency within five years of initial classification as an English learner and first enrollment in the local educational agency; and

“(7) any such other information as the State educational agency may require.

“(b) USE OF REPORT.—A report provided by an eligible entity under subsection (a) shall be used by the entity and the State educational agency—

“(1) to determine the effectiveness of programs and activities in assisting children who are English learners—

“(A) to attain English language proficiency; and

“(B) to make progress in meeting State academic standards under section 1111(b)(1); and

“(2) upon determining the effectiveness of programs and activities based on the criteria in paragraph (1), to decide how to improve programs.

“SEC. 1202. ANNUAL REPORT.

“(a) STATES.—Based upon the reports provided to a State educational agency under section 1201, each such agency that receives a grant under this subpart shall prepare and submit annually to the Secretary a report on programs and activities carried out by the State educational agency under this subpart and the effectiveness of such programs and activities in improving the education provided to English learners.

“(b) SECRETARY.—Annually, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report—

“(1) on programs and activities carried out to serve English learners under this subpart, and the effectiveness of such programs and activities in improving the academic achievement and English language proficiency of English learners;

“(2) on the types of language instruction educational programs used by local educational agencies or eligible entities receiving funding under this subpart to teach English learners;

“(3) containing a critical synthesis of data reported by eligible entities to States under section 1201(a);

“(4) containing a description of technical assistance and other assistance provided by State educational agencies under section 1191(b)(2)(C);

“(5) containing an estimate of the number of effective teachers working in language instruction educational programs and educating English learners, and an estimate of the number of such teachers that will be needed for the succeeding 5 fiscal years;

“(6) containing the number of programs or activities, if any, that were terminated because the entities carrying out the programs or activities were not able to reach program goals;

“(7) containing the number of English learners served by eligible entities receiving funding under this subpart who were transitioned out of language instruction educational programs funded under this subpart into classrooms where instruction is not tailored for English learners; and

“(8) containing other information gathered from other reports submitted to the Secretary under this subpart when applicable.

“SEC. 1203. COORDINATION WITH RELATED PROGRAMS.

“In order to maximize Federal efforts aimed at serving the educational needs of English learners, the Secretary shall coordinate and ensure close cooperation with other entities carrying out programs serving language-minority and English learners that are administered by the Department and other agencies.

“SEC. 1204. RULES OF CONSTRUCTION.

“Nothing in this subpart shall be construed—

“(1) to prohibit a local educational agency from serving English learners simultaneously with children with similar educational needs, in the same educational settings where appropriate;

“(2) to require a State or a local educational agency to establish, continue, or eliminate any particular type of instructional program for English learners; or

“(3) to limit the preservation or use of Native American languages.

“SEC. 1205. LEGAL AUTHORITY UNDER STATE LAW.

“Nothing in this subpart shall be construed to negate or supersede State law, or the legal authority under State law of any State agency, State entity, or State public official, over programs that are under the jurisdiction of the State agency, entity, or official.

“SEC. 1206. CIVIL RIGHTS.

“Nothing in this subpart shall be construed in a manner inconsistent with any Federal law guaranteeing a civil right.

“SEC. 1207. PROHIBITION.

“In carrying out this subpart, the Secretary shall neither mandate nor preclude the use of a particular curricular or pedagogical approach to educating English learners.

“SEC. 1208. PROGRAMS FOR NATIVE AMERICANS AND PUERTO RICO.

“Notwithstanding any other provision of this subpart, programs authorized under this subpart that serve Native American (including Native American Pacific Islander) children and children in the Commonwealth of Puerto Rico may include programs of instruction, teacher training, curriculum development, evaluation, and assessment designed for Native American children learning and studying Native American languages and children of limited Spanish proficiency, except that an outcome of programs serving such children shall be increased English proficiency among such children.

“CHAPTER C—NATIONAL ACTIVITIES

“SEC. 1211. NATIONAL PROFESSIONAL DEVELOPMENT PROJECT.

“The Secretary shall use funds made available under section 1191(c)(1)(B) to award grants on a competitive basis, for a period of not more than 5 years, to institutions of higher education or public or private organizations with relevant experience and capacity (in consortia with State educational agencies or local educational agencies) to provide for professional development activities that will improve classroom instruction for English learners and assist educational personnel working with such children to meet high professional standards, including standards for certifi-

cation and licensure as teachers who work in language instruction educational programs or serve English learners. Grants awarded under this subsection may be used—

- “(1) for preservice, evidence-based professional development programs that will assist local schools and institutions of higher education to upgrade the qualifications and skills of educational personnel who are not certified or licensed, especially educational paraprofessionals;
- “(2) for the development of curricula or other instructional strategies appropriate to the needs of the consortia participants involved;
- “(3) to support strategies that strengthen and increase parent and community member engagement in the education of English learners; and
- “(4) to share and disseminate evidence-based practices in the instruction of English learners and in increasing their student achievement.

“CHAPTER D—GENERAL PROVISIONS

“SEC. 1221. DEFINITIONS.

“Except as otherwise provided, in this subpart:

- “(1) CHILD.—The term ‘child’ means any individual aged 3 through 21.
- “(2) COMMUNITY-BASED ORGANIZATION.—The term ‘community-based organization’ means a private nonprofit organization of demonstrated effectiveness, Indian tribe, or tribally sanctioned educational authority, that is representative of a community or significant segments of a community and that provides educational or related services to individuals in the community. Such term includes a Native Hawaiian or Native American Pacific Islander native language educational organization.
- “(3) ELIGIBLE ENTITY.—The term ‘eligible entity’ means—
 - “(A) one or more local educational agencies; or
 - “(B) one or more local educational agencies, in consortia (or collaboration) with an institution of higher education, community-based organization, or State educational agency.
- “(4) IMMIGRANT CHILDREN AND YOUTH.—The term ‘immigrant children and youth’ means individuals who—
 - “(A) are age 3 through 21;
 - “(B) were not born in any State; and
 - “(C) have not been attending one or more schools in any one or more States for more than 3 full academic years.
- “(5) INDIAN TRIBE.—The term ‘Indian tribe’ means any Indian tribe, band, nation, or other organized group or community, including any Native village or Regional Corporation or Village Corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.
- “(6) LANGUAGE INSTRUCTION EDUCATIONAL PROGRAM.—The term ‘language instruction educational program’ means an instruction course—
 - “(A) in which an English learner is placed for the purpose of developing and attaining English language proficiency, while meeting State academic standards, as required by section 1111(b)(1); and
 - “(B) that may make instructional use of both English and a child’s native language to enable the child to develop and attain English language proficiency, and may include the participation of English language proficient children if such course is designed to enable all participating children to become proficient in English and a second language.
- “(7) NATIVE AMERICAN AND NATIVE AMERICAN LANGUAGE.—The terms ‘Native American’ and ‘Native American language’ shall have the meanings given such terms in section 103 of the Native American Languages Act.
- “(8) NATIVE LANGUAGE.—The term ‘native language’, when used with reference to English learner, means—
 - “(A) the language normally used by such individual; or
 - “(B) in the case of a child or youth, the language normally used by the parents of the child or youth.
- “(9) PARAPROFESSIONAL.—The term ‘paraprofessional’ means an individual who is employed in a preschool, elementary school, or secondary school under the supervision of a certified or licensed teacher, including individuals employed in language instruction educational programs, special education, and migratory education.
- “(10) STATE.—The term ‘State’ means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

“SEC. 1222. NATIONAL CLEARINGHOUSE.

“The Secretary shall establish and support the operation of a National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs, which shall collect, analyze, synthesize, and disseminate information about language instruction educational programs for English learners, and related programs. The National Clearinghouse shall—

“(1) be administered as an adjunct clearinghouse of the Educational Resources Information Center Clearinghouses system supported by the Institute of Education Sciences;

“(2) coordinate activities with Federal data and information clearinghouses and entities operating Federal dissemination networks and systems;

“(3) develop a system for improving the operation and effectiveness of federally funded language instruction educational programs; and

“(4) collect and disseminate information on—

“(A) educational research and processes related to the education of English learners; and

“(B) accountability systems that monitor the academic progress of English learners in language instruction educational programs, including information on academic content and English language proficiency assessments for language instruction educational programs; and

“(5) publish, on an annual basis, a list of grant recipients under this subpart.

“SEC. 1223. REGULATIONS.

“In developing regulations under this subpart, the Secretary shall consult with State educational agencies and local educational agencies, organizations representing English learners, and organizations representing teachers and other personnel involved in the education of English learners.

“Subpart 5—Rural Education Achievement Program**“SEC. 1230. PURPOSE.**

“It is the purpose of this subpart to address the unique needs of rural school districts that frequently—

“(1) lack the personnel and resources needed to compete effectively for Federal competitive grants; and

“(2) receive formula grant allocations in amounts too small to be effective in meeting their intended purposes.

“CHAPTER A—SMALL, RURAL SCHOOL ACHIEVEMENT PROGRAM**“SEC. 1231. GRANT PROGRAM AUTHORIZED.**

“(a) **IN GENERAL.**—From amounts appropriated under section 3(a)(1) for a fiscal year, the Secretary shall reserve .55 of one percent to award grants to eligible local educational agencies to enable the local educational agencies to carry out activities authorized under any of the following provisions:

“(1) Part A of title I.

“(2) Title II.

“(3) Title III.

“(b) **ALLOCATION.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (3), the Secretary shall award a grant under subsection (a) to a local educational agency eligible under subsection (d) for a fiscal year in an amount equal to the initial amount determined under paragraph (2) for the fiscal year minus the total amount received by the agency in subpart 2 of part A of title II for the preceding fiscal year.

“(2) **DETERMINATION OF INITIAL AMOUNT.**—The initial amount referred to in paragraph (1) is equal to \$100 multiplied by the total number of students in excess of 50 students, in average daily attendance at the schools served by the local educational agency, plus \$20,000, except that the initial amount may not exceed \$60,000.

“(3) **RATABLE ADJUSTMENT.**—

“(A) **IN GENERAL.**—If the amount made available to carry out this section for any fiscal year is not sufficient to pay in full the amounts that local educational agencies are eligible to receive under paragraph (1) for such year, the Secretary shall ratably reduce such amounts for such year.

“(B) **ADDITIONAL AMOUNTS.**—If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subparagraph (A) shall be increased on the same basis as such payments were reduced.

“(c) DISBURSEMENT.—The Secretary shall disburse the funds awarded to a local educational agency under this section for a fiscal year not later than July 1 of that fiscal year.

“(d) ELIGIBILITY.—

“(1) IN GENERAL.—A local educational agency shall be eligible to use the applicable funding in accordance with subsection (a) if—

“(A)(i)(I) the total number of students in average daily attendance at all of the schools served by the local educational agency is fewer than 600; or

“(II) each county in which a school served by the local educational agency is located has a total population density of fewer than 10 persons per square mile; and

“(ii) all of the schools served by the local educational agency are designated with a school locale code of 41, 42, or 43, as determined by the Secretary; or

“(B) the agency meets the criteria established in subparagraph (A)(i) and the Secretary, in accordance with paragraph (2), grants the local educational agency’s request to waive the criteria described in subparagraph (A)(ii).

“(2) CERTIFICATION.—The Secretary shall determine whether to waive the criteria described in paragraph (1)(A)(ii) based on a demonstration by the local educational agency, and concurrence by the State educational agency, that the local educational agency is located in an area defined as rural by a governmental agency of the State.

“(3) HOLD HARMLESS.—For a local educational agency that is not eligible under this chapter but met the eligibility requirements under this subsection as it was in effect prior to the date of the enactment of the Student Success Act, the agency shall receive—

“(A) for fiscal year 2013, 75 percent of the amount such agency received for fiscal year 2012;

“(B) for fiscal year 2014, 50 percent of the amount such agency received for fiscal year 2012; and

“(C) for fiscal year 2015, 25 percent of the amount such agency received for fiscal year 2012.

“(e) SPECIAL ELIGIBILITY RULE.—A local educational agency that receives a grant under this chapter for a fiscal year is not eligible to receive funds for such fiscal year under chapter B.

“CHAPTER B—RURAL AND LOW-INCOME SCHOOL PROGRAM

“SEC. 1235. PROGRAM AUTHORIZED.

“(a) GRANTS TO STATES.—

“(1) IN GENERAL.—From amounts appropriated under section 3(a)(1) for a fiscal year, the Secretary shall reserve .55 of one percent to for this chapter for a fiscal year that are not reserved under subsection (c) to award grants (from allotments made under paragraph (2)) for the fiscal year to State educational agencies that have applications submitted under section 1237 approved to enable the State educational agencies to award grants to eligible local educational agencies for local authorized activities described in section 1236(a).

“(2) ALLOTMENT.—From amounts described in paragraph (1) for a fiscal year, the Secretary shall allot to each State educational agency for that fiscal year an amount that bears the same ratio to those amounts as the number of students in average daily attendance served by eligible local educational agencies in the State for that fiscal year bears to the number of all such students served by eligible local educational agencies in all States for that fiscal year.

“(3) SPECIALLY QUALIFIED AGENCIES.—

“(A) ELIGIBILITY AND APPLICATION.—If a State educational agency elects not to participate in the program under this subpart or does not have an application submitted under section 1237 approved, a specially qualified agency in such State desiring a grant under this subpart may submit an application under such section directly to the Secretary to receive an award under this subpart.

“(B) DIRECT AWARDS.—The Secretary may award, on a competitive basis or by formula, the amount the State educational agency is eligible to receive under paragraph (2) directly to a specially qualified agency in the State that has submitted an application in accordance with subparagraph (A) and obtained approval of the application.

“(C) SPECIALLY QUALIFIED AGENCY DEFINED.—In this subpart, the term ‘specially qualified agency’ means an eligible local educational agency served by a State educational agency that does not participate in a program

under this subpart in a fiscal year, that may apply directly to the Secretary for a grant in such year under this subsection.

“(b) LOCAL AWARDS.—

“(1) ELIGIBILITY.—A local educational agency shall be eligible to receive a grant under this subpart if—

“(A) 20 percent or more of the children ages 5 through 17 years served by the local educational agency are from families with incomes below the poverty line; and

“(B) all of the schools served by the agency are designated with a school locale code of 32, 33, 41, 42, 43, as determined by the Secretary.

“(2) AWARD BASIS.—A State educational agency shall award grants to eligible local educational agencies—

“(A) on a competitive basis;

“(B) according to a formula based on the number of students in average daily attendance served by the eligible local educational agencies or schools in the State; or

“(C) according to an alternative formula, if, prior to awarding the grants, the State educational agency demonstrates, to the satisfaction of the Secretary, that the alternative formula enables the State educational agency to allot the grant funds in a manner that serves equal or greater concentrations of children from families with incomes below the poverty line, relative to the concentrations that would be served if the State educational agency used the formula described in subparagraph (B).

“(c) RESERVATIONS.—From amounts reserved under section 1235(a)(1) for this chapter for a fiscal year, the Secretary shall reserve—

“(1) one-half of 1 percent to make awards to elementary schools or secondary schools operated or supported by the Bureau of Indian Education, to carry out the activities authorized under this chapter; and

“(2) one-half of 1 percent to make awards to the outlying areas in accordance with their respective needs, to carry out the activities authorized under this chapter.

“SEC. 1236. USES OF FUNDS.

“(a) LOCAL AWARDS.—Grant funds awarded to local educational agencies under this chapter shall be used for activities authorized under any of the following:

“(1) Part A of title I.

“(2) Title II.

“(3) Title III.

“(b) ADMINISTRATIVE COSTS.—A State educational agency receiving a grant under this chapter may not use more than 5 percent of the amount of the grant for State administrative costs and to provide technical assistance to eligible local educational agencies.

“SEC. 1237. APPLICATIONS.

“(a) IN GENERAL.—Each State educational agency or specially qualified agency desiring to receive a grant under this chapter shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

“(b) CONTENTS.—Each application submitted under subsection (a) shall include—

“(1) a description of how the State educational agency or specially qualified agency will ensure eligible local educational agencies receiving a grant under this chapter will use such funds to help students meet the State academic standards under section 1111(b)(1);

“(2) if the State educational agency or specially qualified agency will competitively award grants to eligible local educational agencies, as described in section 1235(b)(2)(A), the application under the section shall include—

“(A) the methods and criteria the State educational agency or specially qualified agency will use for reviewing applications and awards funds to local educational agencies on a competitive basis; and

“(B) how the State educational agency or specially qualified agency will notify eligible local educational agencies of the grant competition; and

“(3) a description of how the State educational agency or specially qualified agency will provide technical assistance to eligible local educational agencies to help such agencies implement the activities described in section 1236(a).

“SEC. 1238. ACCOUNTABILITY.

“(a) STATE REPORT.—Each State educational agency or specially qualified agency that receives a grant under this chapter shall prepare and submit an annual report to the Secretary. The report shall describe—

“(1) the methods and criteria the State educational agency or specially qualified agency used to award grants to eligible local educational agencies, and to provide assistance to schools, under this chapter;

“(2) how local educational agencies and schools used funds provided under this chapter; and

“(3) the degree to which progress has been made toward having all students meet the State academic standards under section 1111(b)(1).

“(b) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a biennial report. The report shall describe—

“(1) how State local educational agencies, local educational agencies, and schools used funds provided under this chapter; and

“(2) the degree to which progress has been made toward having all students meet the State academic standards under section 1111(b)(1).

“SEC. 1239. CHOICE OF PARTICIPATION.

“(a) IN GENERAL.—If a local educational agency is eligible for funding under chapters A and B of this subpart, such local educational agency may receive funds under either chapter A or chapter B for a fiscal year, but may not receive funds under both chapters.

“(b) NOTIFICATION.—A local educational agency eligible for both chapters A and B of this subpart shall notify the Secretary and the State educational agency under which of such chapters such local educational agency intends to receive funds for a fiscal year by a date that is established by the Secretary for the notification.

“CHAPTER C—GENERAL PROVISIONS

“SEC. 1241. ANNUAL AVERAGE DAILY ATTENDANCE DETERMINATION.

“(a) CENSUS DETERMINATION.—Each local educational agency desiring a grant under section 1231 and each local educational agency or specially qualified agency desiring a grant under chapter B shall—

“(1) not later than December 1 of each year, conduct a census to determine the number of students in average daily attendance in kindergarten through grade 12 at the schools served by the agency; and

“(2) not later than March 1 of each year, submit the number described in paragraph (1) to the Secretary (and to the State educational agency, in the case of a local educational agency seeking a grant under subpart 2).

“(b) PENALTY.—If the Secretary determines that a local educational agency or specially qualified agency has knowingly submitted false information under subsection (a) for the purpose of gaining additional funds under section 1231 or chapter B, then the agency shall be fined an amount equal to twice the difference between the amount the agency received under this section and the correct amount the agency would have received under section 1231 or chapter B if the agency had submitted accurate information under subsection (a).

“SEC. 1242. SUPPLEMENT, NOT SUPPLANT.

“Funds made available under chapter A or chapter B shall be used to supplement, and not supplant, any other Federal, State, or local education funds.

“SEC. 1243. RULE OF CONSTRUCTION.

“Nothing in this subpart shall be construed to prohibit a local educational agency that enters into cooperative arrangements with other local educational agencies for the provision of special, compensatory, or other education services, pursuant to State law or a written agreement, from entering into similar arrangements for the use, or the coordination of the use, of the funds made available under this subpart.

“Subpart 6—Indian Education

“SEC. 1251. STATEMENT OF POLICY.

“It is the policy of the United States to fulfill the Federal Government’s unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children. The Federal Government will continue to work with local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities toward the goal of ensuring that programs that serve Indian children are of the highest quality and provide for not only the basic elementary and secondary educational needs, but also the unique educational and culturally related academic needs of these children.

“SEC. 1252. PURPOSE.

“It is the purpose of this subpart to support the efforts of local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities—

“(1) to meet the unique educational and culturally related academic needs of American Indian and Alaska Native students, so that such students can meet the State academic standards that all students are expected to meet; and

“(2) to ensure that school leaders, teachers, and other staff who serve Indian and Alaska Native students have the ability and training to provide appropriate instruction to meet the unique academic needs of such students.

“CHAPTER A—FORMULA GRANTS TO LOCAL EDUCATIONAL AGENCIES**“SEC. 1261. PURPOSE.**

“It is the purpose of this chapter to support local educational agencies in their efforts to reform elementary school and secondary school programs that serve Indian students in order to ensure that such programs are designed to—

“(1) meet the unique educational needs of such students; and

“(2) ensure that such students have the opportunity to meet the State academic standards.

“SEC. 1262. GRANTS TO LOCAL EDUCATIONAL AGENCIES AND TRIBES.

“(a) IN GENERAL.—From amounts appropriated under section 3(a)(1), the Secretary shall reserve .6 of one percent to local educational agencies and Indian tribes in accordance with this section and section 1263.

“(b) LOCAL EDUCATIONAL AGENCIES.—

“(1) ENROLLMENT REQUIREMENTS.—A local educational agency shall be eligible for a grant under this chapter for any fiscal year if the number of Indian children eligible under section 1267 who were enrolled in the schools of the agency, and to whom the agency provided free public education, during the preceding fiscal year—

“(A) was at least 10; or

“(B) constituted not less than 25 percent of the total number of individuals enrolled in the schools of such agency.

“(2) EXCLUSION.—The requirement of paragraph (1) shall not apply in Alaska, California, or Oklahoma, or with respect to any local educational agency located on, or in proximity to, an Indian reservation.

“(c) INDIAN TRIBES.—

“(1) IN GENERAL.—If a local educational agency that is otherwise eligible for a grant under this chapter does not establish a committee under section 1264(c)(4) for such grant, an Indian tribe or a consortium of such entities that represents not less than $\frac{1}{3}$ of the eligible Indian children who are served by such local educational agency may apply for such grant.

“(2) SPECIAL RULE.—The Secretary shall treat each Indian tribe or consortium of such entities applying for a grant pursuant to paragraph (1) as if such Indian tribe were a local educational agency for purposes of this chapter, except that any such tribe is not subject to section 1264(c)(4) or section 1269.

“(3) ELIGIBILITY.—If more than 1 Indian tribe qualifies to apply for a grant under paragraph (1), the entity that represents the most eligible Indian children who are served by the local educational agency shall be eligible to receive the grant or the tribes may choose to apply in consortium.

“SEC. 1263. AMOUNT OF GRANTS.**“(a) AMOUNT OF GRANT AWARDS.—**

“(1) IN GENERAL.—Except as provided in subsection (b) and paragraph (2), the Secretary shall allocate to each local educational agency that has an approved application under this chapter an amount equal to the product of—

“(A) the number of Indian children who are eligible under section 1267 and served by such agency; and

“(B) the greater of—

“(i) the average per pupil expenditure of the State in which such agency is located; or

“(ii) 80 percent of the average per pupil expenditure of all the States.

“(2) REDUCTION.—The Secretary shall reduce the amount of each allocation otherwise determined under this section in accordance with subsection (e).

“(b) MINIMUM GRANT.—

“(1) IN GENERAL.—Notwithstanding subsection (e), an entity that is eligible for a grant under section 1262, and a school that is operated or supported by the Bureau of Indian Education that is eligible for a grant under subsection (d), that submits an application that is approved by the Secretary, shall, subject to

appropriations, receive a grant under this chapter in an amount that is not less than \$3,000.

“(2) CONSORTIA.—Local educational agencies may form a consortium with other local educational agencies or Indian tribes for the purpose of obtaining grants under this chapter.

“(3) INCREASE.—The Secretary may increase the minimum grant under paragraph (1) to not more than \$4,000 for all grantees if the Secretary determines such an increase is necessary to ensure the quality of the programs provided.

“(c) DEFINITION.—For the purpose of this section, the term ‘average per pupil expenditure’, used with respect to a State, means an amount equal to—

“(1) the sum of the aggregate current expenditures of all the local educational agencies in the State, plus any direct current expenditures by the State for the operation of such agencies, without regard to the sources of funds from which such local or State expenditures were made, during the second fiscal year preceding the fiscal year for which the computation is made; divided by

“(2) the aggregate number of children who were included in average daily attendance for whom such agencies provided free public education during such preceding fiscal year.

“(d) SCHOOLS OPERATED OR SUPPORTED BY THE BUREAU OF INDIAN EDUCATION.—

“(1) IN GENERAL.—Subject to subsection (e), in addition to the grants awarded under subsection (a), the Secretary shall allocate to the Secretary of the Interior an amount equal to the product of—

“(A) the total number of Indian children enrolled in schools that are operated by—

“(i) the Bureau of Indian Education; or

“(ii) an Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, for the children of that tribe under a contract with, or grant from, the Department of the Interior under the Indian Self-Determination Act or the Tribally Controlled Schools Act of 1988; and

“(B) the greater of—

“(i) the average per pupil expenditure of the State in which the school is located; or

“(ii) 80 percent of the average per pupil expenditure of all the States.

“(2) SPECIAL RULE.—Any school described in paragraph (1)(A) that wishes to receive an allocation under this chapter shall submit an application in accordance with section 1264, and shall otherwise be treated as a local educational agency for the purpose of this chapter, except that such school shall not be subject to section 1264(c)(4) or section 1269.

“(e) RATABLE REDUCTIONS.—If the sums reserved for any fiscal year under section 1262(a) are insufficient to pay in full the amounts determined for local educational agencies under subsection (a)(1) and for the Secretary of the Interior under subsection (d), each of those amounts shall be ratably reduced.

“SEC. 1264. APPLICATIONS.

“(a) APPLICATION REQUIRED.—Each local educational agency that desires to receive a grant under this chapter shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

“(b) COMPREHENSIVE PROGRAM REQUIRED.—Each application submitted under subsection (a) shall include a description of a comprehensive program for meeting the needs of Indian children served by the local educational agency, including the language and cultural needs of the children, that—

“(1) describes how the comprehensive program will offer programs and activities to meet the culturally related academic needs of American Indian and Alaska Native students;

“(2)(A) is aligned with and supports the State and local plans submitted under other provisions of this Act; and

“(B) includes academic standards for such children that are based on the State academic standards adopted under subpart 1 for all children;

“(3) explains how the local educational agency will use the funds made available under this chapter to supplement other Federal, State, and local programs, especially programs carried out under subpart 1, to meet the needs of such students;

“(4) demonstrates how funds made available under this chapter will be used for activities described in section 1265;

“(5) describes the professional development opportunities that will be provided, as needed, to ensure that—

“(A) teachers, school leaders, and other school professionals who are new to the Indian community are prepared to work with Indian children; and

- “(B) all teachers who will be involved in programs assisted under this chapter have been properly trained to carry out such programs; and
- “(6) describes how the local educational agency—
- “(A) will periodically assess the progress of all Indian children enrolled in the schools of the local educational agency, including Indian children who do not participate in programs assisted under this chapter, in meeting the standards described in paragraph (2);
- “(B) will provide the results of each assessment referred to in subparagraph (A) to—
- “(i) the committee described in subsection (c)(4); and
- “(ii) the community, including Indian tribes, whose children are served by the local educational agency; and
- “(C) is responding to findings of any previous assessments that are similar to the assessments described in subparagraph (A); and
- “(7) describes the processes the local educational agency used to collaborate with Indian tribes in the community in the development of the comprehensive programs.
- “(c) ASSURANCES.—Each application submitted under subsection (a) shall include assurances that—
- “(1) the local educational agency will use funds received under this chapter only to supplement the funds that, in the absence of the Federal funds made available under this chapter, such agency would make available for the education of Indian children, and not to supplant such funds;
- “(2) the local educational agency will prepare and submit to the Secretary such reports in such form as the Secretary may require to—
- “(A) carry out the functions of the Secretary under this chapter; and
- “(B) determine the extent to which activities carried out with funds provided to the local educational agency under this chapter are effective in improving the educational achievement of Indian students served by such agency;
- “(3) the program for which assistance is sought—
- “(A) is based on a comprehensive local assessment and prioritization of the unique educational and culturally related academic needs of the American Indian and Alaska Native students for whom the local educational agency is providing an education;
- “(B) will use the best available talents and resources, including individuals from the Indian community; and
- “(C) was developed by such agency in open consultation with parents of Indian children and teachers, and, if appropriate, Indian students from secondary schools, including through public hearings held by such agency to provide to the individuals described in this subparagraph a full opportunity to understand the program and to offer recommendations regarding the program; and
- “(4) the local educational agency developed the program with the participation and written approval of a committee—
- “(A) that is composed of, and selected by—
- “(i) parents of Indian children in the local educational agency’s schools;
- “(ii) teachers in the schools; and
- “(iii) if appropriate, Indian students attending secondary schools of the agency;
- “(B) a majority of whose members are parents of Indian children;
- “(C) that has set forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children, and representatives of the area, to be served;
- “(D) with respect to an application describing a schoolwide program in accordance with section 1265(c), that has—
- “(i) reviewed in a timely fashion the program; and
- “(ii) determined that the program will not diminish the availability of culturally related activities for American Indian and Alaska Native students; and
- “(E) that has adopted reasonable bylaws for the conduct of the activities of the committee and abides by such bylaws.

“SEC. 1265. AUTHORIZED SERVICES AND ACTIVITIES.

“(a) GENERAL REQUIREMENTS.—Each local educational agency that receives a grant under this chapter shall use the grant funds, in a manner consistent with the purpose specified in section 1261, for services and activities that—

“(1) are designed to carry out the comprehensive program of the local educational agency for Indian students, and described in the application of the local educational agency submitted to the Secretary under section 1264(a);

“(2) are designed with special regard for the language and cultural needs of the Indian students; and

“(3) supplement and enrich the regular school program of such agency.

“(b) PARTICULAR ACTIVITIES.—The services and activities referred to in subsection (a) may include—

“(1) culturally related activities that support the program described in the application submitted by the local educational agency;

“(2) early childhood and family programs that emphasize school readiness;

“(3) enrichment programs that focus on problem solving and cognitive skills development and directly support the attainment of State academic standards;

“(4) integrated educational services in combination with other programs that meet the needs of Indian children and their families;

“(5) programs that help engage parents and tribes to meet the unique educational needs of Indian children;

“(6) career preparation activities to enable Indian students to participate in programs such as the programs supported by the Carl D. Perkins Career and Technical Education Act of 2006;

“(7) activities to educate individuals concerning the prevention of substance abuse, violence, and suicide;

“(8) the acquisition of equipment, but only if the acquisition of the equipment is essential to achieve the purpose described in section 1261;

“(9) activities that promote the incorporation of culturally responsive teaching and learning strategies into the educational program of the local educational agency;

“(10) activities that incorporate American Indian and Alaska Native specific curriculum content, consistent with State academic standards into the curriculum used by the local educational agency;

“(11) family literacy services; and

“(12) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors.

“(c) SCHOOLWIDE PROGRAMS.—Notwithstanding any other provision of law, a local educational agency may use funds made available to such agency under this chapter to support a schoolwide program under section 1114 if—

“(1) the committee established pursuant to section 1264(c)(4) approves the use of the funds for the schoolwide program; and

“(2) the schoolwide program is consistent with the purpose described in section 1261.

“(d) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds provided to a grantee under this chapter for any fiscal year may be used for administrative purposes.

“(e) LIMITATION ON USE OF FUNDS.—Funds provided to a grantee under this chapter may not be used for long-distance travel expenses for training activities available locally or regionally.

“SEC. 1266. INTEGRATION OF SERVICES AUTHORIZED.

“(a) PLAN.—An entity receiving funds under this chapter may submit a plan to the Secretary for the integration of education and related services provided to Indian students.

“(b) CONSOLIDATION OF PROGRAMS.—Upon the receipt of an acceptable plan under subsection (a), the Secretary, in cooperation with each Federal agency providing grants for the provision of education and related services to the entity, shall authorize the entity to consolidate, in accordance with such plan, the federally funded education and related services programs of the entity and the Federal programs, or portions of the programs, serving Indian students in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

“(c) PROGRAMS AFFECTED.—The funds that may be consolidated in a demonstration project under any such plan referred to in subsection (a) shall include funds for any Federal program exclusively serving Indian children, or the funds reserved under any Federal program to exclusively serve Indian children, under which the entity is eligible for receipt of funds under a statutory or administrative formula for

the purposes of providing education and related services that would be used to serve Indian students.

“(d) PLAN REQUIREMENTS.—For a plan to be acceptable pursuant to subsection (b), the plan shall—

“(1) identify the programs or funding sources to be consolidated;

“(2) be consistent with the objectives of this section concerning authorizing the services to be integrated in a demonstration project;

“(3) describe a comprehensive strategy that identifies the full range of potential educational opportunities and related services to be provided to assist Indian students to achieve the objectives set forth in this chapter;

“(4) describe the way in which services are to be integrated and delivered and the results expected from the plan;

“(5) identify the projected expenditures under the plan in a single budget;

“(6) identify the State, tribal, or local agency or agencies to be involved in the delivery of the services integrated under the plan;

“(7) identify any statutory provisions, regulations, policies, or procedures that the entity believes need to be waived in order to implement the plan;

“(8) set forth measures for student academic achievement consistent with State academic standards under section 1111(b)(1); and

“(9) be approved by a committee formed in accordance with section 1264(c)(4), if such a committee exists.

“(e) PLAN REVIEW.—Upon receipt of the plan from an eligible entity, the Secretary shall consult with the Secretary of each Federal department providing funds to be used to implement the plan, and with the entity submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal departmental regulations, policies, or procedures necessary to enable the entity to implement the plan. Notwithstanding any other provision of law, the Secretary of the affected department shall have the authority to waive any regulation, policy, or procedure promulgated by that department that has been so identified by the entity or department, unless the Secretary of the affected department determines that such a waiver is inconsistent with the objectives of this chapter or those provisions of the statute from which the program involved derives authority that are specifically applicable to Indian students.

“(f) PLAN APPROVAL.—Within 90 days after the receipt of an entity’s plan by the Secretary, the Secretary shall inform the entity, in writing, of the Secretary’s approval or disapproval of the plan. If the plan is disapproved, the entity shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend the plan or to petition the Secretary to reconsider such disapproval.

“(g) RESPONSIBILITIES OF DEPARTMENT OF EDUCATION.—The Secretary of Education, the Secretary of the Interior, and the head of any other Federal department or agency identified by the Secretary of Education, shall enter into an interdepartmental memorandum of agreement providing for the implementation and coordination of the demonstration projects authorized under this section. The lead agency head for a demonstration project under this section shall be—

“(1) the Secretary of the Interior, in the case of an entity meeting the definition of a contract or grant school under title XI of the Education Amendments of 1978; or

“(2) the Secretary of Education, in the case of any other entity.

“(h) RESPONSIBILITIES OF LEAD AGENCY.—The responsibilities of the lead agency shall include—

“(1) the use of a single report format related to the plan for the individual project, which shall be used by an eligible entity to report on the activities undertaken under the project;

“(2) the use of a single report format related to the projected expenditures for the individual project which shall be used by an eligible entity to report on all project expenditures;

“(3) the development of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

“(4) the provision of technical assistance to an eligible entity appropriate to the project, except that an eligible entity shall have the authority to accept or reject the plan for providing such technical assistance and the technical assistance provider.

“(i) REPORT REQUIREMENTS.—A single report format shall be developed by the Secretary, consistent with the requirements of this section. Such report format shall require that reports described in subsection (h), together with records maintained on the consolidated program at the local level, shall contain such information as will allow a determination that the eligible entity has complied with the requirements incorporated in its approved plan, including making a demonstration of student academic achievement, and will provide assurances to each Secretary that the eligible

entity has complied with all directly applicable statutory requirements and with those directly applicable regulatory requirements that have not been waived.

“(j) NO REDUCTION IN AMOUNTS.—In no case shall the amount of Federal funds available to an eligible entity involved in any demonstration project be reduced as a result of the enactment of this section.

“(k) INTERAGENCY FUND TRANSFERS AUTHORIZED.—The Secretary is authorized to take such action as may be necessary to provide for an interagency transfer of funds otherwise available to an eligible entity in order to further the objectives of this section.

“(l) ADMINISTRATION OF FUNDS.—

“(1) IN GENERAL.—Program funds for the consolidated programs shall be administered in such a manner as to allow for a determination that funds from a specific program are spent on allowable activities authorized under such program, except that the eligible entity shall determine the proportion of the funds granted that shall be allocated to such program.

“(2) SEPARATE RECORDS NOT REQUIRED.—Nothing in this section shall be construed as requiring the eligible entity to maintain separate records tracing any services or activities conducted under the approved plan to the individual programs under which funds were authorized for the services or activities, nor shall the eligible entity be required to allocate expenditures among such individual programs.

“(m) OVERAGE.—The eligible entity may commingle all administrative funds from the consolidated programs and shall be entitled to the full amount of such funds (under each program’s or agency’s regulations). The overage (defined as the difference between the amount of the commingled funds and the actual administrative cost of the programs) shall be considered to be properly spent for Federal audit purposes, if the overage is used for the purposes provided for under this section.

“(n) FISCAL ACCOUNTABILITY.—Nothing in this part shall be construed so as to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to chapter 75 of title 31, United States Code.

“(o) REPORT ON STATUTORY OBSTACLES TO PROGRAM INTEGRATION.—

“(1) IN GENERAL.—The Secretary of Education shall annually submit a report to the Committee on Health, Education, Labor, and Pensions and the Committee on Indian Affairs of the Senate, and the Committee on Education and the Workforce and the Committee on Natural Resources of the House of Representatives on the status of the implementation of the demonstration projects authorized under this section.

“(2) CONTENTS.—Such report shall identify—

“(A) statutory barriers to the ability of participants to more effectively integrate their education and related services to Indian students in a manner consistent with the objectives of this section; and

“(B) the effective practices for program integration that result in increased student achievement and other relevant outcomes for Indian students.

“(p) DEFINITIONS.—For the purposes of this section, the term ‘Secretary’ means—

“(1) the Secretary of the Interior, in the case of an entity meeting the definition of a contract or grant school under title XI of the Education Amendments of 1978; or

“(2) the Secretary of Education, in the case of any other entity.

“SEC. 1267. STUDENT ELIGIBILITY FORMS.

“(a) IN GENERAL.—The Secretary shall require that, as part of an application for a grant under this chapter, each applicant shall maintain a file, with respect to each Indian child for whom the local educational agency provides a free public education, that contains a form that sets forth information establishing the status of the child as an Indian child eligible for assistance under this chapter, and that otherwise meets the requirements of subsection (b).

“(b) FORMS.—The form described in subsection (a) shall include—

“(1) either—

“(A)(i) the name of the tribe or band of Indians (as defined in section 1291) with respect to which the child claims membership;

“(ii) the enrollment number establishing the membership of the child (if readily available); and

“(iii) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians; or

“(B) the name, the enrollment number (if readily available), and the name and address of the organization responsible for maintaining updated and accurate membership data, of any parent or grandparent of the child

from whom the child claims eligibility under this chapter, if the child is not a member of the tribe or band of Indians (as so defined);

“(2) a statement of whether the tribe or band of Indians (as so defined), with respect to which the child, or parent or grandparent of the child, claims membership, is federally recognized;

“(3) the name and address of the parent or legal guardian of the child; and

“(4) a signature of the parent or legal guardian of the child that verifies the accuracy of the information supplied.

“(c) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect a definition contained in section 1291.

“(d) FORMS AND STANDARDS OF PROOF.—The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985–1986 academic year to establish the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the forms and standards of proof used—

“(1) to establish eligibility under this chapter; and

“(2) to meet the requirements of subsection (a).

“(e) DOCUMENTATION.—For purposes of determining whether a child is eligible to be counted for the purpose of computing the amount of a grant award under section 1263, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians (as so defined) may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number for a member of such tribe or band. Nothing in subsection (b) shall be construed to require the furnishing of an enrollment number.

“(f) MONITORING AND EVALUATION REVIEW.—

“(1) IN GENERAL.—

“(A) REVIEW.—For each fiscal year, in order to provide such information as is necessary to carry out the responsibility of the Secretary to provide technical assistance under this chapter, the Secretary shall conduct a monitoring and evaluation review of a sampling of the recipients of grants under this chapter. The sampling conducted under this subparagraph shall take into account the size of and the geographic location of each local educational agency.

“(B) EXCEPTION.—A local educational agency may not be held liable to the United States or be subject to any penalty, by reason of the findings of an audit that relates to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, the eligibility of a child for an entitlement under the Indian Elementary and Secondary School Assistance Act.

“(2) FALSE INFORMATION.—Any local educational agency that provides false information in an application for a grant under this chapter shall—

“(A) be ineligible to apply for any other grant under this chapter; and

“(B) be liable to the United States for any funds from the grant that have not been expended.

“(3) EXCLUDED CHILDREN.—A student who provides false information for the form required under subsection (a) shall not be counted for the purpose of computing the amount of a grant under section 1263.

“(g) TRIBAL GRANT AND CONTRACT SCHOOLS.—Notwithstanding any other provision of this section, in calculating the amount of a grant under this chapter to a tribal school that receives a grant or contract from the Bureau of Indian Education, the Secretary shall use only one of the following, as selected by the school:

“(1) A count of the number of students in the schools certified by the Bureau.

“(2) A count of the number of students for whom the school has eligibility forms that comply with this section.

“(h) TIMING OF CHILD COUNTS.—For purposes of determining the number of children to be counted in calculating the amount of a local educational agency's grant under this chapter (other than in the case described in subsection (g)(1)), the local educational agency shall—

“(1) establish a date on, or a period not longer than 31 consecutive days during, which the agency counts those children, if that date or period occurs before the deadline established by the Secretary for submitting an application under section 1264; and

“(2) determine that each such child was enrolled, and receiving a free public education, in a school of the agency on that date or during that period, as the case may be.

“SEC. 1268. PAYMENTS.

“(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary shall pay to each local educational agency that submits an application that is approved by the

Secretary under this chapter the amount determined under section 1263. The Secretary shall notify the local educational agency of the amount of the payment not later than June 1 of the year for which the Secretary makes the payment.

“(b) PAYMENTS TAKEN INTO ACCOUNT BY THE STATE.—The Secretary may not make a grant under this chapter to a local educational agency for a fiscal year if, for such fiscal year, the State in which the local educational agency is located takes into consideration payments made under this chapter in determining the eligibility of the local educational agency for State aid, or the amount of the State aid, with respect to the free public education of children during such fiscal year or the preceding fiscal year.

“(c) REALLOCATIONS.—The Secretary may reallocate, in a manner that the Secretary determines will best carry out the purpose of this chapter, any amounts that—

“(1) based on estimates made by local educational agencies or other information, the Secretary determines will not be needed by such agencies to carry out approved programs under this chapter; or

“(2) otherwise become available for reallocation under this chapter.

“SEC. 1269. STATE EDUCATIONAL AGENCY REVIEW.

“Before submitting an application to the Secretary under section 1264, a local educational agency shall submit the application to the State educational agency, which may comment on such application. If the State educational agency comments on the application, the agency shall comment on all applications submitted by local educational agencies in the State and shall provide those comments to the respective local educational agencies, with an opportunity to respond.

“CHAPTER B—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

“SEC. 1271. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

“(a) PURPOSE.—

“(1) IN GENERAL.—It is the purpose of this section to support projects to develop, test, and demonstrate the effectiveness of services and programs to improve educational opportunities and achievement of Indian children.

“(2) COORDINATION.—The Secretary shall take the necessary actions to achieve the coordination of activities assisted under this chapter with—

“(A) other programs funded under this Act; and

“(B) other Federal programs operated for the benefit of American Indian and Alaska Native children.

“(b) ELIGIBLE ENTITIES.—In this section, the term ‘eligible entity’ means a State educational agency, local educational agency, Indian tribe, Indian organization, federally supported elementary school or secondary school for Indian students, Indian institution (including an Indian institution of higher education), or a consortium of such entities.

“(c) GRANTS AUTHORIZED.—

“(1) IN GENERAL.—From amounts appropriated under section 3(a)(1), the Secretary shall reserve 0.2 of one percent to award grants to eligible entities to enable such entities to carry out activities under this section and section 1272.

“(2) USES OF FUNDS.—An eligible entity that receives a grant under this section shall use the funds for one or more activities, including—

“(A) innovative programs related to the educational needs of educationally disadvantaged children;

“(B) educational services that are not available to such children in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in one or more of the core academic subjects of English, mathematics, science, foreign languages, art, history, and geography;

“(C) bilingual and bicultural programs and projects;

“(D) special health and nutrition services, and other related activities, that address the special health, social, and psychological problems of Indian children;

“(E) special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or reenter school, and to increase the rate of high school graduation for Indian children;

“(F) comprehensive guidance, counseling, and testing services;

“(G) early childhood and kindergarten programs, including family-based preschool programs that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

“(H) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in

courses at the postsecondary level to aid such students in the transition from secondary to postsecondary education;

“(I) partnership projects between schools and local businesses for career preparation programs designed to provide Indian youth with the knowledge and skills such youth need to make an effective transition from school to a high-skill, high-wage career;

“(J) programs designed to encourage and assist Indian students to work toward, and gain entrance into, an institution of higher education;

“(K) family literacy services;

“(L) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors; or

“(M) other services that meet the purpose described in this section.

“(3) PROFESSIONAL DEVELOPMENT.—Evidence based professional development of teaching professionals and paraprofessionals may be a part of any program assisted under this section.

“(d) GRANT REQUIREMENTS AND APPLICATIONS.—

“(1) GRANT REQUIREMENTS.—

“(A) IN GENERAL.—The Secretary may make multiyear grants under subsection (c) for the planning, development, pilot operation, or demonstration of any activity described in subsection (c) for a period not to exceed 5 years.

“(B) PRIORITY.—In making multiyear grants described in this paragraph, the Secretary shall give priority to entities submitting applications that present a plan for combining two or more of the activities described in subsection (c) over a period of more than 1 year.

“(C) PROGRESS.—The Secretary shall make a grant payment for a grant described in this paragraph to an eligible entity after the initial year of the multiyear grant only if the Secretary determines that the eligible entity has made substantial progress in carrying out the activities assisted under the grant in accordance with the application submitted under paragraph (3) and any subsequent modifications to such application.

“(2) DISSEMINATION GRANTS.—

“(A) IN GENERAL.—In addition to awarding the multiyear grants described in paragraph (1), the Secretary may award grants under subsection (c) to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

“(B) DETERMINATION.—The Secretary may award a dissemination grant described in this paragraph if, prior to awarding the grant, the Secretary determines that the material or program to be disseminated—

“(i) has been adequately reviewed;

“(ii) has demonstrated educational merit; and

“(iii) can be replicated.

“(3) APPLICATION.—

“(A) IN GENERAL.—Any eligible entity that desires to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

“(B) CONTENTS.—Each application submitted to the Secretary under subparagraph (A), other than an application for a dissemination grant under paragraph (2), shall contain—

“(i) a description of how parents of Indian children and representatives of Indian tribes have been, and will be, involved in developing and implementing the activities for which assistance is sought;

“(ii) assurances that the applicant will participate, at the request of the Secretary, in any national evaluation of activities assisted under this section;

“(iii) information demonstrating that the proposed program for the activities is an evidence-based program, which may include a program that has been modified to be culturally appropriate for students who will be served; and

“(iv) a description of how the applicant will incorporate the proposed activities into the ongoing school program involved once the grant period is over.

“(e) ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds provided to a grantee under this chapter for any fiscal year may be used for administrative purposes.

“SEC. 1272. PROFESSIONAL DEVELOPMENT FOR TEACHERS AND EDUCATION PROFESSIONALS.

“(a) PURPOSES.—The purposes of this section are—

“(1) to increase the number of qualified Indian teachers, school leaders, or other education professionals serving Indian students, including through recruitment strategies;

“(2) to provide training to qualified Indian individuals to enable such individuals to become effective teachers, school leaders, administrators, teacher aides, social workers, and ancillary educational personnel; and

“(3) to improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (2).

“(b) ELIGIBLE ENTITIES.—For the purpose of this section, the term ‘eligible entity’ means—

“(1) an institution of higher education, including an Indian institution of higher education;

“(2) a State educational agency or local educational agency, in consortium with an institution of higher education;

“(3) an Indian tribe or organization, in consortium with an institution of higher education; and

“(4) a Bureau-funded school (as defined in section 1146 of the Education Amendments of 1978).

“(c) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants from funds reserved under section 1271(c)(1) to eligible entities having applications approved under this section to enable those entities to carry out the activities described in subsection (d).

“(d) AUTHORIZED ACTIVITIES.—

“(1) IN GENERAL.—Grant funds under this section shall be used for activities to provide support and training for Indian individuals in a manner consistent with the purposes of this section.

“(2) SPECIAL RULES.—

“(A) TYPE OF TRAINING.—For education personnel, the training received pursuant to a grant under this section may be inservice or preservice training.

“(B) PROGRAM.—For individuals who are being trained to enter any education-related field other than teaching, the training received pursuant to a grant under this section shall be in a program that results in a graduate degree.

“(e) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonable require. An application shall include how the eligible entity will—

“(1) recruit qualified Indian individuals, such as students who may not be of traditional college age, to become teachers or school leaders;

“(2) use funds made available under the grant to support the recruitment, preparation, and professional development of Indian teachers or school leaders in local educational agencies that serve a high proportion of Indian students; and

“(3) assist participants in meeting the requirements under subsection (h).

“(f) SPECIAL RULE.—In awarding grants under this section, the Secretary—

“(1) shall consider the prior performance of the eligible entity; and

“(2) may not limit eligibility to receive a grant under this section on the basis of—

“(A) the number of previous grants the Secretary has awarded such entity; or

“(B) the length of any period during which such entity received such grants.

“(g) GRANT PERIOD.—Each grant under this section shall be awarded for an initial period of not more than three years, and may be renewed for not more than an additional two years if the Secretary finds that the grantee is meeting the grant objectives.

“(h) SERVICE OBLIGATION.—

“(1) IN GENERAL.—The Secretary shall require, by regulation, that an individual who receives training pursuant to a grant made under this section—

“(A) perform work—

“(i) related to the training received under this section; and

“(ii) that benefits Indian people; or

“(B) repay all or a prorated part of the assistance received.

“(2) REPORTING.—The Secretary shall establish, by regulation, a reporting procedure under which a grant recipient under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning compliance with the work requirement under paragraph (1).

“CHAPTER C—FEDERAL ADMINISTRATION**“SEC. 1281. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.**

“(a) MEMBERSHIP.—There is established a National Advisory Council on Indian Education (hereafter in this section referred to as the ‘Council’), which shall—

“(1) consist of 15 Indian members, who shall be appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations; and

“(2) represent different geographic areas of the United States.

“(b) DUTIES.—The Council shall—

“(1) advise the Secretary concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under this subpart—

“(A) with respect to which the Secretary has jurisdiction; and

“(B)(i) that includes Indian children or adults as participants; or

“(ii) that may benefit Indian children or adults;

“(2) make recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs; and

“(3) submit to Congress, not later than June 30 of each year, a report on the activities of the Council, including—

“(A) any recommendations that the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants, or that may benefit Indian children or adults; and

“(B) recommendations concerning the funding of any program described in subparagraph (A).

“SEC. 1282. PEER REVIEW.

“The Secretary may use a peer review process to review applications submitted to the Secretary under chapter B.

“SEC. 1283. PREFERENCE FOR INDIAN APPLICANTS.

“In making grants and entering into contracts or cooperative agreements under chapter B, the Secretary shall give a preference to Indian tribes, organizations, and institutions of higher education under any program with respect to which Indian tribes, organizations, and institutions are eligible to apply for grants, contracts, or cooperative agreements.

“SEC. 1284. MINIMUM GRANT CRITERIA.

“The Secretary may not approve an application for a grant, contract, or cooperative agreement under chapter B unless the application is for a grant, contract, or cooperative agreement that is—

“(1) of sufficient size, scope, and quality to achieve the purpose or objectives of such grant, contract, or cooperative agreement; and

“(2) based on relevant research findings.

“CHAPTER D—DEFINITIONS**“SEC. 1291. DEFINITIONS.**

“For the purposes of this subpart:

“(1) ADULT.—The term ‘adult’ means an individual who—

“(A) has attained the age of 16 years; or

“(B) has attained an age that is greater than the age of compulsory school attendance under an applicable State law.

“(2) ALASKA NATIVE.—The term ‘Alaska Native’ has the same meaning as the term ‘Native’ has in section 3(b) of the Alaska Native Claims Settlement Act.

“(3) FREE PUBLIC EDUCATION.—The term ‘free public education’ means education that is—

“(A) provided at public expense, under public supervision and direction, and without tuition charge; and

“(B) provided as elementary or secondary education in the applicable State or to preschool children.

“(4) INDIAN.—The term ‘Indian’ means an individual who is—

“(A) a member of an Indian tribe or band, as membership is defined by the tribe or band, including—

“(i) any tribe or band terminated since 1940; and

“(ii) any tribe or band recognized by the State in which the tribe or band resides;

“(B) a descendant, in the first or second degree, of an individual described in subparagraph (A);

“(C) considered by the Secretary of the Interior to be an Indian for any purpose;

“(D) an Eskimo, Aleut, or other Alaska Native; or

“(E) a member of an organized Indian group that received a grant under the Indian Education Act of 1988 as in effect the day preceding the date of enactment of the Improving America’s Schools Act of 1994.”.

(b) STRIKE.—The Act is amended by striking title VII (20 U.S.C. 7401 et seq.).

Subtitle D—National Assessment

SEC. 141. NATIONAL ASSESSMENT OF TITLE I.

(a) IN GENERAL.—Part E of title I (20 U.S.C. 6491 et seq.) is redesignated as part B of title I.

(b) REPEALS.—Sections 1502 and 1504 (20 U.S.C. 6492; 6494) are repealed.

(c) REDESIGNATIONS.—Sections 1501 and 1503 (20 U.S.C. 6491; 6493) are redesignated as sections 1301 and 1302, respectively.

(d) AMENDMENTS TO SECTION 1301.—Section 1301 (20 U.S.C. 6491), as so redesignated, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting “, acting through the Director of the Institute of Education Sciences (in this section and section 1302 referred to as the ‘Director’),” after “The Secretary”;

(B) in paragraph (2)—

(i) by striking “Secretary” and inserting “Director”;

(ii) in subparagraph (A), by striking “reaching the proficient level” and all that follows and inserting “graduating high school prepared for postsecondary education or the workforce.”;

(iii) in subparagraph (B), by striking “reach the proficient” and all that follows and inserting “meet State academic standards.”;

(iv) by striking subparagraphs (D) and (G) and redesignating subparagraphs (E), (F), and (H) through (O) as subparagraphs (D) through (M), respectively;

(v) in subparagraph (D)(v) (as so redesignated), by striking “help schools in which” and all that follows and inserting “address disparities in the percentages of effective teachers teaching in low-income schools.”

(vi) in subparagraph (G) (as so redesignated)—

(I) by striking “section 1116” and inserting “section 1111(b)(3)(B)(iii)”; and

(II) by striking “, including the following” and all that follows and inserting a period;

(vii) in subparagraph (I) (as so redesignated), by striking “qualifications” and inserting “effectiveness”;

(viii) in subparagraph (J) (as so redesignated), by striking “, including funds under section 1002,”;

(ix) in subparagraph (L) (as so redesignated), by striking “section 1111(b)(2)(C)(v)(II)” and inserting “section 1111(b)(3)(B)(ii)(II)”; and

(x) in subparagraph (M) (as so redesignated), by striking “Secretary” and inserting “Director”;

(C) in paragraph (3), by striking “Secretary” and inserting “Director”;

(D) in paragraph (4), by striking “Secretary” and inserting “Director”;

(E) in paragraph (5), by striking “Secretary” and inserting “Director”; and

(F) in paragraph (6)—

(i) by striking “No Child Left Behind Act of 2001” each place it appears and inserting “Student Success Act”; and

(ii) by striking “Secretary” each place it appears and inserting “Director”;

(2) in subsection (b), by striking “Secretary” each place it appears and inserting “Director”;

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by striking “Secretary” and inserting “Director”; and

(ii) by striking “part A” and inserting “subpart 1 of part A”;

(B) in paragraph (2)—

(i) by striking “Secretary” and inserting “Director”;

(ii) in subparagraph (B), by striking “challenging academic achievement standards” and inserting “State academic standards”;

(iii) in subparagraph (E), by striking “effects of the availability” and all that follows and inserting “extent to which actions authorized under

- section 1111(b)(3)(B)(iii) improve the academic achievement of disadvantaged students and low-performing schools.”; and
- (iv) in subparagraph (F), by striking “Secretary” and inserting “Director”; and
- (C) in paragraph (3)—
- (i) by striking “Secretary” and inserting “Director”; and
- (ii) by striking subparagraph (C) and inserting the following:
- “(C) analyzes varying models or strategies for delivering school services, including schoolwide and targeted services.”; and
- (4) in subsection (d), by striking “Secretary” each place it appears and inserting “Director”.
- (e) AMENDMENTS TO SECTION 1302.—Section 1302 (20 U.S.C. 6493), as so redesignated, is amended—
- (1) in subsection (a)—
- (A) by striking “Secretary” and inserting “Director”; and
- (B) by striking “and for making decisions about the promotion and graduation of students”;
- (2) in subsection (b)—
- (A) by striking “Secretary” the first place it appears and inserting “Director”;
- (B) by striking “process,” and inserting “process consistent with section 1206,”; and
- (C) by striking “Assistant Secretary of Educational Research and Improvement” and inserting “Director”;
- (3) in subsection (d)—
- (A) in paragraph (1)—
- (i) in subparagraph (A), by striking “to the State-defined level of proficiency” and inserting “toward meeting the State academic standards”; and
- (ii) in subparagraph (C), by striking “pupil-services” and inserting “specialized instructional support services”;
- (B) in paragraph (3), by striking “limited and nonlimited English proficient students” and inserting “English learners”; and
- (C) in paragraph (6), by striking “Secretary” and inserting “Director”; and
- (4) in subsection (f)—
- (A) by striking “Secretary” and inserting “Director”; and
- (B) by striking “authorized to be appropriated for this part” and inserting “appropriated under section 3(a)(2)”.

Subtitle E—Title I General Provisions

SEC. 151. GENERAL PROVISIONS FOR TITLE I.

Part I of title I (20 U.S.C. 6571 et seq.)—

- (1) is transferred to and redesignated as part C of title I of the Act; and
- (2) is amended to read as follows:

“PART C—GENERAL PROVISIONS

“SEC. 1401. FEDERAL REGULATIONS.

“(a) IN GENERAL.—The Secretary may, in accordance with subsections (b) through (d), issue such regulations as are necessary to reasonably ensure there is compliance with this title.

“(b) NEGOTIATED RULEMAKING PROCESS.—

“(1) IN GENERAL.—Before publishing in the Federal Register proposed regulations to carry out this title, the Secretary shall obtain the advice and recommendations of representatives of Federal, State, and local administrators, parents, teachers, and members of local school boards and other organizations involved with the implementation and operation of programs under this title.

“(2) MEETINGS AND ELECTRONIC EXCHANGE.—Such advice and recommendations may be obtained through such mechanisms as regional meetings and electronic exchanges of information.

“(3) PROPOSED REGULATIONS.—After obtaining such advice and recommendations, and before publishing proposed regulations, the Secretary shall—

“(A) establish a negotiated rulemaking process;

“(B) select individuals to participate in such process from among individuals or groups that provided advice and recommendations, including representation from all geographic regions of the United States, in such num-

bers as will provide an equitable balance between representatives of parents and students and representatives of educators and education officials; and

“(C) prepare a draft of proposed policy options that shall be provided to the individuals selected by the Secretary under subparagraph (B) not less than 15 days before the first meeting under such process.

“(c) PROPOSED RULEMAKING.—If the Secretary determines that a negotiated rulemaking process is unnecessary or the individuals selected to participate in the process under paragraph (3)(B) fail to reach unanimous agreement, the Secretary may propose regulations under the following procedure:

“(1) Not less than 30 days prior to beginning a rulemaking process, the Secretary shall provide to Congress, including the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, notice that shall include—

“(A) a copy of the proposed regulations;

“(B) the need to issue regulations;

“(C) the anticipated burden the regulations will have on State educational agencies, local educational agencies, schools, and other entities that may be impacted by the regulations; and

“(D) any regulations that will be repealed when the new regulations are issued.

“(2) 30 days after giving notice of the proposed rule to Congress, the Secretary may proceed with the rulemaking process after addressing all comments received from the Congress and publishing how such comments are addressed with the proposed rule.

“(3) The comment and review period for any proposed regulation shall be 90 days unless an emergency requires a shorter period, in which case such period shall be not less than 45 days and the Secretary shall—

“(A) designate the proposed regulation as an emergency with an explanation of the emergency in the notice and report to Congress under paragraph (1); and

“(B) publish the length of the comment and review period in such notice and in the Federal Register.

“(4) No regulation shall be made final after the comment and review period until the Secretary has published in the Federal Register an independent assessment of—

“(A) the burden, including the cost burden, the regulation will impose on State educational agencies, local educational agencies, schools and other entities that may be impacted by the regulation; and

“(B) an explanation of how the entities described in subparagraph (A) may pay for implementing the new regulation.

“(d) LIMITATION.—Regulations to carry out this title may not require local programs to follow a particular instructional model, such as the provision of services outside the regular classroom or school program.

“SEC. 1402. AGREEMENTS AND RECORDS.

“(a) AGREEMENTS.—In the case in which a negotiated rule making process is established under subsection (b) of section 1401, all published proposed regulations shall conform to agreements that result from the rulemaking described in section 1401 unless the Secretary reopens the negotiated rulemaking process.

“(b) RECORDS.—The Secretary shall ensure that an accurate and reliable record of agreements reached during the negotiations process is maintained.

“SEC. 1403. STATE ADMINISTRATION.

“(a) RULEMAKING.—

“(1) IN GENERAL.—Each State that receives funds under this title shall—

“(A) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title and provide any such proposed rules, regulations, and policies to the committee of practitioners created under subsection (b) for review and comment;

“(B) minimize such rules, regulations, and policies to which the State’s local educational agencies and schools are subject;

“(C) eliminate or modify State and local fiscal accounting requirements in order to facilitate the ability of schools to consolidate funds under schoolwide programs;

“(D) identify any such rule, regulation, or policy as a State-imposed requirement; and

“(E)(i) identify any duplicative or contrasting requirements between the State and Federal rules or regulations;

“(ii) eliminate the rules and regulations that are duplicative of Federal requirements; and

“(iii) report any conflicting requirements to the Secretary and determine which Federal or State rule or regulation shall be followed.

“(2) SUPPORT AND FACILITATION.—State rules, regulations, and policies under this title shall support and facilitate local educational agency and school-level systemic reform designed to enable all children to meet the State academic standards.

“(b) COMMITTEE OF PRACTITIONERS.—

“(1) IN GENERAL.—Each State educational agency that receives funds under this title shall create a State committee of practitioners to advise the State in carrying out its responsibilities under this title.

“(2) MEMBERSHIP.—Each such committee shall include—

“(A) as a majority of its members, representatives from local educational agencies;

“(B) administrators, including the administrators of programs described in other parts of this title;

“(C) teachers from public charter schools, traditional public schools, and career and technical educators;

“(D) parents;

“(E) members of local school boards;

“(F) representatives of private school children; and

“(G) specialized instructional support personnel.

“(3) DUTIES.—The duties of such committee shall include a review, before publication, of any proposed or final State rule or regulation pursuant to this title. In an emergency situation where such rule or regulation must be issued within a very limited time to assist local educational agencies with the operation of the program under this title, the State educational agency may issue a regulation without prior consultation, but shall immediately thereafter convene the State committee of practitioners to review the emergency regulation before issuance in final form.

“SEC. 1404. RULE OF CONSTRUCTION ON EQUALIZED SPENDING.

“Nothing in this title shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.”.

TITLE II—GENERAL PROVISIONS FOR THE ACT

SEC. 201. GENERAL PROVISIONS FOR THE ACT.

(a) AMENDING TITLE V.—Title V (20 U.S.C. 7201 et seq.) is amended to read as follows:

“TITLE V—GENERAL PROVISIONS

“PART A—DEFINITIONS

“SEC. 5101. DEFINITIONS.

“Except as otherwise provided, in this Act:

“(1) AVERAGE DAILY ATTENDANCE.—

“(A) IN GENERAL.—Except as provided otherwise by State law or this paragraph, the term ‘average daily attendance’ means—

“(i) the aggregate number of days of attendance of all students during a school year; divided by

“(ii) the number of days school is in session during that year.

“(B) CONVERSION.—The Secretary shall permit the conversion of average daily membership (or other similar data) to average daily attendance for local educational agencies in States that provide State aid to local educational agencies on the basis of average daily membership (or other similar data).

“(C) SPECIAL RULE.—If the local educational agency in which a child resides makes a tuition or other payment for the free public education of the child in a school located in another school district, the Secretary shall, for the purpose of this Act—

“(i) consider the child to be in attendance at a school of the agency making the payment; and

“(ii) not consider the child to be in attendance at a school of the agency receiving the payment.

“(D) CHILDREN WITH DISABILITIES.—If a local educational agency makes a tuition payment to a private school or to a public school of another local educational agency for a child with a disability, as defined in section 602 of the Individuals with Disabilities Education Act, the Secretary shall, for the purpose of this Act, consider the child to be in attendance at a school of the agency making the payment.

“(2) AVERAGE PER-PUPIL EXPENDITURE.—The term ‘average per-pupil expenditure’ means, in the case of a State or of the United States—

“(A) without regard to the source of funds—

“(i) the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State or, in the case of the United States, for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

“(ii) any direct current expenditures by the State for the operation of those agencies; divided by

“(B) the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year.

“(3) CHARTER SCHOOL.—The term ‘charter school’ means a public school that—

“(A) in accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

“(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

“(C) operates in pursuit of a specific set of educational objectives determined by the school’s developer and agreed to by the authorized public chartering agency;

“(D) provides a program of elementary or secondary education, or both;

“(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations;

“(F) does not charge tuition;

“(G) complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and part B of the Individuals with Disabilities Education Act;

“(H) is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

“(I) agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

“(J) meets all applicable Federal, State, and local health and safety requirements;

“(K) operates in accordance with State law;

“(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school; and

“(M) may serve pre-kindergarten or postsecondary school students.

“(4) CHILD.—The term ‘child’ means any person within the age limits for which the State provides free public education.

“(5) CHILD WITH A DISABILITY.—The term ‘child with a disability’ has the same meaning given that term in section 602 of the Individuals with Disabilities Education Act.

“(6) COMMUNITY-BASED ORGANIZATION.—The term ‘community-based organization’ means a public or private nonprofit organization of demonstrated effectiveness that—

“(A) is representative of a community or significant segments of a community; and

“(B) provides educational or related services to individuals in the community.

“(7) CONSOLIDATED LOCAL APPLICATION.—The term ‘consolidated local application’ means an application submitted by a local educational agency pursuant to section 5305.

“(8) CONSOLIDATED LOCAL PLAN.—The term ‘consolidated local plan’ means a plan submitted by a local educational agency pursuant to section 5305.

“(9) CONSOLIDATED STATE APPLICATION.—The term ‘consolidated State application’ means an application submitted by a State educational agency pursuant to section 5302.

“(10) CONSOLIDATED STATE PLAN.—The term ‘consolidated State plan’ means a plan submitted by a State educational agency pursuant to section 5302.

“(11) CORE ACADEMIC SUBJECTS.—The term ‘core academic subjects’ means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

“(12) COUNTY.—The term ‘county’ means one of the divisions of a State used by the Secretary of Commerce in compiling and reporting data regarding counties.

“(13) COVERED PROGRAM.—The term ‘covered program’ means each of the programs authorized by—

“(A) part A of title I;

“(B) title II; and

“(C) title III.

“(14) CURRENT EXPENDITURES.—The term ‘current expenditures’ means expenditures for free public education—

“(A) including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities; but

“(B) not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds received under title I.

“(15) DEPARTMENT.—The term ‘Department’ means the Department of Education.

“(16) DIRECT STUDENT SERVICES.—The term ‘direct student services’ means public school choice or high-quality academic tutoring that are designed to help increase academic achievement for students.

“(17) DISTANCE EDUCATION.—The term ‘distance education’ means the use of one or more technologies to deliver instruction to students who are separated from the instructor and to support regular and substantive interaction between the students and the instructor synchronously or nonsynchronously.

“(18) EDUCATIONAL SERVICE AGENCY.—The term ‘educational service agency’ means a regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local educational agencies.

“(19) ELEMENTARY SCHOOL.—The term ‘elementary school’ means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

“(20) ENGLISH LEARNER.—The term ‘English learner’, when used with respect to an individual, means an individual—

“(A) who is aged 3 through 21;

“(B) who is enrolled or preparing to enroll in an elementary school or secondary school;

“(C)(i) who was not born in the United States or whose native language is a language other than English;

“(ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and

“(II) who comes from an environment where a language other than English has had a significant impact on the individual’s level of English language proficiency; or

“(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

“(D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

“(i) the ability to meet the State’s academic standards described in section 1111;

“(ii) the ability to successfully achieve in classrooms where the language of instruction is English; or

“(iii) the opportunity to participate fully in society.

“(21) EXTENDED-YEAR ADJUSTED COHORT GRADUATION RATE.—

“(A) IN GENERAL.—The term ‘extended-year adjusted cohort graduation rate’ means the ratio where—

“(i) the denominator consists of the number of students who form the original cohort of students who entered the entry grade together in the entry year of high school, adjusted by—

“(I) adding the students who joined that cohort, after the time of the determination of the original cohort; and

“(II) subtracting only those students who left that cohort, after the time of the determination of the original cohort; and

“(ii) the numerator consists of the number of students in the cohort, as adjusted under clause (i), who earned a regular high school diploma before, during, or at the conclusion of—

“(I) one or more additional years beyond the fourth year of high school; or

“(II) a summer session immediately following the additional year of high school.

“(B) COHORT REMOVAL.—To remove a student from a cohort, a school or local educational agency shall require documentation to confirm that the student has transferred out, emigrated to another country, transferred to a prison or juvenile facility, or is deceased.

“(C) TRANSFERRED OUT.—

“(i) IN GENERAL.—For purposes of this paragraph, the term ‘transferred out’ means a student who the high school or local educational agency has confirmed, according to clause (ii), has transferred—

“(I) to another school from which the student is expected to receive a regular high school diploma; or

“(II) to another educational program from which the student is expected to receive a regular high school diploma.

“(ii) CONFIRMATION REQUIREMENTS.—

“(I) DOCUMENTATION REQUIRED.—The confirmation of a student’s transfer to another school or educational program described in clause (i) requires documentation from the receiving school or program that the student enrolled in the receiving school or program.

“(II) LACK OF CONFIRMATION.—A student who was enrolled, but for whom there is no confirmation of the student having transferred out, shall remain in the extended-year adjusted cohort.

“(iii) PROGRAMS NOT PROVIDING CREDIT.—A student who is retained in grade or who is enrolled in a GED or other alternative educational program that does not issue or provide credit toward the issuance of a regular high school diploma shall not be considered transferred out and shall remain in the extended-year adjusted cohort.

“(D) SPECIAL RULE.—For those high schools that start after grade 9, the original cohort shall be calculated for the earliest high school grade students attend no later than the effective date for student membership data submitted annually by State educational agencies to the National Center for Education Statistics pursuant to section 153 of the Education Sciences Reform Act.

“(22) FAMILY LITERACY SERVICES.—The term ‘family literacy services’ means services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

“(A) Interactive literacy activities between parents and their children.

“(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

“(C) Parent literacy training that leads to economic self-sufficiency.

“(D) An age-appropriate education to prepare children for success in school and life experiences.

“(23) FOUR-YEAR ADJUSTED COHORT GRADUATION RATE.—

“(A) IN GENERAL.—The term ‘four-year adjusted cohort graduation rate’ means the ratio where—

“(i) the denominator consists of the number of students who form the original cohort of entering first-time 9th grade students enrolled in the high school no later than the effective date for student membership data submitted annually by State educational agencies to the National Center for Education Statistics pursuant to section 153 of the Education Sciences Reform Act, adjusted by—

“(I) adding the students who joined that cohort, after the time of the determination of the original cohort; and

- “(II) subtracting only those students who left that cohort, after the time of the determination of the original cohort, as described in subparagraph (B); and
- “(ii) the numerator consists of the number of students in the cohort, as adjusted under clause (i), who earned a regular high school diploma before, during, or at the conclusion of—
- “(I) the fourth year of high school; or
- “(II) a summer session immediately following the fourth year of high school.
- “(B) COHORT REMOVAL.—To remove a student from a cohort, a school or local educational agency shall require documentation to confirm that the student has transferred out, emigrated to another country, transferred to a prison or juvenile facility, or is deceased.
- “(C) TRANSFERRED OUT.—
- “(i) IN GENERAL.—For purposes of this paragraph, the term ‘transferred out’ means a student who the high school or local educational agency has confirmed, according to clause (ii), has transferred—
- “(I) to another school from which the student is expected to receive a regular high school diploma; or
- “(II) to another educational program from which the student is expected to receive a regular high school diploma.
- “(ii) CONFIRMATION REQUIREMENTS.—
- “(I) DOCUMENTATION REQUIRED.—The confirmation of a student’s transfer to another school or educational program described in clause (i) requires documentation from the receiving school or program that the student enrolled in the receiving school or program.
- “(II) LACK OF CONFIRMATION.—A student who was enrolled, but for whom there is no confirmation of the student having transferred out, shall remain in the adjusted cohort.
- “(iii) PROGRAMS NOT PROVIDING CREDIT.—A student who is retained in grade or who is enrolled in a GED or other alternative educational program that does not issue or provide credit toward the issuance of a regular high school diploma shall not be considered transferred out and shall remain in the adjusted cohort.
- “(D) SPECIAL RULE.—For those high schools that start after grade 9, the original cohort shall be calculated for the earliest high school grade students attend no later than the effective date for student membership data submitted annually by State educational agencies to the National Center for Education Statistics pursuant to section 153 of the Education Sciences Reform Act.
- “(24) FREE PUBLIC EDUCATION.—The term ‘free public education’ means education that is provided—
- “(A) at public expense, under public supervision and direction, and without tuition charge; and
- “(B) as elementary school or secondary school education as determined under applicable State law, except that the term does not include any education provided beyond grade 12.
- “(25) GRADUATION RATE.—The term ‘graduation rate’ means the adjusted cohort graduation rate.
- “(26) HIGH-QUALITY ACADEMIC TUTORING.—The term ‘high-quality academic tutoring’ means supplemental academic services that—
- “(A) are in addition to instruction provided during the school day;
- “(B) are provided by a non-governmental entity or local educational agency that—
- “(i) is included on a State educational agency approved provider list after demonstrating to the State educational agency that its program consistently improves the academic achievement of students; and
- “(ii) agrees to provide parents of children receiving high-quality academic tutoring, the appropriate local educational agency, and school with information on participating students increases in academic achievement, in a format, and to the extent practicable, a language that such parent can understand, and in a manner that protects the privacy of individuals consistent with section 444 of the General Education Provisions Act (20 U.S.C. 1232g);
- “(C) are selected by the parents of students who are identified by the local educational agency as being eligible for such services from among providers on the approved provider list described in subparagraph (B)(i);
- “(D) meet all applicable Federal, State, and local health, safety, and civil rights laws; and

- “(E) ensure that all instruction and content are secular, neutral, and non-ideological.
- “(27) HIGH SCHOOL.—The term ‘high school’ means a secondary school that—
 “(A) grants a diploma, as defined by the State; and
 “(B) includes, at least, grade 12.
- “(28) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ has the meaning given that term in section 101(a) of the Higher Education Act of 1965.
- “(29) LOCAL EDUCATIONAL AGENCY.—
 “(A) IN GENERAL.—The term ‘local educational agency’ means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.
 “(B) ADMINISTRATIVE CONTROL AND DIRECTION.—The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.
 “(C) BIE SCHOOLS.—The term includes an elementary school or secondary school funded by the Bureau of Indian Education but only to the extent that including the school makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Education.
 “(D) EDUCATIONAL SERVICE AGENCIES.—The term includes educational service agencies and consortia of those agencies.
 “(E) STATE EDUCATIONAL AGENCY.—The term includes the State educational agency in a State in which the State educational agency is the sole educational agency for all public schools.
- “(30) NATIVE AMERICAN AND NATIVE AMERICAN LANGUAGE.—The terms ‘Native American’ and ‘Native American language’ have the same meaning given those terms in section 103 of the Native American Languages Act of 1990.
- “(31) OTHER STAFF.—The term ‘other staff’ means specialized instructional support personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.
- “(32) OUTLYING AREA.—The term ‘outlying area’—
 “(A) means American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands;
 “(B) means the Republic of Palau, to the extent permitted under section 105(f)(1)(B)(ix) of the Compact of Free Association Amendments Act of 2003 (Public Law 99–658; 117 Stat. 2751) and until an agreement for the extension of United States education assistance under the Compact of Free Association becomes effective for the Republic of Palau; and
 “(C) for the purpose of any discretionary grant program under this Act, includes the Republic of the Marshall Islands and the Federated States of Micronesia, to the extent permitted under section 105(f)(1)(B)(viii) of the Compact of Free Association Amendments Act of 2003 (Public Law 108–188; 117 Stat. 2751).
- “(33) PARENT.—The term ‘parent’ includes a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child’s welfare).
- “(34) PARENTAL INVOLVEMENT.—The term ‘parental involvement’ means the participation of parents in regular, two-way, and meaningful communication involving student academic learning and other school activities, including ensuring—
 “(A) that parents play an integral role in assisting in their child’s learning;
 “(B) that parents are encouraged to be actively involved in their child’s education at school;
 “(C) that parents are full partners in their child’s education and are included, as appropriate, in decisionmaking and on advisory committees to assist in the education of their child; and
 “(D) the carrying out of other activities, such as those described in section 1118.

“(35) POVERTY LINE.—The term ‘poverty line’ means the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of the size involved.

“(36) PROFESSIONAL DEVELOPMENT.—The term ‘professional development’—

“(A) includes activities that—

“(i) improve and increase teachers’ knowledge of the academic subjects the teachers teach, and enable teachers to become effective educators;

“(ii) are an integral part of broad schoolwide and districtwide educational improvement plans;

“(iii) give teachers, school leaders, other staff, and administrators the knowledge and skills to provide students with the opportunity to meet State academic standards;

“(iv) improve classroom management skills;

“(v)(I) are high quality, job-embedded, and continuous in order to have a positive and lasting impact on classroom instruction and the teacher’s performance in the classroom; and

“(II) are not 1-day or short-term workshops or conferences;

“(vi) support the recruiting, hiring, and training of effective teachers, including teachers who became certified or licensed through State and local alternative routes to certification;

“(vii) advance teacher understanding of effective instructional strategies that are—

“(I) evidence-based; and

“(II) strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers, including through addressing the social and emotional development needs of students; and

“(viii) are aligned with and directly related to—

“(I) State academic standards and assessments; and

“(II) the curricula and programs tied to the standards described in subclause (I);

“(ix) are developed with extensive participation of teachers, school leaders, parents, and administrators of schools to be served under this Act;

“(x) are designed to give teachers of English learners and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to those children, including the appropriate use of curricula and assessments;

“(xi) to the extent appropriate, provide training for teachers, other staff, and school leaders in the use of technology so that technology and technology applications are effectively used to improve teaching and learning in the curricula and core academic subjects in which the students receive instruction;

“(xii) as a whole, are regularly evaluated for their impact on increased teacher effectiveness and improved student academic achievement, with the findings of the evaluations used to improve the quality of the professional development;

“(xiii) provide instruction in methods of teaching children with special needs;

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

“(xv) include instruction in ways that teachers, school leaders, specialized instructional support personnel, other staff, and school administrators may work more effectively with parents; and

“(B) may include activities that—

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

“(ii) create programs to enable paraprofessionals (assisting teachers employed by a local educational agency receiving assistance under subpart 1 of part A of title I) to obtain the education necessary for those paraprofessionals to become certified and licensed teachers; and

“(iii) provide follow-up training to individuals who have participated in activities described in subparagraph (A) or another clause of this subparagraph that are designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom.

“(37) REGULAR HIGH SCHOOL DIPLOMA.—

“(A) IN GENERAL.—The term ‘regular high school diploma’ means the standard high school diploma awarded to the preponderance of students in the State that is fully aligned with State standards, or a higher diploma. Such term shall not include a GED or other recognized equivalent of a diploma, a certificate of attendance, or any lesser diploma award.

“(B) EXCEPTION FOR STUDENTS WITH SIGNIFICANT COGNITIVE DISABILITIES.—For a student who is assessed using an alternate assessment aligned to alternate academic standards under section 1111(b)(1)(D), receipt of a regular high school diploma as defined under subparagraph (A) or a State-defined alternate diploma obtained within the time period for which the State ensures the availability of a free appropriate public education and in accordance with section 612(a)(1) of the Individuals with Disabilities Education Act shall be counted as graduating with a regular high school diploma for the purposes of this Act.

“(38) SCHOOL LEADER.—The term ‘school leader’ means a principal, assistant principal, or other individual who is—

“(A) an employee or officer of a school, local educational agency, or other entity operating the school; and

“(B) responsible for—

“(i) the daily instructional leadership and managerial operations of the school; and

“(ii) creating the optimum conditions for student learning.

“(39) SECONDARY SCHOOL.—The term ‘secondary school’ means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that the term does not include any education beyond grade 12.

“(40) SECRETARY.—The term ‘Secretary’ means the Secretary of Education.

“(41) SPECIALIZED INSTRUCTIONAL SUPPORT PERSONNEL; SPECIALIZED INSTRUCTIONAL SUPPORT SERVICES.—

“(A) SPECIALIZED INSTRUCTIONAL SUPPORT PERSONNEL.—The term ‘specialized instructional support personnel’ means school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services (including related services as that term is defined in section 602 of the Individuals with Disabilities Education Act) as part of a comprehensive program to meet student needs.

“(B) SPECIALIZED INSTRUCTIONAL SUPPORT SERVICES.—The term ‘specialized instructional support services’ means the services provided by specialized instructional support personnel.

“(42) STATE.—The term ‘State’ means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

“(43) STATE EDUCATIONAL AGENCY.—The term ‘State educational agency’ means the agency primarily responsible for the State supervision of public elementary schools and secondary schools.

“(44) TECHNOLOGY.—The term ‘technology’ means modern information, computer and communication technology products, services, or tools, including, but not limited to, the Internet and other communications networks, computer devices and other computer and communications hardware, software applications, data systems, and other electronic content and data storage.

“SEC. 5102. APPLICABILITY OF TITLE.

“Parts B, C, D, and E of this title do not apply to title IV of this Act.

“SEC. 5103. APPLICABILITY TO BUREAU OF INDIAN EDUCATION OPERATED SCHOOLS.

“For the purpose of any competitive program under this Act—

“(1) a consortium of schools operated by the Bureau of Indian Education;

“(2) a school operated under a contract or grant with the Bureau of Indian Education in consortium with another contract or grant school or a tribal or community organization; or

“(3) a Bureau of Indian Education school in consortium with an institution of higher education, a contract or grant school, or a tribal or community organization,

shall be given the same consideration as a local educational agency.

“PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

“SEC. 5201. CONSOLIDATION OF STATE ADMINISTRATIVE FUNDS FOR ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.—

“(a) CONSOLIDATION OF ADMINISTRATIVE FUNDS.—

“(1) IN GENERAL.—A State educational agency may consolidate the amounts specifically made available to it for State administration under one or more of the programs under paragraph (2).

“(2) APPLICABILITY.—This section applies to any program under this Act under which funds are authorized to be used for administration, and such other programs as the Secretary may designate.

“(b) USE OF FUNDS.—

“(1) IN GENERAL.—A State educational agency shall use the amount available under this section for the administration of the programs included in the consolidation under subsection (a).

“(2) ADDITIONAL USES.—A State educational agency may also use funds available under this section for administrative activities designed to enhance the effective and coordinated use of funds under programs included in the consolidation under subsection (a), such as—

“(A) the coordination of those programs with other Federal and non-Federal programs;

“(B) the establishment and operation of peer-review mechanisms under this Act;

“(C) the administration of this title;

“(D) the dissemination of information regarding model programs and practices;

“(E) technical assistance under any program under this Act;

“(F) State-level activities designed to carry out this title;

“(G) training personnel engaged in audit and other monitoring activities; and

“(H) implementation of the Cooperative Audit Resolution and Oversight Initiative of the Department.

“(c) RECORDS.—A State educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of programs included in the consolidation under subsection (a).

“(d) REVIEW.—To determine the effectiveness of State administration under this section, the Secretary may periodically review the performance of State educational agencies in using consolidated administrative funds under this section and take such steps as the Secretary finds appropriate to ensure the effectiveness of that administration.

“(e) UNUSED ADMINISTRATIVE FUNDS.—If a State educational agency does not use all of the funds available to the agency under this section for administration, the agency may use those funds during the applicable period of availability as funds available under one or more programs included in the consolidation under subsection (a).

“(f) CONSOLIDATION OF FUNDS FOR STANDARDS AND ASSESSMENT DEVELOPMENT.—In order to develop State academic standards and assessments, a State educational agency may consolidate the amounts described in subsection (a) for those purposes under title I.

“SEC. 5202. SINGLE LOCAL EDUCATIONAL AGENCY STATES.

“A State educational agency that also serves as a local educational agency shall, in its applications or plans under this Act, describe how the agency will eliminate duplication in conducting administrative functions.

“SEC. 5203. CONSOLIDATED SET-ASIDE FOR DEPARTMENT OF THE INTERIOR FUNDS.

“(a) GENERAL AUTHORITY.—

“(1) TRANSFER.—The Secretary shall transfer to the Department of the Interior, as a consolidated amount for covered programs, the Indian education programs under subpart 6 of part A of title I, and the education for homeless children and youth program under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act, the amounts allotted to the Department of the Interior under those programs.

“(2) AGREEMENT.—

“(A) IN GENERAL.—The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of the programs specified in paragraph (1), for the distribution and use of those program funds under terms that the Secretary determines best meet the purposes of those programs.

“(B) CONTENTS.—The agreement shall—

“(i) set forth the plans of the Secretary of the Interior for the use of the amount transferred and the achievement measures to assess program effectiveness; and

“(ii) be developed in consultation with Indian tribes.

“(b) ADMINISTRATION.—The Department of the Interior may use not more than 1.5 percent of the funds consolidated under this section for its costs related to the administration of the funds transferred under this section.

“PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

“SEC. 5301. PURPOSES.

“The purposes of this part are—

“(1) to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery;

“(2) to provide greater flexibility to State and local authorities through consolidated plans, applications, and reporting; and

“(3) to enhance the integration of programs under this Act with State and local programs.

“SEC. 5302. OPTIONAL CONSOLIDATED STATE PLANS OR APPLICATIONS.

“(a) GENERAL AUTHORITY.—

“(1) SIMPLIFICATION.—In order to simplify application requirements and reduce the burden for State educational agencies under this Act, the Secretary, in accordance with subsection (b), shall establish procedures and criteria under which, after consultation with the Governor, a State educational agency may submit a consolidated State plan or a consolidated State application meeting the requirements of this section for—

“(A) each of the covered programs in which the State participates; and

“(B) such other programs as the Secretary may designate.

“(2) CONSOLIDATED APPLICATIONS AND PLANS.—After consultation with the Governor, a State educational agency that submits a consolidated State plan or a consolidated State application under this section shall not be required to submit separate State plans or applications under any of the programs to which the consolidated State plan or consolidated State application under this section applies.

“(b) COLLABORATION.—

“(1) IN GENERAL.—In establishing criteria and procedures under this section, the Secretary shall collaborate with State educational agencies and, as appropriate, with other State agencies, local educational agencies, public and private agencies, organizations, and institutions, private schools, and parents, students, and teachers.

“(2) CONTENTS.—Through the collaborative process described in paragraph (1), the Secretary shall establish, for each program under this Act to which this section applies, the descriptions, information, assurances, and other material required to be included in a consolidated State plan or consolidated State application.

“(3) NECESSARY MATERIALS.—The Secretary shall require only descriptions, information, assurances (including assurances of compliance with applicable provisions regarding participation by private school children and teachers), and other materials that are absolutely necessary for the consideration of the consolidated State plan or consolidated State application.

“SEC. 5303. CONSOLIDATED REPORTING.

“(a) IN GENERAL.—In order to simplify reporting requirements and reduce reporting burdens, the Secretary shall establish procedures and criteria under which a State educational agency, in consultation with the Governor of the State, may submit a consolidated State annual report.

“(b) CONTENTS.—The report shall contain information about the programs included in the report, including the performance of the State under those programs, and other matters as the Secretary determines are necessary, such as monitoring activities.

“(c) REPLACEMENT.—The report shall replace separate individual annual reports for the programs included in the consolidated State annual report.

“SEC. 5304. GENERAL APPLICABILITY OF STATE EDUCATIONAL AGENCY ASSURANCES.

“(a) ASSURANCES.—A State educational agency, in consultation with the Governor of the State, that submits a consolidated State plan or consolidated State application under this Act, whether separately or under section 5302, shall have on file with the Secretary a single set of assurances, applicable to each program for which the plan or application is submitted, that provides that—

“(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

“(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency, an eligible private agency, institution, or organization, or an Indian tribe, if the law authorizing the program provides for assistance to those entities; and

“(B) the public agency, eligible private agency, institution, or organization, or Indian tribe will administer those funds and property to the extent required by the authorizing law;

“(3) the State will adopt and use proper methods of administering each such program, including—

“(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program;

“(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation; and

“(C) the adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of the programs;

“(4) the State will cooperate in carrying out any evaluation of each such program conducted by or for the Secretary or other Federal officials;

“(5) the State will use such fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each such program;

“(6) the State will—

“(A) make reports to the Secretary as may be necessary to enable the Secretary to perform the Secretary’s duties under each such program; and

“(B) maintain such records, provide such information to the Secretary, and afford such access to the records as the Secretary may find necessary to carry out the Secretary’s duties; and

“(7) before the plan or application was submitted to the Secretary, the State afforded a reasonable opportunity for public comment on the plan or application and considered such comment.

“(b) GEPA PROVISION.—Section 441 of the General Education Provisions Act shall not apply to programs under this Act.

“SEC. 5305. CONSOLIDATED LOCAL PLANS OR APPLICATIONS.

“(a) GENERAL AUTHORITY.—

“(1) CONSOLIDATED PLAN.—A local educational agency receiving funds under more than one covered program may submit plans or applications to the State educational agency under those programs on a consolidated basis.

“(2) AVAILABILITY TO GOVERNOR.—The State educational agency shall make any consolidated local plans and applications available to the Governor.

“(b) REQUIRED CONSOLIDATED PLANS OR APPLICATIONS.—A State educational agency that has an approved consolidated State plan or application under section 5302 may require local educational agencies in the State receiving funds under more than one program included in the consolidated State plan or consolidated State application to submit consolidated local plans or applications under those programs, but may not require those agencies to submit separate plans.

“(c) COLLABORATION.—A State educational agency, in consultation with the Governor, shall collaborate with local educational agencies in the State in establishing procedures for the submission of the consolidated State plans or consolidated State applications under this section.

“(d) NECESSARY MATERIALS.—The State educational agency shall require only descriptions, information, assurances, and other material that are absolutely necessary for the consideration of the local educational agency plan or application.

“SEC. 5306. OTHER GENERAL ASSURANCES.

“(a) ASSURANCES.—Any applicant, other than a State educational agency that submits a plan or application under this Act, shall have on file with the State educational agency a single set of assurances, applicable to each program for which a plan or application is submitted, that provides that—

“(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

“(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in an eligible private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to those entities; and

“(B) the public agency, eligible private agency, institution, or organization, or Indian tribe will administer the funds and property to the extent required by the authorizing statutes;

“(3) the applicant will adopt and use proper methods of administering each such program, including—

“(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and

“(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation;

“(4) the applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary, or other Federal officials;

“(5) the applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the applicant under each such program;

“(6) the applicant will—

“(A) submit such reports to the State educational agency (which shall make the reports available to the Governor) and the Secretary as the State educational agency and Secretary may require to enable the State educational agency and the Secretary to perform their duties under each such program; and

“(B) maintain such records, provide such information, and afford such access to the records as the State educational agency (after consultation with the Governor) or the Secretary may reasonably require to carry out the State educational agency’s or the Secretary’s duties; and

“(7) before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and considered such comment.

“(b) GEPA PROVISION.—Section 442 of the General Education Provisions Act shall not apply to programs under this Act.

“PART D—WAIVERS

“SEC. 5401. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

“(a) IN GENERAL.—

“(1) REQUEST FOR WAIVER.—A State educational agency, local educational agency, or Indian tribe that receives funds under a program authorized under this Act may submit a request to the Secretary to waive any statutory or regulatory requirement of this Act.

“(2) RECEIPT OF WAIVER.—Except as provided in subsection (c) and subject to the limits in subsection (b)(5)(A), the Secretary shall waive any statutory or regulatory requirement of this Act for a State educational agency, local educational agency, Indian tribe, or school (through a local educational agency), that submits a waiver request pursuant to this subsection.

“(b) PLAN.—

“(1) IN GENERAL.—A State educational agency, local educational agency, or Indian tribe that desires a waiver under this section shall submit a waiver request to the Secretary, which shall include a plan that—

“(A) identifies the Federal programs affected by the requested waiver;

“(B) describes which Federal statutory or regulatory requirements are to be waived;

“(C) reasonably demonstrates that the waiver will improve instruction for students and advance student academic achievement;

“(D) describes the methods the State educational agency, local educational agency, or Indian tribe will use to monitor the effectiveness of the implementation of the plan;

“(E) describes the State educational agency, local educational agency, or Indian tribe’s process for holding public schools accountable for student academic achievement and intervening in low performing schools; and

“(F) describes how schools will continue to provide assistance to the same populations served by programs for which the waiver is requested.

“(2) ADDITIONAL INFORMATION.—A waiver request under this section—

“(A) may provide for waivers of requirements applicable to State educational agencies, local educational agencies, Indian tribes, and schools; and

“(B) shall be developed and submitted—

“(i)(I) by local educational agencies (on behalf of those agencies and schools) to State educational agencies; and

“(II) by State educational agencies (on their own behalf, or on behalf of, and based on the requests of, local educational agencies in the State) to the Secretary; or

“(ii) by Indian tribes (on behalf of schools operated by the tribes) to the Secretary.

“(3) GENERAL REQUIREMENTS.—

“(A) STATE EDUCATIONAL AGENCIES.—In the case of a waiver request submitted by a State educational agency acting on its own behalf, or on behalf of local educational agencies in the State, the State educational agency shall—

“(i) provide the public and local educational agencies in the State with notice and a reasonable opportunity to comment and provide input on the request;

“(ii) submit the comments and input to the Secretary, with a description of how the State addressed the comments and input; and

“(iii) provide notice and a reasonable time to comment to the public and local educational agencies in the manner in which the applying agency customarily provides similar notice and opportunity to comment to the public.

“(B) LOCAL EDUCATIONAL AGENCIES.—In the case of a waiver request submitted by a local educational agency that receives funds under this Act—

“(i) the request shall be reviewed by the State educational agency and be accompanied by the comments, if any, of the State educational agency and the public; and

“(ii) notice and a reasonable opportunity to comment regarding the waiver request shall be provided to the State educational agency and the public by the agency requesting the waiver in the manner in which that agency customarily provides similar notice and opportunity to comment to the public.

“(4) PEER REVIEW.—

“(A) ESTABLISHMENT.—The Secretary shall establish a multi-disciplinary peer review team to review waiver requests under this section.

“(B) APPLICABILITY.—The Secretary may approve a waiver request under this section without conducting a peer review of the request, but shall use the peer review process under this paragraph before disapproving such a request.

“(C) STANDARD AND NATURE OF REVIEW.—Peer reviewers shall conduct a good faith review of waiver requests submitted to them under this section. Peer reviewers shall review such waiver requests—

“(i) in their totality;

“(ii) in deference to State and local judgment; and

“(iii) with the goal of promoting State- and local-led innovation.

“(5) WAIVER DETERMINATION, DEMONSTRATION, AND REVISION.—

“(A) IN GENERAL.—The Secretary shall approve a waiver request not more than 60 days after the date on which such request is submitted, unless the Secretary determines and demonstrates that—

“(i) the waiver request does not meet the requirements of this section;

“(ii) the waiver is not permitted under subsection (c);

“(iii) the plan that is required under paragraph (1)(C), and reviewed with deference to State and local judgment, provides no reasonable evidence to determine that a waiver will enhance student academic achievement; or

“(iv) the waiver request does not provide for adequate evaluation to ensure review and continuous improvement of the plan.

“(B) WAIVER DETERMINATION AND REVISION.—If the Secretary determines and demonstrates that the waiver request does not meet the requirements of this section, the Secretary shall—

“(i) immediately—

“(I) notify the State educational agency, local educational agency, or Indian tribe of such determination; and

“(II) at the request of the State educational agency, local educational agency, or Indian tribe, provide detailed reasons for such determination in writing;

“(ii) offer the State educational agency, local educational agency, or Indian tribe an opportunity to revise and resubmit the waiver request not more than 60 days after the date of such determination; and

“(iii) if the Secretary determines that the resubmission does not meet the requirements of this section, at the request of the State educational agency, local educational agency, or Indian tribe, conduct a public hearing not more than 30 days after the date of such resubmission.

“(C) WAIVER DISAPPROVAL.—The Secretary may disapprove a waiver request if—

“(i) the State educational agency, local educational agency, or Indian tribe has been notified and offered an opportunity to revise and resub-

mit the waiver request, as described under clauses (i) and (ii) of subparagraph (B); and

“(ii) the State educational agency, local educational agency, or Indian tribe—

“(I) does not revise and resubmit the waiver request; or

“(II) revises and resubmits the waiver request, and the Secretary determines that such waiver request does not meet the requirements of this section after a hearing conducted under subparagraph (B)(iii), if requested.

“(D) EXTERNAL CONDITIONS.—The Secretary shall not require or impose new or additional requirements in exchange for receipt of a waiver if such requirements are not specified in this Act.

“(c) RESTRICTIONS.—The Secretary shall not waive under this section any statutory or regulatory requirements relating to—

“(1) the allocation or distribution of funds to States, local educational agencies, Indian tribes, or other recipients of funds under this Act;

“(2) comparability of services;

“(3) use of Federal funds to supplement, not supplant, non-Federal funds;

“(4) equitable participation of private school students and teachers;

“(5) parental participation and involvement;

“(6) applicable civil rights requirements;

“(7) the prohibitions—

“(A) in subpart 2 of part E;

“(B) regarding use of funds for religious worship or instruction in section 5505; and

“(C) regarding activities in section 5524; or

“(8) the selection of a school attendance area or school under subsections (a) and (b) of section 1113, except that the Secretary may grant a waiver to allow a school attendance area or school to participate in activities under subpart 1 of part A of title I if the percentage of children from low-income families in the school attendance area or who attend the school is not more than 10 percentage points below the lowest percentage of those children for any school attendance area or school of the local educational agency that meets the requirements of subsections (a) and (b) of section 1113.

“(d) DURATION AND EXTENSION OF WAIVER; LIMITATIONS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), a waiver approved by the Secretary under this section may be for a period not to exceed 3 years.

“(2) EXTENSION.—The Secretary may extend the period described in paragraph (1) if the State demonstrates that—

“(A) the waiver has been effective in enabling the State or affected recipient to carry out the activities for which the waiver was requested and the waiver has contributed to improved student achievement; and

“(B) the extension is in the public interest.

“(3) SPECIFIC LIMITATIONS.—The Secretary shall not require a State educational agency, local educational agency, or Indian tribe, as a condition of approval of a waiver request, to—

“(A) include in, or delete from, such request, specific academic standards;

“(B) use specific academic assessment instruments or items; or

“(C) include in, or delete from, such waiver request any criterion that specifies, defines, or prescribes the standards or measures that a State or local educational agency or Indian tribe uses to establish, implement, or improve—

“(i) State academic standards;

“(ii) academic assessments;

“(iii) State accountability systems; or

“(iv) teacher and school leader evaluation systems.

“(e) REPORTS.—

“(1) WAIVER REPORTS.—A State educational agency, local educational agency, or Indian tribe that receives a waiver under this section shall, at the end of the second year for which a waiver is received under this section and each subsequent year, submit a report to the Secretary that—

“(A) describes the uses of the waiver by the agency or by schools;

“(B) describes how schools continued to provide assistance to the same populations served by the programs for which waivers were granted; and

“(C) evaluates the progress of the agency and schools, or Indian tribe, in improving the quality of instruction or the academic achievement of students.

“(2) REPORT TO CONGRESS.—The Secretary shall annually submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report—

“(A) summarizing the uses of waivers by State educational agencies, local educational agencies, Indian tribes, and schools; and

“(B) describing the status of the waivers in improving academic achievement.

“(f) TERMINATION OF WAIVERS.—The Secretary shall terminate a waiver under this section if the Secretary determines, after notice and an opportunity for a hearing, that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver and the recipient of the waiver has failed to make revisions needed to carry out the purpose of the waiver, or if the waiver is no longer necessary to achieve its original purpose.

“(g) PUBLICATION.—A notice of the Secretary’s decision to grant each waiver under subsection (a) shall be published in the Federal Register and the Secretary shall provide for the dissemination of the notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, and the public.

“PART E—UNIFORM PROVISIONS

“SUBPART 1—PRIVATE SCHOOLS

“SEC. 5501. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.

“(a) PRIVATE SCHOOL PARTICIPATION.—

“(1) IN GENERAL.—Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in areas served by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or another entity receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary schools and secondary schools in areas served by such agency, consortium, or entity, the agency, consortium, or entity shall, after timely and meaningful consultation with appropriate private school officials or their representatives, provide to those children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits that address their needs under the program.

“(2) SECULAR, NEUTRAL, AND NONIDEOLOGICAL SERVICES OR BENEFITS.—Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.

“(3) SPECIAL RULE.—Educational services and other benefits provided under this section for private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in the program and shall be provided in a timely manner.

“(4) EXPENDITURES.—

“(A) IN GENERAL.—Expenditures for educational services and other benefits to eligible private school children, teachers, and other service personnel shall be equal to the expenditures for participating public school children, taking into account the number and educational needs, of the children to be served.

“(B) OBLIGATION OF FUNDS.—Funds allocated to a local educational agency for educational services and other benefits to eligible private school children shall—

“(i) be obligated in the fiscal year for which the funds are received by the agency; and

“(ii) with respect to any such funds that cannot be so obligated, be used to serve such children in the following fiscal year.

“(C) NOTICE OF ALLOCATION.—Each State educational agency shall—

“(i) determine, in a timely manner, the proportion of funds to be allocated to each local educational agency in the State for educational services and other benefits under this subpart to eligible private school children; and

“(ii) provide notice, simultaneously, to each such local educational agency and the appropriate private school officials or their representatives in the State of such allocation of funds.

“(5) PROVISION OF SERVICES.—An agency, consortium, or entity described in subsection (a)(1) of this section may provide those services directly or through contracts with public and private agencies, organizations, and institutions.

“(b) APPLICABILITY.—

“(1) IN GENERAL.—This section applies to programs under—

- “(A) subpart 2 of part A of title I;
- “(B) subpart 4 of part A of title I;
- “(C) part A of title II;
- “(D) part B of title II; and
- “(E) part B of title III.

“(2) DEFINITION.—For the purpose of this section, the term ‘eligible children’ means children eligible for services under a program described in paragraph (1).

“(c) CONSULTATION.—

“(1) IN GENERAL.—To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity shall consult, in order to reach an agreement, with appropriate private school officials or their representatives during the design and development of the programs under this Act, on issues such as—

- “(A) how the children’s needs will be identified;
- “(B) what services will be offered;
- “(C) how, where, and by whom the services will be provided;
- “(D) how the services will be assessed and how the results of the assessment will be used to improve those services;
- “(E) the size and scope of the equitable services to be provided to the eligible private school children, teachers, and other educational personnel and the amount of funds available for those services;
- “(F) how and when the agency, consortium, or entity will make decisions about the delivery of services, including a thorough consideration and analysis of the views of the private school officials or their representatives on the provision of services through potential third-party providers or contractors; and

“(G) how, if the agency disagrees with the views of the private school officials or their representatives on the provision of services through a contract, the local educational agency will provide in writing to such private school officials or their representatives an analysis of the reasons why the local educational agency has chosen not to use a contractor.

“(2) DISAGREEMENT.—If the agency, consortium, or entity disagrees with the views of the private school officials or their representatives with respect to an issue described in paragraph (1), the agency, consortium, or entity shall provide to the private school officials or their representatives a written explanation of the reasons why the local educational agency has chosen not to adopt the course of action requested by such officials or their representatives.

“(3) TIMING.—The consultation required by paragraph (1) shall occur before the agency, consortium, or entity makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act, and shall continue throughout the implementation and assessment of activities under this section.

“(4) DISCUSSION REQUIRED.—The consultation required by paragraph (1) shall include a discussion of service delivery mechanisms that the agency, consortium, or entity could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.

“(5) DOCUMENTATION.—Each local educational agency shall maintain in the agency’s records and provide to the State educational agency involved a written affirmation signed by officials or their representatives of each participating private school that the meaningful consultation required by this section has occurred. The written affirmation shall provide the option for private school officials or their representatives to indicate that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to eligible private school children. If such officials or their representatives do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation that such consultation has, or attempts at such consultation have, taken place to the State educational agency.

“(6) COMPLIANCE.—

“(A) IN GENERAL.—If the consultation required under this section is with a local educational agency or educational service agency, a private school official or representative shall have the right to file a complaint with the State educational agency that the consultation required under this section was not meaningful and timely, did not give due consideration to the views of the private school official or representative, or did not treat the private school or its students equitably as required by this section.

“(B) PROCEDURE.—If the private school official or representative wishes to file a complaint, the private school official or representative shall provide the basis of the noncompliance with this section and all parties shall pro-

vide the appropriate documentation to the appropriate officials or representatives.

“(C) SERVICES.—A State educational agency shall provide services under this section directly or through contracts with public and private agencies, organizations, and institutions, if—

“(i) the appropriate private school officials or their representatives have—

“(I) requested that the State educational agency provide such services directly; and

“(II) demonstrated that the local educational agency or Education Service Agency involved has not met the requirements of this section; or

“(ii) in a case in which—

“(I) a local educational agency has more than 10,000 children from low-income families who attend private elementary schools or secondary schools in such agency’s school attendance areas, as defined in section 1113(a)(2)(A), that are not being served by the agency’s program under this section; or

“(II) 90 percent of the eligible private school students in a school attendance area, as defined in section 1113(a)(2)(A), are not being served by the agency’s program under this section.

“(d) PUBLIC CONTROL OF FUNDS.—

“(1) IN GENERAL.—The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer the funds and property.

“(2) PROVISION OF SERVICES.—

“(A) IN GENERAL.—The provision of services under this section shall be provided—

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

“(ii) through contract by the public agency with an individual, association, agency, organization, or other entity.

“(B) INDEPENDENCE; PUBLIC AGENCY.—In the provision of those services, the employee, person, association, agency, organization, or other entity shall be independent of the private school and of any religious organization, and the employment or contract shall be under the control and supervision of the public agency.

“(C) COMMINGLING OF FUNDS PROHIBITED.—Funds used to provide services under this section shall not be commingled with non-Federal funds.

“SEC. 5502. STANDARDS FOR BY-PASS.

“(a) IN GENERAL.—If, by reason of any provision of law, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or other entity is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary schools and secondary schools, on an equitable basis, or if the Secretary determines that the agency, consortium, or entity has substantially failed or is unwilling to provide for that participation, as required by section 5501, the Secretary shall—

“(1) waive the requirements of that section for the agency, consortium, or entity; and

“(2) arrange for the provision of equitable services to those children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 5501, 5503, and 5504.

“(b) DETERMINATION.—In making the determination under subsection (a), the Secretary shall consider one or more factors, including the quality, size, scope, and location of the program, and the opportunity of private school children, teachers, and other educational personnel to participate in the program.

“SEC. 5503. COMPLAINT PROCESS FOR PARTICIPATION OF PRIVATE SCHOOL CHILDREN.

“(a) PROCEDURES FOR COMPLAINTS.—The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations of section 5501 by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity. The individual or organization shall submit the complaint to the State educational agency for a written resolution by the State educational agency within 45 days.

“(b) APPEALS TO SECRETARY.—The resolution may be appealed by an interested party to the Secretary not later than 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within the 45-day time limit.

The appeal shall be accompanied by a copy of the State educational agency's resolution, and, if there is one, a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve the appeal not later than 90 days after receipt of the appeal.

“SUBPART 2—PROHIBITIONS

“SEC. 5521. PROHIBITION AGAINST FEDERAL MANDATES, DIRECTION, OR CONTROL.

“(a) **IN GENERAL.**—No officer or employee of the Federal Government shall, directly or indirectly—through grants, contracts, or other cooperative agreements—mandate, direct, or control a State, local educational agency, or school's specific instructional content, academic standards and assessments, curricula, or program of instruction, nor shall anything in this Act be construed to authorize such officer or employee to do so.

“(b) **FINANCIAL SUPPORT.**—No officer or employee of the Federal Government shall, directly or indirectly—through grants, contracts, or other cooperative agreements—make financial support available in a manner that is conditioned upon a State, local educational agency, or school's adoption of specific instructional content, academic standards and assessments, curriculum, or program of instruction even if such requirements are specified in an Act other than this Act, nor shall anything in this Act be construed to authorize such officer or employee to do so.

“SEC. 5522. PROHIBITIONS ON FEDERAL GOVERNMENT AND USE OF FEDERAL FUNDS.

“(a) **GENERAL PROHIBITION.**—Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government directly or indirectly—whether through a grant, contract, or cooperative agreement—to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

“(b) **PROHIBITION ON ENDORSEMENT OF CURRICULUM.**—Notwithstanding any other prohibition of Federal law, no funds provided to the Department under this Act may be used by the Department directly or indirectly—whether through a grant, contract, or cooperative agreement—to endorse, approve, develop, require, or sanction any curriculum designed to be used in an elementary school or secondary school.

“(c) **LOCAL CONTROL.**—Nothing in this Act shall be construed to—

“(1) authorize an officer or employee of the Federal Government directly or indirectly—whether through a grant, contract, or cooperative agreement—to mandate, direct, review, or control a State, local educational agency, or school's instructional content, curriculum, and related activities;

“(2) limit the application of the General Education Provisions Act;

“(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

“(4) create any legally enforceable right.

“(d) **PROHIBITION ON REQUIRING FEDERAL APPROVAL OR CERTIFICATION OF STANDARDS.**—Notwithstanding any other provision of Federal law, no State shall be required to have academic standards approved or certified by the Federal Government, in order to receive assistance under this Act.

“(e) **RULE OF CONSTRUCTION ON BUILDING STANDARDS.**—Nothing in this Act shall be construed to mandate national school building standards for a State, local educational agency, or school.

“SEC. 5523. PROHIBITION ON FEDERALLY SPONSORED TESTING.

“(a) **GENERAL PROHIBITION.**—Notwithstanding any other provision of Federal law and except as provided in subsection (b), no funds provided under this Act to the Secretary or to the recipient of any award may be used to develop, pilot test, field test, implement, administer, or distribute any federally sponsored national test or testing materials in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

“(b) **EXCEPTIONS.**—Subsection (a) shall not apply to international comparative assessments developed under the authority of section 153(a)(5) of the Education Sciences Reform Act of 2002 and administered to only a representative sample of pupils in the United States and in foreign nations.

“SEC. 5524. LIMITATIONS ON NATIONAL TESTING OR CERTIFICATION FOR TEACHERS.

“(a) **MANDATORY NATIONAL TESTING OR CERTIFICATION OF TEACHERS.**—Notwithstanding any other provision of this Act or any other provision of law, no funds available to the Department or otherwise available under this Act may be used for any purpose relating to a mandatory nationwide test or certification of teachers or

education paraprofessionals, including any planning, development, implementation, or administration of such test or certification.

“(b) PROHIBITION ON WITHHOLDING FUNDS.—The Secretary is prohibited from withholding funds from any State educational agency or local educational agency if the State educational agency or local educational agency fails to adopt a specific method of teacher or paraprofessional certification.

“SEC. 5525. PROHIBITED USES OF FUNDS.

“No funds under this Act may be used—

“(1) for construction, renovation, or repair of any school facility, except as authorized under title IV or otherwise authorized under this Act;

“(2) for medical services, drug treatment or rehabilitation, except for specialized instructional support services or referral to treatment for students who are victims of, or witnesses to, crime or who illegally use drugs;

“(3) for transportation unless otherwise authorized under this Act;

“(4) to develop or distribute materials, or operate programs or courses of instruction directed at youth, that are designed to promote or encourage sexual activity, whether homosexual or heterosexual;

“(5) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;

“(6) to provide sex education or HIV-prevention education in schools unless that instruction is age appropriate and includes the health benefits of abstinence; or

“(7) to operate a program of contraceptive distribution in schools.

“SUBPART 3—OTHER PROVISIONS

“SEC. 5541. ARMED FORCES RECRUITER ACCESS TO STUDENTS AND STUDENT RECRUITING INFORMATION.

“(a) POLICY.—

“(1) ACCESS TO STUDENT RECRUITING INFORMATION.—Notwithstanding section 444(a)(5)(B) of the General Education Provisions Act, each local educational agency receiving assistance under this Act shall provide, upon a request made by a military recruiter or an institution of higher education, access to the name, address, and telephone listing of each secondary school student served by the local educational agency, unless the parent of such student has submitted the prior consent request under paragraph (2).

“(2) CONSENT.—

“(A) OPT-OUT PROCESS.—A parent of a secondary school student may submit a written request, to the local educational agency, that the student’s name, address, and telephone listing not be released for purposes of paragraph (1) without prior written consent of the parent. Upon receiving such request, the local educational agency may not release the student’s name, address, and telephone listing for such purposes without the prior written consent of the parent.

“(B) NOTIFICATION OF OPT-OUT PROCESS.—Each local educational agency shall notify the parents of the students served by the agency of the option to make a request described in subparagraph (A).

“(3) SAME ACCESS TO STUDENTS.—Each local educational agency receiving assistance under this Act shall provide military recruiters the same access to secondary school students as is provided generally to institutions of higher education or to prospective employers of those students.

“(4) RULE OF CONSTRUCTION PROHIBITING OPT-IN PROCESSES.—Nothing in this subsection shall be construed to allow a local educational agency to withhold access to a student’s name, address, and telephone listing from a military recruiter or institution of higher education by implementing an opt-in process or any other process other than the written consent request process under paragraph (2)(A).

“(5) PARENTAL CONSENT.—For purposes of this subsection, whenever a student has attained 18 years of age, the permission or consent required of and the rights accorded to the parents of the student shall only be required of and accorded to the student.

“(b) NOTIFICATION.—The Secretary, in consultation with the Secretary of Defense, shall, not later than 120 days after the date of enactment of the Student Success Act, notify school leaders, school administrators, and other educators about the requirements of this section.

“(c) EXCEPTION.—The requirements of this section do not apply to a private secondary school that maintains a religious objection to service in the Armed Forces if the objection is verifiable through the corporate or other organizational documents or materials of that school.

“SEC. 5542. RULEMAKING.

“The Secretary shall issue regulations under this Act as prescribed under section 1401 only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this Act.

“SEC. 5543. PEER REVIEW.

“(a) IN GENERAL.—If the Secretary uses a peer review panel to evaluate an application for any program required under this Act, the Secretary shall conduct it in accordance with this section.

“(b) MAKEUP.—The Secretary shall—

“(1) solicit nominations for peers to serve on the panel from States that are—

“(A) practitioners in the subject matter; or

“(B) experts in the subject matter; and

“(2) select the peers from such nominees, except that there shall be at least 75 percent practitioners on each panel and in each group formed from the panel.

“(c) GUIDANCE.—The Secretary shall issue the peer review guidance concurrently with the notice of the grant.

“(d) REPORTING.—The Secretary shall—

“(1) make the names of the peer reviewers available to the public before the final deadline for the application of the grant;

“(2) make the peer review notes publically available once the review has concluded; and

“(3) make any deviations from the peer reviewers’ recommendations available to the public with an explanation of the deviation.

“(e) APPLICANT REVIEWS.—An applicant shall have an opportunity within 30 days to review the peer review notes and appeal the score to the Secretary prior to the Secretary making any final determination.

“(f) PROHIBITION.—The Secretary, and the Secretary’s staff, may not attempt to participate in, or influence, the peer review process. No Federal employee may participate in, or attempt to influence the peer review process, except to respond to questions of a technical nature, which shall be publicly reported.

“SEC. 5544. PARENTAL CONSENT.

“Upon receipt of written notification from the parents or legal guardians of a student, the local educational agency shall withdraw such student from any program funded under part B of title III. The local educational agency shall make reasonable efforts to inform parents or legal guardians of the content of such programs or activities funded under this Act, other than classroom instruction.

“SEC. 5551. SEVERABILITY.

“If any provision of this Act is held invalid, the remainder of this Act shall be unaffected thereby.

“SEC. 5552. DEPARTMENT STAFF.

“The Secretary shall—

“(1) not later than 60 days after the date of the enactment of the Student Success Act, identify the number of Department employees who worked on or administered each education program and project authorized under this Act, as such program or project was in effect on the day before such enactment date, and publish such information on the Department’s website;

“(2) not later than 60 days after such enactment date, identify the number of full-time equivalent employees who work on or administer programs or projects authorized under this Act, as in effect on the day before such enactment date, that have been eliminated or consolidated since such date;

“(3) not later than 1 year after such enactment date, reduce the workforce of the Department by the number of full-time equivalent employees the Department calculated under paragraph (2); and

“(4) not later than 1 year after such enactment date, report to the Congress on—

“(A) the number of employees associated with each program or project authorized under this Act administered by the Department;

“(B) the number of full-time equivalent employees who were determined to be associated with eliminated or consolidated programs or projects under paragraph (2); and

“(C) how the Secretary reduced the number of employees at the Department under paragraph (3).

“PART F—EVALUATIONS

“SEC. 5601. EVALUATIONS.

“(a) RESERVATION OF FUNDS.—Except as provided in subsections (b) and (c), the Secretary may reserve not more than 0.5 percent of the amount appropriated to carry out each categorical program and demonstration project authorized under this Act—

“(1) to conduct—

“(A) comprehensive evaluations of the program or project; and

“(B) studies of the effectiveness of the program or project and its administrative impact on schools and local educational agencies;

“(2) to evaluate the aggregate short- and long-term effects and cost efficiencies across Federal programs assisted or authorized under this Act and related Federal preschool, elementary, and secondary programs under any other Federal law; and

“(3) to increase the usefulness of evaluations of grant recipients in order to ensure the continuous progress of the program or project by improving the quality, timeliness, efficiency, and use of information relating to performance under the program or project.

“(b) TITLE I EXCLUDED.—The Secretary may not reserve under subsection (a) funds appropriated to carry out any program authorized under title I.

“(c) EVALUATION ACTIVITIES AUTHORIZED ELSEWHERE.—If, under any other provision of this Act (other than title I), funds are authorized to be reserved or used for evaluation activities with respect to a program or project, the Secretary may not reserve additional funds under this section for the evaluation of that program or project.”.

(b) TECHNICAL AMENDMENTS.—

(1) TITLE IX.—

(A) SUBPART 1 OF PART E OF TITLE V.—

(i) TRANSFER AND REDESIGNATION.—Sections 9504 through 9506 (20 U.S.C. 7884; 7885; 7886) are—

(I) transferred to title V, as amended by subsection (a) of this section;

(II) inserted after section 5503 of such title; and

(III) redesignated as sections 5504 through 5506, respectively.

(ii) AMENDMENTS.—Section 5504 (as so redesignated) is amended—

(I) in subsection (a)(1)(A), by striking “section 9502” and inserting “section 5502”;

(II) in subsection (b), by striking “section 9501” and inserting “section 5501”; and

(III) in subsection (d), by striking “No Child Left Behind Act of 2001” and inserting “Student Success Act”.

(B) SUBPART 2 OF PART E OF TITLE V.—

(i) TRANSFER AND REDESIGNATION.—Sections 9531, 9533, and 9534 (20 U.S.C. 7911; 7913; 7914) are—

(I) transferred to title V, as amended by subparagraph (A) of this paragraph;

(II) inserted after section 5525 of such title; and

(III) redesignated as sections 5526 through 5528, respectively.

(ii) AMENDMENTS.—Section 5528 (as so redesignated) is amended—

(I) by striking “(a) IN GENERAL.—Nothing” and inserting “Nothing”; and

(II) by striking subsection (b).

(C) SUBPART 3 OF PART E OF TITLE V.—Sections 9522, 9523, 9524, and 9525 (20 U.S.C. 7902; 7903; 7904; 7905) are—

(i) transferred to title V, as amended by subparagraph (B) of this paragraph;

(ii) inserted after section 5544 of such title; and

(iii) redesignated as sections 5545 through 5548, respectively.

(2) TITLE IV.—Sections 4141 and 4155 (20 U.S.C. 7151; 7161) are—

(A) transferred to title V, as amended by paragraph (1) of this subsection;

(B) inserted after section 5548 (as so redesignated by paragraph (1)(C)(iii) of this subsection); and

(C) redesignated as sections 5549 and 5550, respectively.

SEC. 202. REPEAL.

Title IX (20 U.S.C. 7801 et seq.), as amended by section 201(b)(1) of this title, is repealed.

SEC. 203. OTHER LAWS.

Beginning on the date of the enactment of this Act, any reference in law to the term “highly qualified” as defined in section 9101 of the Elementary and Secondary Education Act of 1965 shall be treated as a reference to such term under section 9101 of the Elementary and Secondary Education Act of 1965 as in effect on the day before the date of the enactment of this Act.

SEC. 204. AMENDMENT TO IDEA.

Section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401) is amended by striking paragraph (10).

PURPOSE

H.R. 3989, the Student Success Act, amends the Elementary and Secondary Education Act of 1965 to support state and local accountability for public education, provide important information to parents on their schools’ and students’ performance, enhance local flexibility, protect taxpayers’ investments in education, and strengthen state and local autonomy.

COMMITTEE ACTION

H.R. 3989 is one of the final pieces in a series of legislation the Committee on Education and the Workforce has considered in the 112th Congress to reauthorize the Elementary and Secondary Education Act (ESEA). The bill builds upon the committee’s efforts to examine federal investments and reduce the federal role in elementary and secondary education programs.

108TH CONGRESS*Hearings—first session*

On September 29, 2003, the Committee on Education and the Workforce Subcommittee on Education Reform held a field hearing in Denver, CO, on “Keeping Schools Safe—the Implementation of No Child Left Behind’s Persistently Dangerous Schools Provision.” The purpose of the hearing was to learn how the implementation of the “persistently dangerous schools” provision, which allows parents to transfer their children out of dangerous schools, impacted schools, and communities. Testifying before the subcommittee were: Mr. William J. Moloney, Commissioner of Education, Colorado Department of Education, Denver, CO; Mr. David B. Smith, Director of Prevention Initiatives, Colorado Department of Education, Denver, CO; The Honorable Bob Schaffer, President, Colorado Alliance for Reform in Education, Denver, CO; Ms. Gloria Zradicka, Policy Analyst, Education Commission of the States, Denver, CO; Senator John K. Andrews, Jr., President of the Senate, Colorado State Senate, Denver, CO; and Ms. Vicki Ware, Parent, Denver, CO.

On October 20, 2003, the Committee on Education and the Workforce Subcommittee on Education Reform held a field hearing in Taylors, SC, on “No Child Left Behind’s Education Choice Provisions: Are States and School Districts Giving Parents the Information They Need?” The purpose of the hearing was to discuss how the public school choice and supplemental education services provisions in the No Child Left Behind Act were being implemented at the state and local level. Testifying before the subcommittee were: Ms. Nina S. Rees, Deputy Under Secretary, Office of Innovation and Improvement, U.S. Department of Education, Washington, DC; Mrs. Wanda Rushing-Jones, Coordinator, Federal Programs Unit,

South Carolina Department of Education, Columbia, SC; Dr. William E. Harner, Superintendent, Greenville County School District, Greenville, SC; Mr. George Waggoner, Parent, retired Tech. Sergeant (E6), U.S. Air Force, Greenville, SC; and Dr. Dana Jeffrey, Vice President of Strategic Sales, Lightspan, Denver, CO.

Second session

On March 3, 2004, the Committee on Education and the Workforce held a hearing in Washington, DC, on “No Child Left Behind: Improving Results for Children with Disabilities.” The purpose of the hearing was to gain insight into the importance of including students with disabilities in state accountability systems under No Child Left Behind. Testifying before the committee were: Ms. Ricki Sabia, Parent, Associate Director of Public Policy, National Down Syndrome Society, Silver Spring, MD; Dr. Jane Rhyne, Assistant Superintendent for Exceptional Children, Charlotte-Mecklenburg Schools, Charlotte, NC; Dr. Pia Durkin, Superintendent of Schools, Narragansett School System, Narragansett, RI; and Dr. Martha Thurlow, Director, National Center on Education Outcomes, University of Minnesota, Minneapolis, MN.

On March 8, 2004, the Committee on Education and the Workforce held a field hearing in Columbus, OH, on “The Status of No Child Left Behind Implementation in Ohio.” The purpose of the hearing was to gain local insights into the implementation and consequences of No Child Left Behind. Testifying before the committee were: Mr. Ron Tomalis, Counselor to the Secretary, U.S. Department of Education, Washington, DC; Dr. Richard A. Ross, Superintendent, Reynoldsburg City Schools, Reynoldsburg, OH; Dr. Howard Fleeter, Partner, Levin, Driscoll & Fleeter, Columbus, OH; and Mr. Ted Rebarber, President, Accountability Works, Washington, DC.

On April 15, 2004, the Committee on Education and the Workforce held a field hearing in Augusta, GA, on “No Child Left Behind: Improving Academic Achievement Through Flexibility & Accountability for Schools.” The purpose of the hearing was to gain local perspectives on the implementation and consequences of No Child Left Behind. Testifying before the committee were: Dr. Gene Hickok, Under Secretary of Education, U.S. Department of Education, Washington, DC; Ms. Kathy Cox, Superintendent of Schools, State of Georgia, Atlanta, GA; and Dr. Jeff McDaniel, Director of School Improvement & Federal Programs, Floyd County Board of Education, Rome, GA.

On April 21, 2004, the Committee on Education and the Workforce held a hearing in Washington, DC, on “The Importance of Highly Qualified Teachers in Raising Academic Achievement.” The purpose of the hearing was to discuss the importance of highly qualified teachers in improving academic achievement for all students regardless of race, income, geography, English fluency, or disability. Testifying before the committee were: Ms. Gaynor McCown, Executive Director, The Teaching Commission, New York, NY; Mr. Kurt Landgraf, President and CEO, Educational Testing Service, Princeton, NJ; Mr. Ross Wiener, Policy Director, The Education Trust, Washington, DC; Ms. Eileen Mitchell, Elementary School Teacher, P.S. 31—the William T. Davis School, Staten Island, NY; and Mr. Tracey Bailey, 1993 National Teacher of the Year, Director

of National Projects, Association of American Educators, Fredericksburg, VA.

On May 24, 2004, the Committee on Education and the Workforce Subcommittee on 21st Century Competitiveness held a field hearing in Las Vegas, NV, on “H.R. 2649, the Schools Safely Acquiring Faculty Excellence Act of 2003.” The purpose of this legislative hearing was to gain local perspectives on the Schools Safely Acquiring Faculty Excellence Act of 2003. Testifying before the subcommittee were: Dr. George Ann Rice, Associate Superintendent, Human Resources Division, Clark County Schools, Las Vegas, NV; Ms. Carol Lark, Principal, C.P. Squires Elementary School, North Las Vegas, NV; and Mrs. D.J. Stutz, President, Nevada State PTA, member, Board of the National PTA, Las Vegas, NV.

On May 27, 2004, the Committee on Education and the Workforce Subcommittee on 21st Century Competitiveness held a field hearing in Phoenix, AZ, on “Highly Qualified Teachers and Raising Student Achievement.” The purpose of the hearing was to discuss the importance of highly qualified teachers in improving academic achievement for all students regardless of race, income, geography, English-fluency, or disability. Testifying before the subcommittee were: Mr. Raymond Simon, Assistant Secretary, Office of Elementary and Secondary Education, U.S. Department of Education, Washington, DC; Dr. Karen Butterfield, Deputy Associate Superintendent, Innovative and Exemplary Programs, Arizona Department of Education, Phoenix, AZ; Dr. Laura Palmer Noone, President, University of Phoenix, Phoenix, AZ; and Dr. Lewis C. Solmon, Executive Vice President and Director, Teacher Advancement Programs, Milken Family Foundation, Santa Monica, CA.

On June 23, 2004, the Committee on Education and the Workforce held a hearing in Washington, DC, on “No Child Left Behind: Raising Student Achievement in America’s Big City Schools.” The purpose of the hearing was to look at how No Child Left Behind was helping improve student academic achievement in the nation’s urban schools. Testifying before the committee were: Dr. Michael D. Casserly, Executive Director, Council of Great City Schools, Washington, DC; Dr. Margaret Raymond, Director, Center for Research on Education Outcomes, Hoover Institution, Stanford University, Stanford, CA; Mr. Paul Vallas, Chief Executive Officer, School District of Philadelphia, Philadelphia, PA; and Dr. Marcus Newsome, Superintendent, Newport News County Public Schools, Newport News, VA.

On September 28, 2004, the Committee on Education and the Workforce Subcommittee on 21st Century Competitiveness held a hearing in Washington, DC, on “H.R. 2649, the Schools Safely Acquiring Faculty Excellence Act.” The purpose of this legislative hearing was to hear testimony on H.R. 2649, the Schools Safely Acquiring Faculty Excellence Act of 2003. Testifying before the subcommittee were: Ms. Barbara Belak, Assistant to the Associate Superintendent for Human Resources, Clark County Schools, Las Vegas, NV; Ms. Donna Uzzell, Director, Criminal Justice Information Services, Florida Department of Law Enforcement, Tallahassee, FL; Dr. William Dean, Superintendent, Frederick County Public Schools, Winchester, VA; and Chief Butch Asselin, Member, Fight Crime: Invest in Kids, Washington, DC.

Hearings—first session

On April 26, 2005, the Committee on Education and the Workforce held a hearing in Washington, DC, on “No Child Left Behind: Supplemental Tutoring for Children in Underachieving Schools.” The purpose of the hearing was to examine strategies for maintaining high expectations of tutoring providers offering federally funded supplemental educational services, while also ensuring federal tutoring funds are spent responsibly. Testifying before the committee were: Ms. Donna Nola-Ganey, Assistant Superintendent, Office of School and Community Support, Louisiana Department of Education, Baton Rouge, LA; Mr. Kevin Teasley, Founder and President, GEO Foundation, Indianapolis, IN; Mr. Jeffrey Cohen, President, Catapult Learning, Inc., Baltimore, MD; and Ms. Beth Swanson, Director, Office of After School and Community Programs, Chicago Public Schools, Chicago, IL.

On May 17, 2005, the Committee on Education and the Workforce held a hearing in Washington, DC, on “High School Reform: Examining State and Local Efforts.” The purpose of the hearing was to examine state and local strategies for reforming high schools. Testifying before the committee were: The Honorable W. Mitt Romney, Governor, Commonwealth of Massachusetts, Boston, MA; and The Honorable Thomas Vilsack, Governor, State of Iowa, Des Moines, IA.

On May 19, 2005, the Committee on Education and the Workforce Subcommittee on 21st Century Competitiveness held a hearing in Washington, DC, on “Challenges to American Competitiveness in Math and Science.” The purpose of the hearing was to learn about the challenges to American competitiveness in math and science. Testifying before the subcommittee were: Mr. Norm Augustine, retired Chairman and Chief Executive Officer, Lockheed Martin Corporation, Bethesda, MD; Dr. Thomas Magnanti, Dean, School of Engineering, Massachusetts Institute of Technology, Cambridge, MA; Ms. June Streckfus, Executive Director, Maryland Business Roundtable for Education, Baltimore, MD; and Dr. Nancy Songer, Professor of Science Education and Learning Technologies, University of Michigan, Ann Arbor, MI.

On June 9, 2005, the Committee on Education and the Workforce Subcommittee on Education Reform held a hearing in Washington, DC, on “The Role of Non-Profit Organizations in State and Local High School Reform Efforts.” The purpose of the hearing was to gain perspectives on the role of non-profit organizations in state and local high school reform efforts. Testifying before the subcommittee were: Mr. Tom Vander Ark, Executive Director, Education, Bill and Melinda Gates Foundation, Seattle, WA; Ms. Deborah Howard, Program Director, School Improvement, KnowledgeWorks Foundation, Cincinnati, OH; and Mr. Andres Henriquez, Program Officer, Education Division, Carnegie Corporation of New York, New York, NY.

On June 28, 2005, the Committee on Education and the Workforce Subcommittee on Education Reform held a hearing in Washington, DC, on “How the Private Sector is Helping States and Communities Improve High School Education.” The purpose of the hearing was to examine how the private sector is helping states

and communities improve high school education. Testifying before the subcommittee were: Mr. Bill A. Shore, Director of U.S. Community Partnerships, GlaxoSmithKline, Research Triangle Park, NC; Ms. Sarah Revi Sterling, Program Manager, University Relations, Microsoft Corporation, Redmond, WA; Mr. Mike Watson, Vice Chairman, BellSouth Foundation, Atlanta, GA; and Dr. Phyllis Hudecki, Executive Director, Oklahoma Business and Education Coalition, Oklahoma City, OK.

On September 29, 2005, the Committee on Education and the Workforce held a hearing in Washington, DC, on "Closing the Achievement Gap in America's Schools: the No Child Left Behind Act." The purpose of the hearing was to examine strategies for closing the achievement gap in America's schools. Testifying before the committee were: The Honorable Margaret Spellings, Secretary of Education, U.S. Department of Education, Washington, DC; Dr. Deborah Jewell-Sherman, Superintendent, Richmond Public Schools, Richmond, VA; and Ms. Kati Haycock, Director, The Education Trust, Washington, DC.

On November 17, 2005, the Committee on Education and the Workforce Subcommittee on Education Reform held a hearing in Washington, DC, on "Combating Methamphetamines Through Prevention and Education." The purpose of the hearing was to examine the federal role in shaping a response to the methamphetamine problem through the Safe and Drug Free Schools and Communities Act and other federal programs. Testifying before the subcommittee were: The Honorable Mark Souder, U.S. House of Representatives, Third District, Indiana; The Honorable Darlene Hooley, U.S. House of Representatives, Fifth District, Oregon; The Honorable Mary Ann Solberg, Deputy Director, Office of National Drug Control Policy, Executive Office of the President, Washington, DC; Dr. Richard Spoth, Director, Partnerships in Prevention Science Institute, Iowa State University, Ames, IA; The Honorable John Icenogle, District Judge, District 9, Buffalo County, NE; and Ms. Cristi Cain, State Coordinator, Kansas Methamphetamine Prevention Project, Topeka, KS.

Second session

On May 3, 2006, the Committee on Education and the Workforce held a hearing in Washington, DC, on "Building American Competitiveness: Examining the Scope and Success of Existing Federal Math and Science Programs." The purpose of the hearing was to examine federal math and science programs and learn about their impact and effectiveness. Testifying before the committee were: The Honorable Tom Luce, Assistant Secretary, Office of Planning, Evaluation, and Policy Development, U.S. Department of Education, Washington, DC; Ms. Cornelia Ashby, Director of Education, Workforce, and Income Security Issues, U.S. Government Accountability Office, Washington, DC; and Mr. Bill Archey, President and Chief Executive Officer, American Electronics Association, Washington, DC.

On May 18, 2006, the Committee on Education and the Workforce held a hearing in Washington, DC, on "No Child Left Behind: How Innovative Educators Are Integrating Subject Matter to Improve Student Achievement." The purpose of the hearing was to examine what methods are being employed to integrate math and

reading instruction into the general education curriculum with the intent of improving student achievement. Testifying before the committee were: Mr. Garrett W. Lydic, 2006 State Teacher of the Year, North Laurel Elementary School, Laurel, DE; Mr. Rick Holt, Principal, Lewiston K–8 School, Lewiston, MI; Dr. Mickey Garrison, Principal, Fullerton IV Elementary School, Roseburg, OR; Ms. Betsy Ablott, Teacher, Science Focus School, Arlington, VA; and Mr. Ray Zeigler, Co-Director, Maryland Artist/Teacher Institute, Maryland State Department of Education, Baltimore, MD.

On June 13, 2006, the Committee on Education and the Workforce held a hearing in Washington, DC, on “No Child Left Behind: Disaggregating Student Achievement by Subgroups to Ensure All Students Are Learning.” The purpose of the hearing was to examine the consequences of disaggregating student achievement data by subgroups. Testifying before the committee were: The Honorable Raymond Simon, Deputy Secretary of Education, U.S. Department of Education, Washington, DC; Dr. Cynthia Kuhlman, Principal, Centennial Place Elementary School, Atlanta, GA; Dr. Ronald A. Peiffer, Deputy State Superintendent, Maryland State Department of Education, Baltimore, MD; and Mr. John C. Brittain, Chief Counsel and Deputy Director, Lawyers Committee for Civil Rights Under Law, Washington, DC.

On July 12, 2006, the Committee on Education and the Workforce held a hearing in Washington, DC, on “No Child Left Behind: Ensuring High Academic Achievement for Limited English Proficient Students and Students with Disabilities.” The purpose of the hearing was to examine how students with disabilities and limited English proficient students are evaluated, how effective those evaluation measures are, and whether there is enough flexibility granted to states and school districts by the Department of Education with regard to these student subgroups. Testifying before the committee were: Ms. Rachel Quenemoen, Senior Research Fellow, National Center on Educational Outcomes, University of Minnesota, Minneapolis, MN; Mr. Don Soifer, Executive Vice President, Lexington Institute, Arlington, VA; Ms. Margaret McLeod, Executive Director, Office of Bilingual Education, District of Columbia Public Schools, Washington, DC; Ms. Kristine Neuber, Doctoral Student, Graduate School of Education, George Mason University, Fairfax, VA; and Mr. Keith Buchanan, Office Coordinator, English for Speakers of Other Languages, Fairfax County Public Schools, Falls Church, VA.

On July 27, 2006, the Committee on Education and the Workforce held a hearing in Washington, DC, on “No Child Left Behind: Can Growth Models Ensure Improved Education for All Students.” The purpose of the hearing was to evaluate the implications of using growth models to determine if schools are making adequate yearly progress under No Child Left Behind. Testifying before the committee were: Ms. Marlene S. Shaul, Director, Education, Workforce, and Income Security Issues, U.S. Government Accountability Office, Washington, DC; Mr. Joel I. Klein, Chancellor, New York City Department of Education, New York, NY; Mr. Reg Weaver, President, National Education Association, Washington, DC; Ms. Katie Haycock, Director, The Education Trust, Washington, DC; and Dr. William L. Sanders, Senior Manager, Value-Added Assessment and Research, SAS Institute Inc., Cary, NC.

On August 28, 2006, the Committee on Education and the Workforce Subcommittee on Education Reform held a field hearing in Chicago, IL, on “No Child Left Behind: Successes and Challenges of Implementation in Urban and Suburban Schools.” The purpose of the hearing was to discuss what improvements could be made to assist the implementation of No Child Left Behind in urban and suburban schools. Testifying before the subcommittee were: Dr. Henry Johnson, Assistant Secretary, U.S. Department of Education, Washington, DC; Mr. Arne Duncan, Chief Executive Officer, Chicago Public Schools, Chicago, IL; Dr. Darlene J. Ruscitti, Regional Superintendent, DuPage Regional Office of Education, Wheaton, IL; Dr. Paul Kimmelman, Senior Advisor, Office of the Chief Executive Officer, Learning Point Associates, Naperville, IL; and Ms. Dianne Piche, Executive Director, Citizens’ Commission on Civil Rights, Washington, DC.

On September 21, 2006, the Committee on Education and the Workforce held a hearing in Washington, DC, on “No Child Left Behind: How Can We Increase Parental Awareness of Supplemental Education Services?” The purpose of the hearing was to examine the challenges and successes of implementation of the supplemental educational services provisions under the No Child Left Behind Act. Testifying before the committee were: Mr. Morgan Brown, Assistant Deputy Secretary, Office of Innovation and Improvement, U.S. Department of Education, Washington, DC; Ms. Cornelia Ashby, Director, Education, Workforce, and Income Security Issues, U.S. Government Accountability Office, Washington, DC; Dr. Stephen Barr, Associate Superintendent, Center for School Improvement, Ohio Department of Education, Columbus, OH; Ms. Erica Harris, Manager, Academic After School Programs, Chicago Public Schools, Chicago, IL; Dr. Barbara Anderson, Vice President of Education, Knowledge Learning Corporation, School Partnerships, Washington, DC; and Ms. Monique Dollonne, Parent of a Supplemental Educational Services Student, Ventura, CA.

Legislative action—first session

On October 7, 2005, Rep. John Boehner (R-OH), Rep. Tom DeLay (R-TX), Rep. Roy Blunt (R-MO), Rep. Sam Johnson (R-TX), Rep. John Kline (R-MN), Rep. Kenny Marchant (R-TX), Rep. Virginia Foxx (R-NC), Rep. Chris Chocola (R-IN), Rep. John Doolittle (R-CA), Rep. Jeff Flake (R-AZ), Rep. Trent Franks (R-AZ), Rep. Patrick McHenry (R-NC), Rep. Mike Pence (R-IN), Rep. Pete Sessions (R-TX), Rep. John Shadegg (R-AZ), and Rep. Todd Tiahrt (R-KS) introduced H.R. 4018, the Setting Priorities in Spending Act of 2005. The bill repealed 14 ineffective elementary and secondary education programs, including: Ready to Learn Television; Star Schools Act; Ready to Teach; Foreign Language Assistance Act of 2001; Community Technology Centers; Educational, Cultural, Apprenticeship, and Exchange Programs for Alaska Natives, Native Hawaiians, and their Historical Whaling and Trading Partners in Massachusetts; Arts in Education; and Women’s Educational Equity.

Hearings—first session

On March 13, 2007, the Committee on Education and Labor held a joint hearing with the Senate Committee on Health, Education, Labor and Pensions in Washington, DC, on “Elementary and Secondary Education Act Reauthorization: Improving NCLB to Close the Achievement Gap.” The purpose of the hearing was to examine methods for closing the achievement gap and approaching reauthorization of the Elementary and Secondary Education Act. Testifying before the committees were: Mr. Roy Barnes, Co-Chair, Aspen Institute Commission on No Child Left Behind and former Governor of Georgia, Washington, DC; Ms. Elizabeth Burmaster, President, Council of Chief State School Officers, Madison, WI; Mr. Michael Casserly, Executive Director, Council of Great City Schools, Washington, DC; Mr. Wade J. Henderson, President and Chief Executive Officer, Leadership Conference on Civil Rights, Washington, DC; Mr. Edward J. McElroy, President, American Federation of Teachers, Washington, DC; Mr. Arthur J. Rothkopf, Senior Vice President, Business Coalition for Student Achievement, Washington, DC; and Mr. Reg Weaver, President, National Education Association, Washington, DC.

On March 21, 2007, the Committee on Education and Labor held a hearing in Washington, DC, on “ESEA Reauthorization: Options for Improving NCLB’s Measures of Progress.” The purpose of the hearing was to discuss options for reforming the current definition of adequate yearly progress. Testifying before the committee were: Dr. Harold C. Doran, Senior Research Scientist, American Institutes for Research, Washington, DC; Dr. Chrys Dougherty, Director of Research, National Center for Educational Accountability, Austin, TX; Mr. Peter McWalters, Commissioner, Rhode Island Department of Education, Providence, RI; Mr. Allan Olson, Co-Founder and Chief Academic Officer, Northwest Evaluation Association, Lake Oswego, OR; and Ms. Valerie Woodruff, Secretary, Delaware Department of Education, Dover, DE.

On March 23, 2007, the Committee on Education and Labor Subcommittee on Early Childhood, Elementary, and Secondary Education held a hearing in Washington, DC, on “Impact of NCLB on English Language Learners.” The purpose of the hearing was to learn how NCLB is working for English Language Learner students and what needs to be done to improve student achievement. Testifying before the subcommittee were: Ms. Cornelia M. Ashby, Director, Education, Workforce, and Income Security Issues, U.S. Government Accountability Office, Washington, DC; Dr. Beverly L. Young, Assistant Vice Chancellor, Teacher Education and Public School Program, California State University, Long Beach, CA; Mr. Peter Zamora, Regional Counsel, Mexican American Legal Defense and Educational Fund, Washington, DC; Ms. Francisca Sánchez, Assistant Superintendent for Curriculum and Instruction, San Bernardino County Superintendent of Schools, San Bernardino, CA; and Ms. Marta Guzmán, Principal, Oyster Bilingual Elementary School, Washington, DC.

On March 29, 2007, the Committee on Education and Labor Subcommittee on Early Childhood, Elementary, and Secondary Education held a hearing in Washington, DC, on “How NCLB Affects

Students with Disabilities.” The purpose of the hearing was to determine how students with disabilities are affected by certain provisions under No Child Left Behind. Testifying before the subcommittee were: Dr. Rebecca H. Cort, Deputy Commissioner, Office of Vocational and Educational Services for Individuals with Disabilities, New York State Department of Education, Albany, NY; Dr. Michael L. Hardman, Professor and Chair, Department of Special Education and Department of Teaching and Learning, University of Utah, Salt Lake City, UT; Dr. William Henderson, Principal, O’Hearn Elementary School, Boston, MA; Ms. Rachel Quenemoen, Technical Assistance Team Leader, National Center on Education Outcomes, University of Minnesota, Minneapolis, MN; and Dr. Jane Rhyne, Assistant Superintendent, Programs for Exceptional Children, Charlotte-Mecklenburg School System, Charlotte, NC.

On April 12, 2007, the Committee on Education and Labor Subcommittee on Early Childhood, Elementary, and Secondary Education held a field hearing in Flint, MI, on “Local Perspectives on the No Child Left Behind Act.” The purpose of the hearing was to gain local perspectives on the No Child Left Behind Act. Testifying before the subcommittee were: Mr. Steve Burroughs, President, United Teachers of Flint, on behalf of the National Education Association, Flint, MI; Ms. Andrea Debardeleben, Parent, Flint, MI; Mr. Jan D. Russell, Assistant Superintendent, Genesee Intermediate School District, Flint, MI; Mr. David Solis, Director of State, Federal, and Local Programs, on behalf of Dr. Walter Milton Jr., Superintendent, Flint Community Schools, Flint, MI; and Mr. Donald Tilley, Social Studies Department Chair, Central High School, Flint, MI.

On April 18, 2007, the Committee on Education and Labor Subcommittee on Early Childhood, Elementary, and Secondary Education held a hearing in Washington, DC, on “Supplemental Education Services Under the No Child Left Behind Act: How to Improve Quality and Access.” The purpose of the hearing was to understand how supplemental education services are working and whether they can be better implemented or improved. Testifying before the subcommittee were: Ms. Cornelia M. Ashby, Director, Education, Workforce, and Income Security Issues, U.S. Government Accountability Office, Washington, DC; Ms. Ann E. Chafin, Assistant State Superintendent for Student, Family, and School Support, Maryland State Department of Education, Baltimore, MD; Ms. Ruth D. Murray, Director, Federal Grants, Newport News Public Schools, Newport News, VA; Ms. Dianne M. Piché, Executive Director, Citizens’ Commission on Civil Rights, Washington, DC; and Ms. Monica M. Roberts, Director, Office of Federal and State Programs, Boston Public Schools, Boston, MA.

On April 20, 2007, the Committee on Education and Labor held a hearing in Washington, DC, on “Mismanagement and Conflicts of Interest in the Reading First Program.” The purpose of the hearing was to investigate instances of mismanagement and uncover conflicts of interest in the Reading First Program. Testifying before the committee were: Mr. Christopher J. Doherty, former Program Director, Reading First, U.S. Department of Education, Washington, DC; Dr. Roland Good, Associate Professor, University of Oregon, Eugene, OR; Mr. John P. Higgins, Inspector General, U.S. Department of Education, Washington, DC; Dr. Edward Kame’enui,

Commissioner of the National Center for Special Education Research, U.S. Department of Education, Washington, DC; Ms. Starr Lewis, Associate Commissioner, Kentucky Department of Education, Frankfort, KY; and Dr. Deborah C. Simmons, Professor of Special Education, Texas A&M University, College Station, TX.

On April 23, 2007, the Committee on Education and Labor held a hearing in Washington, DC, on “NCLB: Preventing Dropouts and Enhancing School Safety.” The purpose of the hearing was to examine strategies for preventing dropouts and listening to testimony on how to improve school safety. Testifying before the committee were: Dr. María Robledo Montecel, Executive Director, Intercultural Development Research Association, San Antonio, TX; Dr. Jane Norwood, Vice-Chair, North Carolina State Board of Education, Raleigh, NC; Mr. Kenneth M. Smith, President, Jobs for America’s Graduates, Alexandria, VA; Mr. Kenneth S. Trump, President and Chief Executive Officer, National School Safety and Security Services, Inc., Cleveland, OH; and The Honorable Bob Wise, President, Alliance for Excellent Education and former Governor of West Virginia, Washington, DC.

On April 27, 2007, the Committee on Education and Labor Subcommittee on Early Childhood, Elementary, and Secondary Education held a field hearing in San Rafael, CA, on “Improving the No Child Left Behind Act’s Accountability System.” The purpose of the hearing was to gain local perspectives on accountability provisions within No Child Left Behind. Testifying before the subcommittee were: Ms. Melanie Blake, Teacher, Sonoma Valley High School, Sonoma, CA; Mr. Pepe Gonzalez, Vice Principal, Venetia Valley K–8 School, San Rafael, CA; Dr. Sharon E. Liddell, Superintendent, Santa Rosa City Schools, Santa Rosa, CA; Ms. Elizabeth W. Schott, Principal, McDowell Elementary School, Petaluma, CA; and Dr. Fred Tempes, Senior Program Director, WestEd, San Francisco, CA.

On April 28, 2007, the Committee on Education and Labor Subcommittee on Early Childhood, Elementary, and Secondary Education held a field hearing in Sacaton, AZ, on “The No Child Left Behind Act’s Impact on Indian Education.” The purpose of the hearing was to explore how certain provisions of No Child Left Behind affect Indian Education. Testifying before the subcommittee were: Dr. Roger Bordeaux, Director, Association of Community Tribal Schools, Agency Village, SD; Dr. Willard S. Gilbert, President-elect, National Indian Education Association, Washington, DC; Mr. Tom Miller, Member, Board of Directors, Sault Ste. Marie Tribe of Chippewa Indians, Sault Ste. Marie, MI; Mr. William R. Rhodes, Governor, Gila River Indian Community, Sacaton, AZ; and Mr. Wendsler Nosie, Sr., Chairman, San Carlos Apache Tribe, San Carlos, AZ.

On May 10, 2007, the Committee on Education and Labor held a hearing in Washington, DC, on “Accountability for the Department of Education’s Oversight of Student Loans and the Reading First Program.” The purpose of the hearing was to investigate unethical practices in the student loan industry and the Reading First program. Testifying before the committee was The Honorable Margaret Spellings, Secretary, U.S. Department of Education, Washington, DC.

On May 11, 2007, the Committee on Education and Labor held a hearing in Washington, DC, on “ESEA Reauthorization: Boosting Quality in the Teaching Profession.” The purpose of the hearing was to examine methods of ensuring teacher quality in every classroom. Testifying before the committee were: Ms. Joan Bibeau, Member, Education Minnesota, Teacher, Eagleville Elementary School, Leech Lake Reservation, MN; Dr. Joseph P. Burke, Superintendent of Schools, Springfield Public Schools, Springfield, MA; Dr. Jack D. Dale, Superintendent, Fairfax County Public Schools, Fairfax, VA; Mr. Joel I. Klein, Chancellor, New York City Department of Education, New York, NY; Ms. Valdine McLean, Teacher, Pershing County High School, Lovelock, NV; Mr. John D. Podesta, President and Chief Executive Officer, Center for American Progress, Washington, DC; Dr. Gary W. Ritter, Associate Professor, Endowed Chair in Education Policy, Department of Education Reform, College of Education and Health Professions, University of Arkansas, Fayetteville, AR; and Dr. Jarvis Sanford, Principal, Dodge Renaissance Academy, Chicago, IL.

On May 14, 2007, the Committee on Education and Labor Subcommittee on Early Childhood, Elementary, and Secondary Education held a field hearing in King of Prussia, PA, on “Examining Local Perspectives on the No Child Left Behind Act.” The purpose of the hearing was to gain local perspectives on the consequences of No Child Left Behind. Testifying before the subcommittee were: Dr. Leslye S. Abrutyn, Superintendent, Penn Delco School District, Aston, PA; Dr. Theodore Hershberg, Public Policy and History Director, Center for Greater Philadelphia and Operation Public Education, University of Pennsylvania, Philadelphia, PA; Mr. Joe Howell, Principal, Norristown Area High School, Norristown, PA; Mr. Stephen Kozol, Chair, Department of Social Studies, Upper Merion Area High School, King of Prussia, PA; and Mr. Anthony C. Stevenson, incoming Principal, Radnor Middle School, Radnor Township, PA.

On May 17, 2007, the Committee on Education and Labor Subcommittee on Higher Education, Lifelong Learning, and Competitiveness held a hearing in Washington, DC, on “Preparing Teachers for the Classroom: The Role of the Higher Education Act and No Child Left Behind.” The purpose of the hearing was to examine the role the federal government can play in preparing teachers for the classroom. Testifying before the subcommittee were: Dr. Daniel Fallon, Director, Program in Higher Education, Carnegie Corporation of New York, New York, NY; Dr. Emily Feistritzer, President, National Center for Alternative Certification and the National Center for Education Information, Washington, DC; Dr. Sharon P. Robinson, President and Chief Executive Officer, American Association of Colleges for Teacher Education, Washington, DC; Mr. George A. Scott, Director, Education, Workforce, and Income Security Issues, U.S. Government Accountability Office, Washington, DC; and Dr. Janice Wiley, Deputy Director, Region One Education Service Center, Edinburg, TX.

On June 7, 2007, the Committee on Education and Labor Subcommittee on Early Childhood, Elementary, and Secondary Education held a hearing in Washington, DC, on “Reauthorization of the Elementary and Secondary Education Act: Current and Prospective Flexibility under the No Child Left Behind Act.” The pur-

pose of the hearing was to hear perspectives on flexibility under No Child Left Behind. Testifying before the subcommittee were: Mr. Chester E. Finn, Jr., President, Thomas B. Fordham Institute, Washington, DC; Mr. Jack Jennings, President, Center on Education Policy, Washington, DC; Dr. Carol Johnson, Superintendent, Memphis City Schools, Memphis, TN; The Honorable Rick Melmer, Secretary, South Dakota Department of Education, Pierre, SD; and Ms. Kathleen N. Straus, President, Michigan State Board of Education, Lansing, MI.

On September 10, 2007, the Committee on Education and Labor held a hearing in Washington, DC, on "Reauthorization of the Elementary and Secondary Education Act of 1965." The purpose of the hearing was to gain feedback on proposed legislation to reauthorize the Elementary and Secondary Education Act. Testifying before the committee were: Ms. Germaine Brown, Teacher, Stewart Street Elementary School, Gadsden County, FL; Mr. Barry Stark, Principal, Norris Middle School, Firth, NE; Mr. Jack Jennings, President, Center for Education Policy, Washington, DC; Dr. Linda Darling-Hammond, Charles Ducommun Professor of Education, Stanford University, Stanford, CA; Mr. John Podesta, President and Chief Executive Officer, Center for American Progress, Washington, DC; Ms. Andrea Messina, Commissioner, Aspen Institute Commission on NCLB, Washington, DC; Mr. Kevin Carey, Research and Policy Manager, Education Sector, Washington, DC; Dr. Billy Cannaday, Superintendent of Public Instruction, Virginia Department of Education, Richmond, VA; The Honorable Bob Wise, President, Alliance for Excellent Education, Washington, DC; Ms. Adria Steinberg, Assistant Vice President of Youth Transition, Jobs for the Future, Boston, MA; Mr. James McPartland, Principal Research Scientist, Center for Social Organization of Schools, John Hopkins University, Baltimore, MD; Mr. Brian Gong, Executive Director, Center for Assessment, Dover, NH; Mr. Mike Cohen, President, Achieve Inc., Washington, DC; Ms. Janet Bray, Director, Association for Career and Technical Education, Alexandria, VA; Ms. Nancy Zirkin, Vice President and Director of Public Policy, Leadership Conference on Civil Rights, Washington, DC; Mr. Peter Zamora, Regional Counsel, Mexican American Legal Defense and Educational Fund, Washington, DC; Ms. Stephanie Jones, Executive Director, The Urban League, Washington, DC; Mr. Dan Losen, Senior Education Law and Policy Associate, The Civil Rights Project, Los Angeles, CA; Ms. Dianne Piche, Executive Director, Citizens Commission on Civil Rights, Washington, DC; Ms. Delia Pompa, Vice President of Education Programs, National Council of La Raza, Washington, DC; Ms. Katie Neas, Director of Congressional Relations, Easter Seals, Washington, DC; Ms. Myrna Mandlawitz, Policy Director, Learning Disabilities Association of America, Washington, DC; Mr. Jon Schnur, Chief Executive Officer and Co-Founder, New Leaders for New Schools, New York, NY; Mr. Charles Harris, Co-Founder and Executive Partner, SeaChange Capital Partner, South Norwalk, CT; Mr. Nelson Smith, President, National Alliance for Public Charter Schools, Washington, DC; Mr. Joshua Wyner, Executive Vice President, Jack Kent Cooke Foundation, Lansdowne, VA; Ms. Sonia Hernandez Rodriguez, Executive Vice President, National Farm Workers Service Center, Los Angeles, CA; Mr. John Castellani, President, Business Roundtable,

Washington, DC; Mr. Jim Kohlmoos, President and Chief Executive Officer, Knowledge Alliance, Washington, DC; Mr. Mike Petrilli, Vice President for National Programs and Policy, The Thomas B. Fordham Foundation, Washington, DC; Ms. MaryKate Hughes, Math Teacher, D.C. Preparatory Academy, Washington, DC; Ms. Kathleen Rooker, Principal, Neil Armstrong Elementary School, Port Charlotte, FL; Mr. Reg Weaver, President, National Education Association, Washington, DC; Ms. Kati Haycock, Director, The Education Trust, Washington, DC; Ms. Antonia Cortese, Executive Vice President, American Federation of Teachers, Washington, DC; Ms. Frances Bryant Bradburn, Director of Instructional Technologies, North Carolina Department of Education, Raleigh, NC; Ms. Mary Kay Sommers, Principal, Shepardson Elementary School, Fort Collins, CO; Ms. Kristan Van Hook, Senior Vice President for Public Policy and Development, National Institute for Excellence in Teaching, Santa Monica, CA; Mr. David Brewer, Superintendent, Los Angeles Unified School District, Los Angeles, CA; Ms. Joan Wodiska, Director of Education Policy, National Governors Association, Washington, DC; Mr. Michael Casserly, Executive Director, Council of Great City Schools, Washington, DC; Mr. Paul Houston, Executive Director, American Association of School Administrators, Arlington, VA; Ms. LaRuth Gray, Deputy Director, Metropolitan Center for Urban Education, New York, NY; and Mr. Michael Resnick, Associate Executive Director, National School Boards Association, Alexandria, VA.

On September 21, 2007, the Committee on Education and Labor Subcommittee on Higher Education, Lifelong Learning, and Competitiveness held a field hearing in Pomona, CA, on “Examining Competitiveness Through Science, Technology, Engineering and Math.” The purpose of the hearing was to examine strategies for improving the delivery of education in Science, Technology, Engineering, and Math (STEM) classes to students in the United States. Testifying before the subcommittee were: Dr. Warren J. Baker, President, California Polytechnic State University, San Luis Obispo, CA; Dr. Marshall E. Drummond, Chancellor, Los Angeles Community College District, Los Angeles, CA; Dr. Susan Hackwood, Executive Director, California Council on Science and Technology, Sacramento, CA; Dr. Charles B. Reed, Chancellor, California State University System, Sacramento, CA; Dr. Frederick A. Tarantino, President and Chief Executive Officer, Universities Space Research Association, Columbia, MD; and Dr. Todd Ullah, Director of Science, Los Angeles Unified School District, Los Angeles, CA.

Second session

On February 13, 2008, the Committee on Education and Labor held a hearing in Washington, DC, on “Modern Public School Facilities: Investing in the Future.” The purpose of the hearing was to highlight the poor quality of public school buildings, particularly in low-income areas, and federal investment in public school buildings. Testifying before the committee were: The Honorable Ben Chandler, U.S. House of Representatives, Sixth District, Kentucky; The Honorable Michael Castle, U.S. House of Representatives, At-Large, Delaware; The Honorable Bob Etheridge, U.S. House of Representatives, Second District, North Carolina; The Honorable David

Loeb sack, U.S. House of Representatives, Second District, Iowa; The Honorable Charles Boustany, U.S. House of Representatives, Seventh District, Louisiana; The Honorable Darlene Hooley, U.S. House of Representatives, Fifth District, Oregon; The Honorable Steve King, U.S. House of Representatives, Fifth District, Iowa; The Honorable Rush Holt, U.S. House of Representatives, Twelfth District, New Jersey; Ms. Kathleen J. Moore, Director, School Facilities Planning Division, California Department of Education, Sacramento, CA; Ms. Judi Caddick, Teacher, Memorial Junior High School, Illinois Education Association, Lansing, IL; Ms. Mary Cullinane, Director, Innovation and Business Development Team, Microsoft Corporation, New York, NY; Dr. Paula Vincent, Superintendent, Clear Creek Amana School District, Oxford, IA; Mr. Paul Vallas, Superintendent, Louisiana Recovery School District, New Orleans, LA; Mr. Jim Waters, Director, Policy and Communications, Bluegrass Institute for Public Policy Solutions, Bowling Green, KY; and Mr. Neal McCluskey, Associate Director, Center for Educational Freedom, CATO Institute, Washington, DC.

On March 11, 2008, the Committee on Education and Labor Subcommittee on Early Childhood, Elementary, and Secondary Education held a hearing in Washington, DC, on "After School Programs: How the Bush Administration's Budget Impacts Children and Families." The purpose of the hearing was to examine the 21st Century Learning Centers program and discuss its progress. Testifying before the subcommittee were: Mr. Michael J. Carroll, Chief of Police, West Goshen Township Police Department, Chester County, PA; Ms. LaDonna Gamble, Interim Project Director, Bridges to the Future Before and Afterschool Program's 21st Century Community Learning Center, Flint, MI; Ms. Theresa Vendrzyk Kough, Education Associate, After School Programs, Delaware Department of Education, Dover, DE; and Ms. Priscilla M. Little, Associate Director, Harvard Family Research Project, Medford, MA.

On May 21, 2008, the Committee on Education and Labor held a hearing in Washington, DC, on "The National Mathematics Advisory Panel Report: Foundations for Success." The purpose of the hearing was to discuss the findings of the National Math Panel's report and how U.S. math education can be improved. Testifying before the committee were: Mr. John Castellani, President, Business Roundtable, Washington, DC; Dr. Francis Fennell, former President, National Council of Teachers of Mathematics, Reston, VA; Dr. William Haver, Professor of Mathematics, Virginia Commonwealth University, Richmond, VA; Ms. Laura Slover, Vice President, Achieve, Inc, Washington, DC; Dr. Wanda Talley Staggers, Dean of Manufacturing and Engineering, Anderson School District Five, Anderson, SC; and Ms. Mary Ann Wolf, Executive Director, State Educational Technology Directors Association, Glen Burnie, MD.

On July 17, 2008, the Committee on Education and Labor held a hearing in Washington, DC, on "Mayor and Superintendent Partnerships in Education: Closing the Achievement Gap." The purpose of the hearing was to examine superintendent partnerships in education and closing the achievement gap. Testifying before the committee were: The Honorable Michael R. Bloomberg, Mayor, City of New York, New York, NY; Mr. Arne Duncan, Chief Executive Offi-

cer, Chicago Public Schools, Chicago, IL; The Honorable Adrian M. Fenty, Mayor, District of Columbia, Washington, DC; Dr. Beverly L. Hall, Superintendent, Atlanta Public Schools, Atlanta, GA; Mr. Joel I. Klein, Chancellor, New York City Department of Education, New York, NY; and Ms. Michelle Rhee, Chancellor, District of Columbia Public Schools, Washington, DC.

On July 22, 2008, the Committee on Education and Labor held a hearing in Washington, DC, on "Innovation in STEM Education through Business and Education Partnerships." The purpose of the hearing was to examine innovative business and education partnerships in Science, Technology, Engineering, and Mathematics education. Testifying before the committee were: Dr. Ramona Chang, Director of Curriculum, Torrance Unified School District, Torrance, CA; Ms. Melendy Lovett, Senior Vice President and President, Education Technology, Texas Instruments, Dallas, TX; Mr. Tom Luce, Chief Executive Officer, National Math and Science Initiative, Dallas, TX; Mr. Phil Mickelson, Professional Golfer and Cofounder, Mickelson ExxonMobil Teachers Academy, Rancho Santa Fe, CA; Dr. Carlo Parravano, Executive Director, Merck Institute for Science Education, Rahway, NJ; Dr. Sally Ride, President and Chief Executive Officer, Sally Ride Science, San Diego, CA; Ms. Patricia Sullivan, Education Solutions Executive, Global Education Industry at IBM, Armonk, NY; and Mr. Brian H. Wells, Chief Systems Engineer, Raytheon Co., Waltham, MA.

On July 24, 2008, the Committee on Education and Labor held a hearing in Washington, DC, on "The Benefits of Physical and Health Education for Our Nation's Children." The purpose of the hearing was to discuss the problem of childhood obesity, and the benefits of physical education. Testifying before the committee were: The Honorable Ron Kind, U.S. House of Representatives, Third District, Wisconsin; The Honorable Zach Wamp, U.S. House of Representatives, Third District, Tennessee; Ms. Lori Rose Benson, Director, Office of Fitness and Health Education, New York City Department of Education, New York, NY; Mr. Tim Brown, former NFL all-pro player, National Chairman, Athletes and Entertainers for Kids, Long Beach, CA; Mr. Robert Keiser, Student Advisor to Governor Charlie Crist, Council on Physical Fitness, Tallahassee, FL; Dr. Russell Pate, Associate Vice President for Health Sciences, Professor, Department of Exercise Science, Arnold School of Public Health, University of South Carolina, Columbia, SC; and Mr. Richard Simmons, ASK America, Beverly Hills, CA.

On September 9, 2008, the Committee on Education and Labor Subcommittee on Early Childhood, Elementary, and Secondary Education held a hearing in Washington, DC, on "Challenges Facing Bureau of Indian Education Schools in Improving Student Achievement." The purpose of the hearing was to examine challenges encountered by Bureau of Indian Education schools in their efforts to improve student achievement. Testifying before the subcommittee were: Ms. Cornelia Ashby, Director, Education, Workforce, and Income Security Issues, U.S. Government Accountability Office, Washington, DC; Ms. Anne Dudro, Chief of Staff, Office of Elementary and Secondary Education, U.S. Department of Education, Washington, DC; Dr. Willard Sakiestewa Gilbert, President, National Indian Education Association, Washington, DC; Mr. Theodore Hamilton, Executive Director, Oceti Sakowin Education Con-

sortium, Kyle, SD; and Mr. Stanley Holder, Chief, Division of Performance and Accountability, Bureau of Indian Education, U.S. Department of the Interior, Washington, DC.

Legislative action—first session

On July 12, 2007, Rep. Ben Chandler (D-KY), Rep. George Miller (D-CA), and Rep. Dale Kildee (D-MI) introduced H.R. 3021, the 21st Century High-Performing Public School Facilities Act. The bill sought to create a new federal school construction program. Under the bill, the Secretary of Education would make grants and low-interest loans to local educational agencies for the construction, modernization, or repair of public kindergarten, elementary, and secondary educational facilities, and for other purposes.

On July 12, 2007, Rep. John Sarbanes (D-MD) introduced H.R. 3036, the No Child Left Inside Act of 2007. The bill sought to amend the Elementary and Secondary Education Act of 1965 to create new environmental education programs.

On August 1, 2007, Rep. Mazie Hirono (D-HI), Rep. Robert Andrews (D-NJ), Rep. Susan Davis (D-CA), Rep. George Miller (D-CA), and Rep. John Tierney (D-MA) introduced H.R. 3289, the Providing Resources Early for Kids (PRE-K) Act of 2007. The bill sought to amend the Elementary and Secondary Education Act of 1965 to create a new early education program.

Second session

On April 30, 2008, the Committee on Education and Labor considered H.R. 3021, the 21st Century High-Performing Public School Facilities Act, in legislative session, and reported the bill favorably, as amended, to the House of Representatives by a vote of 28–19.

The committee considered and adopted the following amendment to H.R. 3021:

- Rep. Dave Loebsack (D-IA) and Rep. Dale Kildee (D-MI) offered an amendment in the nature of a substitute. The amendment passed by a voice vote.

The committee further considered the following amendments to H.R. 3021, which were not adopted:

- Rep. Howard P. “Buck” McKeon (R-CA) offered an amendment to strike the provision subjecting new school construction projects to the requirements of the Davis-Bacon Act. The amendment failed by a vote of 16–27.

- Rep. Mike Castle (R-DE) offered an amendment requiring Title I and the Individuals with Disabilities Education Act (IDEA) to be fully funded before federal resources could be dedicated to school construction. The amendment failed by a vote of 20–24.

- Rep. Rob Bishop (R-UT) offered an amendment on the equitable treatment of charter schools. The amendment failed by a vote of 19–25.

- Rep. John Kline (R-MN) offered an amendment to require local educational agencies to provide military recruiters with access to secondary student information. The amendment was ruled not germane by the Chair. A motion to appeal the ruling of the Chair failed by a vote of 20–25.

- Rep. Tom Price (R-GA) offered an amendment requiring local educational agencies to conduct independent audits. The amendment failed by a vote of 18–26.

- Rep. Tom Price (R–GA) offered an amendment prohibiting earmarks. The amendment failed by a vote of 21–25.
- Rep. Vernon Ehlers (R–MI) offered an amendment prohibiting the purchase of carbon offsets. The amendment failed by a vote of 21–25.
- Rep. David Davis (R–TN) offered an amendment requiring local educational agencies to certify compliance with school prayer provisions. The amendment was ruled not germane by the Chair. A motion to appeal the ruling of the Chair failed by a vote of 21–26.

The House of Representatives passed H.R. 3021 on June 4, 2008, by a vote of 250–164. The bill was sent to the Senate and referred to the Senate Committee on Health, Education, Labor, and Pensions.

On June 18, 2008, the Committee on Education and Labor considered H.R. 3036, the No Child Left Inside Act of 2007, in legislative session and reported the bill favorably, as amended, to the House of Representatives by a vote of 37–8.

The committee considered and adopted the following amendments to H.R. 3036:

- Rep. George Miller (D–CA) offered an amendment in the nature of a substitute. The amendment passed by a voice vote.
- Rep. Mike Castle (R–DE) offered an amendment to require the Administrator of the Environmental Protection Agency, the Secretary of Education, and the National Environmental Education Foundation to establish indicators of program quality for environmental education programs. The amendment was adopted by a voice vote.
- Rep. John Sarbanes (D–MD) offered an amendment to make technical edits. The amendment was adopted by a voice vote.
- Rep. Vern Ehlers (R–MI) offered an en bloc amendment to expand the list of subject studies to determine the effectiveness of environmental education programs and to allow grantees to conduct studies of national significance. The amendment was adopted by a voice vote.
- Rep. Rush Holt (D–NJ) and Rep. Mark Souder (R–IN) offered an amendment to allow grantees to coordinate with any program operated by a federal natural resource management agency. The amendment was adopted by a voice vote.
- Rep. Tim Bishop (D–NY) offered an amendment to allow grantees to replicate and disseminate information about proven and tested environmental education programs. The amendment was adopted by a voice vote.
- Rep. Mark Souder (R–IN) offered an amendment to allow grantees to develop environmental education standards that include information on the need to balance conservation of the environment with the development of the nation’s energy resources. The amendment was adopted by a voice vote.
- Rep. Yvette Clark (D–NY) offered an amendment to allow grantees to address environmental justice issues. The amendment was adopted by a voice vote.
- Rep. Tom Price (R–GA) offered an amendment to clarify that federal funds may not be used to mandate, direct, or control a state or local educational agency’s curriculum or program of instruction. The amendment was adopted by a voice vote.

The committee further considered the following amendment to H.R. 3036, which was not adopted:

- Rep. Tom Price (R-GA) offered an amendment on the environmental benefits of American-made energy. The amendment failed by a vote of 13–28.

The House of Representatives passed H.R. 3036 on September 18, 2008, by a vote of 293–109. The bill was sent to the Senate and referred to the Senate Committee on Environment and Public Works.

On June 25, 2008, the Committee on Education and Labor considered H.R. 3289, the Providing Resources Early for Kids (PRE-K) Act of 2007, in legislative session and reported the bill favorably, as amended, to the House of Representatives by a vote of 31–11.

The committee considered and adopted the following amendments to H.R. 3289:

- Rep. George Miller (D-CA) offered an amendment in the nature of a substitute. The amendment passed by a voice vote.

- Rep. Phil Hare (D-IL) offered an en bloc amendment to address the deficiency of pre-K opportunities to children in rural areas and to increase coordination of state supported early childhood providers and local educational agencies to ensure a smooth transition to kindergarten. The amendment passed by a voice vote.

- Rep. Susan Davis (D-CA) offered an amendment to add an allowable use of funds for instruction and support for program directors and staff during the first three years of employment. The amendment passed by a vote of 26–17.

- Rep. Dennis Kucinich (D-OH) offered an en bloc amendment to require states to report on how they are addressing transportation needs where transportation is a barrier to accessing state-funded preschool programs and to require states to coordinate with a state advisory board on early childhood education or similar entity. The amendment passed by a voice vote.

- Rep. Dennis Kucinich (D-OH) and Rep. Lynn Woolsey (D-CA) offered an amendment to require states to report on their activities to expand state-funded preschool programs and to require the Secretary of Education to report to Congress on the activities carried out by this bill. The amendment (as amended) passed by a voice vote.

- Rep. Phil Hare (D-IL) offered a secondary amendment to Reps. Kucinich and Woolsey’s amendment to add rural areas into the reporting requirements. The amendment passed by a voice vote.

- Rep. Rubén Hinojosa (D-TX) offered an amendment requiring states to provide assurances they will target resources or strengthen services to English Language Learners. The amendment passed by a voice vote.

The committee considered the following amendments to H.R. 3289, which were not adopted:

- Rep. Howard P. “Buck” McKeon (R-CA) offered an amendment to ensure states invest the resources provided in the bill to enroll all eligible children in the existing Head Start program. The amendment was defeated by a vote of 18–25.

- Rep. Mike Castle (R-DE) offered an amendment to align the new pre-K program with Head Start. The amendment was defeated by a vote of 18–25.

- Rep. Charles Boustany (R-LA) offered an amendment to prioritize services only to low-income children. The amendment was defeated by a vote of 17–26.
- Rep. Tom Price (R-GA) offered an amendment to allow states to provide parents a choice of preschool providers. The amendment was defeated by a vote of 14–29.
- Rep. Tom Price (R-GA) also offered an amendment that would require the bill to have offsets. The amendment was defeated by a vote of 17–26.
- Rep. Virginia Foxx (R-NC) and Rep. Tom Price (R-GA) offered an amendment that would limit federally funded programs to legal U.S. residents and citizens. The amendment was defeated by a vote of 18–25.

On September 26, 2008, the House of Representatives passed H.R. 7110, the Job Creation and Unemployment Relief Act of 2008, introduced by Rep. David Obey (D-WI). H.R. 7110 appropriated \$3 billion for public school modernization, renovation, and repair, similar to the provisions included in H.R. 3021. The bill was placed on the Senate calendar.

111TH CONGRESS

Hearings—first session

On April 29, 2009, the Committee on Education and Labor held a hearing in Washington, DC, on “Strengthening America’s Competitiveness through Common Academic Standards.” The purpose of the hearing was to examine how to ensure rigorous academic standards keep American students competitive. Testifying before the committee were: Mr. James B. Hunt, Jr., Chairman of the Board, James B. Hunt, Jr. Institute for Educational Leadership and Policy Foundation, former Governor of North Carolina, Raleigh, NC; Dr. Kenneth James, Commissioner, Arkansas Department of Education, Little Rock, AR; Mr. Greg Jones, President and Chief Executive Officer (retired), State Farm General Insurance, Chairman, California Business Roundtable, Playa del Rey, CA; Mr. David Levin, Co-founder, KIPP Schools, New York, NY; and Ms. Randi Weingarten, President, American Federation of Teachers, New York, NY.

On May 12, 2009, the Committee on Education and Labor held a hearing in Washington, DC, on “America’s Competitiveness through High School Reform.” The purpose of the hearing was to learn about the challenges facing our nation’s high schools in providing competitive, capable graduates. Testifying before the committee were: The Honorable Chaka Fattah, U.S. House of Representatives, Second District, Pennsylvania; The Honorable Michael Castle, U.S. House of Representatives, At-Large, Delaware; The Honorable Raúl M. Grijalva, U.S. House of Representatives, Seventh District, Arizona; The Honorable David P. Roe, U.S. House of Representatives, First District, Tennessee; Mr. Robert Balfanz, Associate Research Scientist, Everyone Graduates Center, Johns Hopkins University, Baltimore, MD; Mr. Scott Gordon, Chief Executive Officer, Mastery Charter Schools, Philadelphia, PA; Ms. Marguerite Kondracke, President and Chief Executive Officer, America’s Promise Alliance, Washington, DC; Dr. Vicki Phillips, Director, Education Initiative, Bill and Melinda Gates Foundation, Se-

attle, WA; The Honorable Bob Wise, President, Alliance for Excellent Education, former Governor of West Virginia, Washington, DC; and Mr. Michael Wotorson, Executive Director, Campaign for High School Equity, Washington, DC.

On May 19, 2009, the Committee on Education and Labor held a hearing in Washington, DC, on “Examining the Abusive and Deadly Use of Seclusion and Restraint in Schools.” The purpose of the hearing was to understand the nature and magnitude of the practice of abusive restraint and seclusion techniques in public and private schools. Testifying before the committee were: Mr. Greg Kutz, Managing Director, Forensic Audits and Special Investigations, U.S. Government Accountability Office, Washington, DC; Ms. Toni Price, foster mother of a child victim, Killeen, TX; Ms. Anne Gaydos, mother of a child victim, Monument, CO; Ms. Elizabeth Hanselman, Assistant Superintendent, Special Education and Support Services, Illinois State Board of Education, Springfield, IL; and Dr. Reece L. Peterson, Professor of Special Education, University of Nebraska, Lincoln, NE.

On May 20, 2009, the Committee on Education and Labor held a hearing in Washington, DC, on “The Obama Administration’s Education Agenda.” The purpose of the hearing was to learn about the administration’s policies and priorities for education in the coming fiscal year. Testifying before the committee was the Honorable Arne Duncan, Secretary, U.S. Department of Education, Washington, DC.

On June 4, 2009, the Committee on Education and Labor held a hearing in Washington, DC, on “Building on What Works at Charter Schools.” The purpose of the hearing was to learn how states, charter school authorizers, and charter school providers produce high-quality charter schools and how those programs can be replicated and brought to scale. Testifying before the committee were: The Honorable Barbara O’Brien, Lieutenant Governor, State of Colorado, Denver, CO; Mr. James Shelton, Assistant Deputy Secretary for Innovation and Improvement, U.S. Department of Education, Washington, DC; Mr. Steve Barr, Founder and Chairman, Green Dot Public Schools, Los Angeles, CA; Dr. John King, Managing Director, Excellence and Preparatory Network of Uncommon Schools, New York, NY; Mr. David Dunn, Executive Director, Texas Charter Schools Association, Austin, TX; and Mr. James Goenner, Executive Director, The Center for Charter Schools, Central Michigan University, Mount Pleasant, MI.

On June 16, 2009, the Committee on Education and Labor held a hearing in Washington, DC, on “The Future of Learning: How Technology is Transforming Public Schools.” The purpose of the hearing was to examine the federal government’s role in promoting the effective use of technology to improve public education. Testifying before the committee were: Ms. Jennifer Bergland, Chief Technology Officer, Bryan Independent School District, Bryan, TX; Mr. Aneesh Chopra, Chief Technology Officer, White House Office for Science and Technology, Washington, DC; Dr. Wayne Hartschuh, Executive Director, Delaware Center for Educational Technology, Delaware Department of Education, Dover, DE; Mr. Scott Kinney, Vice President Of Media And Technology, Discovery Education, Silver Spring, MD; Mr. John McAuliffe, General Manager, Educate Online Learning, Baltimore, MD; Mr. Abel Alejandro

Real, Student, East Carolina University, Greenville, NC; and Ms. Lisa Short, Middle School Teacher, Gaithersburg Middle School, Gaithersburg, MD.

On July 8, 2009, the Committee on Education and Labor Subcommittee on Early Childhood, Elementary, and Secondary Education held a joint hearing with the subcommittee on Healthy Families and Communities in Washington, DC, on “Strengthening School Safety through Prevention of Bullying.” The purpose of the hearing was to discuss how the federal government could support anti-bullying efforts. Testifying before the subcommittees were: Ms. Jacquelyn Andrews and Ms. Josie Andrews, daughters of Rep. Rob Andrews (D–NJ); Ms. Rona C. Kaufmann, Principal, William Penn Senior High School, York, PA; Dr. Scott Poland, Coordinator, Office of Suicide and Violence Prevention, Center for Psychological Studies, Nova Southeastern University, Fort Lauderdale, FL; Mr. Steve Riach, Founder and Chairman, Heart of a Champion Foundation, Colleyville, TX; Ms. Cassady Tetsworth, Vice Chair, National SAVE Youth Advisory Board, Greensboro, NC; Mr. Kenneth S. Trump, President and Chief Executive Officer, National School Safety and Security Services, Inc., Cleveland, OH; and Ms. Sirdeaner Walker, parent of a bullied child, Springfield, MA.

On September 18, 2009, the Committee on Education and Labor Subcommittee on Early Childhood, Elementary, and Secondary Education held a field hearing in Flint, MI, on “High School/College Dual Enrollment Program.” The purpose of the hearing was to learn about dual enrollment programs. Testifying before the subcommittee were: Mr. John Otis Brooks, Student, Mott Community College, Flint, MI; Dr. Vahid Lotfi, Interim Provost and Vice Chancellor, Academic Affairs, University of Michigan, Flint, MI; Dr. M. Richard Shaink, President, Mott Community College, Flint, MI; Mr. Stephen Skorcz, President and Chief Executive Officer, Greater Flint Health Coalition, Flint, MI; Dr. Thomas Svitkovich, Superintendent, Genesee Intermediate School District, Flint, MI; and Dr. Michael Webb, Associate Vice President, Early College High School Initiative, Jobs for the Future, Boston, MA.

On September 30, 2009, the Committee on Education and Labor held a hearing in Washington, DC, on “Teacher Equity: Effective Teachers for All Children.” The purpose of the hearing was to examine how to ensure students are taught by effective teachers. Testifying before the committee were: The Honorable Chaka Fattah, U.S. House of Representatives, Second District, Pennsylvania; The Honorable Tom Price, U.S. House of Representatives, Sixth District, Georgia; Ms. Layla Avila, Vice President, The New Teacher Project, Brooklyn, NY; Ms. Latanya Daniels, Assistant Principal, Edison High School, Minneapolis, MN; Dr. Frederick M. Hess, Director of Education Policy Studies, American Enterprise Institute, Washington, DC; Dr. Linda Murray, Executive Director, Education Trust—West, Oakland, CA; Dr. Marguerite Roza, Research Associate Professor, Center on Reinventing Public Education, University of Washington, Seattle, WA; and Mr. Dennis Van Roekel, President, National Education Association, Washington, DC.

On November 19, 2009, the Committee on Education and Labor Subcommittee on Early Childhood, Elementary, and Secondary Education held a hearing in Washington, DC, on “Improving the Literacy Skills of Children and Young Adults.” The purpose of the

hearing was to examine strategies for improving literacy skills among students. Testifying before the subcommittee were: Mr. Larry Berger, Co-Founder and Chief Executive Officer, Wireless Generation, Brooklyn, NY; Ms. Mary Kay Doré, District Student Support Services Manager, Summit School District, Frisco, CO; Dr. Leo Gómez, Professor, the University of Texas Pan American, Officer, the National Association for Bilingual Education, Edinburg, TX; Mr. Andrés Henríquez, Program Officer, Carnegie Corporation of New York, New York, NY; Dr. Sandra D. Meyers, Education Associate, Delaware Department of Education, Dover, DE; and Dr. Dorothy S. Strickland, Professor Emeritus, Rutgers, the State University of New Jersey, Newark, NJ.

On December 8, 2009, the Committee on Education and Labor held a hearing in Washington, DC, on “Improving Our Competitiveness: Common Core Education Standards.” The purpose of the hearing was to take a closer look at the Common Core State Standards Initiative and how coordinated efforts to strengthen academic standards can enhance American competitiveness. Testifying before the committee were: Ms. Cathy Allen, Vice Chair, St. Mary’s County Board of Education, Leonardtown, MD; Mr. Douglas Kubach, President and Chief Executive Officer, Pearson Assessment and Information, Bloomington, MN; The Honorable Bill Ritter Jr., Governor, State of Colorado, Denver, CO; and Mr. Gene Wilhoit, Executive Director, Council of Chief State School Officers (CCSSO), Washington, DC.

Second session

On February 24, 2010, the Committee on Education and Labor held a legislative hearing in Washington, DC, on “H.R. 4330, the All Students Achieving through Reform Act.” The purpose of this legislative hearing was to learn how charter school providers maintain quality in charter schools, what student populations charter schools serve, and the importance of keeping charter schools autonomous. The hearing also focused on H.R. 4430, which would create a new initiative under the Charter School Program to provide funding for the expansion and replication of charter schools. Testifying before the committee were: Ms. Eva Moskowitz, Founder, Success Charter Network, New York, NY; Ms. Robin J. Lake, Associate Director, Center on Reinventing Public Education, Seattle, WA; Dr. Thomas Hehir, Professor of Practice, Harvard Graduate School of Education, Cambridge, MA; Mr. Greg Richmond, President and Chief Executive Officer, National Association of Charter School Authorizers, Chicago, IL; Ms. Eileen Ahern, Director, National Association of State Directors of Special Education, Alexandria, VA; and Dr. Caprice Young, President and Chief Executive Officer, KC Distance Learning, Portland, OR.

On March 3, 2010, the Committee on Education and Labor held a hearing in Washington, DC, on “Building a Stronger Economy: Spurring Reform and Innovation in American Education.” The purpose of the hearing was to identify the administration’s priorities for education in the coming fiscal year. Testifying before the committee was The Honorable Arne Duncan, Secretary, U.S. Department of Education, Washington, DC.

On March 17, 2010, the Committee on Education and Labor held a hearing in Washington, DC, on “The Obama Administration’s El-

elementary and Secondary Education Act Reauthorization.” The purpose of the hearing was to discuss the administration’s blueprint for reauthorization of the Elementary and Secondary Education Act. Testifying before the committee was the Honorable Arne Duncan, Secretary, U.S. Department of Education, Washington, DC.

On March 18, 2010, the Committee on Education and Labor Subcommittee on Early Childhood, Elementary, and Secondary Education held a hearing in Washington, DC, on “Elementary and Secondary Education Act Reauthorization: Addressing the Needs of Diverse Students.” The purpose of the hearing was to discuss the importance of, and the challenges states and school districts face in, educating diverse student learners. Testifying before the subcommittee were: Dr. Daniel Curry, Superintendent, Lake Forest School District, Kent County, DE; Dr. Jack Dale, Superintendent, Fairfax County Public Schools, Fairfax, VA; Ms. Arelis E. Diaz, Assistant Superintendent of Instruction, Godwin Heights Public Schools, Wyoming, MI; Dr. David M. Gipp, President, United Tribes Technical College, Bismarck, ND; Dr. Jacqui Farmer Kearns, Principal Investigator, National Alternate Assessment Center, Lexington, KY; and Mr. Michael Wotorson, Executive Director, Campaign for High School Equity, Washington, DC.

On April 14, 2010, the Committee on Education and Labor held a hearing in Washington, DC, on “How Data Can Be Used to Inform Educational Outcomes.” The purpose of the hearing was to examine possible methods for using data to inform and improve test scores and other educational indicators. Testifying before the committee were: Ms. Katie Hartley, Teacher, Value Added Data Specialist, Miami East Junior High School, Casstown, OH; Mr. Joe Kitchens, Superintendent, Western Heights School District, Oklahoma City, OK; Mr. Joel R. Reidenberg, Professor of Law and Founding Academic Director, Center on Law and Information Policy, Fordham University School of Law, New York, NY; and Mr. Richard J. Wenning, Associate Commissioner, Colorado Department of Education, Denver, CO.

On April 15, 2010, the Committee on Education and Labor Subcommittee on Healthy Families and Communities held a hearing in Washington, DC, on “Corporal Punishment in Schools and its Effect on Academic Success.” The purpose of the hearing was to examine corporal punishment in schools and its effect on academic performance. Testifying before the subcommittee were: Ms. Jana Frieler, Principal, Overland High School, President-elect, National Association of Secondary School Principals, Aurora, CO; Mr. Wynell Gilbert, Teacher, Erwin High School, Center Point, AL; Dr. Donald E. Greydanus, Professor of Pediatrics & Human Development, Michigan State University College of Human Medicine, Pediatrics Program Director, Michigan State University/Kalamazoo Center for Medical Studies, Kalamazoo, MI; and Ms. Linda Pee, parent of a student who received corporal punishment, Hot Springs, AR.

On May 4, 2010, the Committee on Education and Labor held a hearing in Washington, DC, on “Supporting America’s Educators: The Importance of Quality Teachers and Leaders.” The purpose of the hearing was to look at the importance of quality teachers and explore ways to support the best educators for the nation’s children. Testifying before the committee were: Ms. Deborah Ball, Dean, School of Education, University of Michigan, Ann Arbor, MI;

Mr. Tony Bennett, Superintendent of Public Instruction, Indiana Department of Education, Indianapolis, IN; Dr. Jeanne M. Burns, Associate Commissioner, Teacher and Leadership Initiatives, Louisiana Board of Regents, Baton Rouge, LA; Mr. Jonathan A. Kaplan, President, Walden University, Minneapolis, MN; Ms. Marie Parker-McElroy, Cluster-based Instructional Coach, Fairfax County Public Schools, Fairfax, VA; Dr. Pamela S. Salazar, Assistant Professor, Department of Educational Leadership, University of Nevada, Las Vegas, NV; Mr. Christopher J. Steinhäuser, Superintendent of Schools, Long Beach Unified School District, Long Beach, CA; Ms. Monique Burns Thompson, President, Teach Plus, Boston, MA; Ms. Randi Weingarten, President, American Federation of Teachers, New York, NY; and Dr. Marcus A. Winters, Senior Fellow, Manhattan Institute for Policy Research, New York, NY.

On May 19, 2010, the Committee on Education and Labor held a hearing in Washington, DC, on “Research and Best Practices on Successful School Turnaround.” The purpose of the hearing was to discuss school turnaround strategies that improve struggling schools and protect the best interests of students. Testifying before the committee were: Ms. Susan E. Bridges, Principal, A.G. Richardson Elementary School, Culpeper, VA; Dr. Thomas Butler, Superintendent of Schools, Ridgway Area School District, Ridgway, PA; Ms. Jessica Johnson, Chief Program Officer, Learning Point Associates, Naperville, IL; Dr. Daniel King, Superintendent, Pharr-San Juan-Alamo Independent School District, Pharr, TX; Mr. David Silver, Principal, Think College Now, Oakland, CA; and Mr. John Simmons, President, Strategic Learning Initiatives, Chicago, IL.

On May 20, 2010, the Committee on Education and Labor held a hearing in Washington, DC, on “The Impact of Concussions on High School Athletes.” The purpose of the hearing was to discuss research conducted by the Government Accountability Office into concussions among high school athletes. Testifying before the committee were: Dr. Gerard A. Gioia, Director, Division of Pediatric Neuropsychology, Children’s National Medical Center, Washington, DC; Dr. Linda Kohn, Director of Health Care Issues, U.S. Government Accountability Office, Washington, DC; Mr. Michael T. Monacelli, Director of Athletics and Head Football Coach, Caledonia-Mumford Central School District, Caledonia, NY; Ms. Michelle Pelton, former high school athlete, Swansea, MA; and Mr. James Schmutz, Executive Director, American Sport Education Program, Champaign, IL.

On June 24, 2010, the Committee on Education and Labor Subcommittee on Healthy Families and Communities held a hearing in Washington, DC, on “Ensuring Student Cyber Safety.” The purpose of the hearing was to discuss strategies aimed at developing both innovative and practical approaches to identify, prevent, and curb the prevalence of cyberbullying. Testifying before the subcommittee were: Mr. Parry Aftab, Esq., Executive Director, WiredSafety.org, Wycoff, NJ; Mr. Dave Finnegan, Chief Information and Logistics Bear, Build-A-Bear Workshop, Inc., St. Louis, MO; Dr. Phillip C. McGraw, syndicated daytime television talk show host and best-selling author, Los Angeles, CA; Ms. Dominique Napolitano, Student, on behalf of Girl Scouts of the USA, Suffolk County, NY; Ms. Barbara-Jane “BJ” Paris, Member, National Association of Sec-

ondary School Principals, Austin, TX; and Dr. Jorge C. Srabstein, Medical Director, Clinic for Health Problems Related to Bullying, Department of Psychiatry and Behavioral Sciences, Children's National Medical Center, Washington, DC.

On September 13, 2010, the Committee on Education and Labor Subcommittee on Healthy Families and Communities held a field hearing in Selden, NY, on "The Impact of Concussions on High School Athletes: The Local Perspective." The purpose of the hearing was to gain a local perspective on student concussion safety. Testifying before the subcommittee were: Mr. Richard C. Caster, former NFL Football Player, Rockville Centre, NY; Mr. Courtney Hall, former NFL Football Player, Cofounder, Hillcrest Venture Partners, New York, NY; Mr. Craig LoNigro, Athletic Trainer, Comsewogue High School, Port Jefferson Station, NY; Ms. Caitlin Monaghan, former high school athlete, Garden City, NJ; and Dr. Hayley C. Rintel Queller, Primary Care Sports Medicine, Orthopedic Associates of Long Island, East Setauket, NY.

On September 23, 2010, the Committee on Education and Labor held a legislative hearing in Washington, DC, on "H.R. 6172, the Protecting Student Athletes from Concussions Act." The purpose of this legislative hearing was to look at the issue of concussions among high school athletes and the effects of traumatic brain injuries on a student's academic achievement. Testifying before the committee were: Rev. Dr. Katherine E. Brearley, parent of the late Owen Thomas, South Whitehall Township, PA; Ms. Alison Conca-Cheng, Centennial High School, Ellicott City, MD; Dr. Gerard A. Gioia, Ph.D., Chief, Division of Pediatric Neuropsychology, and Director, Safe Concussion Outcome, Recovery, and Education (SCORE) Program, Children's National Medical Center, Washington, DC; Dr. Stanley Herring, M.D., Clinical Professor, Departments of Rehabilitation Medicine, Orthopedics and Sports Medicine, and Neurological Surgery, University of Washington, Co-Medical Director, Seattle Sports Concussion Program, Team Physician, Seattle Seahawks and Seattle Mariners, and Member, National Football League's Head, Neck and Spine Committee, Seattle, WA; and Mr. Sean Morey, Executive Board Member, NFL Players Association, Toronto, Ontario.

Legislative action—first session

On January 28, 2009, the House of Representatives passed H.R. 1, the American Recovery and Reinvestment Act (ARRA), introduced by Rep. David Obey (D-WI). H.R. 1 appropriated \$14 billion for public school modernization, renovation, and repair. On February 12, 2009, the House passed the Conference Report to H.R. 1, which did not include dedicated funds for public school modernization, renovation, and repair. However, Title XIV of the bill, the State Fiscal Stabilization Fund, included \$48.6 billion for states and local educational agencies, of which public school modernization, renovation, and repair (including modernization, renovation, and repair that complies with a recognized green building standard) is an authorized use.

On April 30, 2009, Rep. Ben Chandler (D-KY), Rep. Robert Andrews (D-NJ), Rep. Joe Courtney (D-CT), Rep. Raúl Grijalva (D-AZ), Rep. Phil Hare (D-IL), Rep. Mazie Hirono (D-HI), Rep. Rush Holt (D-NJ), Rep. Dale Kildee (D-MI), Rep. David Loebsack (D-

IA), Rep. George Miller (D-CA), Rep. Pedro R. Pierluisi (D-PR), Rep. Jared Polis (D-CO), Rep. Gregorio Kilili Camacho Sablan (D-MP), Rep. John Tierney (D-MA), Rep. Paul Tonko (D-NY), Rep. Lynn Woolsey (D-CA), and Rep. David Wu (D-OR) introduced H.R. 2187, the 21st Century Green High-Performing Public School Facilities Act. The bill would direct the Secretary of Education to make grants to state educational agencies for the modernization, renovation, or repair of public school facilities.

On May 6, 2009, the Committee on Education and Labor considered H.R. 2187, the 21st Century Green High-Performing Public School Facilities Act, in legislative session and ordered the bill reported favorably, as amended, to the House of Representatives by a vote of 31-14.

The committee considered and adopted the following amendments to H.R. 2187:

- Rep. George Miller (D-CA) offered an amendment in the nature of a substitute. The amendment was adopted by a voice vote.
- Rep. Jared Polis (D-CO) offered an amendment to provide equitable resources to charter schools. The amendment was adopted by a voice vote.
- Rep. Joe Sestak (D-PA) offered an amendment to clarify that improvements to ceilings and floors are authorized uses of funds. The amendment was adopted by a voice vote.
- Rep. Howard P. “Buck” McKeon (R-CA) offered an amendment to require local educational agencies to conduct a state-certified, independent third-party audit. The amendment was adopted by a voice vote.

The committee further considered the following amendments to H.R. 2187, which were not adopted:

- Rep. Mike Castle (R-DE) offered an amendment to require Congress to provide full funding for the Title I program before providing funding for a new federal school construction program. The amendment failed by a vote of 15-28.
- Rep. John Kline (R-MN) offered an amendment to require Congress to provide full funding for state grants for the Individual with Disabilities Education Act before providing funding for a new school construction program. The amendment failed by a vote of 15-28.

The House of Representatives passed H.R. 2187 on May 14, 2009, by a vote of 275-155. The bill was sent to the Senate and referred to the Senate Committee on Health, Education, Labor, and Pensions.

On May 6, 2009, Rep. Howard P. “Buck” McKeon (R-CA), Rep. John Boehner (R-OH), Rep. Eric Cantor (R-VA), Rep. Mike Pence (R-IN), Rep. Pete Hoekstra (R-MI), Rep. John Kline (R-MN), Rep. Rob Bishop (R-UT), Rep. Tom McClintock (R-CA), Rep. Duncan Hunter (R-CA), Rep. Sam Johnson (R-TX), Rep. Roscoe Bartlett (R-MD), Rep. John Linder (R-GA), Rep. Sue Myrick (R-NC), Rep. Jeb Hensarling (R-TX), Rep. John Culberson (R-TX), Rep. Kenny Marchant (R-TX), Rep. Michele Bachmann (R-MN), Rep. Doug Lamborn (R-CO), and Rep. Jason Chaffetz (R-UT) introduced H.R. 2274, the Priorities in Education Spending Act. The bill repealed 70 ineffective elementary and secondary education programs, including: William F. Goodling Even Start Family Literacy Program; Improving Literacy Through School Libraries; Close Up Fellowship;

Comprehensive School Reform; School Leadership; Advanced Certification or Advanced Credentialing; National Writing Project; Teaching of Traditional American History; Enhancing Education Through Technology; Ready to Learn Television; Bilingual and Emergency Immigrant Education; Grants to Reduce Alcohol Abuse; Mentoring Program; Elementary and Secondary School Counseling; Smaller Learning Communities; Reading is Fundamental; Star Schools Act; Ready to Teach; Foreign Language Assistance Program; Carol M. White Physical Education Program; Community Technology Centers; Educational, Cultural, Apprenticeship, and Exchange Programs for Alaska Natives, Native Hawaiians, and their Historical Whaling and Trading Partners in Massachusetts; Mental Health Integration and Foundations for Learning; Arts in Education; Healthy, High-Performance Schools; Additional Assistance for Certain Local Educational Agencies Impacted by Federal Property Acquisition; Women's Educational Equity; Native Hawaiian Education; and Alaska Native Education Equity.

On December 9, 2009, Rep. George Miller (D-CA) and Rep. Cathy McMorris Rodgers (R-WA) introduced H.R. 4247, the Preventing Harmful Restraint and Seclusion in Schools Act. The bill would prevent and reduce the use of physical restraint and seclusion techniques in public and private schools.

Second session

On February 4, 2010, the Committee on Education and Labor considered H.R. 4247, the Preventing Harmful Restraint and Seclusion in Schools Act, in legislative session and reported the bill favorably, as amended, to the House of Representatives by a vote of 34-10.

The committee considered and adopted the following amendment to H.R. 4247:

- Rep. George Miller (D-CA) offered an amendment in the nature of a substitute. The amendment was adopted by a voice vote.

The House of Representatives passed H.R. 4247 on March 3, 2010, by a vote of 262-153. The bill was sent to the Senate and referred to the Senate Committee on Health, Education, Labor, and Pensions.

112TH CONGRESS

Hearings—first session

On February 10, 2011, the Committee on Education and the Workforce held a hearing in Washington, DC, on "Education in the Nation: Examining the Challenges and Opportunities Facing America's Classrooms." The purpose of the hearing was to learn what challenges states face in developing a high-quality education system, explore innovative policies that are being proposed and implemented at the state and local level, and examine the federal investment in education and its limited impact on student achievement. Testifying before the committee were: Dr. Tony Bennett, Superintendent of Public Instruction, Indiana Department of Education, Indianapolis, IN; Ms. Lisa Graham Keegan, Founder, Education Breakthrough Network, Phoenix, AZ; Mr. Andrew Coulson, Director, Center for Educational Freedom, CATO Institute, Seattle, WA;

and Mr. Ted Mitchell, President and Chief Executive Officer, New Schools Venture Fund, San Francisco, CA.

On March 1, 2011, the Committee on Education and the Workforce held a hearing in Washington, DC, on “Education Regulations: Weighing the Burden on Schools and Students.” The purpose of the hearing was to examine the burden of federal, state, and local regulations on the nation’s education system and to learn whether these time consuming and duplicative requirements ultimately improve student achievement. Testifying before the committee were: Mr. Gene Wilhoit, Executive Director, Council of Chief State School Officers, Washington, DC; Dr. Edgar Hatrick, Superintendent, Loudoun County Public Schools, Ashburn, VA; Mr. Christopher B. Nelson, President, St. John’s College, Annapolis, MD; and Ms. Kati Haycock, President, The Education Trust, Washington, DC.

On March 9, 2011, the Committee on Education and the Workforce held a hearing in Washington, DC, on, “The Budget and Policy Proposals of the U.S. Department of Education.” The purpose of the hearing was to discuss the department’s budget request for Fiscal Year 2012. Testifying before the committee was the Honorable Arne Duncan, Secretary, U.S. Department of Education, Washington, DC.

On March 15, 2011, the Committee on Education and the Workforce Subcommittee on Early Childhood, Elementary, and Secondary Education, held a hearing in Washington, DC, on “Education Regulations: Burying Schools in Paperwork.” The purpose of the hearing was to hear from local officials representing elementary and secondary schools about the paperwork burden bureaucratic regulations impose on their schools and school districts. Testifying before the subcommittee were: Mr. Robert P. “Bob” Grimesey, Jr., Superintendent, Orange County Public Schools, Orange, VA; Mr. James Willcox, Chief Executive Officer, Aspire Public Schools, Oakland, CA; Ms. Jennifer A. Marshall, Director of Domestic Policy Studies, Heritage Foundation, Washington, DC; and Mr. Chuck Grable, Assistant Superintendent for Instruction, Huntington County Community School Corporation, Huntington, IN.

On April 7, 2011, the Committee on Education and the Workforce held a hearing in Washington, DC, on, “Education Reforms: Promoting Flexibility and Innovation.” The purpose of the hearing was to discuss the appropriate federal role in elementary and secondary education and explore the work of state and local education leaders who are pushing for innovative approaches to education reform and greater state and local flexibility. Testifying before the committee were: Dr. Janet Barresi, State Superintendent of Public Instruction, Oklahoma State Department of Education, Oklahoma City, OK; Dr. Gary Amoroso, Superintendent, Lakeville Area Public Schools, Lakeville, MN; Mr. Yohance Maqubela, Chief Operating Officer, Howard University Middle School of Mathematics and Science, Washington, DC; and Dr. Terry Grier, Superintendent, Houston Independent School District, Houston, TX.

On June 1, 2011, the Committee on Education and the Workforce Subcommittee on Early Childhood, Elementary, and Secondary Education held a hearing in Washington, DC, on “Education Reforms: Exploring the Vital Role of Charter Schools.” The purpose of the hearing was to examine the contributions of charter schools

to state and local efforts to improve public education and the importance of empowering parents to choose the best school environment for their children. Testifying before the subcommittee were: Ms. DeAnna Rowe, Executive Director, Arizona State Board for Charter Schools, Phoenix, AZ; Ms. Debbie Beyer, Executive Director, Literacy First Charter Schools, El Cajon, CA; Dr. Gary Miron, College of Education, Western Michigan University, Kalamazoo, MI; and Dr. Beth Purvis, Executive Director, Chicago International Charter School, Chicago, IL.

On July 27, 2011, the Committee on Education and the Workforce held a hearing in Washington, DC, on “Education Reforms: Exploring Teacher Quality Initiatives.” The purpose of the hearing was to highlight state and local efforts to improve teacher quality and examine select teacher reform issues that could be addressed as part of the committee’s ongoing effort to reauthorize the Elementary and Secondary Education Act. Testifying before the committee were: Mr. Kevin S. Huffman, Commissioner, Tennessee Department of Education, Nashville, TN; Mr. Tom Boasberg, Superintendent, Denver Public Schools, Denver, CO; Ms. Kate Walsh, President, National Council on Teacher Quality, Washington, DC; and Mr. David Cicarella, President, New Haven Federation of Teachers, New Haven, CT.

On September 14, 2011, the Committee on Education and the Workforce held a hearing in Washington, DC, on “Education Reforms: Examining the Federal Role in Public School Accountability.” The purpose of the hearing was to examine the role of the federal government in holding public schools accountable for student achievement. Testifying before the committee were: Ms. Hanna Skandera, Secretary-Designate of Education, New Mexico Department of Public Education, Santa Fe, NM; Dr. Amy Sichel, Superintendent of Schools, Abington School District, Abington, PA; Ms. Blaine Hawley, Principal, Red Pump Elementary School, Bel Air, MD; and Mr. Alberto M. Carvalho, Superintendent of Schools, Miami-Dade County Public Schools, Miami, FL.

On September 21, 2011, the Education and the Workforce Subcommittee on Early Childhood, Elementary, and Secondary Education held a hearing in Washington, DC, on “Education Reforms: Ensuring the Education System is Accountable to Parents and Communities.” The purpose of the hearing was to examine the role of the federal government in holding public schools accountable for student achievement. Testifying before the subcommittee were: Dr. Jay P. Greene, Professor, University of Arkansas, Fayetteville, AR; Dr. Benny L. Gooden, Superintendent of Schools, Fort Smith Public Schools, Fort Smith, AR; Mr. Bill Jackson, Founder and Chief Executive Officer, GreatSchools, San Francisco, CA; and Ms. Laura W. Kaloi, Public Policy Director, National Center for Learning Disabilities, Oak Hill, VA.

On November 16, 2011, the Education and the Workforce Subcommittee on Early Childhood, Elementary, and Secondary Education held a hearing in Washington, DC, on “Education Research: Identifying Effective Programs to Support Students and Teachers.” The purpose of the hearing was to examine the federal role in supporting education research and evaluation, the role of the private and non-profit sector in supporting education research, and how states, school districts, and other practitioners use data gleaned

from research to improve student achievement. Testifying before the subcommittee were: Dr. Grover J. “Russ” Whitehurst, Senior Fellow and Director of the Brown Center on Education Policy, Brookings Institution, Washington, DC; Dr. Caroline M. Hoxby, Scott and Donya Bommer Professor of Economics, Stanford University, Stanford, CA; Dr. Eric Smith, former Florida Commissioner of Education, Annapolis, MD; and Mr. Steve Fleischman, Director, Regional Educational Laboratory (REL) Northwest, Portland, OR.

Second session

On Thursday, February 16, 2012, the Committee on Education and the Workforce held a legislative hearing in Washington, DC, on “H.R. 3989, the Student Success Act and H.R. 3990, the Encouraging Innovation and Effective Teachers Act.” The purpose of this legislative hearing was to hear testimony on the committee’s two remaining bills to complete work on reauthorization of the Elementary and Secondary Education Act. Testifying before the committee were: Mr. Tom Luna, Superintendent of Public Instruction, Idaho Department of Education, Boise, ID; Ms. Delia Pompa, Senior Vice President of Programs, National Council of La Raza, Washington, DC; The Honorable Bob Schaffer, Chairman, Colorado State Board of Education, Fort Collins, CO; Dr. Robert Balfanz, Co-Director, Everyone Graduates Center, School of Education, Johns Hopkins University, Baltimore, MD; Ms. Felicia Kazmier, Art Teacher, Otero Elementary School, Colorado Springs, CO; and Mr. Jimmy Cunningham, Superintendent of Schools, Hampton School District, Hampton, AR.

Legislative action—first session

On May 13, 2011, Rep. Duncan Hunter (R–CA), Rep. John Kline (R–MN), and Rep. Howard P. “Buck” McKeon (R–CA) introduced H.R. 1891, the Setting New Priorities in Education Spending Act. The bill repeals the authorizations of 41 wasteful elementary and secondary education programs, reducing the number of federal Elementary and Secondary Education Act programs by half.

On May 25, 2011, the Committee on Education and the Workforce considered H.R. 1891 in legislative session and reported the bill favorably, as amended, to the House of Representatives by a vote of 23–16.

The committee considered and adopted the following amendments to H.R. 1891:

- Rep. Duncan Hunter (R–CA) offered an amendment in the nature of a substitute to make technical corrections to the legislation. The amendment was adopted by a voice vote.
- Rep. Todd Russell Platts (R–PA) offered an amendment to restore authority for the Parent Information and Resource Center (PIRC) program. The amendment was adopted by a vote of 20–19.

The committee further considered the following amendments to H.R. 1891, which were not adopted:

- Rep. Dale Kildee (D–MI) offered an amendment to amend Reading First to provide literacy services in Pre-K through 12. The amendment failed by a vote of 16–23.
- Rep. Rush Holt (D–NJ) offered an amendment to amend the Fund for Improvement of Education to support foreign language

education and other activities. The amendment failed by a vote of 16–23.

- Rep. Dave Loebsack (D–IA) offered an amendment to amend Safe and Drug Free Schools to provide essential support services for students. The amendment failed by a vote of 16–23.

- Rep. Robert “Bobby” Scott (D–VA) offered an amendment to amend Title V, Part A (Innovative Programs) to provide services for drop-out prevention. The amendment failed by a vote of 16–23.

- Rep. Todd Russell Platts (R–PA) offered an amendment to restore authority for Even Start. The amendment failed by a vote of 16–23.

- Rep. Mazie Hirono (D–HI) offered an amendment to restore Native Hawaiian Education and Alaska Native programs. The amendment failed by a vote of 16–23.

On June 16, 2011, Rep. Duncan Hunter (R–CA) and Rep. John Kline (R–MN) introduced H.R. 2218, the Empowering Parents through Quality Charter Schools Act. The bill reauthorizes and improves the existing charter school provisions under the Elementary and Secondary Education Act.

On June 22, 2011, the Committee on Education and the Workforce considered H.R. 2218 in legislative session and reported it favorably, as amended, to the House of Representatives by a bipartisan vote of 34–5. The committee considered and adopted one amendment to the bill, an amendment in the nature of a substitute offered by Rep. Duncan Hunter (R–CA). The amendment was adopted by voice vote.

The House of Representatives passed H.R. 2218 on September 13, 2011, by a bipartisan vote of 365–54. The bill was sent to the Senate and referred to the Senate Committee on Health, Education, Labor, and Pensions.

On July 7, 2011, Rep. John Kline (R–MN), Rep. Lou Barletta (R–PA), Rep. Larry Bucshon (R–IN), Rep. Scott DesJarlais (R–TN), Rep. Bob Goodlatte (R–VA), Rep. Richard Hanna (R–NY), Rep. Joseph Heck (R–NV), Rep. Duncan Hunter (R–CA), Rep. Mike Kelly (R–PA), Rep. Howard P. “Buck” McKeon (R–CA), Rep. Kristi Noem (R–SD), Rep. David P. Roe (R–TN), and Rep. Glenn Thompson (R–PA) introduced H.R. 2445, the State and Local Funding Flexibility Act. This bill strikes the State and Local Educational Agencies Funding Transferability program under the Elementary and Secondary Education Act and replaces it with a more flexible program allowing for greater use of federal education funds.

On July 13, 2011, the Committee on Education and the Workforce considered H.R. 2445 in legislative session and reported it favorably, as amended, to the House of Representatives by a vote of 23–17.

The committee considered and adopted the following amendment to H.R. 2445:

- Rep. Glenn Thompson (R–PA) offered an amendment in the nature of a substitute to make technical corrections to the legislation. It also reiterated that states and school districts must comply with all civil rights requirements and school funding allocation requirements. The amendment was adopted by a voice vote.

The committee further considered the following amendments to H.R. 2445, which were not adopted:

- Rep. George Miller (D–CA) offered an amendment to prohibit local educational agencies from using funds allocated for Title I, Part A, for any other purpose. The amendment failed by a vote of 17–23.
- Rep. Raúl Grijalva (D–AZ) offered an amendment to prohibit state and local educational agencies from using funds allocated for English Language Acquisition, Language Enhancement, and Academic Achievement for any other purpose. The amendment failed by a vote of 17–23.
- Rep. Rubén Hinojosa (D–TX) offered an amendment to prohibit state and local educational agencies from using funds allocated for the Education of Migratory Children for any other purpose. The amendment failed by a vote of 17–23.
- Rep. Robert “Bobby” Scott (D–VA) offered an amendment to prohibit state and local educational agencies from using funds allocated for the Education of Neglected, Delinquent, or At-Risk Children for any other purpose. The amendment failed by a vote of 17–23.
- Rep. Dale Kildee (D–MI) offered an amendment to prohibit local educational agencies from using funds allocated for Indian Education for any other purpose. The amendment failed by a vote of 17–23.
- Rep. Rush Holt (D–NJ) offered an amendment to add reporting requirements on state and local educational agencies on how funds are used. The amendment failed by a vote of 17–23.

Second session

On February 9, 2012, Rep. John Kline (R–MN), Rep. Scott DesJarlais (R–TN), Rep. Joseph Heck (R–NV), Rep. Duncan Hunter (R–CA), Rep. Kristi Noem (R–SD), Rep. Thomas Petri (R–WI), Rep. Martha Roby (R–AL), Rep. David P. Roe (R–TN), Rep. Glenn Thompson (R–PA), and Rep. Joe Wilson (R–SC) introduced H.R. 3989, the Student Success Act. H.R. 3989 is co-sponsored by Rep. Mike Kelly (R–PA) and Rep. Austin Scott (R–GA). The bill eliminates onerous federal “Adequate Yearly Progress,” “Highly Qualified Teacher,” and “Maintenance of Effort” requirements, and provides states and school districts with increased flexibility and control to boost student achievement.

On February 9, 2012, Rep. John Kline (R–MN), Rep. Scott DesJarlais (R–TN), Rep. Joseph Heck (R–NV), Rep. Duncan Hunter (R–CA), Rep. Kristi Noem (R–SD), Rep. Thomas Petri (R–WI), Rep. Martha Roby (R–AL), Rep. David P. Roe (R–TN), and Rep. Joe Wilson (R–SC) introduced H.R. 3990, the Encouraging Innovation and Effective Teachers Act. H.R. 3990 is co-sponsored by Rep. Mike Kelly (R–PA). The bill consolidates more than 70 existing elementary and secondary education programs into a new Local Academic Flexible Grant, requires locally developed and implemented teacher evaluations, and supports opportunities for parents to enroll their children in local magnet schools and charter schools.

On February 28, 2012, the Committee on Education and the Workforce considered H.R. 3989 in legislative session and reported the bill favorably, as amended, to the House of Representatives by a vote of 23–16.

The committee considered and adopted the following amendments to H.R. 3989:

- Rep. John Kline (R–MN) offered an amendment in the nature of a substitute. The amendment was adopted by a voice vote.
- Rep. Todd Rokita (R–IN) offered an amendment to require the Secretary of Education to eliminate the full time equivalent employee positions associated with the eliminated and consolidated programs under the bill. The amendment was adopted by a vote of 23–16.

The committee further considered the following amendments to H.R. 3989, which were not adopted:

- Rep. George Miller (D–CA) offered an amendment in the nature of a substitute. The amendment failed by a vote of 16–23.
- Rep. Glenn Thompson (R–PA) offered an amendment to alter the Title I formula to provide greater weight to the percentage of a district’s students in poverty. The amendment failed by a vote of 16–22, with one member voting “present.”
- Rep. Joseph Heck (R–NV) offered a secondary amendment to the Thompson amendment to hold harmless existing grantees. The amendment was withdrawn.
- Rep. Todd Rokita (R–IN) offered an amendment to allow states to opt out of the Elementary and Secondary Education Act and receive a tax credit for their citizens in lieu of federal education funds. The amendment was withdrawn.

On February 28, 2012, the Committee on Education and the Workforce considered H.R. 3990 in legislative session and reported the bill favorably, as amended, to the House of Representatives by a vote of 23–16.

The committee considered and adopted the following amendment to H.R. 3990:

- Rep. John Kline (R–MN) offered an amendment in the nature of a substitute. The amendment was adopted by a voice vote.

The committee further considered the following amendments to H.R. 3990, which were not adopted:

- Rep. George Miller (D–CA) offered an amendment in the nature of a substitute. The amendment failed by a vote of 16–23.
- Rep. Judy Biggert (R–IL) offered an amendment to remove mandates on teacher evaluations. The amendment was withdrawn.

SUMMARY

H.R. 3989, the Student Success Act, offers a better way forward for education reform by:

- Returning responsibility for student achievement to states, school districts, and parents, while maintaining high expectations.
- Providing states and school districts greater flexibility to meet students’ unique needs.
- Investing limited taxpayer dollars wisely.
- Strengthening programs for schools and targeted populations.
- Maintaining and strengthening long-standing protections for state and local autonomy.

Returning responsibility for student achievement to states, school districts, and parents, while maintaining high expectations

The Student Success Act dramatically reduces the federal role in education by returning authority for measuring student performance and turning around low-performing schools to states and local officials. Across the country, states and school districts are leading

efforts to reform the nation's troubled education system. As these bold reformers step up, the federal government can step back, limiting its role to ensuring parents have the information they need to judge the quality of their schools. The bill includes a number of key revisions to the current Title I program to increase state and local flexibility and restore local control of education.

- *Academic Standards:* Similar to current law, the bill requires states to establish academic standards that apply to all students and schools in the state in at least reading and math, while allowing states to develop standards in other subjects at their discretion. Achievement standards used for judging student and school performance must align with content standards, but the bill removes federal requirements for basic, proficient, and advanced levels of achievement. States are also allowed to establish alternate achievement standards aligned to the content standards for students with the most significant disabilities. Finally, the bill consolidates the requirements for English proficiency standards into the main Title I program.

- *Academic Assessments:* Similar to current law, the bill requires states to develop and implement a set of annual assessments in reading and math, the foundation for student learning. To reduce the burden of over-testing on our nation's students, the bill eliminates the federal requirement that states administer assessments in science. States retain the option to develop assessments in science and other subjects at their discretion. States are required to give the same grade level reading and math assessments to all students in the state in each of grades 3–8 and once in high school. Assessments still must include reasonable accommodations for students with disabilities. States are allowed to adopt alternate assessments for students with the most significant cognitive disabilities and computer adaptive assessments, and have the flexibility to use multiple measures of student achievement. The bill maintains requirements on disaggregating subgroup data, assessing the English proficiency of English learners, and ensuring 95 percent participation rates for all students and each subgroup.

- *Accountability:* The bill eliminates Adequate Yearly Progress (AYP) and replaces it with a state-determined accountability system that must:

- Annually measure the academic achievement of all public school students against the state's academic standards (including growth toward the standards) using the statewide assessment and other academic indicators determined by the state.

- Annually evaluate and identify the academic performance of each public school in the state based on student academic achievement, including the achievement of all students and achievement gaps between student subgroups.

- Include a school improvement system implemented by school districts that includes interventions in poor performing Title I schools.

- *School Improvement:* The bill requires states to include, as part of their statewide accountability structure, a system of school improvement interventions implemented at the local level for Title I schools that the state determines to be poorly performing. The bill repeals the federally mandated interventions included in sections 1116 and 1117 of current law, giving states and districts maximum

flexibility to develop appropriate school improvement strategies and rewards for their schools. The bill increases the state set-aside for school improvement to 7 percent (up from 4 percent), but eliminates the local set-asides, meaning more Title I money will flow directly to school districts. The bill eliminates the School Improvement Grants (SIG) program that the Secretary of Education used to create four unworkable turnaround models, instead using those funds to increase the authorization level for the Title I program.

- *Parent Information:* The bill maintains the current requirement that states and school districts issue and distribute annual report cards, but streamlines the data reporting to ensure meaningful information is easily available to parents and communities. States and districts must report disaggregated student achievement data on the state assessment and other academic indicators used in the statewide accountability system, participation rates on those assessments, the adjusted cohort graduation rate, each school's evaluation under the statewide accountability system, English language proficiency, and results on the 4th and 8th grade reading and mathematics National Assessment of Educational Progress (NAEP). The bill maintains parents' right to know their students' achievement levels, and moves the right to know teacher professional qualifications from Title I to Title II of the ESEA.

- *Direct Student Services:* The bill requires states to set aside 3 percent of Title I money to provide competitive grants to school districts that wish to offer tutoring or public school choice to their students, including those in poor performing schools.

- *Highly Qualified Teachers:* The bill repeals section 1119 of current law, which sets federal requirements around teachers and paraprofessionals and removes the requirement that teachers be highly qualified. H.R. 3990, the Encouraging Innovation and Effective Teachers Act, includes requirements for locally developed teacher evaluations, enabling federal teacher policy to move from onerous and meaningless burdens to strategies that will reassure parents that their students' teachers are effective.

- *State Laws on Parent Authority:* The bill includes a provision stating that nothing in the law should be interpreted to impact state laws on parent exercise of authority over low-performing schools.

Providing states and school districts greater flexibility to meet students' unique needs

- *Funding Flexibility:* Consistent with H.R. 2445, the State and Local Funding Flexibility Act, the bill allows states and school districts to use funds for certain special population programs for any activity authorized under any of the other programs. This allows state and local officials to use federal funds to meet their own unique needs. While school districts will not be allowed to use funds received for Title I schools outside of those schools, they can move additional federal funding to low-income schools. The bill maintains separate funding streams for the Migrant Education, Neglected and Delinquent, English Language Acquisition, and Indian Education programs, but merges them into Title I.

- *Schoolwide Programs:* The bill eliminates the 40 percent poverty threshold for schoolwide programs, allowing all Title I schools to operate whole school reform efforts. This change, included in the

Obama administration's waiver package, will allow low-income schools greater flexibility to consolidate programs and focus their efforts on raising the achievement of all students.

Investing limited taxpayer dollars wisely

- *Authorization Levels:* The bill limits funding authorizations to the FY 2012 appropriated levels. Consistent with the charge to increase public transparency and end the use of "such sums," the bill ties potential funding increases to inflation. It also consolidates authorization levels into one section in the law.

- *Reducing Federal Bureaucracy:* The bill requires the Secretary to eliminate the full time equivalent (FTE) employee positions associated with the eliminated and consolidated program under the bill. Specifically, the Secretary would have two months to identify how many FTEs worked on or administered programs that have been eliminated or consolidated under the legislation; he would then have one additional year to reduce the department's workforce by that number.

- *State and Local Spending Decisions:* The bill removes all "Maintenance of Effort" (MOE) requirements, allowing states and school districts to set their own funding levels for elementary and secondary education. These requirements are removed for four reasons:

- Dictating how states and school districts spend their tax revenues as a condition of receiving federal funds is not an appropriate federal role.

- MOE requirements assume that increased education spending will improve educational outcomes. Decades of data prove this argument false.

- MOE requirements provide disincentives for states and school districts to innovate and deliver better educational services more efficiently.

- Data from the U.S. Department of Education show that, since enactment of No Child Left Behind, nearly every school district request to waive MOE has been granted. The bill acknowledges this reality and eliminates the burden for districts.

At the same time, the legislation maintains the law's "supplement, not supplant" requirements, which ensure that federal dollars are used on top of state and local resources, protecting the traditional federal role in education. Maintaining these provisions will ensure states and districts will not be able to dramatically cut education spending and fill in the gaps with federal dollars.

Strengthening programs for schools and targeted populations

The Student Success Act maintains separate funding streams for the Migrant Education, Neglected and Delinquent, English Language Acquisition, Rural Education, and Indian Education programs, but merges them into Title I of the law. The bill strengthens each program in key ways.

- *Education of Migratory Children:* The bill provides a reservation of funds to assist states in supporting high-quality educational programs and services to address the unique educational needs of migratory children, including during summer periods. The legislation strengthens how migrant student counts are determined in each state, basing state allocations on the average number of eligi-

ble full time equivalent migratory children from the previous three years and a count of the number of migratory children who receive services under summer programs. The bill also allows states, school districts, and other public and private entities to improve intrastate and interstate coordination and information exchanges regarding migratory children.

- *Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk:* The bill provides a reservation of funds to improve educational services for students in state and local institutions or for those children who are transferring out of institutionalization. The legislation emphasizes receipt of a regular high school diploma to the extent feasible, and makes minor technical and clarifying changes to improve the operation of the program.

- *English Language Acquisition, Language Enhancement, and Academic Achievement:* The bill includes a reservation of funds to provide services to help non-English speakers learn English and meet state academic standards. The bill consolidates accountability and reporting requirements for English learners into the Title I program to encourage greater alignment, while maintaining student achievement expectations for these students and public reporting of progress. The bill changes how the Secretary of Education determines immigrant student and English learner counts, to ensure states and school districts receive accurate and reliable data and stabilize funding. Consistent with H.R. 1891, the Setting New Priorities in Education Spending Act, the bill eliminates the Improving Language Instruction Educational Programs, which have never been funded and are duplicative of the main program.

- *Rural Education:* The bill reserves funds for rural school districts and schools in both the Small Rural School Achievement (SRSA) Program and the Rural and Low-Income School (RLIS) Program. The legislation updates current locale codes, which determine eligibility of rural districts and schools under both programs, and includes a sliding scale hold harmless formula for districts that would become ineligible under the SRSA program because of the new codes. The bill allows school districts to apply for funding under both the SRSA and the RLIS Programs.

- *Indian Education:* The bill reserves funds to meet the unique educational and cultural needs of American Indian students and encourages Indian tribes, communities, and parents to participate in the education of their children. The bill allows school districts and Indian tribes applying for formula grants to apply in consortia to maximize the use of federal funds. Consistent with H.R. 1981, the Setting New Priorities in Education Spending Act, the bill eliminates the Native Hawaiian Education and Alaska Native Education Equity programs, which are duplicative of other services and funds provided to these populations under Title I. The bill also eliminates the Fellowships for Indian Students program and the Improvement of Educational Opportunities for Adult Indians program, which have not been funded since 1995. It also eliminates the In-Service Training for Teachers of Indian Children Grant, the Gifted and Talented Indian Students program, and the Grants to Tribes for Education Administrative Planning and Development program, which have never received federal funding.

Maintaining and strengthening long-standing protections for state and local autonomy

The Student Success Act includes the General Provisions of ESEA, but moves them from the current Title IX to a new Title V. The bill maintains and strengthens these important protections for students, parents, communities, states, and school districts while eliminating other burdensome and duplicative requirements.

- *Private School Students:* The bill strengthens provisions to ensure the participation of private school students and teachers in the programs funded under the ESEA. The bill improves the consultation and negotiation processes to provide clearer procedures and faster notice for private school officials. These changes will better protect access for private school students.

- *Secretary's Authority:* The bill protects state and local autonomy over decisions in the classroom and limits the authority of the Secretary of Education. The legislation: (1) prohibits the Secretary from imposing conditions on states and school districts in exchange for a waiver of federal elementary and secondary education law; (2) prevents the Secretary from creating additional burdens on states and districts through the regulatory process, particularly in the areas of standards, assessments, and state accountability plans; (3) prohibits the Secretary from demanding changes to state standards and influencing and coercing states to enter into partnerships with other states; and (4) outlines specific procedures the Secretary must follow when issuing federal regulations and conducting peer review processes for grant applications, including publicly releasing the identity of peer reviewers, that will bring greater transparency.

- *Military Recruiters:* The bill improves the military recruiting provisions in current law by ensuring military recruiters have the same access to high schools as institutions of higher education.

COMMITTEE VIEWS

Introduction

In 1965, Congress passed the Elementary and Secondary Education Act (ESEA) with the limited goal of providing states and local school districts with additional resources to ensure disadvantaged students have access to a quality education. The importance of ensuring students gain the skills necessary to graduate high school prepared for postsecondary education and the workforce is clear. A well-educated workforce is directly tied to the nation's ability to create jobs and maintain our competitive edge in a global economy.

The latest iteration of the ESEA, No Child Left Behind (NCLB), was heralded as groundbreaking when it was signed into law, and in some ways it was. The expanded use of data helped superintendents, school leaders, and teachers identify students most in need of additional instruction and offered parents access to important information about the quality of their schools.

But we have now clearly identified the law's weaknesses, and despite its best intentions, there is widespread agreement that current law is no longer effectively serving students. Under NCLB's accountability system, known as adequate yearly progress (AYP), all schools that fail to meet target proficiency levels for two or more consecutive years are required to undergo the same series of pre-

scriptive federal interventions, regardless of the unique circumstances or challenges facing each school. This cascading system of mandated interventions has not worked as imagined or produced the desired results in turning around low-performing schools.

The House Committee on Education and the Workforce is moving forward with education reform. For too long, states and school districts have been inundated with federal intervention and bureaucratic red tape that has done little to improve student performance. H.R. 3989, the Student Success Act, will return responsibility for student achievement to states and school districts, enhance local flexibility, protect taxpayers' investments in education, and strengthen state and local autonomy.

Funding authorizations

In the more than four decades since passage of ESEA, federal control of public education has steadily increased and spending has exploded. According to the National Center for Education Statistics' Digest of Education Statistics, in 2009, the United States spent more than \$10,000 per pupil per year, nearly triple what was spent in 1965. Despite this record investment in public education by federal, state, and local governments, national academic performance has not improved. Math and reading scores have largely remained flat, graduation rates have stagnated, and researchers have found serious shortcomings with many federal education programs.

The last 30 years have seen particularly dramatic increases in federal spending. U.S. Department of Education K–12 funding increased from less than \$7 billion in 1980 to almost \$38 billion in 2008. The last four years have seen another spike in federal spending. With the passage of the American Recovery and Reinvestment Act (ARRA), the department's K–12 budget ballooned to almost \$119 billion in 2009, nearly tripling in one year.

These increases have made the United States a world leader in education spending. Using 2007 data from the Organization for Economic Cooperation and Development (OECD), the National Center on Education Statistics reported in 2011 that the United States spent 7.6 percent of its Gross Domestic Product on education, second only to Iceland's 7.8 percent. But despite these record investments, student achievement has not improved. At a February 10, 2011 hearing titled "*Education in the Nation: Examining the Challenges and Opportunities Facing America's Classrooms*," Mr. Andrew Coulson, from the non-profit, nonpartisan CATO Institute, stated that math and reading scores for graduating high school seniors have remained unchanged over the last 40 years, while science scores have declined slightly. International comparisons reflect these trends. The OECD's latest *Programme for International Student Assessment* report, released in December 2010, ranked the United States 17th in reading, 31st in math, and 23rd in science among developed nations. Mr. Coulson went on to say:

To sum up, we have little to show for the \$2 trillion in federal education spending of the past half century. In the face of concerted and unflagging efforts by Congress and the states. . . it now costs three times as much to provide essentially the same education as we provided in 1970. . . The only thing [spending] appears to have accomplished is

to apply the brakes to the nation's economic growth, by taxing trillions of dollars out of the productive sector of the economy and spending it on ineffective programs.

At the same time, our country faces a fiscal crisis. Our national debt now exceeds the total size of the U.S. economy, spurred on in recent years by annual deficits in excess of \$1 trillion. Congress must be better stewards of taxpayer dollars, and H.R. 3989 takes an important step in the right direction.

Even within these limits, the bill makes available more funds for low-income students than has been proposed by the Obama administration and Democrats in Congress. The administration's Fiscal Year 2013 budget proposal, for example, would freeze funding for Title I, Part A of current law, at \$14.5 billion. H.R. 3989, however, consolidates several unnecessary and duplicative grant programs to authorize more than \$15 billion for that program. Rather than making unrealistic promises of future funding levels, this legislation makes strategic investments in fewer, more flexible funding streams, and caps their growth to ensure the federal government is living within its means.

Aid to local educational agencies

Title I of the Student Success Act restructures and amends Title I of ESEA, and addresses the following major issues:

Academic standards

H.R. 3989 requires states to establish academic standards that apply to all students and schools in the state in at least reading and mathematics, while allowing states to develop standards in other subjects at their discretion. Achievement standards used for judging student and school performance must align with the content standards, but the bill removes federal requirements for basic, proficient, and advanced levels of achievement. States are also allowed to establish alternate achievement standards aligned to the content standards for students with the most significant disabilities. In addition, the bill consolidates the requirements for English proficiency standards into the main Title I program.

Most notably, the bill removes the requirement for standards in science. The committee believes that current law includes too many federally mandated requirements around academic standards and testing. This bill recognizes the consensus regarding the fundamental importance of mathematics and reading as the foundation for success in other subjects, and provides states the flexibility to implement standards and assessments in additional subjects should they choose to do so.

At a February 16, 2012 legislative hearing entitled "H.R. 3989, 'Student Success Act' and H.R. 3990, 'Encouraging Innovation and Effective Teachers Act,'" Idaho State Superintendent of Public Instruction Tom Luna outlined the problems inherent in federal mandates around science. He stated:

. . . [S]cience is more difficult to measure than math or reading because it is not sequential like math and reading [are]. And giving a science test at the end of the high school career like we do in math and reading does not work . . . if you want that to be a test that includes phys-

ical science, chemistry, and biology because those are . . . not sequential. So it is very, very difficult to measure.

The removal of the mandate around science does not indicate a belief by the committee that science is unimportant. Clearly, a well-educated workforce must have a solid grounding in science and technology to ensure that our country remains competitive in the global economy. It is the committee's expectation that states and school districts will continue the important work of providing students an effective science education. State Superintendent Luna addressed this overall concern when he said, "What I think this bill recognizes is that the federal government does not have to compel the states to do everything. If it is not found in this bill the assumption shouldn't be it is not going to happen."

H.R. 3989 also continues and strengthens language allowing states to enter into voluntary partnerships with each other to fulfill the law's requirements around academic standards and assessments. It is the committee's intent to allow states to enter into voluntary partnerships with other states and to use federal funds to do so. Such decisions, though, must be entirely at the discretion of the state, free from interference by the Secretary of Education. The Secretary is not authorized to require states to enter into any such partnerships as a condition of receiving federal funds, nor authorized to offer such partnerships as a way to meet any other condition the Secretary may place upon a state.

Academic assessments

H.R. 3989 requires states to develop and implement a set of annual assessments in reading and mathematics, the foundation for student learning. As noted above, to reduce the burden of over-testing on our nation's students, the bill eliminates the federal requirement that states administer assessments in science. States retain the option to develop assessments in science and other subjects at their discretion.

States are required to give the same grade level reading and mathematics assessment to all students in the state in each of grades 3–8 and once in high school. Assessments still must include reasonable accommodations for students with disabilities, and states are allowed to adopt alternate assessments for students with the most significant cognitive disabilities. States are allowed to develop and administer computer adaptive assessments so educators can receive more meaningful feedback on classroom instruction, and have the flexibility to use multiple measures of student achievement. The bill maintains requirements on disaggregating subgroup data, assessing the English proficiency of English learners, and ensuring 95 percent participation rates for all students and each subgroup.

Much criticism has been leveled at NCLB for forcing teachers to teach to the test. While the committee views that charge as overblown, the reauthorized law must balance the need for assessments with the recognition that classroom instruction should be the primary engine for meaningful improvements in performance. Assessments should be used as a tool to tailor instruction and to inform students, teachers, and families about academic performance, and the community about the quality of its schools. They should not, however, be the only tool. The committee believes the bill's recogni-

tion that state accountability systems should not be based entirely on one test will address the excessive focus on assessments.

School accountability and improvement

H.R. 3989 eliminates the federal accountability system known as AYP. In its place, the bill requires states to develop and implement a statewide accountability system that will result in students graduating from high school prepared for postsecondary education and the workforce. The system must include the following elements:

- Annually measure the academic achievement of all public school students against the state’s academic standards (including growth toward the standards) using the statewide assessment and other academic indicators determined by the state.
- Annually evaluate and identify the academic performance of each public school in the state based on student academic achievement, including the achievement of all students and achievement gaps between student subgroups.
- Include a school improvement system implemented by school districts that includes interventions in poor performing Title I schools.

As noted above, the Student Success Act requires states to include a system of school improvement interventions as part of their statewide accountability structure. The bill repeals the federally mandated interventions included in Sections 1116 and 1117 of current law, giving states and districts maximum flexibility to develop appropriate school improvement strategies and rewards for their schools. The bill also increases the state set-aside for school improvement to 7 percent (up from 4 percent), but eliminates the local set-asides, meaning more Title I money will flow directly to school districts. The bill eliminates the School Improvement Grants (SIG) program that the Secretary of Education has used to create four unworkable turnaround models, instead using those funds to increase the authorization level for the Title I program.

Under current law, AYP is a one-size-fits-all metric that restricts states’ and school districts’ ability to appropriately gauge student learning and tailor curriculum to enable students to graduate high school prepared for postsecondary education or the workforce. The Center on Education Policy report, “AYP Results for 2010–11,” published December 15, 2011, found the following:

- An estimated 48 percent of public schools failed to make AYP in 2011, a 39 percent increase over 2010.
- In 24 states and the District of Columbia, at least half of the schools failed to make AYP.
- Some states saw exceptionally large percentages of schools failing to make AYP, including 89 percent in Florida.

In addition, because current law requires all students to be proficient by the end of the 2013–2014 school year, every school in the nation is likely to be deemed a failure in two short years.

Once schools fail to make to make AYP, they are thrown into a cascading system of interventions dictated at the federal level. Those sanctions are well-intentioned. But effective education reform will never come from the top down—it must be encouraged from the bottom up. The Student Success Act places responsibility for improving our schools squarely where it belongs, on the shoul-

ders of our state and local leaders who know best how to meet the needs of our students.

The large numbers of schools failing to make AYP are not a call to back away from accountability. Merely struggling to meet a standard is not a justification for changing that standard. But if an accountability system deems all schools to be failing, that system loses any meaning or usefulness as a tool for informing communities about the relative strengths of their schools or how best to direct resources to address their weaknesses. Ms. Blaine Hawley, principal at Red Pump Elementary School in Bel Air, Maryland, testified before the committee at a September 14, 2011 hearing entitled, “Education Reforms: Examining the Federal Role in Public School Accountability.” She captured the inherent flaw of AYP when she said:

“While the policies of the No Child Left Behind Act have done much good for helping states set high standards and helping us learn more about our unique populations of students through disaggregation of data to make better instructional decisions, our nation’s all-or-nothing yardstick for measuring school and student performance is simply flawed. As a result, we are now facing the unintended consequence of a misidentification of failing schools, and punitive labels acquired from a federal mandate that inaccurately measures student performance from an across-the-board, single snapshot in time.”

Rather than layering one-size-fits-all accountability requirements onto state and local efforts, federal policy should support education reform at the state and local level, particularly those initiatives that demonstrate large gains in closing achievement gaps. As an example, Florida has seen dramatic gains in student achievement since the late 1990’s. A September 21, 2011 article in Real Clear Politics entitled “Jeb Bush and Florida’s Education Success” clearly outlines this success story. Florida began implementing its A-Plus Plan in 1999, prior to passage of NCLB. The state’s plan sets high standards and holds schools accountable for student performance, including assigning letter grades to all schools in the state. But it also offers public and private school choice options, instructional reforms and intervention strategies to improve learning in core subjects, and support for hiring and retaining effective teachers. Florida’s success includes:

- In 1998, Florida’s fourth-graders scored at the bottom nationally in National Assessment of Educational Progress (NAEP) scores in reading and mathematics. By 2009, they scored above the national average in both categories.
- High school graduation rates have increased 21 percent even as state requirements have become more rigorous.
- The number of African American and Hispanic students passing Advanced Placement tests has increased 365 percent.
- Florida’s fourth-grade Hispanic students equal or surpass the performance of all students in 31 states.
- Fourth-grade African American students in Florida outperform African American students in all but three states in NAEP mathematics scores.

- Low-income Florida elementary school students of all races rank near the top nationally in mathematics.

When asked about education policy, former Florida Governor Jeb Bush told the Harvard Political Review, “By federalizing education policy you create resistance at the classroom, school, school district—and even the state level . . . I think you’re getting more dynamic results by having the states play the policy role and holding local school districts accountable for actual learning.”

Unfortunately, some disregard these positive results, preferring to question the intent and downplay the capabilities of state and local experts. These detractors blindly insist Washington bureaucrats know best when it comes to the nation’s classrooms, and continue to push outdated policies full of prescriptive mandates and heavy federal intrusion in K–12 education.

H.R. 3989 also includes a provision to ensure the new law does not impede or undermine state efforts to empower parents to assume authority over their students’ schools. For example, in California, the parent trigger law is directly tied to requirements under Section 1116 of current law. It is not the intent of the committee to weaken the purposes of that law or other similar state laws. The committee encourages states to maintain the authority granted to parents under state law as they develop and implement new accountability systems as required under this Act.

Direct Student Services

H.R. 3989 requires states to set aside 3 percent of their Title I allocation to award grants to local school districts to support Direct Student Services. The committee believes students should have access to important options that will help improve academic achievement. For example, students should have the option to immediately attend high-performing public schools to ensure they are not trapped in the education system as school officials work to turn-around poor performing schools. Students should also have the ability to access high-quality academic tutoring programs for additional help to succeed academically.

Unlike the current requirement to provide supplemental educational services, repealed under the Student Success Act, state educational agencies will approve providers, including both for-profit and non-profit academic tutors, and school districts will select a wide variety of approved providers, including both for-profits and non-profits, to ensure parents and students have a diverse group of entities to choose from in order to meet their unique needs. The committee urges states to award grants only to those eligible school districts that provide meaningful choices of tutoring providers to parents and believes this can only happen if school districts select a number of providers that offer small group tutoring through a variety of methods, including online and on campus. As the new leading partner of the Direct Student Services program, school districts must take ownership of this important program geared toward providing choice options to all students, which means offering ample space in high performing schools and quality tutoring options for students.

Data transparency

NCLB has been roundly praised for shining a light on achievement gaps that exist among a school's students. The committee believes this important feature of NCLB must be continued—no longer can schools hide behind schoolwide averages while disadvantaged students struggle in the shadows.

H.R. 3989 maintains the current requirement that states and school districts issue and distribute annual report cards, while streamlining the data reporting to ensure meaningful information is easily available to parents and communities. States and districts must continue to report disaggregated data on student achievement on the state assessment and other academic indicators used in the statewide accountability system, participation rates on those assessments, the adjusted cohort graduation rate, each school's evaluation under the statewide accountability system, and English language proficiency. States and districts will also continue to participate in the 4th and 8th grade reading and mathematics NAEP and publicly report their results so the public can compare data across states to ensure their state's standards and achievement results are sufficiently rigorous and meaningful. Ultimately, schools must be accountable to parents and communities. The Student Success Act makes sure stakeholders have the information they need to adequately evaluate the quality of their schools.

Local capacity building

H.R. 3989 directs states to provide technical assistance to school districts in implementing the requirements of this Act, similar to current law. It is the committee's intent that states provide technical assistance in areas of need identified by districts, which could include implementation of standards, assessments, and new systems for accountability and school improvement, and identification of appropriate instructional materials.

Schoolwide program authority

H.R. 3989 eliminates the 40 percent poverty threshold for schoolwide programs, allowing all Title I schools to operate whole school reform efforts. Under current law, only eligible schools with a poverty level of at least 40 percent are able to use Title I funds for schoolwide programs that benefit all students. This poverty threshold was lowered from 75 percent to 50 percent in the 1994 Improving America's Schools Act, and reduced to the current threshold in NCLB. There is a long-standing, bipartisan federal recognition that the best way to address the needs of the most at-risk students is to enable and encourage schoolwide solutions.

Highly qualified teachers

H.R. 3989 repeals the definition of "highly qualified teacher (HQT)" and related provisions currently included in Section 1119 of NCLB. Under current law, school districts receiving Title I funds are required to hire only teachers that are "highly qualified", defined as a teacher who has earned a bachelor's degree, holds a state certification or license, and can demonstrate knowledge of the subject matter in question. These onerous federal requirements place too much emphasis on a teacher's credentials, degrees, and licensing, and, as a result, schools have come to value a teacher's

resume over his or her ability to increase student achievement. These undue burdens placed on teachers to meet input requirements are meaningless and have nothing to do with teacher effectiveness in the classroom. Additionally, the committee notes that members of the educational establishment have used the HQT definition to shutter alternative certification programs and innovative teaching approaches at many charter schools, which often recruit energetic and talented young teachers that inspire kids to succeed.

According to a 2007 study by the Center on Education Policy, the highly qualified teacher provision was regarded by three-quarters of school district administrators and more than one-third of state officials as ineffective and having minimal or no impact on student achievement or efforts to improve teacher quality. The federal government does not need to place additional requirements on school districts as to what qualifications teachers must meet before entering the classroom, especially considering all states have teacher licensing requirements. The committee believes that it is time to reduce the size and scope of the Department of Education and roll back federal bureaucratic requirements and regulations. For these reasons, the highly qualified teacher provisions are repealed in the Student Success Act.

Equitable participation of private school students

The equitable participation of private school students has been a part of ESEA since its creation in 1965. These provisions are intended to help disadvantaged students that attend private schools and who are included in the calculation of federal funds allocated to public school districts. The committee believes the current process, which set out to ensure private school students access to these important services guaranteed to them for more than 45 years, is often an arduous and contentious process for private school and school district officials. Current law lacks clarity regarding the goals and topics of consultation, the timely expenditure of funds, the types of services to be provided, and the allowable means for delivering them to private school students.

H.R. 3989 includes provisions in Title I and Title V (General Provisions) to establish clearer requirements under the consultation provisions for equitable participation. Under the proposed changes, participants in the consultation process will have clear and consistent goals, topics, and procedures to follow to ensure disadvantaged students are receiving the services to which they are entitled in a timely manner. The provisions will also allow private schools to consult with school districts and request that services be provided on a schoolwide basis, as long as providing the services would be permitted constitutionally. Finally, the bill provides for an official ombudsman at the state educational agency. This designated employee will serve as the primary point of contact for all interested parties for questions on equitable participation of private school students and will be responsible for maintaining the record of the required consultation. The committee notes that state educational agencies could designate an existing employee already on staff to fulfill this important requirement.

Maintenance of effort

H.R. 3989 removes all “maintenance of effort (MOE)” requirements, allowing states and school districts to set their own funding levels for elementary and secondary education. These requirements are removed for four primary reasons:

- The committee does not believe that dictating how states and school districts spend their tax revenues as a condition of receiving federal funds is an appropriate federal role.
- MOE requirements assume that increased education spending will improve educational outcomes, though decades of data prove this argument false.
- MOE requirements provide disincentives for states and school districts to innovate and deliver better educational services more efficiently.
- Data from the U.S. Department of Education show that, from enactment of NCLB through fiscal year 2011, three out of every four MOE waiver requests have been granted. In addition, five states and the Commonwealth of Northern Mariana Islands requested MOE waivers under the State Fiscal Stabilization Fund included in ARRA. All were granted. This bill acknowledges this reality and eliminates the burden up front for school districts.

At the same time, the Student Success Act maintains the law’s “supplement, not supplant” requirements, which ensure that federal dollars are used as an addition to state and local resources, protecting the limited federal role in education. Maintaining these provisions ensure states and districts will not be able to dramatically cut education spending and fill in the gaps with federal dollars.

Targeted populations and funding flexibility

H.R. 3989 consolidates programs for migratory children, neglected and delinquent children, English learners, rural school districts, and Native Americans into Part A of Title I of ESEA, while maintaining separate reservations of funds for each population. The bill also enables states and school districts to rededicate funds across these programs to address the areas of greatest need for their students.

The committee does not intend for states and school districts to neglect the needs of their most vulnerable students. But too often, school districts receive funds for specific purposes in amounts too small to have a meaningful benefit. H.R. 3989 allows states and districts to consolidate funding streams to develop innovative programs that will better meet the needs of their students. The bill’s requirement for disaggregation of student achievement data by subgroup will continue to ensure transparency around the progress of particular subgroups in meeting state academic standards. Overall, the Student Success Act maintains focus on special populations, while providing states and districts the flexibility to address their unique student needs.

Additionally, H.R. 3989 makes minor changes to these targeted population programs to improve their performance. The bill allows for greater coordination across states and school districts regarding the exchange of migratory children’s health and academic records, improves the manner by which student counts for immigrant students and English learners are determined, and provides new op-

portunities for Indian tribes and Bureau of Indian Education schools to improve student achievement by removing existing regulatory barriers.

Curtailing excessive regulations

The proliferation of federal regulations with which states and school districts must comply has grown over the last three decades, placing an overwhelming burden on schools that takes away their focus on educating our nation's students. The committee has held numerous hearings in the 112th Congress to examine the issue in greater detail. One witness, Dr. Robert P. Grimesey, Jr., the Superintendent of Orange County Public Schools in Virginia, explained the problem in testimony at the March 15, 2011 hearing entitled, "Education Regulations: Burying Schools in Paperwork." He said:

The vast majority of rural school superintendents and school board members understand and respect the need for reasonable accountability and transparency as we receive and invest federal dollars. However we believe that there is much that is not reasonable about the ever-expanding nature of many federal obligations. We also see a need for streamlined collaboration between [the U.S. Department of Education] and the [state educational agencies] in the articulation of data reporting requirements. Ultimately, many well-intended federal regulations are creating a "culture of compliance" that leads to a local fear of failure. Such a context makes federal compliance an end in itself. For localities at the end of this regulatory food chain, it becomes very difficult to maintain our focus on the achievement and welfare of our children.

H.R. 3989 begins to address this over-regulation of the education system. The bill rewrites the regulatory process that the Secretary must follow in issuing new regulations, including providing for longer review periods for public comment, a new review period for Congress, a requirement that the Secretary calculate the proposed regulatory burden prior to the regulation being made final, and a requirement that old and duplicative regulations be repealed. This new process will help reduce excessive federal regulation on states, school districts, principals, and teachers; prevent the Secretary of Education from compounding the impact of federal regulations already on the books; and ensure stakeholders have ample time to raise concerns with proposed regulations and request they be addressed accordingly before the regulations are finalized.

General provisions

Title II of H.R. 3989 amends Title V of current law to include the General Provisions currently in Title IX of the ESEA. The bill addresses the following significant issues:

Definitions

Graduation Rate: In 2005, all 50 of the nation's governors agreed to a common definition for calculating high school graduation rates. The rate is determined by the number of entering 9th graders divided by the number of graduating 12th graders four years later. States are also allowed to report on an extended year rate, encom-

passing those students that need an additional one or two years to graduate high school. In 2010, Mr. John Thomasian, Director of the National Governors Association Center for Best Practices, stated, “Governors agreed to use a more consistent and accurate graduation rate formula because they understand that better information on student outcomes is critical for ensuring that all students graduate from high school prepared for college, work and life.” States have been using this common definition since the 2010–2011 school year.

H.R. 3989 codifies this approach by defining the terms “four-year adjusted cohort graduation rate” and “extended-year adjusted cohort graduation rate.” States would be required to report the four year rate, and allowed to report the extended year rate, to the public. The committee believes that the new definition will allow students, school leaders, parents, and lawmakers to have accurate and reliable information about high school and student performance.

Technology: H.R. 3989 redefines the term “technology” to include the use of the Internet, computer devices, software applications, and data systems, among other modern information tools, in order to reflect technology’s role in a 21st century economy. Throughout the Student Success Act, states and school districts are given the flexibility to use technology in delivering academic assessments, professional development, distance education, and curriculum. The infusion of technology provides timely results to educators and parents, coursework that is dynamic and engaging, and personalized instruction to meet individual students’ needs. The definition should reflect its modern uses.

Waiver authority

H.R. 3989 clarifies and limits the Secretary of Education’s authority to issue waivers of the statutory and regulatory requirements of the ESEA. Unlike current law, the Student Success Act is clear that the Secretary may not add, impose, or require any condition outside of complying with the law in exchange for granting a waiver.

In a September 23, 2011 letter to chief state school officers, the Secretary announced he would grant waivers from certain requirements of NCLB. He stated, “This voluntary opportunity will provide educators and state and local leaders with flexibility regarding specific requirements of NCLB **in exchange for** rigorous and comprehensive state-developed plans designed to improve educational outcomes for all students, close achievement gaps, increase equity, and improve the quality of instruction” (emphasis added).

In February 2012, the Secretary granted 11 states a conditional waiver in exchange for adopting the department’s preferred mandates concerning what standards states will adopt, how states will evaluate teachers and school leaders, and how school districts will differentiate accountability and improvement for their schools. The legality of this approach to conditional waivers has been questioned by outside legal experts, such as former Department of Education General Counsel Kent Talbert and former Deputy General Counsel Robert Eitel, in a February 2012 report from the Pioneer Institute entitled, *The Road to A National Curriculum: The Legal Aspects of the Common Core Standards, Race to the Top, and Conditional Waivers*. Additionally, in a February 2012 report entitled *Edu-*

ational Accountability and Secretarial Waiver Authority Under the ESEA, the nonpartisan Congressional Research Service (CRS) cited the broad nature of the conditions the Secretary imposed on states and school districts as a reason the proposed waivers may not survive a court challenge.

The committee believes the Secretary should have the authority to provide waivers of certain statutory and regulatory requirements to states and school districts affected by unexpected and unforeseen circumstances or to implement important reforms to improve student achievement. In continuing this waiver authority, it is not the intent of the committee to restrict the number or scope of waivers allowed under current law. The Student Success Act maintains important provisions authorizing the Secretary to provide flexibility to states and districts, but properly prohibits the Secretary from using the waiver authority to place new mandates or requirements on states and school districts in exchange for that flexibility.

Prohibitions on federal control

H.R. 3989 consolidates various prohibitions included in current law to restrict the authority of the Department of Education in the General Provisions of the Act, and strengthens and clarifies the prohibitions to ensure the limits of the Secretary of Education and the federal government are clear. The bill specifically prohibits the Secretary from establishing a national curriculum, supporting a national test for students, or requiring particular academic standards, whether directly or indirectly through grants or other means.

The committee believes it is clear that the role of the federal government is limited in nature. Prohibitions included in the General Education Provisions Act (GEPA), the Department of Education Organization Act, and ESEA restrict the Secretary and other federal employees from mandating, directing, or controlling a state, school district, or school's curriculum or instructional programs. The law also includes prohibitions on federal approval or certification of academic standards and developing and testing, implementing, administering, or distributing national tests in any subject. Even though these provisions are clear, it has become evident that the Department of Education is attempting to evade current law, reading limitations into the prohibitions. Therefore, the Student Success Act removes any doubt about the intent of the prohibitions placed on the Department of Education and other agencies of the federal government. The committee believes that representatives of the federal government should respect the intent and purpose of the laws governing the establishment of federal agencies and programs and should refrain from overstepping or expanding their authority.

Protections for state and local autonomy

H.R. 3989 redesignates other important sections of current law to fit within the new configuration of Title V. The designated sections include: By-Pass Determination Process; Prohibition Against Funds for Religious Worship or Instruction; Private, Religious, and Home Schools; Prohibition Regarding State Aid; Privacy of Assessment Results; School Prayer; Equal Access to Public School Facilities; Prohibition on Nationwide Database; Prohibition on Discrimination; and Civil Rights. The committee strongly supports these

protections and requirements, believes they should remain a strong part of the law, and urges the Department of Education to fully implement and enforce such provisions.

Military recruiters

H.R. 3989 clarifies and strengthens the Military Recruiter provision within current law. School districts receiving funds under the ESEA are required to provide military recruiters the same access to high schools and basic student contact information that is provided to colleges, universities, and other recruiters. These provisions are in place so the nation's military recruiters are able to work with students to make sure they are aware of the benefits of joining the military upon graduation and are able to weigh that career option.

Unfortunately, some school districts have tried to limit access to military recruiters and/or to establish additional barriers that do not exist for colleges and universities or other prospective employers. The Student Success Act includes new language in this longstanding section that clarifies that parents (or students once they have turned 18) can opt-out of having student information shared with military recruiters, but the school district cannot implement an opt-in provision. The committee strongly urges all school districts in the country to institute policies that will provide prospective graduates with all of their postsecondary options, including the ability to enroll in the Armed Forces. States and school districts should understand that it is against federal law to place military recruiting at a disadvantage to other prospective post-high school opportunities.

Reducing federal bureaucracy

During the markup of H.R. 3989, the committee adopted an amendment offered by Rep. Todd Rokita (R-IN) to require the Secretary to eliminate those staff positions associated with programs eliminated or consolidated under the bill. Under the amendment, the Secretary would have two months to identify how many full-time equivalent employees worked on or administered the eliminated programs, and one year to reduce the department's workforce by that number. As Mr. Rokita explained during consideration of the bill:

The amendment . . . would reduce the amount of employees at the Department in correlation to the reduction in programs. It is nice to discuss efficiencies and get rid of wasteful programs, but if we don't have metrics in place to see in fact that the Federal footprint is getting smaller then we are not sure if we have really done our jobs. The Federal Government i[s] too involved in our Nation's schools when we should be leaving most of these decisions to States and local school districts. We have to trust people again, Mr. Chairman. I trust my school district employees, I trust my school district officials. I trust my parents more than I do any Federal bureaucrat who is unelected or unaccountable. We need to roll back bureaucratic requirements and regulations, which this bill does. We need to eliminate ineffective and duplicate programs, which this

bill does. We need to reduce the Department of Education's actual footprint though which my amendment will do.

The committee supports the intent of the Rokita amendment not only to limit the federal role in education, but to reduce the actual size of the Department of Education.

Conclusion

The committee is pursuing a new approach to education reform by re-evaluating the federal role in elementary and secondary education. The federal government is too involved in our nation's classrooms, and states and school districts should bear the primary responsibility for public education. The committee aims to reduce the size and scope of the Department of Education, roll back federal bureaucratic requirements and regulations, and eliminate and consolidate ineffective and duplicative federal education programs to help balance the budget and get the federal deficit and debt under control. These efforts will empower parents, teachers, and school leaders to address unacceptable achievement gaps, provide additional educational options to students, and successfully prepare students for postsecondary education and the workforce.

SECTION-BY-SECTION ANALYSIS

Section 1—Short title

States the short title as the Student Success Act.

Section 2—Table of contents

Lists the table of contents for the Act.

Section 3—References

References the Elementary and Secondary Education Act.

Section 4—Transitions

States that any person or agency that previously received a grant under the Elementary and Secondary Education Act prior to enactment of this Act will continue to receive that award in accordance with the terms of that award up to one year from the enactment of the Act, unless otherwise stated in this Act.

Section 5—Effective dates

Specifies the effective dates of the amendments and programs within the Act.

Section 6—Authorization of appropriations

Amends 20 U.S.C. 6301 et seq. to authorize the appropriations for the Act.

Title I

SUBTITLE A

Section 101—Title heading

Amends the title heading for Title I (20 U.S.C. 6301 et seq.) to read "Title I—Aid to Local Educational Agencies."

Section 102—Statement of purpose

Amends Section 1001 (20 U.S.C. 6301) to reflect the purpose of Title I—Aid to Local Educational Agencies.

Section 103—Flexibility to use federal funds

Amends Section 1002 (20 U.S.C. 6302) to specify general requirements for alternative uses of federal funds.

Section 104—School improvement

Amends Section 1003 (20 U.S.C. 6303) to specify the general requirements for school improvement of poorly performing Title I schools.

Section 105—Direct student services

Amends ESEA by inserting a section to require states to set aside Title I money to provide competitive grants to school districts for direct student services.

Section 106—State administration

Amends Section 1004 (20 U.S.C. 6304) to specify the general requirements for how the states may administer the title.

SUBTITLE B

Section 111—Part A headings

States the Part A heading of Title I as “Part A—Improving the Academic Achievement of the Disadvantaged.” States the subpart heading for Subpart 1 of Part A of Title I as “Subpart 1—Improving Basic Programs Operated by Local Educational Agencies ‘Chapter A—Basic Program Requirements.’” States the subpart heading for Subpart 2 of Part A of Title I as “Chapter B—Allocations.”

Section 112—State plans

Amends Section 1111 (20 U.S.C. 6311) to specify the general requirements for plans submitted by states wishing to receive a grant under this subpart.

Section 113—Local educational agency plans

Amends Section 1112 (20 U.S.C. 6312) to specify the general requirements for plans submitted by local educational agencies wishing to receive subgrants under this subpart.

Section 114—Eligible school attendance areas

Amends Section 1113 (20 U.S.C. 6313) to specify the school attendance areas eligible for using funds received under this subpart.

Section 115—Schoolwide programs

Amends Section 1114 (20 U.S.C. 6314) to specify the general requirements for schoolwide programs operated through funds allocated in this subpart.

Section 116—Targeted assistance schools

Amends Section 1115 (20 U.S.C. 6315) by specifying general requirements for using funds related to targeted assistance schools.

Section 117—Academic assessment and local educational agency and school improvement; school support and recognition

Repeals Sections 1116 and 1117 (20 U.S.C. 6316; 6317) regarding local educational agency and school improvement, and school support and recognition.

Section 118—Parental involvement

Amends Section 1118 (20 U.S.C. 6318) to specify the general requirements for the use of funds regarding parental involvement programs.

Section 119—Qualifications for teachers and paraprofessionals

Repeals Section 1119 (20 U.S.C. 6319) which sets federal requirements around teachers and paraprofessionals and removes the requirement that teachers be highly qualified.

Section 120—Participation of children enrolled in private schools

Amends Section 1120 (20 U.S.C. 6320), which specifies the participation of private school students and teachers in the programs funded under this Act. Improves the consultation and negotiation processes to provide clearer procedures and faster notice for private school officials.

Section 121—Fiscal requirements

Amends Section 1120A (20 U.S.C. 6321) to specify the fiscal requirements of the subpart and to remove the maintenance of effort provision.

Section 122—Coordination requirements

Amends Section 1120B (20 U.S.C. 6322) to specify the general requirements for coordination with Head Start and other entities carrying out early childhood development programs.

Section 123—Grants for the outlying areas and the Secretary of the Interior

Amends Section 1121 (20 U.S.C. 6331) to specify the general requirements for grants for the outlying areas and the Secretary of the Interior.

Section 124—Allocations to states

Amends Section 1122 (20 U.S.C. 6332) to specify the general requirements for allocating to states funds reserved under this Act.

Section 125—Basic grants to local educational agencies

Amends Section 1124 (20 U.S.C. 6333) to specify the general requirements for awarding basic grants to local educational agencies.

Section 126—Adequacy of funding of targeted grants to local educational agencies in fiscal years after fiscal year 2001

Amends Section 1125AA (20 U.S.C. 6336) to specify the adequate level of funding of targeted grants to local educational agencies in fiscal years after fiscal year 2001.

Section 127—Education finance incentive grant program

Amends Section 1125A (20 U.S.C. 6337) to specify the general requirements of the Education Finance Incentive Grant Program.

Section 128—Carryover and waiver

Amends Section 1127 (20 U.S.C. 6339) by specifying the general requirements regarding the carryover of funds to additional years and the waiver of those requirements.

SUBTITLE C

Section 131—Additional aid

Amends Title I (20 U.S.C. 6301 et seq.) to specify the general requirements for additional aid to schools and school districts. Maintains separate funding streams for the Migrant Education, Neglected and Delinquent, English Language Acquisition, Rural Education, and Indian Education programs, but merges them into Title I.

SUBTITLE D

Section 141—National assessment of Title I

Redesignates Part E of Title I (20 U.S.C. 6491 et seq.) as Part B of Title I. Repeals Sections 1502 and 1504 (20 U.S.C. 6492; 6494) to remove the grant program for demonstrations of innovation practices and the Close Up Fellowship program. Redesignates Sections 1501 and 1503 (20 U.S.C. 6491; 6493) as Sections 1301 and 1302, respectively. Amends Section 1301 and 1302, as redesignated, to specify the general requirements for the national assessment of Title I.

SUBTITLE E

Section 151—General provisions for Title I

Redesignates Part I of Title I (20 U.S.C. 6571 et seq.) as Part C of Title I of the Act and amends it to specify the general provisions for Title I.

Title II

Section 201—General provisions for the act

Amends Title V (20 U.S.C. 7201 et seq.) to specify the general provisions for the Act.

Section 202—Repeal

Repeals Title IX (20 U.S.C. 7801 et seq.), which previously specified the general provisions for the Act.

Section 203—Other laws

Specifies references to the term “highly qualified” in other laws.

Section 204—Amendment to IDEA

Amends Section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401) to remove the highly qualified teacher provision in the Act.

EXPLANATION OF AMENDMENTS

The amendments, including the amendment in the nature of a substitute, are explained in the body of this report.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch. H.R. 3989 supports state and local accountability for public education, provides important information to parents on their schools' and students' performance, enhances local flexibility, protects taxpayers' investments in education, and strengthens state and local autonomy. H.R. 3989 would have no direct impact on the Legislative Branch.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104-4) requires a statement of whether the provisions of the reported bill include unfunded mandates. This issue is addressed in the CBO letter.

EARMARK STATEMENT

H.R. 3989 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of House Rule XXI.

ROLL CALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee Report to include for each record vote on a motion to report the measure or matter and on any amendments offered to the measure or matter the total number of votes for and against and the names of the Members voting for and against.

Date: February 28, 2012**COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE**

Roll Call: 1 Bill: H.R. 3989 Amendment Number: 2

Disposition: **Defeated by a vote of 16 to 23**Sponsor/Amendment: **Mr. Miller/ Democratic substitute, strikes all of H.R. 3989 and amends Title I,****Part A of ESEA**

Name and State	Aye	No	Not Voting	Name and State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)		X		Mr. MILLER (CA) (Ranking)	X		
Mr. PETRI (WI)		X		Mr. KILDEE (MI)	X		
Mr. McKEON (CA)		X		Mr. PAYNE (NJ)			X
Mrs. BIGGERT (IL)		X		Mr. ANDREWS (NJ)	X		
Mr. PLATTS (PA)		X		Mr. SCOTT (VA)	X		
Mr. WILSON (SC)		X		Ms. WOOLSEY (CA)	X		
Mrs. FOXX (NC)		X		Mr. HINOJOSA (TX)	X		
Mr. GOODLATTE (VA)		X		Mrs. McCARTHY (NY)	X		
Mr. HUNTER (CA)		X		Mr. TIERNEY (MA)	X		
Mr. ROE (TN)		X		Mr. KUCINICH (OH)	X		
Mr. THOMPSON (PA)		X		Mr. HOLT (NJ)	X		
Mr. WALBERG (MI)		X		Mrs. DAVIS (CA)	X		
Mr. DesJARLAIS (TN)		X		Mr. GRIJALVA (AZ)	X		
Mr. HANNA (NY)		X		Mr. BISHOP (NY)	X		
Mr. ROKITA (IN)		X		Mr. LOEBSACK (IA)	X		
Mr. BUCSHON (IN)		X		Ms. HIRONO (HI)	X		
Mr. GOWDY (SC)		X		Mr. ALTMIRE (PA)	X		
Mr. BARLETTA (PA)		X					
Mrs. NOEM (SD)		X					
Mrs. ROBY (AL)		X					
Mr. HECK (NV)		X					
Mr. ROSS (FL)		X					
Mr. KELLY (PA)		X					

Date: February 28, 2012**COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE**

Roll Call: 2

Bill: H.R. 3989

Amendment Number: 3

Disposition: Defeated by a vote of 16 to 22 with one member passing

Sponsor/Amendment: Mr. Thompson / to alter the Title I formula to provide greater weight to the percentage of a district's students in poverty

Name and State	Aye	No	Not Voting	Name and State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)	x			Mr. MILLER (CA) (Ranking)		x	
Mr. PETRI (WI)	x			Mr. KILDEE (MI)		x	
Mr. McKEON (CA)		x		Mr. PAYNE (NJ)			x
Mrs. BIGGERT (IL)	x			Mr. ANDREWS (NJ)		x	
Mr. PLATTS (PA)	x			Mr. SCOTT (VA)		x	
Mr. WILSON (SC)		x		Ms. WOOLSEY (CA)		x	
Mrs. FOXX (NC)	x			Mr. HINOJOSA (TX)			passes
Mr. GOODLATTE (VA)	x			Mrs. McCARTHY (NY)		x	
Mr. HUNTER (CA)	x			Mr. TIERNEY (MA)		x	
Mr. ROE (TN)	x			Mr. KUCINICH (OH)		x	
Mr. THOMPSON (PA)	x			Mr. WU (OR)		x	
Mr. WALBERG (MI)	x			Mr. HOLT (NJ)		x	
Mr. DesJARLAIS (TN)	x			Mrs. DAVIS (CA)		x	
Mr. HANNA (NY)	x			Mr. GRIJALVA (AZ)		x	
Mr. ROKITA (IN)	x			Mr. BISHOP (NY)		x	
Mr. BUCSHON (IN)		x		Mr. LOEBSACK (IA)		x	
Mr. GOWDY (SC)		x		Ms. HIRONO (HI)		x	
Mr. BARLETTA (PA)	x						
Mrs. NOEM (SD)		x					
Mrs. ROBY (AL)	x						
Mr. HECK (NV)		x					
Mr. ROSS (FL)		x					
Mr. KELLY (PA)	x						

Date: February 28, 2012**COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE**

Roll Call: 3

Bill: H.R. 3989

Amendment Number: 4

Disposition: Adopted by a vote of 23 to 16

Sponsor/Amendment: Mr. Rokita / to require the Secretary of Education to eliminate the full time equivalent employee positions associated with the eliminated and consolidated programs under the bill

Name and State	Aye	No	Not Voting	Name and State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)	x			Mr. MILLER (CA) (Ranking)		x	
Mr. PETRI (WI)	x			Mr. KILDEE (MI)		x	
Mr. McKEON (CA)	x			Mr. PAYNE (NJ)			x
Mrs. BIGGERT (IL)	x			Mr. ANDREWS (NJ)		x	
Mr. PLATTS (PA)	x			Mr. SCOTT (VA)		x	
Mr. WILSON (SC)	x			Ms. WOOLSEY (CA)		x	
Mrs. FOXX (NC)	x			Mr. HINOJOSA (TX)		x	
Mr. GOODLATTE (VA)	x			Mrs. McCARTHY (NY)		x	
Mr. HUNTER (CA)	x			Mr. TIERNEY (MA)		x	
Mr. ROE (TN)	x			Mr. KUCINICH (OH)		x	
Mr. THOMPSON (PA)	x			Mr. WU (OR)		x	
Mr. WALBERG (MI)	x			Mr. HOLT (NJ)		x	
Mr. DesJARLAIS (TN)	x			Mrs. DAVIS (CA)		x	
Mr. HANNA (NY)	x			Mr. GRIJALVA (AZ)		x	
Mr. ROKITA (IN)	x			Mr. BISHOP (NY)		x	
Mr. BUCSHON (IN)	x			Mr. LOEBSACK (IA)		x	
Mr. GOWDY (SC)	x			Ms. HIRONO (HI)		x	
Mr. BARLETTA (PA)	x						
Mrs. NOEM (SD)	x						
Mrs. ROBY (AL)	x						
Mr. HECK (NV)	x						
Mr. ROSS (FL)	x						
Mr. KELLY (PA)	x						

Date: February 28, 2012**COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE**

Roll Call: 4

Bill: H.R. 3989

Disposition: Ordered favorably reported, as amended, to the House by a vote of 23 to 16

Sponsor/Amendment: Mr. Petri / motion to report the bill to the House with an amendment and with the recommendation that the amendment be agreed to, and the bill as amended do pass

Name and State	Aye	No	Not Voting	Name and State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)	x			Mr. MILLER (CA) (Ranking)		x	
Mr. PETRI (WI)	x			Mr. KILDEE (MI)		x	
Mr. McKEON (CA)	x			Mr. PAYNE (NJ)			x
Mrs. BIGGERT (IL)	x			Mr. ANDREWS (NJ)		x	
Mr. PLATTS (PA)	x			Mr. SCOTT (VA)		x	
Mr. WILSON (SC)	x			Ms. WOOLSEY (CA)		x	
Mrs. FOXX (NC)	x			Mr. HINOJOSA (TX)		x	
Mr. GOODLATTE (VA)	x			Mrs. McCARTHY (NY)		x	
Mr. HUNTER (CA)	x			Mr. TIERNEY (MA)		x	
Mr. ROE (TN)	x			Mr. KUCINICH (OH)		x	
Mr. THOMPSON (PA)	x			Mr. WU (OR)		x	
Mr. WALBERG (MI)	x			Mr. HOLT (NJ)		x	
Mr. DesJARLAIS (TN)	x			Mrs. DAVIS (CA)		x	
Mr. HANNA (NY)	x			Mr. GRIJALVA (AZ)		x	
Mr. ROKITA (IN)	x			Mr. BISHOP (NY)		x	
Mr. BUCSHON (IN)	x			Mr. LOEBSACK (IA)		x	
Mr. GOWDY (SC)	x			Ms. HIRONO (HI)		x	
Mr. BARLETTA (PA)	x						
Mrs. NOEM (SD)	x						
Mrs. ROBY (AL)	x						
Mr. HECK (NV)	x						
Mr. ROSS (FL)	x						
Mr. KELLY (PA)	x						

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause (3)(c) of House Rule XIII, the goal of H.R. 3989 is to reform the Elementary and Secondary Education Act. The Committee expects the Department of Education to comply with these provisions and implement the changes to the law in accordance with these stated goals.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for H.R. 3989 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 21, 2012.

Hon. JOHN KLINE,
*Chairman, Committee on Education and the Workforce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3989, the Student Success Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Justin Humphrey.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 3989—Student Success Act

Summary: H.R. 3989 would amend and reauthorize several titles of the Elementary and Secondary Education Act of 1965 (the ESEA, commonly referred to, in its most recently reauthorized form, as No Child Left Behind). The underlying authorizations for those programs have expired, although most have received appropriations since their authorizations have expired. This bill would authorize funding through fiscal year 2018 for various grant programs, including grants for rural school districts and those with high proportions of low-income students, as well as funding for the education of Native Americans, children of migrant workers and other at-risk children, and students learning English. These authorizations would automatically be extended one year through 2019, under the General Education Provisions Act.

CBO estimates that H.R. 3989 would authorize the appropriation of \$16.7 billion in 2013 and \$85.9 billion over the 2013–2017 period. Implementing the bill would have discretionary costs of \$64.0 billion over the 2013–2017 period, assuming appropriation of the estimated amounts. Enacting the bill would have no effect on direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 3990 (the Encouraging Innovation and Effective Teachers Act), also ordered reported by the House Committee on Education and the Workforce on February 28, 2012, would amend and reauthorize additional sections of the ESEA. Together, CBO estimates that H.R. 3989 and H.R. 3990 would authorize the appropriation of approximately \$24 billion for fiscal year 2013. The Congress appropriated a little more than \$24 billion for activities authorized in the ESEA for fiscal year 2012. (More detailed analysis of H.R. 3990 is included in a separate estimate.)

H.R. 3989 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of the bill is shown in the following table. The costs of this legislation fall within budget function 500 (education, training, employment, and social services).

	By fiscal year, in millions of dollars—					
	2013	2014	2015	2016	2017	2013–2017
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Title I, Part A: Aid to Local Educational Agencies:						
Estimated Authorization Level	16,652	16,894	17,146	17,444	17,794	85,930
Estimated Outlays	333	12,993	16,180	17,087	17,375	63,968
Title I, Part B: National Assessments of Title I:						
Estimated Authorization Level	3	3	3	3	3	16
Estimated Outlays	*	2	3	3	3	12
Title V: General Provisions:						
Estimated Authorization Level	0	–2	–2	–2	–2	–8
Estimated Outlays	0	–2	–2	–2	–2	–8
Total Changes:						
Estimated Authorization Level	16,655	16,895	17,147	17,445	17,795	85,938
Estimated Outlays	333	12,994	16,181	17,088	17,377	63,972

Notes: Some programs received advance appropriations for fiscal year 2013. CBO does not assume advance appropriations in its estimates.

* = less than \$500,000.

Components may not sum to totals because of rounding.

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted by October 1, 2012, that the estimated amounts will be appropriated for each year, and that spending will follow historical patterns.

CBO estimates that H.R. 3989 would authorize the appropriation of \$16.7 billion in 2013 and \$85.9 billion over the 2013–2017 period. Implementing the provisions in the bill would cost about \$64 billion over the 2013–2017 period, assuming appropriation of the estimated amounts.

Title I of ESEA—Aid to local educational agencies

Title I of H.R. 3989 would replace title I of the current ESEA with a new title divided in three parts. The bill would authorize the appropriation of \$16.7 billion for fiscal year 2013 and specify that these amounts be adjusted for inflation for each fiscal year

through 2018. CBO estimates that the bill would authorize the appropriation of approximately \$85.9 over the 2013–2017 period for title I, almost all of which would be for activities in Part A.

Part A—Improving the Academic Achievement of the Disadvantaged. H.R. 3989 would authorize the appropriation of \$16.7 billion for programs in Part A of title I for fiscal year 2013. Adjusting for inflation, CBO estimates that the bill would authorize the appropriation of \$85.9 billion over the 2013–2017 period and that appropriating those amounts would produce outlays of \$64.0 billion over the same period. This funding would support programs in six new subparts in Part A.

- Subpart 1—Improving Basic Programs Operated by Local Education Agencies. The bill would amend and reauthorize funding for grants to local education agencies, school improvement grants, and administrative support. The bill would reserve 91 percent of all the funding provided for Part A for this subpart (approximately \$15.2 billion in fiscal year 2013). The Congress appropriated about \$15 billion for similar activities in fiscal year 2012.

- Subpart 2—Education of Migratory Children. H.R. 3989 would make changes to programs that support the education of children of migrant workers. The bill would reserve 2.4 percent of the funding for all of Part A for this subpart (approximately \$400 million for fiscal year 2013). Funding for the education of children of migrants totaled almost \$400 million in fiscal year 2012.

- Subpart 3—Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At Risk. The bill would reauthorize programs that support the education of delinquent and at-risk children and reserve approximately 0.3 percent (\$50 million for fiscal year 2013) of funding for Part A for those activities. Funding totaled almost \$50 million for at-risk children for fiscal year 2012.

- Subpart 4—English Language Acquisition, Language Enhancement, and Academic Achievement. The bill would amend the programs that provide support for teaching of the English language to recent immigrants and other nonnative speakers currently authorized under title III of the ESEA. The bill would reserve about 4.4 percent of funding for Part A for these activities in fiscal year 2013 (\$730 million in fiscal year 2013), about the same amount as the Congress appropriated in fiscal year 2012.

- Subpart 5—Rural Education Achievement Program. H.R. 3989 would amend and reauthorize the rural education achievement programs, which provide grants to assist rural school districts in improving teaching and learning outcomes. These programs are authorized under title VI of the ESEA in current law. The bill would reserve 1.1 percent of the total amount provided for Part A (about \$180 million in 2013). Funding for rural education totaled nearly \$180 million in fiscal year 2012.

- Subpart 6—Indian Education. The bill would reauthorize and amend grant programs for Native Americans and Hawaiians and for Alaska Natives currently authorized under title VII of the ESEA. The bill would reserve approximately 0.8 percent (about \$135 million for fiscal year 2013) of all funds available for Part A. Funding for those grants totaled about \$130 million in fiscal year 2012.

Part B—National Assessments of Title I. H.R. 3989 would amend and reauthorize the programs designed to assess the effectiveness of title I, currently authorized under Part E of title I in the ESEA. The bill would transfer those programs to Part B and authorize the appropriation of \$3 million for fiscal year 2013 and specify that this amount be adjusted for inflation each year through fiscal year 2018. CBO estimates that implementing this provision would cost \$12 million over the 2013–2017 period, assuming the appropriation of the estimated amounts. The Congress appropriated \$3 million for evaluations under title I in fiscal year 2012.

Part C—General Provisions. The bill would amend the general provisions specified in Part I of title I of the current ESEA. CBO estimates that amending those provisions would have no impact on federal spending.

Title V of ESEA—General provisions

Title II of H.R. 3989 would amend the general provisions specified under current law in title IX of the ESEA and transfer them to title V. The bill would require that, within one year of enactment, the Department of Education reduce its workforce by the number of full-time equivalent employees who work in or administer programs that are eliminated by this bill. CBO estimates that implementing title V would reduce discretionary spending by \$8 million over the 2013–2017 period, assuming appropriation actions consistent with the bill.

Pay-As-You-Go Considerations: None.

Intergovernmental and private-sector impact: H.R. 3989 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Those governments would benefit from grants authorized in the bill for elementary and secondary education. Any costs associated with those grants would be incurred voluntarily as a result of complying with conditions of federal assistance.

Previous CBO estimates: On January 4, 2012, CBO transmitted a cost estimate for the Elementary and Secondary Education Reauthorization Act of 2011, as ordered reported by the Senate Committee on Health, Education, Labor, and Pensions on October 20, 2011. CBO estimated that the bill, which also reauthorized the ESEA, would authorize the appropriation of \$25.9 billion for fiscal year 2013.

On March 15, 2012, CBO transmitted a revised estimate of the Elementary and Secondary Education Reauthorization Act of 2011 that supersedes the cost estimate transmitted on January 4, 2012. CBO updated the estimate to reflect the private-sector mandate that was omitted in the initial estimate. The estimated costs of implementing the bill remain unchanged.

On March 21, 2012, CBO transmitted a cost estimate for H.R. 3990, the Encouraging Innovation and Effective Teachers Act, as ordered reported by the House Committee on Education and the Workforce on February 28, 2012. CBO estimated that this bill, which amends and reauthorizes sections of the ESEA in addition to those amended by H.R. 3989, would authorize the appropriation of \$38.6 billion over the 2013–2017 period.

Estimate prepared by: Federal Costs: Justin Humphrey; Impact on State, Local, and Tribal Governments: J'nell Blanco; Impact on the Private Sector: Jimmy Jin and Michael Levine.

Estimate approved by: Peter H. Fontaine, Assistant Director for Budget Analysis.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 3989. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

* * * * *

SEC. 3. AUTHORIZATIONS OF APPROPRIATIONS.

(a) TITLE I.—

(1) PART A.—*There are authorized to be appropriated to carry out part A of title I \$16,651,768,000 for fiscal year 2013.*

(2) PART B.—*There are authorized to be appropriated to carry out part B of title I \$3,194,000 for fiscal year 2013.*

(b) OUT YEARS.—*The amounts authorized by subsection (a) shall be increased for each of fiscal years 2014 through 2018 by a percentage equal to the percentage of inflation according to the Consumer Price Index, for the calendar year ending prior to the beginning of that fiscal year.*

[TITLE I—IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED

[SEC. 1001. STATEMENT OF PURPOSE.

[The purpose of this title is to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State academic achievement standards and state academic assessments. This purpose can be accomplished by—

[(1) ensuring that high-quality academic assessments, accountability systems, teacher preparation and training, curriculum, and instructional materials are aligned with challenging State academic standards so that students, teachers, parents, and administrators can measure progress against common expectations for student academic achievement;

[(2) meeting the educational needs of low-achieving children in our Nation's highest-poverty schools, limited English proficient children, migratory children, children with disabilities, Indian children, neglected or delinquent children, and young children in need of reading assistance;

[(3) closing the achievement gap between high- and low-performing children, especially the achievement gaps between minority and nonminority students, and between disadvantaged children and their more advantaged peers;

[(4) holding schools, local educational agencies, and States accountable for improving the academic achievement of all students, and identifying and turning around low-performing schools that have failed to provide a high-quality education to their students, while providing alternatives to students in such schools to enable the students to receive a high-quality education;

[(5) distributing and targeting resources sufficiently to make a difference to local educational agencies and schools where needs are greatest;

[(6) improving and strengthening accountability, teaching, and learning by using State assessment systems designed to ensure that students are meeting challenging State academic achievement and content standards and increasing achievement overall, but especially for the disadvantaged;

[(7) providing greater decisionmaking authority and flexibility to schools and teachers in exchange for greater responsibility for student performance;

[(8) providing children an enriched and accelerated educational program, including the use of schoolwide programs or additional services that increase the amount and quality of instructional time;

[(9) promoting schoolwide reform and ensuring the access of children to effective, scientifically based instructional strategies and challenging academic content;

[(10) significantly elevating the quality of instruction by providing staff in participating schools with substantial opportunities for professional development;

[(11) coordinating services under all parts of this title with each other, with other educational services, and, to the extent feasible, with other agencies providing services to youth, children, and families; and

[(12) affording parents substantial and meaningful opportunities to participate in the education of their children.

[SEC. 1002. AUTHORIZATION OF APPROPRIATIONS.

[(a) LOCAL EDUCATIONAL AGENCY GRANTS.—For the purpose of carrying out part A, there are authorized to be appropriated—

[(1) \$13,500,000,000 for fiscal year 2002;

[(2) \$16,000,000,000 for fiscal year 2003;

[(3) \$18,500,000,000 for fiscal year 2004;

- [(4) \$20,500,000,000 for fiscal year 2005;
- [(5) \$22,750,000,000 for fiscal year 2006; and
- [(6) \$25,000,000,000 for fiscal year 2007.

[(b) READING FIRST.—

[(1) READING FIRST.—For the purpose of carrying out subpart 1 of part B, there are authorized to be appropriated \$900,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

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

[(3) EVEN START.—For the purpose of carrying out subpart 3 of part B, there are authorized to be appropriated \$260,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

[(4) IMPROVING LITERACY THROUGH SCHOOL LIBRARIES.—For the purpose of carrying out subpart 4 of part B, there are authorized to be appropriated \$250,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

[(c) EDUCATION OF MIGRATORY CHILDREN.—For the purpose of carrying out part C, there are authorized to be appropriated \$410,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

[(d) PREVENTION AND INTERVENTION PROGRAMS FOR YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT RISK.—For the purpose of carrying out part D, there are authorized to be appropriated \$50,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

[(e) FEDERAL ACTIVITIES.—

[(1) SECTIONS 1501 AND 1502.—For the purpose of carrying out sections 1501 and 1502, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

[(2) SECTION 1504.—

[(A) IN GENERAL.—For the purpose of carrying out section 1504, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and for each of the 5 succeeding fiscal years.

[(B) SPECIAL RULE.—Of the funds appropriated pursuant to subparagraph (A), not more than 30 percent may be used for teachers associated with students participating in the programs described in subsections (a)(1), (b)(1), and (c)(1).

[(f) COMPREHENSIVE SCHOOL REFORM.—For the purpose of carrying out part F, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

[(g) ADVANCED PLACEMENT.—For the purposes of carrying out part G, there are authorized to be appropriated such sums for fiscal year 2002 and each 5 succeeding fiscal year.

[(h) SCHOOL DROPOUT PREVENTION.—For the purpose of carrying out part H, there are authorized to be appropriated \$125,000,000

for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years, of which—

【(1) up to 10 percent shall be available to carry out subpart 1 of part H for each fiscal year; and

【(2) the remainder shall be available to carry out subpart 2 of part H for each fiscal year.

【(i) SCHOOL IMPROVEMENT.—For the purpose of carrying out section 1003(g), there are authorized to be appropriated \$500,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.】

TITLE I—AID TO LOCAL EDUCATIONAL AGENCIES

SEC. 1001. STATEMENT OF PURPOSE.

The purpose of this title is to provide all children the opportunity to graduate high school prepared for postsecondary education or the workforce. This purpose can be accomplished by—

(1) meeting the educational needs of low-achieving children in our Nation’s highest-poverty schools, English learners, migratory children, children with disabilities, Indian children, and neglected or delinquent children;

(2) closing the achievement gap between high- and low-performing children, especially the achievement gaps between minority and nonminority students, and between disadvantaged children and their more advantaged peers;

(3) affording parents substantial and meaningful opportunities to participate in the education of their children; and

(4) challenging States and local educational agencies to embrace meaningful, evidence-based education reform, while encouraging state and local innovation.

SEC. 1002. FLEXIBILITY TO USE FEDERAL FUNDS.

(a) ALTERNATIVE USES OF FEDERAL FUNDS FOR STATE EDUCATIONAL AGENCIES.—

(1) IN GENERAL.—Subject to subsections (c) and (d) and notwithstanding any other provision of law, a State educational agency may use the applicable funding that the agency receives for a fiscal year to carry out any State activity authorized or required under one or more of the following provisions:

(A) Section 1003.

(B) Section 1004.

(C) Subpart 2 of part A of title I.

(D) Subpart 3 of part A of title I.

(E) Subpart 4 of part A of title I.

(F) Chapter B of subpart 6 of part A of title I.

(2) NOTIFICATION.—Not later than June 1 of each year, a State educational agency shall notify the Secretary of the State educational agency’s intention to use the applicable funding for any of the alternative uses under paragraph (1).

(3) APPLICABLE FUNDING DEFINED.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in this subsection, the term “applicable funding” means funds provided to carry out State activities under one or more of the following provisions.

- (i) Section 1003.
- (ii) Section 1004.
- (iii) Subpart 2 of part A of title I.
- (iv) Subpart 3 of part A of title I.
- (v) Subpart 4 of part A of title I.

(B) *LIMITATION.*—*In this subsection, the term “applicable funding” does not include funds provided under any of the provisions listed in subparagraph (A) that State educational agencies are required by this Act—*

- (i) *to reserve, allocate, or spend for required activities;*
- (ii) *to allocate, allot, or award to local educational agencies or other entities eligible to receive such funds;*
- or
- (iii) *to use for technical assistance or monitoring.*

(4) *DISBURSEMENT.*—*The Secretary shall disburse the applicable funding to State educational agencies for alternative uses under paragraph (1) for a fiscal year at the same time as the Secretary disburses the applicable funding to State educational agencies that do not intend to use the applicable funding for such alternative uses for the fiscal year.*

(b) *ALTERNATIVE USES OF FEDERAL FUNDS FOR LOCAL EDUCATIONAL AGENCIES.*—

(1) *IN GENERAL.*—*Subject to subsections (c) and (d) and notwithstanding any other provision of law, a local educational agency may use the applicable funding that the agency receives for a fiscal year to carry out any local activity authorized or required under one or more of the following provisions:*

- (A) Section 1003.
- (B) Subpart 1 of part A of title I.
- (C) Subpart 2 of part A of title I.
- (D) Subpart 3 of part A of title I.
- (E) Subpart 4 of part A of title I.
- (F) Subpart 6 of part A of title I.

(2) *NOTIFICATION.*—*A local educational agency shall notify the State educational agency of the local educational agency’s intention to use the applicable funding for any of the alternative uses under paragraph (1) by a date that is established by the State educational agency for the notification.*

(3) *APPLICABLE FUNDING DEFINED.*—

(A) *IN GENERAL.*—*Except as provided in subparagraph (B), in this subsection, the term “applicable funding” means funds provided to carry out local activities under one or more of the following provisions:*

- (i) Subpart 2 of part A of title I.
- (ii) Subpart 3 of part A of title I.
- (iii) Subpart 4 of part A of title I.
- (iv) Chapter A of subpart 6 of part A of title I.

(B) *LIMITATION.*—*In this subsection, the term “applicable funding” does not include funds provided under any of the provisions listed in subparagraph (A) that local educational agencies are required by this Act—*

- (i) *to reserve, allocate, or spend for required activities;*

(ii) to allocate, allot, or award to entities eligible to receive such funds; or

(iii) to use for technical assistance or monitoring.

(4) *DISBURSEMENT.*—Each State educational agency that receives applicable funding for a fiscal year shall disburse the applicable funding to local educational agencies for alternative uses under paragraph (1) for the fiscal year at the same time as the State educational agency disburses the applicable funding to local educational agencies that do not intend to use the applicable funding for such alternative uses for the fiscal year.

(c) *RULE FOR ADMINISTRATIVE COSTS.*—A State educational agency or a local educational agency shall only use applicable funding (as defined in subsection (a)(3) or (b)(3), respectively) for administrative costs incurred in carrying out a provision listed in subsection (a)(1) or (b)(1), respectively, to the extent that the agency, in the absence of this section, could have used funds for administrative costs with respect to a program listed in subsection (a)(3) or (b)(3), respectively.

(d) *RULE OF CONSTRUCTION.*—Nothing in this section shall be construed to relieve a State educational agency or local educational agency of any requirements relating to—

- (1) use of Federal funds to supplement, not supplant, non-Federal funds;
- (2) comparability of services;
- (3) equitable participation of private school students and teachers;
- (4) applicable civil rights requirements;
- (5) section 1113; or
- (6) section 1111.

SEC. 1003. SCHOOL IMPROVEMENT.

(a) *STATE RESERVATIONS.*—Each State shall reserve [2 percent] 7 percent of the amount the State receives under [subpart 2 of part A for fiscal years 2002 and 2003, and 4 percent of the amount received under such subpart for fiscal years 2004 through 2007, to carry out subsection (b) and to carry out the State’s responsibilities under sections 1116 and 1117,] chapter B of subpart 1 of part A for each fiscal year to carry out subsection (b), including carrying out the State educational agency’s statewide system of technical assistance and support for local educational agencies.

(b) *USES.*—Of the amount reserved under subsection (a) for any fiscal year, the State educational agency—

- (1) shall allocate not less than 95 percent of that amount directly to local educational agencies [for schools identified for school improvement, corrective action, and restructuring, for activities under section 1116(b)] to carry out the State’s system of school improvement under section 1111(b)(3)(B)(iii); or

* * * * *

(c) *PRIORITY.*—The State educational agency, in allocating funds to local educational agencies under this section, shall give priority to local educational agencies that—

- (1) serve the lowest-achieving schools; and
- (2) demonstrate the greatest [need for such funds; and] commitment to using such funds to improve such schools.

[(3) demonstrate the strongest commitment to ensuring that such funds are used to enable the lowest-achieving schools to meet the progress goals in school improvement plans under section 1116 (b)(3)(A)(v).]

(d) UNUSED FUNDS.—If, after consultation with local educational agencies in the State, the State educational agency determines that the amount of funds reserved to carry out subsection (b) is greater than the amount needed to provide the assistance described in that subsection, the State educational agency shall allocate the excess amount to local educational agencies in accordance with—

(1) the relative allocations the State educational agency made to those agencies for that fiscal year under [subpart 2 of part A;] *chapter B of subpart 1 of part A*; or

* * * * *

(e) SPECIAL RULE.—Notwithstanding any other provision of this section, the amount of funds reserved by the State educational agency under subsection (a) [in any fiscal year] *in fiscal year 2014 and each subsequent fiscal year* shall not decrease the amount of funds each local educational agency receives under [subpart 2] *chapter B of subpart 1 of part A* below the amount received by such local educational agency under [such subpart] *such chapter* for the preceding fiscal year.

(f) REPORTING.—The State educational agency shall make publicly available a list of those schools that have received funds or services pursuant to subsection (b) [and the percentage of students from each school from families with incomes below the poverty line].

[(g) ASSISTANCE FOR LOCAL SCHOOL IMPROVEMENT.—

[(1) PROGRAM AUTHORIZED.—The Secretary shall award grants to States to enable the States to provide subgrants to local educational agencies for the purpose of providing assistance for school improvement consistent with section 1116.

[(2) STATE ALLOTMENTS.—Such grants shall be allotted among States, the Bureau of Indian Affairs, and the outlying areas, in proportion to the funds received by the States, the Bureau of Indian Affairs, and the outlying areas, respectively, for the fiscal year under parts A, C, and D of this title. The Secretary shall expeditiously allot a portion of such funds to States for the purpose of assisting local educational agencies and schools that were in school improvement status on the date preceding the date of enactment of the No Child Left Behind Act of 2001.

[(3) REALLOCATIONS.—If a State does not receive funds under this subsection, the Secretary shall reallocate such funds to other States in the same proportion funds are allocated under paragraph (2).

[(4) STATE APPLICATIONS.—Each State educational agency that desires to receive funds under this subsection shall submit an application to the Secretary at such time, and containing such information, as the Secretary shall reasonably require, except that such requirement shall be waived if a State educational agency submitted such information as part of its State plan under this part. Each State application shall describe how the State educational agency will allocate such funds in order to assist the State educational agency and local educational

agencies in complying with school improvement, corrective action, and restructuring requirements of section 1116.

【(5) LOCAL EDUCATIONAL AGENCY GRANTS.—A grant to a local educational agency under this subsection shall be—

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

【(B) integrated with other funds awarded by the State under this Act; and

【(C) renewable for two additional 1-year periods if schools are meeting the goals in their school improvement plans developed under section 1116.

【(6) PRIORITY.—The State, in awarding such grants, shall give priority to local educational agencies with the lowest-achieving schools that demonstrate—

【(A) the greatest need for such funds; and

【(B) the strongest commitment to ensuring that such funds are used to provide adequate resources to enable the lowest-achieving schools to meet the goals under school and local educational agency improvement, corrective action, and restructuring plans under section 1116.

【(7) ALLOCATION.—A State educational agency that receives a grant under this subsection shall allocate at least 95 percent of the grant funds directly to local educational agencies for schools identified for school improvement, corrective action, or restructuring to carry out activities under section 1116(b), or may, with the approval of the local educational agency, directly provide for these activities or arrange for their provision through other entities such as school support teams or educational service agencies.

【(8) ADMINISTRATIVE COSTS.—A State educational agency that receives a grant award under this subsection may reserve not more than 5 percent of such grant funds for administration, evaluation, and technical assistance expenses.

【(9) LOCAL AWARDS.—Each local educational agency that applies for assistance under this subsection shall describe how it will provide the lowest-achieving schools the resources necessary to meet goals under school and local educational agency improvement, corrective action, and restructuring plans under section 1116.】

SEC. 1003A. DIRECT STUDENT SERVICES.

(a) *STATE RESERVATION.*—Each State shall reserve 3 percent of the amount the State receives under chapter B of subpart 1 of part A for each fiscal year to carry out this section. Of such reserved funds, the State educational agency may use up to 1 percent to administer direct student services.

(b) *DIRECT STUDENT SERVICES.*—From the amount available after the application of subsection (a), each State shall award grants in accordance with this section to local educational agencies to support direct student services.

(c) *AWARDS.*—The State educational agency shall award grants to geographically diverse local educational agencies including suburban, rural, and urban local educational agencies. If there are not enough funds to award all applicants in a sufficient size and scope

to run an effective direct student services program, the State shall prioritize awards to local educational agencies with the greatest number of low-performing schools.

(d) LOCAL USE OF FUNDS.—A local educational agency receiving an award under this section—

(1) shall use up to 1 percent of each award for outreach and communication to parents about their options and to register students for direct student services;

(2) may use not more than 2 percent of each award for administrative costs related to direct student services; and

(3) shall use the remainder of the award to pay the transportation required to provide public school choice or the hourly rate for high-quality academic tutoring services, as determined in the provider approval process under subsection (f)(2).

(e) APPLICATION.—A local educational agency desiring to receive an award under subsection (b) shall submit an application describing how the local educational agency will—

(1) provide adequate outreach to ensure parents can exercise a meaningful choice of direct student services for their child's education;

(2) ensure parents have adequate time and information to make a meaningful choice prior to enrolling their child in a direct student service;

(3) ensure ample availability in the public schools the local educational agency will make available for public school choice options;

(4) determine the requirements or criteria for student eligibility for direct student services;

(5) select a variety of providers of high quality academic tutoring from the list required under subsection (f)(2) and ensure fair negotiations in selecting such providers of high-quality academic tutoring, including online, on campus, and other models of tutoring which provide meaningful choices to parents to find the best service for their child; and

(6) develop an estimated per pupil expenditure available for eligible students to use toward high quality academic tutoring which shall allow for adequate level of services to increase academic achievement from a variety of high-quality academic tutoring providers.

(f) PROVIDERS AND SCHOOLS.—The State—

(1) shall ensure that each local educational agency receiving an award to provide public school choice can provide an ample number of options to provide a meaningful choice for parents;

(2) shall compile a list of State-approved high-quality academic tutoring providers that includes online, on campus, and other models of tutoring; and

(3) shall ensure that each local educational agency receiving an award will provide an adequate number of high-quality academic tutoring options to ensure parents have a meaningful choice of services.

[SEC. 1004. STATE ADMINISTRATION.

[(a) IN GENERAL.—Except as provided in subsection (b), to carry out administrative duties assigned under parts A, C, and D of this title, each State may reserve the greater of—

[(1) 1 percent of the amounts received under such parts; or

[(2) \$400,000 (\$50,000 in the case of each outlying area).

[(b) EXCEPTION.—If the sum of the amounts appropriated for parts A, C, and D of this title is equal to or greater than \$14,000,000,000, then the reservation described in subsection (a)(1) shall not exceed 1 percent of the amount the State would receive, if \$14,000,000,000 were allocated among the States for parts A, C, and D of this title.]

SEC. 1004. STATE ADMINISTRATION.

(a) *IN GENERAL.*—Except as provided in subsection (b), to carry out administrative duties assigned under subparts 1, 2, and 3 of part A of this title, each State may reserve the greater of—

- (1) 1 percent of the amounts received under such subparts; or
- (2) \$400,000 (\$50,000 in the case of each outlying area).

(b) *EXCEPTION.*—If the sum of the amounts reserved under subparts 1, 2, and 3 of part A of this title is equal to or greater than \$14,000,000,000, then the reservation described in subsection (a)(1) shall not exceed 1 percent of the amount the State would receive if \$14,000,000,000 were allocated among the States for subparts 1, 2, and 3 of part A of this title.

[PART A—IMPROVING BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

[Subpart 1—Basic Program Requirements]

PART A—IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED

Subpart 1—Improving Basic Programs Operated by Local Educational Agencies

CHAPTER A—BASIC PROGRAM REQUIREMENTS

[SEC. 1111. STATE PLANS.

[(a) PLANS REQUIRED.—

[(1) *IN GENERAL.*—For any State desiring to receive a grant under this part, the State educational agency shall submit to the Secretary a plan, developed by the State educational agency, in consultation with local educational agencies, teachers, principals, pupil services personnel, administrators (including administrators of programs described in other parts of this title), other staff, and parents, that satisfies the requirements of this section and that is coordinated with other programs under this Act, the Individuals with Disabilities Education Act, the Carl D. Perkins Career and Technical Education Act of 2006, the Head Start Act, the Adult Education and Family Literacy Act, and the McKinney-Vento Homeless Assistance Act.

[(2) *CONSOLIDATED PLAN.*—A State plan submitted under paragraph (1) may be submitted as part of a consolidated plan under section 9302.

[(b) *ACADEMIC STANDARDS, ACADEMIC ASSESSMENTS, AND ACCOUNTABILITY.*—

[(1) *CHALLENGING ACADEMIC STANDARDS.*—

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

[(B) SAME STANDARDS.—The academic standards required by subparagraph (A) shall be the same academic standards that the State applies to all schools and children in the State.

[(C) SUBJECTS.—The State shall have such academic standards for all public elementary school and secondary school children, including children served under this part, in subjects determined by the State, but including at least mathematics, reading or language arts, and (beginning in the 2005–2006 school year) science, which shall include the same knowledge, skills, and levels of achievement expected of all children.

[(D) CHALLENGING ACADEMIC STANDARDS.—Standards under this paragraph shall include—

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

[(I) specify what children are expected to know and be able to do;

[(II) contain coherent and rigorous content; and

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

[(ii) challenging student academic achievement standards that—

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

[(II) describe two levels of high achievement (proficient and advanced) that determine how well children are mastering the material in the State academic content standards; and

[(III) describe a third level of achievement (basic) to provide complete information about the progress of the lower-achieving children toward mastering the proficient and advanced levels of achievement.

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

[(F) EXISTING STANDARDS.—Nothing in this part shall prohibit a State from revising, consistent with this section, any standard adopted under this part before or after the date of enactment of the No Child Left Behind Act of 2001.

[(2) ACCOUNTABILITY.—

[(A) IN GENERAL.—Each State plan shall demonstrate that the State has developed and is implementing a single, statewide State accountability system that will be effective in ensuring that all local educational agencies, public elementary schools, and public secondary schools make adequate yearly progress as defined under this paragraph. Each State accountability system shall—

[(i) be based on the academic standards and academic assessments adopted under paragraphs (1) and (3), and other academic indicators consistent with subparagraph (C)(vi) and (vii), and shall take into account the achievement of all public elementary school and secondary school students;

[(ii) be the same accountability system the State uses for all public elementary schools and secondary schools or all local educational agencies in the State, except that public elementary schools, secondary schools, and local educational agencies not participating under this part are not subject to the requirements of section 1116; and

[(iii) include sanctions and rewards, such as bonuses and recognition, the State will use to hold local educational agencies and public elementary schools and secondary schools accountable for student achievement and for ensuring that they make adequate yearly progress in accordance with the State’s definition under subparagraphs (B) and (C).

[(B) ADEQUATE YEARLY PROGRESS.—Each State plan shall demonstrate, based on academic assessments described in paragraph (3), and in accordance with this paragraph, what constitutes adequate yearly progress of the State, and of all public elementary schools, secondary schools, and local educational agencies in the State, toward enabling all public elementary school and secondary school students to meet the State’s student academic achievement standards, while working toward the goal of narrowing the achievement gaps in the State, local educational agencies, and schools.

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

[(i) applies the same high standards of academic achievement to all public elementary school and secondary school students in the State;

[(ii) is statistically valid and reliable;

[(iii) results in continuous and substantial academic improvement for all students;

[(iv) measures the progress of public elementary schools, secondary schools and local educational agencies and the State based primarily on the academic assessments described in paragraph (3);

[(v) includes separate measurable annual objectives for continuous and substantial improvement for each of the following:

[(I) The achievement of all public elementary school and secondary school students.

[(II) The achievement of—

[(aa) economically disadvantaged students;

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

[(cc) students with disabilities; and

[(dd) students with limited English proficiency;

except that disaggregation of data under subclause (II) shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student;

[(vi) in accordance with subparagraph (D), includes graduation rates for public secondary school students (defined as the percentage of students who graduate from secondary school with a regular diploma in the standard number of years) and at least one other academic indicator, as determined by the State for all public elementary school students; and

[(vii) in accordance with subparagraph (D), at the State's discretion, may also include other academic indicators, as determined by the State for all public school students, measured separately for each group described in clause (v), such as achievement on additional State or locally administered assessments, decreases in grade-to-grade retention rates, attendance rates, and changes in the percentages of students completing gifted and talented, advanced placement, and college preparatory courses.

[(D) REQUIREMENTS FOR OTHER INDICATORS.—In carrying out subparagraph (C)(vi) and (vii), the State—

[(i) shall ensure that the indicators described in those provisions are valid and reliable, and are consistent with relevant, nationally recognized professional and technical standards, if any; and

[(ii) except as provided in subparagraph (I)(i), may not use those indicators to reduce the number of, or change, the schools that would otherwise be subject to school improvement, corrective action, or restructuring under section 1116 if those additional indicators were not used, but may use them to identify additional schools for school improvement or in need of corrective action or restructuring.

[(E) STARTING POINT.—Each State, using data for the 2001–2002 school year, shall establish the starting point for measuring, under subparagraphs (G) and (H), the percentage of students meeting or exceeding the State's proficient level of academic achievement on the State assessments under paragraph (3) and pursuant to the timeline described in subparagraph (F). The starting point shall be, at a minimum, based on the higher of the percentage of students at the proficient level who are in—

[(i) the State's lowest achieving group of students described in subparagraph (C)(v)(II); or

[(ii) the school at the 20th percentile in the State, based on enrollment, among all schools ranked by the percentage of students at the proficient level.

[(F) TIMELINE.—Each State shall establish a timeline for adequate yearly progress. The timeline shall ensure that not later than 12 years after the end of the 2001–2002 school year, all students in each group described in subparagraph (C)(v) will meet or exceed the State’s proficient level of academic achievement on the State assessments under paragraph (3).

[(G) MEASURABLE OBJECTIVES.—Each State shall establish statewide annual measurable objectives, pursuant to subparagraph (C)(v), for meeting the requirements of this paragraph, and which—

[(i) shall be set separately for the assessments of mathematics and reading or language arts under subsection (a)(3);

[(ii) shall be the same for all schools and local educational agencies in the State;

[(iii) shall identify a single minimum percentage of students who are required to meet or exceed the proficient level on the academic assessments that applies separately to each group of students described in subparagraph (C)(v);

[(iv) shall ensure that all students will meet or exceed the State’s proficient level of academic achievement on the State assessments within the State’s timeline under subparagraph (F); and

[(v) may be the same for more than 1 year, subject to the requirements of subparagraph (H).

[(H) INTERMEDIATE GOALS FOR ANNUAL YEARLY PROGRESS.—Each State shall establish intermediate goals for meeting the requirements, including the measurable objectives in subparagraph (G), of this paragraph and that shall—

[(i) increase in equal increments over the period covered by the State’s timeline under subparagraph (F);

[(ii) provide for the first increase to occur in not more than 2 years; and

[(iii) provide for each following increase to occur in not more than 3 years.

[(I) ANNUAL IMPROVEMENT FOR SCHOOLS.—Each year, for a school to make adequate yearly progress under this paragraph—

[(i) each group of students described in subparagraph (C)(v) must meet or exceed the objectives set by the State under subparagraph (G), except that if any group described in subparagraph (C)(v) does not meet those objectives in any particular year, the school shall be considered to have made adequate yearly progress if the percentage of students in that group who did not meet or exceed the proficient level of academic achievement on the State assessments under paragraph (3) for that year decreased by 10 percent of that

percentage from the preceding school year and that group made progress on one or more of the academic indicators described in subparagraph (C)(vi) or (vii); and

[(ii) not less than 95 percent of each group of students described in subparagraph (C)(v) who are enrolled in the school are required to take the assessments, consistent with paragraph (3)(C)(xi) and with accommodations, guidelines, and alternative assessments provided in the same manner as those provided under section 612(a)(16)(A) of the Individuals with Disabilities Education Act and paragraph (3), on which adequate yearly progress is based (except that the 95 percent requirement described in this clause shall not apply in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student).

[(J) UNIFORM AVERAGING PROCEDURE.—For the purpose of determining whether schools are making adequate yearly progress, the State may establish a uniform procedure for averaging data which includes one or more of the following:

[(i) The State may average data from the school year for which the determination is made with data from one or two school years immediately preceding that school year.

[(ii) Until the assessments described in paragraph (3) are administered in such manner and time to allow for the implementation of the uniform procedure for averaging data described in clause (i), the State may use the academic assessments that were required under paragraph (3) as that paragraph was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001, provided that nothing in this clause shall be construed to undermine or delay the determination of adequate yearly progress, the requirements of section 1116, or the implementation of assessments under this section.

[(iii) The State may use data across grades in a school.

[(K) ACCOUNTABILITY FOR CHARTER SCHOOLS.—The accountability provisions under this Act shall be overseen for charter schools in accordance with State charter school law.

[(3) ACADEMIC ASSESSMENTS.—

[(A) IN GENERAL.—Each State plan shall demonstrate that the State educational agency, in consultation with local educational agencies, has implemented a set of high-quality, yearly student academic assessments that include, at a minimum, academic assessments in mathematics, reading or language arts, and science that will be used as the primary means of determining the yearly performance of the State and of each local educational agency and

school in the State in enabling all children to meet the State's challenging student academic achievement standards, except that no State shall be required to meet the requirements of this part relating to science assessments until the beginning of the 2007–2008 school year.

[(B) USE OF ASSESSMENTS.—Each State educational agency may incorporate the data from the assessments under this paragraph into a State-developed longitudinal data system that links student test scores, length of enrollment, and graduation records over time.

[(C) REQUIREMENTS.—Such assessments shall—

[(i) be the same academic assessments used to measure the achievement of all children;

[(ii) be aligned with the State's challenging academic content and student academic achievement standards, and provide coherent information about student attainment of such standards;

[(iii) be used for purposes for which such assessments are valid and reliable, and be consistent with relevant, nationally recognized professional and technical standards;

[(iv) be used only if the State educational agency provides to the Secretary evidence from the test publisher or other relevant sources that the assessments used are of adequate technical quality for each purpose required under this Act and are consistent with the requirements of this section, and such evidence is made public by the Secretary upon request;

[(v)(I) except as otherwise provided for grades 3 through 8 under clause vii, measure the proficiency of students in, at a minimum, mathematics and reading or language arts, and be administered not less than once during—

[(aa) grades 3 through 5;

[(bb) grades 6 through 9; and

[(cc) grades 10 through 12;

[(II) beginning not later than school year 2007–2008, measure the proficiency of all students in science and be administered not less than one time during—

[(aa) grades 3 through 5;

[(bb) grades 6 through 9; and

[(cc) grades 10 through 12;

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

[(vii) beginning not later than school year 2005–2006, measure the achievement of students against the challenging State academic content and student academic achievement standards in each of grades 3 through 8 in, at a minimum, mathematics, and reading or language arts, except that the Secretary may provide the State 1 additional year if the State demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipi-

tous and unforeseen decline in the financial resources of the State, prevented full implementation of the academic assessments by that deadline and that the State will complete implementation within the additional 1-year period;

[(viii) at the discretion of the State, measure the proficiency of students in academic subjects not described in clauses (v), (vi), (vii) in which the State has adopted challenging academic content and academic achievement standards;

[(ix) provide for—

[(I) the participation in such assessments of all students;

[(II) the reasonable adaptations and accommodations for students with disabilities (as defined under section 602(3) of the Individuals with Disabilities Education Act) necessary to measure the academic achievement of such students relative to State academic content and State student academic achievement standards; and

[(III) the inclusion of limited English proficient students, who shall be assessed in a valid and reliable manner and provided reasonable accommodations on assessments administered to such students under this paragraph, including, to the extent practicable, assessments in the language and form most likely to yield accurate data on what such students know and can do in academic content areas, until such students have achieved English language proficiency as determined under paragraph (7);

[(x) notwithstanding subclause (III), the academic assessment (using tests written in English) of reading or language arts of any student who has attended school in the United States (not including Puerto Rico) for three or more consecutive school years, except that if the local educational agency determines, on a case-by-case individual basis, that academic assessments in another language or form would likely yield more accurate and reliable information on what such student knows and can do, the local educational agency may make a determination to assess such student in the appropriate language other than English for a period that does not exceed two additional consecutive years, provided that such student has not yet reached a level of English language proficiency sufficient to yield valid and reliable information on what such student knows and can do on tests (written in English) of reading or language arts;

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

only in determining the progress of the local educational agency;

[(xii) produce individual student interpretive, descriptive, and diagnostic reports, consistent with clause (iii) that allow parents, teachers, and principals to understand and address the specific academic needs of students, and include information regarding achievement on academic assessments aligned with State academic achievement standards, and that are provided to parents, teachers, and principals, as soon as is practicably possible after the assessment is given, in an understandable and uniform format, and to the extent practicable, in a language that parents can understand;

[(xiii) enable results to be disaggregated within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged, except that, in the case of a local educational agency or a school, such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student;

[(xiv) be consistent with widely accepted professional testing standards, objectively measure academic achievement, knowledge, and skills, and be tests that do not evaluate or assess personal or family beliefs and attitudes, or publicly disclose personally identifiable information; and

[(xv) enable itemized score analyses to be produced and reported, consistent with clause (iii), to local educational agencies and schools, so that parents, teachers, principals, and administrators can interpret and address the specific academic needs of students as indicated by the students' achievement on assessment items.

[(D) DEFERRAL.—A State may defer the commencement, or suspend the administration, but not cease the development, of the assessments described in this paragraph, that were not required prior to the date of enactment of the No Child Left Behind Act of 2001, for 1 year for each year for which the amount appropriated for grants under section 6113(a)(2) is less than—

[(i) \$370,000,000 for fiscal year 2002;

[(ii) \$380,000,000 for fiscal year 2003;

[(iii) \$390,000,000 for fiscal year 2004; and

[(iv) \$400,000,000 for fiscal years 2005 through 2007.

[(4) SPECIAL RULE.—Academic assessment measures in addition to those in paragraph (3) that do not meet the requirements of such paragraph may be included in the assessment

under paragraph (3) as additional measures, but may not be used in lieu of the academic assessments required under paragraph (3). Such additional assessment measures may not be used to reduce the number of or change, the schools that would otherwise be subject to school improvement, corrective action, or restructuring under section 1116 if such additional indicators were not used, but may be used to identify additional schools for school improvement or in need of corrective action or restructuring except as provided in paragraph (2)(I)(i).

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

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

[(B) adopting and implementing policies that ensure that each local educational agency in the State that receives grants under this part will adopt curriculum content and student academic achievement standards, and academic assessments aligned with such standards, which—

[(i) meet all of the criteria in this subsection and any regulations regarding such standards and assessments that the Secretary may publish; and

[(ii) are applicable to all students served by each such local educational agency.

[(6) LANGUAGE ASSESSMENTS.—Each State plan shall identify the languages other than English that are present in the participating student population and indicate the languages for which yearly student academic assessments are not available and are needed. The State shall make every effort to develop such assessments and may request assistance from the Secretary if linguistically accessible academic assessment measures are needed. Upon request, the Secretary shall assist with the identification of appropriate academic assessment measures in the needed languages, but shall not mandate a specific academic assessment or mode of instruction.

[(7) ACADEMIC ASSESSMENTS OF ENGLISH LANGUAGE PROFICIENCY.—Each State plan shall demonstrate that local educational agencies in the State will, beginning not later than school year 2002–2003, provide for an annual assessment of English proficiency (measuring students’ oral language, reading, and writing skills in English) of all students with limited English proficiency in the schools served by the State educational agency, except that the Secretary may provide the State 1 additional year if the State demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial

resources of the State, prevented full implementation of this paragraph by that deadline and that the State will complete implementation within the additional 1-year period.

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

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

[(B) how the State educational agency will assist each local educational agency and school affected by the State plan to provide additional educational assistance to individual students assessed as needing help to achieve the State’s challenging academic achievement standards;

[(C) the specific steps the State educational agency will take to ensure that both schoolwide programs and targeted assistance schools provide instruction by highly qualified instructional staff as required by sections 1114(b)(1)(C) and 1115(c)(1)(E), including steps that the State educational agency will take to ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers, and the measures that the State educational agency will use to evaluate and publicly report the progress of the State educational agency with respect to such steps;

[(D) an assurance that the State educational agency will assist local educational agencies in developing or identifying high-quality effective curricula aligned with State academic achievement standards and how the State educational agency will disseminate such curricula to each local educational agency and school within the State; and

[(E) such other factors the State educational agency determines appropriate to provide students an opportunity to achieve the knowledge and skills described in the challenging academic content standards adopted by the State.

[(9) FACTORS AFFECTING STUDENT ACHIEVEMENT.—Each State plan shall include an assurance that the State educational agency will coordinate and collaborate, to the extent feasible and necessary as determined by the State educational agency, with agencies providing services to children, youth, and families, with respect to local educational agencies within the State that are identified under section 1116 and that request assistance with addressing major factors that have significantly affected the academic achievement of students in the local educational agency or schools served by such agency.

[(10) USE OF ACADEMIC ASSESSMENT RESULTS TO IMPROVE STUDENT ACADEMIC ACHIEVEMENT.—Each State plan shall describe how the State educational agency will ensure that the results of the State assessments described in paragraph (3)—

[(A) will be promptly provided to local educational agencies, schools, and teachers in a manner that is clear and easy to understand, but not later than before the beginning of the next school year; and

[(B) be used by those local educational agencies, schools, and teachers to improve the educational achievement of individual students.

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

[(1) the State educational agency will meet the requirements of subsection (h)(1) and, beginning with the 2002–2003 school year, will produce the annual State report cards described in such subsection, except that the Secretary may provide the State educational agency 1 additional year if the State educational agency demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State, prevented full implementation of this paragraph by that deadline and that the State will complete implementation within the additional 1-year period;

[(2) the State will, beginning in school year 2002–2003, participate in biennial State academic assessments of 4th and 8th grade reading and mathematics under the National Assessment of Educational Progress carried out under section 303(b)(2) of the National Assessment of Educational Progress Authorization Act if the Secretary pays the costs of administering such assessments;

[(3) the State educational agency, in consultation with the Governor, will include, as a component of the State plan, a plan to carry out the responsibilities of the State under sections 1116 and 1117, including carrying out the State educational agency’s statewide system of technical assistance and support for local educational agencies;

[(4) the State educational agency will work with other agencies, including educational service agencies or other local consortia, and institutions to provide technical assistance to local educational agencies and schools, including technical assistance in providing professional development under section 1119, technical assistance under section 1117, and technical assistance relating to parental involvement under section 1118;

[(5)(A) where educational service agencies exist, the State educational agency will consider providing professional development and technical assistance through such agencies; and

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

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

[(7) the State educational agency will provide the least restrictive and burdensome regulations for local educational

agencies and individual schools participating in a program assisted under this part;

[(8) the State educational agency will inform the Secretary and the public of how Federal laws, if at all, hinder the ability of States to hold local educational agencies and schools accountable for student academic achievement;

[(9) the State educational agency will encourage schools to consolidate funds from other Federal, State, and local sources for schoolwide reform in schoolwide programs under section 1114;

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

[(11) the State educational agency has involved the committee of practitioners established under section 1903(b) in developing the plan and monitoring its implementation;

[(12) the State educational agency will inform local educational agencies in the State of the local educational agency's authority to transfer funds under title VI, to obtain waivers under part D of title IX, and, if the State is an Ed-Flex Partnership State, to obtain waivers under the Education Flexibility Partnership Act of 1999;

[(13) the State educational agency will coordinate activities funded under this part with other Federal activities as appropriate; and

[(14) the State educational agency will encourage local educational agencies and individual schools participating in a program assisted under this part to offer family literacy services (using funds under this part), if the agency or school determines that a substantial number of students served under this part by the agency or school have parents who do not have a secondary school diploma or its recognized equivalent or who have low levels of literacy.

[(d) PARENTAL INVOLVEMENT.—Each State plan shall describe how the State educational agency will support the collection and dissemination to local educational agencies and schools of effective parental involvement practices. Such practices shall—

[(1) be based on the most current research that meets the highest professional and technical standards, on effective parental involvement that fosters achievement to high standards for all children; and

[(2) be geared toward lowering barriers to greater participation by parents in school planning, review, and improvement experienced.

[(e) PEER REVIEW AND SECRETARIAL APPROVAL.—

[(1) SECRETARIAL DUTIES.—The Secretary shall—

[(A) establish a peer-review process to assist in the review of State plans;

[(B) appoint individuals to the peer-review process who are representative of parents, teachers, State educational agencies, and local educational agencies, and who are familiar with educational standards, assessments, accountability, the needs of low-performing schools, and other educational needs of students;

[(C) approve a State plan within 120 days of its submission unless the Secretary determines that the plan does not meet the requirements of this section;

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

[(E) not decline to approve a State's plan before—

[(i) offering the State an opportunity to revise its plan;

[(ii) providing technical assistance in order to assist the State to meet the requirements of subsections (a), (b), and (c); and

[(iii) providing a hearing; and

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

[(2) STATE REVISIONS.—A State plan shall be revised by the State educational agency if it is necessary to satisfy the requirements of this section.

[(f) DURATION OF THE PLAN.—

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

[(A) remain in effect for the duration of the State's participation under this part; and

[(B) be periodically reviewed and revised as necessary by the State educational agency to reflect changes in the State's strategies and programs under this part.

[(2) ADDITIONAL INFORMATION.—If significant changes are made to a State's plan, such as the adoption of new State academic content standards and State student achievement standards, new academic assessments, or a new definition of adequate yearly progress, such information shall be submitted to the Secretary.

[(g) PENALTIES.—

[(1) FAILURE TO MEET DEADLINES ENACTED IN 1994.—

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

[(B) NO EXTENSION.—Notwithstanding any other provision of law, 90 days after the date of enactment of the No Child Left Behind Act of 2001 the Secretary shall not grant any additional waivers of, or enter into any addi-

tional compliance agreements to extend, the deadlines described in subparagraph (A) for any State.

[(2) FAILURE TO MEET REQUIREMENTS ENACTED IN 2001.—If a State fails to meet any of the requirements of this section, other than the requirements described in paragraph (1), then the Secretary may withhold funds for State administration under this part until the Secretary determines that the State has fulfilled those requirements.

[(h) REPORTS.—

[(1) ANNUAL STATE REPORT CARD.—

[(A) IN GENERAL.—Not later than the beginning of the 2002–2003 school year, unless the State has received a 1-year extension pursuant to subsection (c)(1), a State that receives assistance under this part shall prepare and disseminate an annual State report card.

[(B) IMPLEMENTATION.—The State report card shall be—

[(i) concise; and

[(ii) presented in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

[(C) REQUIRED INFORMATION.—The State shall include in its annual State report card—

[(i) information, in the aggregate, on student achievement at each proficiency level on the State academic assessments described in subsection (b)(3) (disaggregated by race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged, except that such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student);

[(ii) information that provides a comparison between the actual achievement levels of each group of students described in subsection (b)(2)(C)(v) and the State’s annual measurable objectives for each such group of students on each of the academic assessments required under this part;

[(iii) the percentage of students not tested (disaggregated by the same categories and subject to the same exception described in clause (i));

[(iv) the most recent 2-year trend in student achievement in each subject area, and for each grade level, for which assessments under this section are required;

[(v) aggregate information on any other indicators used by the State to determine the adequate yearly progress of students in achieving State academic achievement standards;

[(vi) graduation rates for secondary school students consistent with subsection (b)(2)(C)(vi);

[(vii) information on the performance of local educational agencies in the State regarding making adequate yearly progress, including the number and

names of each school identified for school improvement under section 1116; and

[(viii) the professional qualifications of teachers in the State, the percentage of such teachers teaching with emergency or provisional credentials, and the percentage of classes in the State not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools which, for the purpose of this clause, means schools in the top quartile of poverty and the bottom quartile of poverty in the State.

[(D) OPTIONAL INFORMATION.—The State may include in its annual State report card such other information as the State believes will best provide parents, students, and other members of the public with information regarding the progress of each of the State's public elementary schools and public secondary schools. Such information may include information regarding—

[(i) school attendance rates;

[(ii) average class size in each grade;

[(iii) academic achievement and gains in English proficiency of limited English proficient students;

[(iv) the incidence of school violence, drug abuse, alcohol abuse, student suspensions, and student expulsions;

[(v) the extent and type of parental involvement in the schools;

[(vi) the percentage of students completing advanced placement courses, and the rate of passing of advanced placement tests; and

[(vii) a clear and concise description of the State's accountability system, including a description of the criteria by which the State evaluates school performance, and the criteria that the State has established, consistent with subsection (b)(2), to determine the status of schools regarding school improvement, corrective action, and restructuring.

[(2) ANNUAL LOCAL EDUCATIONAL AGENCY REPORT CARDS.—

[(A) REPORT CARDS.—

[(i) IN GENERAL.—Not later than the beginning of the 2002–2003 school year, a local educational agency that receives assistance under this part shall prepare and disseminate an annual local educational agency report card, except that the State educational agency may provide the local educational agency 1 additional year if the local educational agency demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency, prevented full implementation of this paragraph by that deadline and that the local educational agency will complete implementation within the additional 1-year period.

[(ii) SPECIAL RULE.—If a State educational agency has received an extension pursuant to subsection

(c)(1), then a local educational agency within that State shall not be required to include the information required under paragraph (1)(C) in such report card during such extension.

[(B) MINIMUM REQUIREMENTS.—The State educational agency shall ensure that each local educational agency collects appropriate data and includes in the local educational agency's annual report the information described in paragraph (1)(C) as applied to the local educational agency and each school served by the local educational agency, and—

[(i) in the case of a local educational agency—

[(I) the number and percentage of schools identified for school improvement under section 1116(c) and how long the schools have been so identified; and

[(II) information that shows how students served by the local educational agency achieved on the statewide academic assessment compared to students in the State as a whole; and

[(ii) in the case of a school—

[(I) whether the school has been identified for school improvement; and

[(II) information that shows how the school's students achievement on the statewide academic assessments and other indicators of adequate yearly progress compared to students in the local educational agency and the State as a whole.

[(C) OTHER INFORMATION.—A local educational agency may include in its annual local educational agency report card any other appropriate information, whether or not such information is included in the annual State report card.

[(D) DATA.—A local educational agency or school shall only include in its annual local educational agency report card data that are sufficient to yield statistically reliable information, as determined by the State, and that do not reveal personally identifiable information about an individual student.

[(E) PUBLIC DISSEMINATION.—The local educational agency shall, not later than the beginning of the 2002–2003 school year, unless the local educational agency has received a 1-year extension pursuant to subparagraph (A), publicly disseminate the information described in this paragraph to all schools in the school district served by the local educational agency and to all parents of students attending those schools in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand, and make the information widely available through public means, such as posting on the Internet, distribution to the media, and distribution through public agencies, except that if a local educational agency issues a report card for all students, the local educational agency may include the information under this section as part of such report.

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

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

[(A) beginning with school year 2002–2003, information on the State’s progress in developing and implementing the academic assessments described in subsection (b)(3);

[(B) beginning not later than school year 2002–2003, information on the achievement of students on the academic assessments required by subsection (b)(3), including the disaggregated results for the categories of students identified in subsection (b)(2)(C)(v);

[(C) in any year before the State begins to provide the information described in subparagraph (B), information on the results of student academic assessments (including disaggregated results) required under this section;

[(D) beginning not later than school year 2002–2003, unless the State has received an extension pursuant to subsection (c)(1), information on the acquisition of English proficiency by children with limited English proficiency;

[(E) the number and names of each school identified for school improvement under section 1116(c), the reason why each school was so identified, and the measures taken to address the achievement problems of such schools;

[(F) the number of students and schools that participated in public school choice and supplemental service programs and activities under this title; and

[(G) beginning not later than the 2002–2003 school year, information on the quality of teachers and the percentage of classes being taught by highly qualified teachers in the State, local educational agency, and school.

[(5) **REPORT TO CONGRESS.**—The Secretary shall transmit annually to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report that provides national and State-level data on the information collected under paragraph (4).

[(6) **PARENTS RIGHT-TO-KNOW.**—

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

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

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

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

[(iv) Whether the child is provided services by paraprofessionals and, if so, their qualifications.

[(B) ADDITIONAL INFORMATION.—In addition to the information that parents may request under subparagraph (A), a school that receives funds under this part shall provide to each individual parent—

[(i) information on the level of achievement of the parent's child in each of the State academic assessments as required under this part; and

[(ii) timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who is not highly qualified.

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

[(i) PRIVACY.—Information collected under this section shall be collected and disseminated in a manner that protects the privacy of individuals.

[(j) TECHNICAL ASSISTANCE.—The Secretary shall provide a State educational agency, at the State educational agency's request, technical assistance in meeting the requirements of this section, including the provision of advice by experts in the development of high-quality academic assessments, the setting of State standards, the development of measures of adequate yearly progress that are valid and reliable, and other relevant areas.

[(k) VOLUNTARY PARTNERSHIPS.—A State may enter into a voluntary partnership with another State to develop and implement the academic assessments and standards required under this section.

[(l) CONSTRUCTION.—Nothing in this part shall be construed to prescribe the use of the academic assessments described in this part for student promotion or graduation purposes.

[(m) SPECIAL RULE WITH RESPECT TO BUREAU-FUNDED SCHOOLS.—In determining the assessments to be used by each operated or funded by BIA school receiving funds under this part, the following shall apply:

[(1) Each such school that is accredited by the State in which it is operating shall use the assessments the State has developed and implemented to meet the requirements of this section, or such other appropriate assessment as approved by the Secretary of the Interior.

[(2) Each such school that is accredited by a regional accrediting organization shall adopt an appropriate assessment, in consultation with and with the approval of, the Secretary of

the Interior and consistent with assessments adopted by other schools in the same State or region, that meets the requirements of this section.

[(3) Each such school that is accredited by a tribal accrediting agency or tribal division of education shall use an assessment developed by such agency or division, except that the Secretary of the Interior shall ensure that such assessment meets the requirements of this section.

[SEC. 1112. LOCAL EDUCATIONAL AGENCY PLANS.

[(a) PLANS REQUIRED.—

[(1) SUBGRANTS.—A local educational agency may receive a subgrant under this part for any fiscal year only if such agency has on file with the State educational agency a plan, approved by the State educational agency, that is coordinated with other programs under this Act, the Individuals with Disabilities Education Act, the Carl D. Perkins Career and Technical Education Act of 2006, the McKinney-Vento Homeless Assistance Act, and other Acts, as appropriate.

[(2) CONSOLIDATED APPLICATION.—The plan may be submitted as part of a consolidated application under section 9305.

[(b) PLAN PROVISIONS.—

[(1) IN GENERAL.—In order to help low-achieving children meet challenging achievement academic standards, each local educational agency plan shall include—

[(A) a description of high-quality student academic assessments, if any, that are in addition to the academic assessments described in the State plan under section 1111(b)(3), that the local educational agency and schools served under this part will use—

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

[(ii) to assist in diagnosis, teaching, and learning in the classroom in ways that best enable low-achieving children served under this part to meet State student achievement academic standards and do well in the local curriculum;

[(iii) to determine what revisions are needed to projects under this part so that such children meet the State student academic achievement standards; and

[(iv) to identify effectively students who may be at risk for reading failure or who are having difficulty reading, through the use of screening, diagnostic, and classroom-based instructional reading assessments, as defined under section 1208;

[(B) at the local educational agency's discretion, a description of any other indicators that will be used in addition to the academic indicators described in section 1111 for the uses described in such section;

[(C) a description of how the local educational agency will provide additional educational assistance to individual

students assessed as needing help in meeting the State's challenging student academic achievement standards;

【(D) a description of the strategy the local educational agency will use to coordinate programs under this part with programs under title II to provide professional development for teachers and principals, and, if appropriate, pupil services personnel, administrators, parents and other staff, including local educational agency level staff in accordance with sections 1118 and 1119;

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

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

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

【(F) an assurance that the local educational agency will participate, if selected, in the State National Assessment of Educational Progress in 4th and 8th grade reading and mathematics carried out under section 303(b)(2) of the National Assessment of Educational Progress Authorization Act;

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

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

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

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

【(K) if appropriate, a description of how the local educational agency will use funds under this part to support preschool programs for children, particularly children participating in Early Reading First, or in a Head Start or Even Start program, which services may be provided di-

rectly by the local educational agency or through a subcontract with the local Head Start agency designated by the Secretary of Health and Human Services under section 641 of the Head Start Act, or an agency operating an Even Start program, an Early Reading First program, or another comparable public early childhood development program;

[(L) a description of the actions the local educational agency will take to assist its low-achieving schools identified under section 1116 as in need of improvement;

[(M) a description of the actions the local educational agency will take to implement public school choice and supplemental services, consistent with the requirements of section 1116;

[(N) a description of how the local educational agency will meet the requirements of section 1119;

[(O) a description of the services the local educational agency will provide homeless children, including services provided with funds reserved under section 1113(c)(3)(A);

[(P) a description of the strategy the local educational agency will use to implement effective parental involvement under section 1118; and

[(Q) where appropriate, a description of how the local educational agency will use funds under this part to support after school (including before school and summer school) and school-year extension programs.

[(2) EXCEPTION.—The academic assessments and indicators described in subparagraphs (A) and (B) of paragraph (1) shall not be used—

[(A) in lieu of the academic assessments required under section 1111(b)(3) and other State academic indicators under section 1111(b)(2); or

[(B) to reduce the number of, or change which, schools would otherwise be subject to school improvement, corrective action, or restructuring under section 1116, if such additional assessments or indicators described in such subparagraphs were not used, but such assessments and indicators may be used to identify additional schools for school improvement or in need of corrective action or restructuring.

[(c) ASSURANCES.—

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

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

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

[(C) work in consultation with schools as the schools develop the schools' plans pursuant to section 1114 and assist schools as the schools implement such plans or undertake activities pursuant to section 1115 so that each school can make adequate yearly progress toward meeting the State student academic achievement standards;

[(D) fulfill such agency's school improvement responsibilities under section 1116, including taking actions under paragraphs (7) and (8) of section 1116(b);

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

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

[(G) in the case of a local educational agency that chooses to use funds under this part to provide early childhood development services to low-income children below the age of compulsory school attendance, ensure that such services comply with the education performance standards in effect under section 641A(a)(1)(B) of the Head Start Act;

[(H) work in consultation with schools as the schools develop and implement their plans or activities under sections 1118 and 1119;

[(I) comply with the requirements of section 1119 regarding the qualifications of teachers and paraprofessionals and professional development;

[(J) inform eligible schools of the local educational agency's authority to obtain waivers on the school's behalf under title IX and, if the State is an Ed-Flex Partnership State, to obtain waivers under the Education Flexibility Partnership Act of 1999;

[(K) coordinate and collaborate, to the extent feasible and necessary as determined by the local educational agency, with the State educational agency and other agencies providing services to children, youth, and families with respect to a school in school improvement, corrective action, or restructuring under section 1116 if such a school requests assistance from the local educational agency in addressing major factors that have significantly affected student achievement at the school;

[(L) ensure, through incentives for voluntary transfers, the provision of professional development, recruitment programs, or other effective strategies, that low-income students and minority students are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers;

[(M) use the results of the student academic assessments required under section 1111(b)(3), and other measures or indicators available to the agency, to review annually the progress of each school served by the agency and receiving funds under this part to determine whether all of the schools are making the progress necessary to ensure that all students will meet the State's proficient level of achievement on the State academic assessments described

in section 1111(b)(3) within 12 years from the end of the 2001–2002 school year;

[(N) ensure that the results from the academic assessments required under section 1111(b)(3) will be provided to parents and teachers as soon as is practicably possible after the test is taken, in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand; and

[(O) assist each school served by the agency and assisted under this part in developing or identifying examples of high-quality, effective curricula consistent with section 1111(b)(8)(D).

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

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

[(B) shall disseminate to local educational agencies the education performance standards in effect under section 641A(a)(1)(B) of the Head Start Act, and such agencies affected by such subparagraph shall plan for the implementation of such subparagraph (taking into consideration existing State and local laws, and local teacher contracts), including pursuing the availability of other Federal, State, and local funding sources to assist in compliance with such subparagraph.

[(3) INAPPLICABILITY.—Paragraph (1)(G) of this subsection shall not apply to preschool programs using the Even Start model or to Even Start programs that are expanded through the use of funds under this part.

[(d) PLAN DEVELOPMENT AND DURATION.—

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

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

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

[(e) STATE APPROVAL.—

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

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

[(A) enables schools served under this part to substantially help children served under this part meet the aca-

demographic standards expected of all children described in section 1111(b)(1); and

[(B) meets the requirements of this section.

[(3) REVIEW.—The State educational agency shall review the local educational agency’s plan to determine if such agencies activities are in accordance with sections 1118 and 1119.

[(f) PROGRAM RESPONSIBILITY.—The local educational agency plan shall reflect the shared responsibility of schools, teachers, and the local educational agency in making decisions regarding activities under sections 1114 and 1115.

[(g) PARENTAL NOTIFICATION.—

[(1) IN GENERAL.—

[(A) NOTICE.—Each local educational agency using funds under this part to provide a language instruction educational program as determined in part C of title III shall, not later than 30 days after the beginning of the school year, inform a parent or parents of a limited English proficient child identified for participation or participating in, such a program of—

[(i) the reasons for the identification of their child as limited English proficient and in need of placement in a language instruction educational program;

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

[(iii) the methods of instruction used in the program in which their child is, or will be participating, and the methods of instruction used in other available programs, including how such programs differ in content, instructional goals, and the use of English and a native language in instruction;

[(iv) how the program in which their child is, or will be participating, will meet the educational strengths and needs of their child;

[(v) how such program will specifically help their child learn English, and meet age-appropriate academic achievement standards for grade promotion and graduation;

[(vi) the specific exit requirements for the program, including the expected rate of transition from such program into classrooms that are not tailored for limited English proficient children, and the expected rate of graduation from secondary school for such program if funds under this part are used for children in secondary schools;

[(vii) in the case of a child with a disability, how such program meets the objectives of the individualized education program of the child;

[(viii) information pertaining to parental rights that includes written guidance—

[(I) detailing—

[(aa) the right that parents have to have their child immediately removed from such program upon their request; and

[(bb) the options that parents have to decline to enroll their child in such program or to choose another program or method of instruction, if available; and

[(II) assisting parents in selecting among various programs and methods of instruction, if more than one program or method is offered by the eligible entity.

[(B) SEPARATE NOTIFICATION.—In addition to providing the information required to be provided under paragraph (1), each eligible entity that is using funds provided under this part to provide a language instruction educational program, and that has failed to make progress on the annual measurable achievement objectives described in section 3122 for any fiscal year for which part A is in effect, shall separately inform a parent or the parents of a child identified for participation in such program, or participating in such program, of such failure not later than 30 days after such failure occurs.

[(2) NOTICE.—The notice and information provided in paragraph (1) to a parent or parents of a child identified for participation in a language instruction educational program for limited English proficient children shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

[(3) SPECIAL RULE APPLICABLE DURING THE SCHOOL YEAR.—For those children who have not been identified as limited English proficient prior to the beginning of the school year the local educational agency shall notify parents within the first 2 weeks of the child being placed in a language instruction educational program consistent with paragraphs (1) and (2).

[(4) PARENTAL PARTICIPATION.—Each local educational agency receiving funds under this part shall implement an effective means of outreach to parents of limited English proficient students to inform the parents regarding how the parents can be involved in the education of their children, and be active participants in assisting their children to attain English proficiency, achieve at high levels in core academic subjects, and meet challenging State academic achievement standards and State academic content standards expected of all students, including holding, and sending notice of opportunities for, regular meetings for the purpose of formulating and responding to recommendations from parents of students assisted under this part.

[(5) BASIS FOR ADMISSION OR EXCLUSION.—A student shall not be admitted to, or excluded from, any federally assisted education program on the basis of a surname or language-minority status.]

SEC. 1111. STATE PLANS.

(a) PLANS REQUIRED.—

(1) *IN GENERAL.*—For any State desiring to receive a grant under this subpart, the State educational agency shall submit to the Secretary a plan, developed by the State educational agency, in consultation with local educational agencies, teachers, school leaders, specialized instructional support personnel,

other appropriate school personnel, and parents, that satisfies the requirements of this section and that is coordinated with other programs under this Act, the Individuals with Disabilities Education Act, the Carl D. Perkins Career and Technical Education Act of 2006, the Head Start Act, the Adult Education and Family Literacy Act, and the McKinney-Vento Homeless Assistance Act.

(2) CONSOLIDATED PLAN.—A State plan submitted under paragraph (1) may be submitted as part of a consolidated plan under section 5302.

(b) ACADEMIC STANDARDS, ACADEMIC ASSESSMENTS, AND STATE ACCOUNTABILITY.—

(1) ACADEMIC STANDARDS.—

(A) IN GENERAL.—Each State plan shall demonstrate that the State has adopted academic content standards and academic achievement standards aligned with such content standards that comply with the requirements of this paragraph.

(B) SUBJECTS.—The State shall have such academic standards for mathematics and reading or language arts, and may have such standards for any other subject determined by the State.

(C) REQUIREMENTS.—The standards described in subparagraph (A) shall—

(i) apply to all public schools and public school students in the State; and

(ii) with respect to academic achievement standards, include the same knowledge, skills, and levels of achievement expected of all public school students in the State.

(D) ALTERNATE ACADEMIC ACHIEVEMENT STANDARDS.—Notwithstanding any other provision of this paragraph, a State may, through a documented and validated standards-setting process, adopt alternate academic achievement standards for students with the most significant cognitive disabilities, if—

(i) the determination about whether the achievement of an individual student should be measured against such standards is made separately for each student; and

(ii) such standards—

(I) are aligned with the State academic standards required under subparagraph (A);

(II) promote access to the general curriculum; and

(III) reflect professional judgment as to the highest possible standards achievable by such students.

(E) ENGLISH LANGUAGE PROFICIENCY STANDARDS.—Each State plan shall describe how the State educational agency will establish English language proficiency standards that are—

(i) derived from the four recognized domains of speaking, listening, reading, and writing; and

(ii) aligned with the State's academic content standards in reading or language arts under subparagraph (A).

(2) **ACADEMIC ASSESSMENTS.**—

(A) **IN GENERAL.**—Each State plan shall demonstrate that the State educational agency, in consultation with local educational agencies, has implemented a set of high-quality student academic assessments in mathematics and reading or language arts. At the State's discretion, the State plan may also demonstrate that the State has implemented such assessments in any other subject chosen by the State

(B) **REQUIREMENTS.**—Such assessments shall—

(i) be used in determining the performance of each local educational agency and public school in the State in accordance with the State's accountability system under paragraph (3);

(ii) be the same academic assessments used to measure the academic achievement of all public school students in the State;

(iii) be aligned with the State's academic standards and provide coherent and timely information about student attainment of such standards;

(iv) be used for purposes for which such assessments are valid and reliable, be of adequate technical quality for each purpose required under this Act, and be consistent with relevant, nationally recognized professional and technical standards;

(v)(I) in the case of mathematics and reading, be administered in each of grades 3 through 8 and at least once in grades 9 through 12;

(II) in the case of any other subject chosen by the State, be administered at the discretion of the State;

(vi) measure individual student academic proficiency and growth;

(vii) at the State's discretion—

(I) be administered through a single annual summative assessment; or

(II) be administered through multiple assessments during the course of the academic year that result in a single summative score that provides valid, reliable, and transparent information on student achievement;

(viii) include measures that assess higher-order thinking skills and understanding;

(ix) provide for—

(I) the participation in such assessments of all students;

(II) the reasonable adaptations and accommodations for students with disabilities necessary to measure the academic achievement of such students relative to the State's academic standards; and

(III) the inclusion of English learners, who shall be assessed in a valid and reliable manner and

provided reasonable accommodations, including, to the extent practicable, assessments in the language and form most likely to yield accurate and reliable information on what such students know and can do in academic content areas, until such students have achieved English language proficiency, as assessed by the State under subparagraph (D);

(x) notwithstanding clause (ix)(III), provide for the assessment of reading or language arts in English for English learners who have attended school in the United States (not including Puerto Rico) for 3 or more consecutive school years, except that a local educational agency may, on a case-by-case basis, provide for the assessment of reading or language arts for each such student in a language other than English for a period not to exceed 2 additional consecutive years if the assessment would be more likely to yield accurate and reliable information on what such student knows and can do, provided that such student has not yet reached a level of English language proficiency sufficient to yield valid and reliable information on what such student knows and can do on reading or language arts assessments written in English;

(xi) produce individual student interpretive, descriptive, and diagnostic reports regarding achievement on such assessments that allow parents, teachers, and school leaders to understand and address the specific academic needs of students, and that are provided to parents, teachers, and school leaders, as soon as is practicable after the assessment is given, in an understandable and uniform format, and to the extent practicable, in a language that parents can understand;

(xii) enable results to be disaggregated within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English language proficiency status, by migrant status, by status as a student with a disability, and by economically disadvantaged status, except that, in the case of a local educational agency or a school, such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student; and

(xiii) be administered to not less than 95 percent of all students, and not less than 95 percent of each subgroup of students described in paragraph (3)(B)(ii)(II).

(C) ALTERNATE ASSESSMENTS.—A State may provide for alternate assessments aligned with the alternate academic standards adopted in accordance with paragraph (1)(D), for students with the most significant cognitive disabilities, if the State—

(i) establishes and monitors implementation of clear and appropriate guidelines for individualized education program teams (as defined in section

614(d)(1)(B) of the Individuals with Disabilities Education Act) to apply when determining when a child's significant cognitive disability justifies assessment based on alternate achievement standards;

(ii) ensures that the parents of such students are informed that—

(I) their child's academic achievement will be measured against such alternate standards; and

(II) whether participation in such assessments precludes the student from completing the requirements for a regular high school diploma as defined in section 5101(35)(A);

(iii) demonstrates that such students are, to the extent practicable, included in the general curriculum and that such alternate assessments are aligned with such curriculum;

(iv) develops, disseminates information about, and promotes the use of appropriate accommodations to increase the number of students with disabilities who are tested against academic achievement standards for the grade in which a student is enrolled; and

(v) ensures that regular and special education teachers and other appropriate staff know how to administer the alternate assessments, including making appropriate use of accommodations for students with disabilities.

(D) ASSESSMENTS OF ENGLISH LANGUAGE PROFICIENCY.—

(i) IN GENERAL.—Each State plan shall demonstrate that local educational agencies in the State will provide for an annual assessment of English proficiency of all English learners in the schools served by the State educational agency.

(ii) ALIGNMENT.—The assessments described in clause (i) shall be aligned with the State's English language proficiency standards described in paragraph (1)(E).

(E) LANGUAGE ASSESSMENTS.—Each State plan shall identify the languages other than English that are present in the participating student population and indicate the languages for which yearly student academic assessments are not available and are needed. The State shall make every effort to develop such assessments and may request assistance from the Secretary if linguistically accessible academic assessment measures are needed. Upon request, the Secretary shall assist with the identification of appropriate academic assessment measures in the needed languages, but shall not mandate a specific academic assessment or mode of instruction.

(F) ADAPTIVE ASSESSMENTS.—A State may develop and administer computer adaptive assessments as the assessments required under subparagraph (A). If a State develops and administers a computer adaptive assessment for such purposes, the assessment shall meet the requirements of this paragraph, except as follows:

(i) *Notwithstanding subparagraph (B)(iii), the assessment—*

(I) shall measure, at a minimum, each student's academic proficiency against the State's academic standards for the student's grade level and growth toward such standards; and

(II) if the State chooses, may be used to measure the student's level of academic proficiency and growth using assessment items above or below the student's grade level, including for use as part of a State's accountability system under paragraph (3).

(ii) Subparagraph (B)(ii) shall not be interpreted to require that all students taking the computer adaptive assessment be administered the same assessment items.

(3) STATE ACCOUNTABILITY SYSTEMS.—

(A) IN GENERAL.—*Each State plan shall demonstrate that the State has developed and is implementing a single, statewide accountability system to ensure that all public school students graduate from high school prepared for postsecondary education or the workforce without the need for remediation.*

(B) ELEMENTS.—*Each State accountability system described in subparagraph (A) shall at a minimum—*

(i) annually measure the academic achievement of all public school students in the State against the State's academic standards adopted under paragraph (1), which may include measures of student growth toward such standards, using the assessments described in paragraph (2) and other valid and reliable academic indicators related to student achievement as identified by the State;

(ii) annually evaluate and identify the academic performance of each public school in the State based on—

(I) student academic achievement as measured in accordance with clause (i); and

(II) the overall performance, and achievement gaps as compared to all students in the school, for economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and English learners, except that disaggregation of data under this subclause shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student; and

(iii) include a system for school improvement for low-performing public schools receiving funds under this subpart that—

(I) implements interventions in such schools that are designed to address such schools' weaknesses; and

(II) is implemented by local educational agencies serving such schools.

(C) *PROHIBITION.*—Nothing in this section shall be construed to permit the Secretary to establish any criteria that specifies, defines, or prescribes any aspect of a State’s accountability system developed and implemented in accordance with this paragraph.

(D) *ACCOUNTABILITY FOR CHARTER SCHOOLS.*—The accountability provisions under this Act shall be overseen for charter schools in accordance with State charter school law.

(4) *REQUIREMENTS.*—Each State plan shall describe—

(A) how the State educational agency will assist each local educational agency and each public school affected by the State plan to comply with the requirements of this subpart, including how the State educational agency will work with local educational agencies to provide technical assistance; and

(B) how the State educational agency will ensure that the results of the State assessments described in paragraph (2), the other indicators selected by the State under paragraph (3)(B)(i), and the school evaluations described in paragraph (3)(B)(ii), will be promptly provided to local educational agencies, schools, teachers, and parents in a manner that is clear and easy to understand, but not later than before the beginning of the school year following the school year in which such assessments, other indicators, or evaluations are taken or completed.

(5) *TIMELINE FOR IMPLEMENTATION.*—Each State plan shall describe the process by which the State will adopt and implement the State academic standards, assessments, and accountability system required under this section within 2 years of enactment of the Student Success Act.

(6) *EXISTING STANDARDS.*—Nothing in this subpart shall prohibit a State from revising, consistent with this section, any standard adopted under this section before or after the date of enactment of the Student Success Act.

(7) *EXISTING STATE LAW.*—Nothing in this section shall be construed to alter any State law or regulation granting parents authority over schools that repeatedly failed to make adequate yearly progress under this section, as in effect on the day before the date of the enactment of the Student Success Act.

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

(1) the State will notify local educational agencies, schools, teachers, parents, and the public of the academic standards, academic assessments, and State accountability system developed and implemented under this section;

(2) the State will participate in biennial State academic assessments of 4th and 8th grade reading and mathematics under the National Assessment of Educational Progress carried out under section 303(b)(2) of the National Assessment of Educational Progress Authorization Act if the Secretary pays the costs of administering such assessments;

(3) the State educational agency will notify local educational agencies and the public of the authority to operate schoolwide programs;

(4) the State educational agency will provide the least restrictive and burdensome regulations for local educational agencies and individual schools participating in a program assisted under this subpart;

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

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

(7) the State educational agency will inform local educational agencies in the State of the local educational agency's authority to transfer funds under section 1002 and to obtain waivers under section 5401;

(d) PARENTAL INVOLVEMENT.—Each State plan shall describe how the State educational agency will support the collection and dissemination to local educational agencies and schools of effective parental involvement practices. Such practices shall—

(1) be based on the most current research that meets the highest professional and technical standards on effective parental involvement that fosters achievement to high standards for all children;

(2) be geared toward lowering barriers to greater participation by parents in school planning, review, and improvement; and

(3) be coordinated with programs funded under subpart 3 of part A of title III.

(e) PEER REVIEW AND SECRETARIAL APPROVAL.—

(1) ESTABLISHMENT.—Notwithstanding section 5543, the Secretary shall—

(A) establish a peer-review process to assist in the review of State plans; and

(B) appoint individuals to the peer-review process who are representative of parents, teachers, State educational agencies, and local educational agencies, and who are familiar with educational standards, assessments, accountability, the needs of low-performing schools, and other educational needs of students, and ensure that 75 percent of such appointees are practitioners.

(2) APPROVAL.—The Secretary shall—

(A) approve a State plan within 120 days of its submission;

(B) disapprove of the State plan only if the Secretary demonstrates how the State plan fails to meet the requirements of this section and immediately notifies the State of such determination and the reasons for such determination;

(C) not decline to approve a State's plan before—

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

(ii) providing technical assistance in order to assist the State to meet the requirements of this section; and

(iii) providing a hearing; and

(D) have the authority to disapprove a State plan for not meeting the requirements of this subpart, but shall not have the authority to require a State, as a condition of approval of the State plan, to include in, or delete from, such plan one or more specific elements of the State's academic standards or State accountability system, or to use specific academic assessments or other indicators.

(3) *STATE REVISIONS.*—A State plan shall be revised by the State educational agency if it is necessary to satisfy the requirements of this section.

(4) *PUBLIC REVIEW.*—All communications, feedback, and notifications under this subsection shall be conducted in a manner that is immediately made available to the public through the website of the Department, including—

(A) peer review guidance;

(B) the names of the peer reviewers;

(C) State plans submitted or resubmitted by a State, including the current approved plans;

(D) peer review notes;

(E) State plan determinations by the Secretary, including approvals or disapprovals, and any deviations from the peer reviewers' recommendations with an explanation of the deviation; and

(F) hearings.

(5) *PROHIBITION.*—The Secretary, and the Secretary's staff, may not attempt to participate in, or influence, the peer review process. No Federal employee may participate in, or attempt to influence the peer review process, except to respond to questions of a technical nature, which shall be publicly reported.

(f) *DURATION OF THE PLAN.*—

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

(A) remain in effect for the duration of the State's participation under this subpart; and

(B) be periodically reviewed and revised as necessary by the State educational agency to reflect changes in the State's strategies and programs under this subpart.

(2) *ADDITIONAL INFORMATION.*—If a State makes significant changes to its State plan, such as the adoption of new State academic standards or new academic assessments, or adopts a new State accountability system, such information shall be submitted to the Secretary under subsection (e)(2) for approval.

(g) *FAILURE TO MEET REQUIREMENTS.*—If a State fails to meet any of the requirements of this section then the Secretary shall withhold funds for State administration under this subpart until the Secretary determines that the State has fulfilled those requirements.

(h) *REPORTS.*—

(1) *ANNUAL STATE REPORT CARD.*—

(A) *IN GENERAL.*—A State that receives assistance under this subpart shall prepare and disseminate an annual State report card. Such dissemination shall include, at a minimum, publicly posting the report card on the home page of the State educational agency's website.

(B) *IMPLEMENTATION.*—The State report card shall be—
(i) concise; and

(ii) presented in an understandable and uniform format that is developed in consultation with parents and, to the extent practicable, provided in a language that parents can understand.

(C) **REQUIRED INFORMATION.**—The State shall include in its annual State report card information on—

(i) the performance of students, in the aggregate and disaggregated by the categories of students described in subsection (b)(2)(B)(xii) (except that such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student), on the State academic assessments described in subsection (b)(2);

(ii) the participation rate on such assessments, in the aggregate and disaggregated in accordance with clause (i);

(iii) the performance of students, in the aggregate and disaggregated in accordance with clause (i), on other academic indicators described in subsection (b)(3)(B)(i);

(iv) for each public high school in the State, in the aggregate and disaggregated in accordance with clause (i)—

(I) the four-year adjusted cohort graduation rate, and

(II) at the State's discretion, the extended-year adjusted cohort graduation rate, calculated and reported separately for students graduating in 5 years or less and students graduating in 6 years or less;

(v) each public school's evaluation results as determined in accordance with subsection (b)(3)(B)(ii);

(vi) the acquisition of English proficiency by English learners;

(vii) the number and percentage of teachers in each category established under clause (iii) of section 2123(1)(A), except that such information shall not reveal personally identifiable information about an individual teacher; and

(viii) the results of the assessments described in subsection (c)(2).

(D) **OPTIONAL INFORMATION.**—The State may include in its annual State report card such other information as the State believes will best provide parents, students, and other members of the public with information regarding the progress of each of the State's public elementary schools and public secondary schools.

(2) **ANNUAL LOCAL EDUCATIONAL AGENCY REPORT CARDS.**—

(A) **IN GENERAL.**—A local educational agency that receives assistance under this subpart shall prepare and disseminate an annual local educational agency report card.

(B) **MINIMUM REQUIREMENTS.**—The State educational agency shall ensure that each local educational agency col-

lects appropriate data and includes in the local educational agency's annual report the information described in paragraph (1)(C) as applied to the local educational agency and each school served by the local educational agency, and—

(i) in the case of a local educational agency, information that shows how students served by the local educational agency achieved on the statewide academic assessment and other academic indicators adopted in accordance with subsection (b)(3)(B)(i) compared to students in the State as a whole; and

(ii) in the case of a school, the school's evaluation under subsection (b)(3)(B)(ii).

(C) *OTHER INFORMATION.*—A local educational agency may include in its annual local educational agency report card any other appropriate information, whether or not such information is included in the annual State report card.

(D) *DATA.*—A local educational agency or school shall only include in its annual local educational agency report card data that are sufficient to yield statistically reliable information, as determined by the State, and that do not reveal personally identifiable information about an individual student.

(E) *PUBLIC DISSEMINATION.*—The local educational agency shall publicly disseminate the information described in this paragraph to all schools served by the local educational agency and to all parents of students attending those schools in an understandable and uniform format, and, to the extent practicable, in a language that parents can understand, and make the information widely available through public means, such as posting on the Internet, distribution to the media, and distribution through public agencies, except that if a local educational agency issues a report card for all students, the local educational agency may include the information under this section as part of such report.

(3) *PREEXISTING REPORT CARDS.*—A State educational agency or local educational agency may use public report cards on the performance of students, schools, local educational agencies, or the State, that were in effect prior to the enactment of the Student Success Act for the purpose of this subsection, so long as any such report card is modified, as may be needed, to contain the information required by this subsection.

(4) *PARENTS RIGHT-TO-KNOW.*—

(A) *ACHIEVEMENT INFORMATION.*—At the beginning of each school year, a school that receives funds under this subpart shall provide to each individual parent information on the level of achievement of the parent's child in each of the State academic assessments and other academic indicators adopted in accordance with this subpart.

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

(i) *PRIVACY.*—Information collected under this section shall be collected and disseminated in a manner that protects the privacy of individuals consistent with section 444 of the General Education Provisions Act.

(j) *VOLUNTARY PARTNERSHIPS.*—A State may enter into a voluntary partnership with another State to develop and implement the academic assessments and standards required under this section, except that the Secretary shall not attempt to influence, incentivize, or coerce State participation in any such partnerships.

(k) *CONSTRUCTION.*—Nothing in this part shall be construed to prescribe the use of the academic assessments described in this part for student promotion or graduation purposes.

(l) *SPECIAL RULE WITH RESPECT TO BUREAU-FUNDED SCHOOLS.*—In determining the assessments to be used by each school operated or funded by the Bureau of Indian Education receiving funds under this subpart, the following shall apply:

(1) Each such school that is accredited by the State in which it is operating shall use the assessments and other academic indicators the State has developed and implemented to meet the requirements of this section, or such other appropriate assessment and academic indicators as approved by the Secretary of the Interior.

(2) Each such school that is accredited by a regional accrediting organization shall adopt an appropriate assessment and other academic indicators, in consultation with and with the approval of, the Secretary of the Interior and consistent with assessments and academic indicators adopted by other schools in the same State or region, that meet the requirements of this section.

(3) Each such school that is accredited by a tribal accrediting agency or tribal division of education shall use an assessment and other academic indicators developed by such agency or division, except that the Secretary of the Interior shall ensure that such assessment and academic indicators meet the requirements of this section.

SEC. 1112. LOCAL EDUCATIONAL AGENCY PLANS.

(a) *PLANS REQUIRED.*—

(1) *SUBGRANTS.*—A local educational agency may receive a subgrant under this subpart for any fiscal year only if such agency has on file with the State educational agency a plan, approved by the State educational agency, that is coordinated with other programs under this Act, the Individuals with Disabilities Education Act, the Carl D. Perkins Career and Technical Education Act of 2006, the McKinney-Vento Homeless Assistance Act, and other Acts, as appropriate.

(2) *CONSOLIDATED APPLICATION.*—The plan may be submitted as part of a consolidated application under section 5305.

(b) *PLAN PROVISIONS.*—Each local educational agency plan shall describe—

(1) how the local educational agency will monitor, in addition to the State assessments described in section 1111(b)(2), students' progress in meeting the State's academic standards;

(2) how the local educational agency will identify quickly and effectively those students who may be at risk of failing to meet the State's academic standards;

(3) *how the local educational agency will provide additional educational assistance to individual students in need of additional help in meeting the State's academic standards;*

(4) *how the local educational agency will implement the school improvement system described in section 1111(b)(3)(B)(iii) for any of the agency's schools identified under such section;*

(5) *how the local educational agency will coordinate programs under this subpart with other programs under this Act and other Acts, as appropriate;*

(6) *the poverty criteria that will be used to select school attendance areas under section 1113;*

(7) *how teachers, in consultation with parents, administrators, and specialized instructional support personnel, in targeted assistance schools under section 1115, will identify the eligible children most in need of services under this subpart;*

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

(9) *how the local educational agency will ensure that migratory children who are eligible to receive services under this subpart are selected to receive such services on the same basis as other children who are selected to receive services under this subpart;*

(10) *the services the local educational agency will provide homeless children, including services provided with funds reserved under section 1113(c)(3)(A);*

(11) *the strategy the local educational agency will use to implement effective parental involvement under section 1118;*

(12) *if appropriate, how the local educational agency will use funds under this subpart to support preschool programs for children, particularly children participating in a Head Start program, which services may be provided directly by the local educational agency or through a subcontract with the local Head Start agency designated by the Secretary of Health and Human Services under section 641 of the Head Start Act, or another comparable early childhood development program;*

(13) *how the local educational agency, through incentives for voluntary transfers, the provision of professional development, recruitment programs, incentive pay, performance pay, or other effective strategies, will address disparities in the rates of low-income and minority students and other students being taught by ineffective teachers; and*

(14) *if appropriate, how the local educational agency will use funds under this subpart to support programs that coordinate and integrate—*

(A) *career and technical education aligned with State technical standards that promote skills attainment important to in-demand occupations or industries in the State and the State's academic standards under section 1111(b)(1); and*

- (B) *work-based learning opportunities that provide students in-depth interaction with industry professionals.*
- (c) **ASSURANCES.**—*Each local educational agency plan shall provide assurances that the local educational agency will—*
- (1) *participate, if selected, in biennial State academic assessments of 4th and 8th grade reading and mathematics under the National Assessment of Educational Progress carried out under section 303(b)(2) of the National Assessment of Educational Progress Authorization Act;*
 - (2) *inform schools of schoolwide program authority and the ability to consolidate funds from Federal, State, and local sources;*
 - (3) *provide technical assistance to schoolwide programs;*
 - (4) *provide services to eligible children attending private elementary and secondary schools in accordance with section 1120, and timely and meaningful consultation with private school officials or representatives regarding such services;*
 - (5) *in the case of a local educational agency that chooses to use funds under this subpart to provide early childhood development services to low-income children below the age of compulsory school attendance, ensure that such services comply with the performance standards established under section 641A(a) of the Head Start Act;*
 - (6) *inform eligible schools of the local educational agency's authority to request waivers on the school's behalf under Title V; and*
 - (7) *ensure that the results of the academic assessments required under section 1111(b)(2) will be provided to parents and teachers as soon as is practicably possible after the test is taken, in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.*
- (d) **SPECIAL RULE.**—*In carrying out subsection (c)(5), the Secretary shall—*
- (1) *consult with the Secretary of Health and Human Services and shall establish procedures (taking into consideration existing State and local laws, and local teacher contracts) to assist local educational agencies to comply with such subparagraph; and*
 - (2) *disseminate to local educational agencies the education performance standards in effect under section 641A(a)(1)(B) of the Head Start Act, and such agencies affected by such subsection shall plan for the implementation of such subsection (taking into consideration existing State and local laws, and local teacher contracts).*
- (e) **PLAN DEVELOPMENT AND DURATION.**—
- (1) **CONSULTATION.**—*Each local educational agency plan shall be developed in consultation with teachers, school leaders, administrators, and other appropriate school personnel, and with parents of children in schools served under this subpart.*
 - (2) **DURATION.**—*Each such plan shall be submitted for the first year for which this part is in effect following the date of enactment of this Act and shall remain in effect for the duration of the agency's participation under this subpart.*

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

(f) *STATE APPROVAL.*—

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

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

(A) enables schools served under this subpart to substantially help children served under this subpart to meet the State's academic standards described in section 1111(b)(1); and

(B) meets the requirements of this section.

(3) *REVIEW.*—The State educational agency shall review the local educational agency's plan to determine if such agency's activities are in accordance with section 1118.

(g) *PARENTAL NOTIFICATION.*—

(1) *IN GENERAL.*—Each local educational agency using funds under this subpart and subpart 4 to provide a language instruction educational program shall, not later than 30 days after the beginning of the school year, inform parents of an English learner identified for participation, or participating in, such a program of—

(A) the reasons for the identification of their child as an English learner and in need of placement in a language instruction educational program;

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

(C) the methods of instruction used in the program in which their child is, or will be participating, and the methods of instruction used in other available programs, including how such programs differ in content, instructional goals, and the use of English and a native language in instruction;

(D) how the program in which their child is, or will be participating, will meet the educational strengths and needs of their child;

(E) how such program will specifically help their child learn English, and meet age-appropriate academic achievement standards for grade promotion and graduation;

(F) the specific exit requirements for the program, including the expected rate of transition from such program into classrooms that are not tailored for English learners, and the expected rate of graduation from high school for such program if funds under this subpart are used for children in secondary schools;

(G) in the case of a child with a disability, how such program meets the objectives of the individualized education program of the child; and

(H) information pertaining to parental rights that includes written guidance—

(i) detailing—

(I) the right that parents have to have their child immediately removed from such program upon their request; and

(II) the options that parents have to decline to enroll their child in such program or to choose another program or method of instruction, if available; and

(ii) assisting parents in selecting among various programs and methods of instruction, if more than one program or method is offered by the eligible entity.

(2) NOTICE.—The notice and information provided in paragraph (1) to parents of a child identified for participation in a language instruction educational program for English learners shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

(3) SPECIAL RULE APPLICABLE DURING THE SCHOOL YEAR.—For those children who have not been identified as English learners prior to the beginning of the school year the local educational agency shall notify parents within the first 2 weeks of the child being placed in a language instruction educational program consistent with paragraphs (1) and (2).

(4) PARENTAL PARTICIPATION.—Each local educational agency receiving funds under this subpart shall implement an effective means of outreach to parents of English learners to inform the parents regarding how the parents can be involved in the education of their children, and be active participants in assisting their children to attain English proficiency, achieve at high levels in core academic subjects, and meet the State’s academic standards expected of all students, including holding, and sending notice of opportunities for, regular meetings for the purpose of formulating and responding to recommendations from parents of students assisted under this subpart.

(5) BASIS FOR ADMISSION OR EXCLUSION.—A student shall not be admitted to, or excluded from, any federally assisted education program on the basis of a surname or language-minority status.

SEC. 1113. ELIGIBLE SCHOOL ATTENDANCE AREAS.

(a) DETERMINATION.—

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

(2) ELIGIBLE SCHOOL ATTENDANCE AREAS.—For the purposes of this [part] subpart—

(A) * * *

* * * * *

(5) MEASURES.—The local educational agency shall use the same measure of poverty, which measure shall be the number of children ages 5 through 17 in poverty counted in the most recent census data approved by the Secretary, the number of children eligible for free and reduced priced lunches under the Richard B. Russell National School Lunch Act, the number of children in families receiving assistance under the State program funded under [part] subpart A of title IV of the Social

Security Act, or the number of children eligible to receive medical assistance under the Medicaid program, or a composite of such indicators, with respect to all school attendance areas in the local educational agency—

(A) * * *

* * * * *

(7) WAIVER FOR DESEGREGATION PLANS.—The Secretary may approve a local educational agency’s written request for a waiver of the requirements of subsections (a) and (c), and permit such agency to treat as eligible, and serve, any school that children attend with a State-ordered, court-ordered school desegregation plan or a plan that continues to be implemented in accordance with a State-ordered or court-ordered desegregation plan, if—

(A) * * *

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

(b) LOCAL EDUCATIONAL AGENCY DISCRETION.—

(1) IN GENERAL.—Notwithstanding subsection (a)(2), a local educational agency may—

(A) * * *

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

* * * * *

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

(i) * * *

* * * * *

(iii) the funds expended from such other sources equal or exceed the amount that would be provided under this [part] subpart.

(2) SPECIAL RULE.—Notwithstanding paragraph (1)(D), the number of children attending private elementary schools and secondary schools who are to receive services, and the assistance such children are to receive under this [part] subpart, shall be determined without regard to whether the public school attendance area in which such children reside is assisted under subparagraph (A).

(c) ALLOCATIONS.—

(1) IN GENERAL.—A local educational agency shall allocate funds received under this [part] subpart to eligible school attendance areas or eligible schools, identified under subsections (a) and (b), in rank order, on the basis of the total number of children from low-income families in each area or school.

* * * * *

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

【(A) homeless children who do not attend participating schools, including providing educationally related support services to children in shelters and other locations where children may live;

【(B) children in local institutions for neglected children; and

【(C) if appropriate, children in local institutions for delinquent children, and neglected or delinquent children in community day school programs.】

(3) RESERVATIONS.—

(A) *IN GENERAL.*—A local educational agency shall reserve such funds as are necessary under this subpart to provide services comparable to those provided to children in schools funded under this subpart to serve the following:

(i) *Homeless children and youths, which may include—*

(I) *for homeless children and youths who are attending schools not receiving assistance under this subpart and schools receiving assistance under this subpart, providing transportation pursuant to section 722(g)(1)(J)(iii) of the McKinney-Vento Homeless Assistance Act; and*

(II) *for homeless children and youths who are attending schools not receiving assistance under this subpart—*

(aa) *providing support services to homeless children and youths in shelters and other locations where they may live; and*

(bb) *removing barriers to homeless children and youths' enrollment, attendance, retention, and success in school.*

(ii) *Children in local institutions for neglected children.*

(iii) *If appropriate, children in local institutions for delinquent children, and neglected or delinquent children in community day school programs.*

(B) *AMOUNT RESERVED.*—The amount of funds reserved under subparagraph (A)(i) may be based upon a needs assessment of the homeless children and youths in the local educational agency, which may include the following:

(i) *Information related to child, youth, and family homelessness in the local educational agency obtained through the coordination and collaboration under subsections (f)(4) and (g)(5) of section 722 of the McKinney-Vento Homeless Assistance Act.*

(ii) *The number of homeless children and youths reported by the local educational agency to the State educational agency under section 722(f)(3) of such Act for the previous school year.*

(iii) *Gaps in identification of homeless children and youths in the local educational agency, as described by*

the liaison designated pursuant to section 722(g)(1)(J)(ii) of such Act.

(4) FINANCIAL INCENTIVES AND REWARDS RESERVATION.—A local educational agency may reserve such funds as are necessary from those funds received by the local educational agency under title II, and not more than 5 percent of those funds received by the local educational agency under [subpart 2] *chapter B*, to provide financial incentives and rewards to teachers who serve in schools eligible under this section and identified for [school improvement, corrective action, and restructuring under section 1116(b)] *school improvement under section 1111(b)(3)(B)(iii)* for the purpose of attracting and retaining qualified and effective teachers.

SEC. 1114. SCHOOLWIDE PROGRAMS.

(a) USE OF FUNDS FOR SCHOOLWIDE PROGRAMS.—

(1) IN GENERAL.—A local educational agency may consolidate and use funds under this [part] *subpart*, together with other Federal, State, and local funds, in order to upgrade the entire educational program of a school that serves an eligible school attendance area [in which not less than 40 percent of the children are from low-income families, or not less than 40 percent of the children enrolled in the school are from such families].

(2) IDENTIFICATION OF STUDENTS NOT REQUIRED.—

(A) IN GENERAL.—No school participating in a schoolwide program shall be required—

(i) to identify particular children under this [part] *subpart* as eligible to participate in a schoolwide program; or

* * * * *

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

(3) EXEMPTION FROM STATUTORY AND REGULATORY REQUIREMENTS.—

(A) * * *

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

* * * * *

[(4) PROFESSIONAL DEVELOPMENT.—Each school receiving funds under this part for any fiscal year shall devote sufficient resources to effectively carry out the activities described in

subsection (b)(1)(D) in accordance with section 1119 for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities.】

(b) COMPONENTS OF A SCHOOLWIDE PROGRAM.—

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

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

(B) Schoolwide reform strategies that—

(i) provide opportunities for all children to meet the State’s 【proficient and advanced levels of student academic achievement described in section 1111(b)(1)(D)】 *academic standards described in section 1111(b)(1)*;

(ii) use effective methods and instructional strategies that are 【based on scientifically based research】 *evidence-based* that—

(I) * * *

* * * * *

(iii)(I) include strategies to address the needs of all children in the school, but particularly the needs of low-achieving children and those at risk of not meeting the State 【student academic achievement standards】 *academic standards* who are members of the target population of any program that is included in the 【schoolwide program, which may include—

【(aa) counseling, pupil services, and mentoring services;

【(bb) college and career awareness and preparation, such as college and career guidance, personal finance education, and innovative teaching methods, which may include applied learning and team-teaching strategies; and

【(cc) the integration of vocational and technical education programs; and】 *schoolwide programs; and*

* * * * *

(iv) are consistent with, and are designed to implement, 【the State and local improvement plans】 *school improvement strategies*, if any.

(C) Instruction by 【highly qualified】 *effective* teachers.

(D) 【In accordance with section 1119 and subsection (a)(4), high-quality】 *High-quality* and ongoing professional development for teachers, principals, and paraprofessionals and, if appropriate, 【pupil services】 *specialized instructional support services* personnel, parents, and other staff to enable all children in the school to meet the State’s 【student academic achievement】 *academic standards*.

(E) Strategies to attract **[high-quality highly qualified]** *effective* teachers to high-need schools.

* * * * *

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

(H) Measures to include teachers in the decisions regarding the use of academic assessments described in **[section 1111(b)(3)]** *section 1111(b)(2)* in order to provide information on, and to improve, the achievement of individual students and the overall instructional program.

(I) Activities to ensure that students who experience difficulty mastering the **[proficient or advanced levels of academic achievement standards]** *State academic standards* required by section 1111(b)(1) shall be provided with effective, timely additional assistance which shall include measures to ensure that students' difficulties are identified on a timely basis and to provide sufficient information on which to base effective assistance.

(J) Coordination and integration of Federal, State, and local services and programs, including programs supported under this Act, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, **[vocational]** *career* and technical education, and job training.

(2) PLAN.—

(A) IN GENERAL.—Any eligible school that desires to operate a schoolwide program shall **[first develop (or amend a plan for such a program that was in existence on the day before the date of enactment of the No Child Left Behind Act of 2001)]** *have in place*, in consultation with the local educational agency **[and its school support team or other technical assistance provider under section 1117]**, a comprehensive plan for reforming the total instructional program in the school that—

(i) * * *

(ii) describes how the school will use resources under this **[part]** *subpart* and from other sources to implement those components;

* * * * *

(iv) describes how the school will provide individual student academic assessment results in a language the parents can understand, including an interpretation of those results, to the parents of a child who participates in the academic assessments required by **[section 1111(b)(3)]** *section 1111(b)(2)*.

(B) PLAN DEVELOPMENT.—The comprehensive plan shall be—

(i) developed during a one-year period, unless—

(I) the local educational agency**[, after considering the recommendation of the technical assistance providers under section 1117,]** determines

that less time is needed to develop and implement the schoolwide program; or

(II) the school is operating a schoolwide program on the day preceding the date of enactment of **the No Child Left Behind Act of 2001** *Student Success Act*, in which case such school may continue to operate such program, but shall develop amendments to its existing plan during the first year of assistance after that date to reflect the provisions of this section;

(ii) developed with the involvement of parents and other members of the community to be served and individuals who will carry out such plan, including teachers, principals, and administrators **[(including administrators of programs described in other parts of this title)],** and, if appropriate, **[pupil services]** *specialized instructional support services* personnel, technical assistance providers, school staff, and, if the plan relates to a secondary school, students from such school;

(iii) in effect for the duration of the school's participation under this **[part]** *subpart* and reviewed and revised, as necessary, by the school;

* * * * *

(v) if appropriate, developed in coordination with programs under **[Reading First, Early Reading First, Even Start,]** the Carl D. Perkins Career and Technical Education Act of 2006, and the Head Start Act.

(c) **PREKINDERGARTEN PROGRAM.**—A school that is eligible for a schoolwide program under this section may use funds made available under this **[part]** *subpart* to establish or enhance prekindergarten programs for children below the age of **[6,** such as Even Start programs or Early Reading First programs.] **6.**

SEC. 1115. TARGETED ASSISTANCE SCHOOLS.

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

(b) **ELIGIBLE CHILDREN.**—

(1) **ELIGIBLE POPULATION.**—

(A) * * *

(B) **ELIGIBLE CHILDREN FROM ELIGIBLE POPULATION.**—

From the population described in subparagraph (A), eligible children are children identified by the school as failing, or most at risk of failing, to meet the State's **[challenging student academic achievement]** *academic* standards on the basis of multiple, educationally related, objective criteria established by the local educational agency and supplemented by the school, except that children from preschool through grade 2 shall be selected solely on the basis of

such criteria as teacher judgment, interviews with parents, and developmentally appropriate measures.

(2) CHILDREN INCLUDED.—

(A) IN GENERAL.—Children who are economically disadvantaged, children with disabilities, migrant children or [limited English proficient children] *English learners*, are eligible for services under this [part] *subpart* on the same basis as other children selected to receive services under this [part] *subpart*.

(B) HEAD START[, EVEN START, OR EARLY READING FIRST] CHILDREN.—A child who, at any time in the 2 years preceding the year for which the determination is made, participated in a Head Start[, Even Start, or Early Reading First] program, or in preschool services under this title, is eligible for services under this part.

(C) [PART C CHILDREN.—] *SUBPART 3 CHILDREN*.—A child who, at any time in the 2 years preceding the year for which the determination is made, received services under [part C] *subpart 3* is eligible for services under this [part] *subpart*.

(D) NEGLECTED OR DELINQUENT CHILDREN.—A child in a local institution for neglected or delinquent children and youth or attending a community day program for such children is eligible for services under this [part] *subpart*.

(E) HOMELESS CHILDREN.—A child who is homeless and attending any school served by the local educational agency is eligible for services under this [part] *subpart*.

(3) SPECIAL RULE.—Funds received under this [part] *subpart* may not be used to provide services that are otherwise required by law to be made available to children described in paragraph (2) but may be used to coordinate or supplement such services.

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

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

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

(B) ensure that planning for students served under this [part] *subpart* is incorporated into existing school planning;

(C) use effective methods and instructional strategies that are [based on scientifically based research] *evidence-based* that strengthens the core academic program of the school and that—

(i) * * *

* * * * *

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

(D) coordinate with and support the regular education program, which may include services to assist preschool children in the transition from early childhood programs [such as Head Start, Even Start, Early Reading First or State-run preschool programs] to elementary school programs;

(E) provide instruction by [highly qualified] effective teachers;

(F) [in accordance with subsection (e)(3) and section 1119,] provide opportunities for professional development with resources provided under this [part] subpart, and, to the extent practicable, from other sources, for teachers, principals, and paraprofessionals, including, if appropriate, [pupil services personnel] specialized instructional support personnel, parents, and other staff, who work with participating children in programs under this section or in the regular education program;

* * * * *

(H) coordinate and integrate Federal, State, and local services and programs, including programs supported under this Act, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, [vocational] career and technical education, and job training.

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

(A) the coordinating of resources provided under this [part] subpart with other resources; and

(B) reviewing, on an ongoing basis, the progress of participating children and revising the targeted assistance program, if necessary, to provide additional assistance to enable such children to meet the State’s [challenging student academic achievement] academic standards, such as an extended school year, before- and after-school, and summer programs and opportunities, training for teachers regarding how to identify students who need additional assistance, and training for teachers regarding how to implement student academic achievement standards in the classroom.

(d) INTEGRATION OF PROFESSIONAL DEVELOPMENT.—To promote the integration of staff supported with funds under this [part] subpart into the regular school program and overall school planning and improvement efforts, public school personnel who are paid with funds received under this [part] subpart may—

(1) * * *

* * * * *

(e) SPECIAL RULES.—

(1) * * *

(2) COMPREHENSIVE SERVICES.—If—

(A) * * *

(B) funds are not reasonably available from other public or private sources to provide such services, then a portion of the funds provided under this [part] *subpart* may be used as a last resort to provide such services, including—

(i) * * *

* * * * *

(iii) professional development necessary to assist teachers, [pupil services] *specialized instructional support services* personnel, other staff, and parents in identifying and meeting the comprehensive needs of eligible children.

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

[SEC. 1116. ACADEMIC ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT.

[(a) LOCAL REVIEW.—

[(1) IN GENERAL.—Each local educational agency receiving funds under this part shall—

[(A) use the State academic assessments and other indicators described in the State plan to review annually the progress of each school served under this part to determine whether the school is making adequate yearly progress as defined in section 1111(b)(2);

[(B) at the local educational agency’s discretion, use any academic assessments or any other academic indicators described in the local educational agency’s plan under section 1112(b)(1)(A) and (B) to review annually the progress of each school served under this part to determine whether the school is making adequate yearly progress as defined in section 1111(b)(2), except that the local educational agency may not use such indicators (other than as provided for in section 1111(b)(2)(I)) if the indicators reduce the number or change the schools that would otherwise be subject to school improvement, corrective action, or restructuring under section 1116 if such additional indicators were not used, but may identify additional schools for school improvement or in need of corrective action or restructuring;

[(C) publicize and disseminate the results of the local annual review described in paragraph (1) to parents, teachers, principals, schools, and the community so that the teachers, principals, other staff, and schools can continually refine, in an instructionally useful manner, the program of instruction to help all children served under this part meet the challenging State student academic achievement standards established under section 1111(b)(1); and

[(D) review the effectiveness of the actions and activities the schools are carrying out under this part with respect to parental involvement, professional development, and other activities assisted under this part.

[(2) AVAILABLE RESULTS.—The State educational agency shall ensure that the results of State academic assessments administered in that school year are available to the local educational agency before the beginning of the next school year.

[(b) SCHOOL IMPROVEMENT.—

[(1) GENERAL REQUIREMENTS.—

[(A) IDENTIFICATION.—Subject to subparagraph (C), a local educational agency shall identify for school improvement any elementary school or secondary school served under this part that fails, for 2 consecutive years, to make adequate yearly progress as defined in the State’s plan under section 1111(b)(2).

[(B) DEADLINE.—The identification described in subparagraph (A) shall take place before the beginning of the school year following such failure to make adequate yearly progress.

[(C) APPLICATION.—Subparagraph (A) shall not apply to a school if almost every student in each group specified in section 1111(b)(2)(C)(v) enrolled in such school is meeting or exceeding the State’s proficient level of academic achievement.

[(D) TARGETED ASSISTANCE SCHOOLS.—To determine if an elementary school or a secondary school that is conducting a targeted assistance program under section 1115 should be identified for school improvement, corrective action, or restructuring under this section, a local educational agency may choose to review the progress of only the students in the school who are served, or are eligible for services, under this part.

[(E) PUBLIC SCHOOL CHOICE.—

[(i) IN GENERAL.—In the case of a school identified for school improvement under this paragraph, the local educational agency shall, not later than the first day of the school year following such identification, provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, which may include a public charter school, that has not been identified for school improvement under this paragraph, unless such an option is prohibited by State law.

[(ii) RULE.—In providing students the option to transfer to another public school, the local educational agency shall give priority to the lowest achieving children from low-income families, as determined by the local educational agency for purposes of allocating funds to schools under section 1113(c)(1).

[(F) TRANSFER.—Students who use the option to transfer under subparagraph (E) and paragraph (5)(A), (7)(C)(i), or (8)(A)(i) or subsection (c)(10)(C)(vii) shall be enrolled in classes and other activities in the public school to which

the students transfer in the same manner as all other children at the public school.

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

[(A) IDENTIFICATION.—Before identifying an elementary school or a secondary school for school improvement under paragraphs (1) or (5)(A), for corrective action under paragraph (7), or for restructuring under paragraph (8), the local educational agency shall provide the school with an opportunity to review the school-level data, including academic assessment data, on which the proposed identification is based.

[(B) EVIDENCE.—If the principal of a school proposed for identification under paragraph (1), (5)(A), (7), or (8) believes, or a majority of the parents of the students enrolled in such school believe, that the proposed identification is in error for statistical or other substantive reasons, the principal may provide supporting evidence to the local educational agency, which shall consider that evidence before making a final determination.

[(C) FINAL DETERMINATION.—Not later than 30 days after a local educational agency provides the school with the opportunity to review such school-level data, the local educational agency shall make public a final determination on the status of the school with respect to the identification.

[(3) SCHOOL PLAN.—

[(A) REVISED PLAN.—After the resolution of a review under paragraph (2), each school identified under paragraph (1) for school improvement shall, not later than 3 months after being so identified, develop or revise a school plan, in consultation with parents, school staff, the local educational agency serving the school, and outside experts, for approval by such local educational agency. The school plan shall cover a 2-year period and—

[(i) incorporate strategies based on scientifically based research that will strengthen the core academic subjects in the school and address the specific academic issues that caused the school to be identified for school improvement, and may include a strategy for the implementation of a comprehensive school reform model that includes each of the components described in part F;

[(ii) adopt policies and practices concerning the school's core academic subjects that have the greatest likelihood of ensuring that all groups of students specified in section 1111(b)(2)(C)(v) and enrolled in the school will meet the State's proficient level of achievement on the State academic assessment described in section 1111(b)(3) not later than 12 years after the end of the 2001–2002 school year;

[(iii) provide an assurance that the school will spend not less than 10 percent of the funds made available to the school under section 1113 for each fiscal year that the school is in school improvement status, for

the purpose of providing to the school's teachers and principal high-quality professional development that—

【(I) directly addresses the academic achievement problem that caused the school to be identified for school improvement;

【(II) meets the requirements for professional development activities under section 1119; and

【(III) is provided in a manner that affords increased opportunity for participating in that professional development;

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

【(v) establish specific annual, measurable objectives for continuous and substantial progress by each group of students specified in section 1111(b)(2)(C)(v) and enrolled in the school that will ensure that all such groups of students will, in accordance with adequate yearly progress as defined in section 1111(b)(2), meet the State's proficient level of achievement on the State academic assessment described in section 1111(b)(3) not later than 12 years after the end of the 2001–2002 school year;

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

【(vii) specify the responsibilities of the school, the local educational agency, and the State educational agency serving the school under the plan, including the technical assistance to be provided by the local educational agency under paragraph (4) and the local educational agency's responsibilities under section 1120A;

【(viii) include strategies to promote effective parental involvement in the school;

【(ix) incorporate, as appropriate, activities before school, after school, during the summer, and during any extension of the school year; and

【(x) incorporate a teacher mentoring program.

【(B) **CONDITIONAL APPROVAL.**—The local educational agency may condition approval of a school plan under this paragraph on—

【(i) inclusion of one or more of the corrective actions specified in paragraph (7)(C)(iv); or

【(ii) feedback on the school improvement plan from parents and community leaders.

【(C) **PLAN IMPLEMENTATION.**—Except as provided in subparagraph (D), a school shall implement the school plan (including a revised plan) expeditiously, but not later than the beginning of the next full school year following the identification under paragraph (1).

【(D) **PLAN APPROVED DURING SCHOOL YEAR.**—Notwithstanding subparagraph (C), if a plan is not approved prior

to the beginning of a school year, such plan shall be implemented immediately upon approval.

[(E) LOCAL EDUCATIONAL AGENCY APPROVAL.—The local educational agency, within 45 days of receiving a school plan, shall—

[(i) establish a peer review process to assist with review of the school plan; and

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

[(4) TECHNICAL ASSISTANCE.—

[(A) IN GENERAL.—For each school identified for school improvement under paragraph (1), the local educational agency serving the school shall ensure the provision of technical assistance as the school develops and implements the school plan under paragraph (3) throughout the plan's duration.

[(B) SPECIFIC ASSISTANCE.—Such technical assistance—

[(i) shall include assistance in analyzing data from the assessments required under section 1111(b)(3), and other examples of student work, to identify and address problems in instruction, and problems if any, in implementing the parental involvement requirements described in section 1118, the professional development requirements described in section 1119, and the responsibilities of the school and local educational agency under the school plan, and to identify and address solutions to such problems;

[(ii) shall include assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research and that have proven effective in addressing the specific instructional issues that caused the school to be identified for school improvement;

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

[(iv) may be provided—

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

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

[(C) SCIENTIFICALLY BASED RESEARCH.—Technical assistance provided under this section by a local educational

agency or an entity approved by that agency shall be based on scientifically based research.

[(5) FAILURE TO MAKE ADEQUATE YEARLY PROGRESS AFTER IDENTIFICATION.—In the case of any school served under this part that fails to make adequate yearly progress, as set out in the State’s plan under section 1111(b)(2), by the end of the first full school year after identification under paragraph (1), the local educational agency serving such school—

[(A) shall continue to provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency in accordance with subparagraphs (E) and (F);

[(B) shall make supplemental educational services available consistent with subsection (e)(1); and

[(C) shall continue to provide technical assistance.

[(6) NOTICE TO PARENTS.—A local educational agency shall promptly provide to a parent or parents (in an understandable and uniform format and, to the extent practicable, in a language the parents can understand) of each student enrolled in an elementary school or a secondary school identified for school improvement under paragraph (1), for corrective action under paragraph (7), or for restructuring under paragraph (8)—

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

[(B) the reasons for the identification;

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

[(D) an explanation of what the local educational agency or State educational agency is doing to help the school address the achievement problem;

[(E) an explanation of how the parents can become involved in addressing the academic issues that caused the school to be identified for school improvement; and

[(F) an explanation of the parents’ option to transfer their child to another public school under paragraphs (1)(E), (5)(A), (7)(C)(i), (8)(A)(i), and subsection (c)(10)(C)(vii) (with transportation provided by the agency when required by paragraph (9)) or to obtain supplemental educational services for the child, in accordance with subsection (e).

[(7) CORRECTIVE ACTION.—

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

[(i) substantially and directly responds to—

[(I) the consistent academic failure of a school that caused the local educational agency to take such action; and

[(II) any underlying staffing, curriculum, or other problems in the school; and

[(ii) is designed to increase substantially the likelihood that each group of students described in 1111(b)(2)(C) enrolled in the school identified for corrective action will meet or exceed the State's proficient levels of achievement on the State academic assessments described in section 1111(b)(3).

[(B) SYSTEM.—In order to help students served under this part meet challenging State student academic achievement standards, each local educational agency shall implement a system of corrective action in accordance with subparagraphs (C) through (E).

[(C) ROLE OF LOCAL EDUCATIONAL AGENCY.—In the case of any school served by a local educational agency under this part that fails to make adequate yearly progress, as defined by the State under section 1111(b)(2), by the end of the second full school year after the identification under paragraph (1), the local educational agency shall—

[(i) continue to provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, in accordance with paragraph (1)(E) and (F);

[(ii) continue to provide technical assistance consistent with paragraph (4) while instituting any corrective action under clause (iv);

[(iii) continue to make supplemental educational services available, in accordance with subsection (e), to children who remain in the school; and

[(iv) identify the school for corrective action and take at least one of the following corrective actions:

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

[(II) Institute and fully implement a new curriculum, including providing appropriate professional development for all relevant staff, that is based on scientifically based research and offers substantial promise of improving educational achievement for low-achieving students and enabling the school to make adequate yearly progress.

[(III) Significantly decrease management authority at the school level.

[(IV) Appoint an outside expert to advise the school on its progress toward making adequate yearly progress, based on its school plan under paragraph (3).

[(V) Extend the school year or school day for the school.

[(VI) Restructure the internal organizational structure of the school.

[(D) DELAY.—Notwithstanding any other provision of this paragraph, the local educational agency may delay, for a period not to exceed 1 year, implementation of the requirements under paragraph (5), corrective action under this paragraph, or restructuring under paragraph (8) if the school makes adequate yearly progress for 1 year or if its failure to make adequate yearly progress is due to excep-

tional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency or school. No such period shall be taken into account in determining the number of consecutive years of failure to make adequate yearly progress.

[(E) PUBLICATION AND DISSEMINATION.—The local educational agency shall publish and disseminate information regarding any corrective action the local educational agency takes under this paragraph at a school—

[(i) to the public and to the parents of each student enrolled in the school subject to corrective action;

[(ii) in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand; and

[(iii) through such means as the Internet, the media, and public agencies.

[(8) RESTRUCTURING.—

[(A) FAILURE TO MAKE ADEQUATE YEARLY PROGRESS.—If, after 1 full school year of corrective action under paragraph (7), a school subject to such corrective action continues to fail to make adequate yearly progress, then the local educational agency shall—

[(i) continue to provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, in accordance with paragraph (1)(E) and (F);

[(ii) continue to make supplemental educational services available, in accordance with subsection (e), to children who remain in the school; and

[(iii) prepare a plan and make necessary arrangements to carry out subparagraph (B).

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

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

[(ii) Replacing all or most of the school staff (which may include the principal) who are relevant to the failure to make adequate yearly progress.

[(iii) Entering into a contract with an entity, such as a private management company, with a demonstrated record of effectiveness, to operate the public school.

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

[(v) Any other major restructuring of the school's governance arrangement that makes fundamental reforms, such as significant changes in the school's staffing and governance, to improve student academic achievement in the school and that has substantial promise of enabling the school to make adequate year-

ly progress as defined in the State plan under section 1111(b)(2). In the case of a rural local educational agency with a total of less than 600 students in average daily attendance at the schools that are served by the agency and all of whose schools have a School Locale Code of 7 or 8, as determined by the Secretary, the Secretary shall, at such agency's request, provide technical assistance to such agency for the purpose of implementing this clause.

[(C) PROMPT NOTICE.—The local educational agency shall—

[(i) provide prompt notice to teachers and parents whenever subparagraph (A) or (B) applies; and

[(ii) provide the teachers and parents with an adequate opportunity to—

[(I) comment before taking any action under those subparagraphs; and

[(II) participate in developing any plan under subparagraph (A)(iii).

[(9) TRANSPORTATION.—In any case described in paragraph (1)(E) for schools described in paragraphs (1)(A), (5), (7)(C)(i), and (8)(A), and subsection (c)(10)(C)(vii), the local educational agency shall provide, or shall pay for the provision of, transportation for the student to the public school the student attends.

[(10) FUNDS FOR TRANSPORTATION AND SUPPLEMENTAL EDUCATIONAL SERVICES.—

[(A) IN GENERAL.—Unless a lesser amount is needed to comply with paragraph (9) and to satisfy all requests for supplemental educational services under subsection (e), a local educational agency shall spend an amount equal to 20 percent of its allocation under subpart 2, from which the agency shall spend—

[(i) an amount equal to 5 percent of its allocation under subpart 2 to provide, or pay for, transportation under paragraph (9);

[(ii) an amount equal to 5 percent of its allocation under subpart 2 to provide supplemental educational services under subsection (e); and

[(iii) an amount equal to the remaining 10 percent of its allocation under subpart 2 for transportation under paragraph (9), supplemental educational services under subsection (e), or both, as the agency determines.

[(B) TOTAL AMOUNT.—The total amount described in subparagraph (A)(ii) is the maximum amount the local educational agency shall be required to spend under this part on supplemental educational services described in subsection (e).

[(C) INSUFFICIENT FUNDS.—If the amount of funds described in subparagraph (A)(ii) or (iii) and available to provide services under this subsection is insufficient to provide supplemental educational services to each child whose parents request the services, the local educational agency shall give priority to providing the services to the lowest-achieving children.

[(D) PROHIBITION.—A local educational agency shall not, as a result of the application of this paragraph, reduce by more than 15 percent the total amount made available under section 1113(c) to a school described in paragraph (7)(C) or (8)(A) of subsection (b).

[(11) COOPERATIVE AGREEMENT.—In any case described in paragraph (1)(E), (5)(A), (7)(C)(i), or (8)(A)(i), or subsection (c)(10)(C)(vii) if all public schools served by the local educational agency to which a child may transfer are identified for school improvement, corrective action or restructuring, the agency shall, to the extent practicable, establish a cooperative agreement with other local educational agencies in the area for a transfer.

[(12) DURATION.—If any school identified for school improvement, corrective action, or restructuring makes adequate yearly progress for two consecutive school years, the local educational agency shall no longer subject the school to the requirements of school improvement, corrective action, or restructuring or identify the school for school improvement for the succeeding school year.

[(13) SPECIAL RULE.—A local educational agency shall permit a child who transferred to another school under this subsection to remain in that school until the child has completed the highest grade in that school. The obligation of the local educational agency to provide, or to provide for, transportation for the child ends at the end of a school year if the local educational agency determines that the school from which the child transferred is no longer identified for school improvement or subject to corrective action or restructuring.

[(14) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—The State educational agency shall—

[(A) make technical assistance under section 1117 available to schools identified for school improvement, corrective action, or restructuring under this subsection consistent with section 1117(a)(2);

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

[(C) ensure that academic assessment results under this part are provided to schools before any identification of a school may take place under this subsection; and

[(D) for local educational agencies or schools identified for improvement under this subsection, notify the Secretary of major factors that were brought to the attention of the State educational agency under section 1111(b)(9) that have significantly affected student academic achievement.

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

[(1) IN GENERAL.—A State shall—

[(A) annually review the progress of each local educational agency receiving funds under this part to determine whether schools receiving assistance under this part

are making adequate yearly progress as defined in section 1111(b)(2) toward meeting the State's student academic achievement standards and to determine if each local educational agency is carrying out its responsibilities under this section and sections 1117, 1118, and 1119; and

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

[(2) REWARDS.—In the case of a local educational agency that, for 2 consecutive years, has exceeded adequate yearly progress as defined in the State plan under section 1111(b)(2), the State may make rewards of the kinds described under section 1117 to the agency.

[(3) IDENTIFICATION OF LOCAL EDUCATIONAL AGENCY FOR IMPROVEMENT.—A State shall identify for improvement any local educational agency that, for 2 consecutive years, including the period immediately prior to the date of enactment of the No Child Left Behind Act of 2001, failed to make adequate yearly progress as defined in the State's plan under section 1111(b)(2).

[(4) TARGETED ASSISTANCE SCHOOLS.—When reviewing targeted assistance schools served by a local educational agency, a State educational agency may choose to review the progress of only the students in such schools who are served, or are eligible for services, under this part.

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

[(A) REVIEW.—Before identifying a local educational agency for improvement under paragraph (3) or corrective action under paragraph (10), a State educational agency shall provide the local educational agency with an opportunity to review the data, including academic assessment data, on which the proposed identification is based.

[(B) EVIDENCE.—If the local educational agency believes that the proposed identification is in error for statistical or other substantive reasons, the agency may provide supporting evidence to the State educational agency, which shall consider the evidence before making a final determination not later than 30 days after the State educational agency provides the local educational agency with the opportunity to review such data under subparagraph (A).

[(6) NOTIFICATION TO PARENTS.—The State educational agency shall promptly provide to the parents (in a format and, to the extent practicable, in a language the parents can understand) of each student enrolled in a school served by a local educational agency identified for improvement, the results of the review under paragraph (1) and, if the agency is identified for improvement, the reasons for that identification and how parents can participate in upgrading the quality of the local educational agency.

[(7) LOCAL EDUCATIONAL AGENCY REVISIONS.—

[(A) PLAN.—Each local educational agency identified under paragraph (3) shall, not later than 3 months after

being so identified, develop or revise a local educational agency plan, in consultation with parents, school staff, and others. Such plan shall—

[(i) incorporate scientifically based research strategies that strengthen the core academic program in schools served by the local educational agency;

[(ii) identify actions that have the greatest likelihood of improving the achievement of participating children in meeting the State's student academic achievement standards;

[(iii) address the professional development needs of the instructional staff serving the agency by committing to spend not less than 10 percent of the funds received by the local educational agency under subpart 2 for each fiscal year in which the agency is identified for improvement for professional development (including funds reserved for professional development under subsection (b)(3)(A)(iii)), but excluding funds reserved for professional development under section 1119;

[(iv) include specific measurable achievement goals and targets for each of the groups of students identified in the disaggregated data pursuant to section 1111(b)(2)(C)(v), consistent with adequate yearly progress as defined under section 1111(b)(2);

[(v) address the fundamental teaching and learning needs in the schools of that agency, and the specific academic problems of low-achieving students, including a determination of why the local educational agency's prior plan failed to bring about increased student academic achievement;

[(vi) incorporate, as appropriate, activities before school, after school, during the summer, and during an extension of the school year;

[(vii) specify the responsibilities of the State educational agency and the local educational agency under the plan, including specifying the technical assistance to be provided by the State educational agency under paragraph (9) and the local educational agency's responsibilities under section 1120A; and

[(viii) include strategies to promote effective parental involvement in the school.

[(B) IMPLEMENTATION.—The local educational agency shall implement the plan (including a revised plan) expeditiously, but not later than the beginning of the next school year after the school year in which the agency was identified for improvement.

[(9) STATE EDUCATIONAL AGENCY RESPONSIBILITY.—

[(A) TECHNICAL OR OTHER ASSISTANCE.—For each local educational agency identified under paragraph (3), the State educational agency shall provide technical or other assistance if requested, as authorized under section 1117, to better enable the local educational agency to—

[(i) develop and implement the local educational agency's plan; and

[(ii) work with schools needing improvement.

[(B) METHODS AND STRATEGIES.—Technical assistance provided under this section by the State educational agency or an entity authorized by such agency shall be supported by effective methods and instructional strategies based on scientifically based research. Such technical assistance shall address problems, if any, in implementing the parental involvement activities described in section 1118 and the professional development activities described in section 1119.

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

[(A) DEFINITION.—As used in this paragraph, the term “corrective action” means action, consistent with State law, that—

[(i) substantially and directly responds to the consistent academic failure that caused the State to take such action and to any underlying staffing, curricular, or other problems in the agency; and

[(ii) is designed to meet the goal of having all students served under this part achieve at the proficient and advanced student academic achievement levels.

[(B) GENERAL REQUIREMENTS.—After providing technical assistance under paragraph (9) and subject to subparagraph (E), the State—

[(i) may take corrective action at any time with respect to a local educational agency that has been identified under paragraph (3);

[(ii) shall take corrective action with respect to any local educational agency that fails to make adequate yearly progress, as defined by the State, by the end of the second full school year after the identification of the agency under paragraph (3); and

[(iii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).

[(C) CERTAIN CORRECTIVE ACTIONS REQUIRED.—In the case of a local educational agency identified for corrective action, the State educational agency shall take at least one of the following corrective actions:

[(i) Deferring programmatic funds or reducing administrative funds.

[(ii) Instituting and fully implementing a new curriculum that is based on State and local academic content and achievement standards, including providing appropriate professional development based on scientifically based research for all relevant staff, that offers substantial promise of improving educational achievement for low-achieving students.

[(iii) Replacing the local educational agency personnel who are relevant to the failure to make adequate yearly progress.

[(iv) Removing particular schools from the jurisdiction of the local educational agency and establishing

alternative arrangements for public governance and supervision of such schools.

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

[(vi) Abolishing or restructuring the local educational agency.

[(vii) Authorizing students to transfer from a school operated by the local educational agency to a higher-performing public school operated by another local educational agency in accordance with subsections (b)(1)(E) and (F), and providing to such students transportation (or the costs of transportation) to such schools consistent with subsection (b)(9), in conjunction with carrying out not less than one additional action described under this subparagraph.

[(D) HEARING.—Prior to implementing any corrective action under this paragraph, the State educational agency shall provide notice and a hearing to the affected local educational agency, if State law provides for such notice and hearing. The hearing shall take place not later than 45 days following the decision to implement corrective action.

[(E) NOTICE TO PARENTS.—The State educational agency shall publish, and disseminate to parents and the public, information on any corrective action the State educational agency takes under this paragraph through such means as the Internet, the media, and public agencies.

[(F) DELAY.—Notwithstanding subparagraph (B)(ii), a State educational agency may delay, for a period not to exceed 1 year, implementation of corrective action under this paragraph if the local educational agency makes adequate yearly progress for 1 year or its failure to make adequate yearly progress is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency. No such period shall be taken into account in determining the number of consecutive years of failure to make adequate yearly progress.

[(11) SPECIAL RULE.—If a local educational agency makes adequate yearly progress for two consecutive school years beginning after the date of identification of the agency under paragraph (3), the State educational agency need no longer identify the local educational agency for improvement or subject the local educational agency to corrective action for the succeeding school year.

[(d) CONSTRUCTION.—Nothing in this section shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded school or school district employees under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

[(e) SUPPLEMENTAL EDUCATIONAL SERVICES.—

[(1) SUPPLEMENTAL EDUCATIONAL SERVICES.—In the case of any school described in paragraph (5), (7), or (8) of subsection (b), the local educational agency serving such school shall, subject to this subsection, arrange for the provision of supplemental educational services to eligible children in the school from a provider with a demonstrated record of effectiveness, that is selected by the parents and approved for that purpose by the State educational agency in accordance with reasonable criteria, consistent with paragraph (5), that the State educational agency shall adopt.

[(2) LOCAL EDUCATIONAL AGENCY RESPONSIBILITIES.—Each local educational agency subject to this subsection shall—

[(A) provide, at a minimum, annual notice to parents (in an understandable and uniform format and, to the extent practicable, in a language the parents can understand) of—

[(i) the availability of services under this subsection;

[(ii) the identity of approved providers of those services that are within the local educational agency or whose services are reasonably available in neighboring local educational agencies; and

[(iii) a brief description of the services, qualifications, and demonstrated effectiveness of each such provider;

[(B) if requested, assist parents in choosing a provider from the list of approved providers maintained by the State;

[(C) apply fair and equitable procedures for serving students if the number of spaces at approved providers is not sufficient to serve all students; and

[(D) not disclose to the public the identity of any student who is eligible for, or receiving, supplemental educational services under this subsection without the written permission of the parents of the student.

[(3) AGREEMENT.—In the case of the selection of an approved provider by a parent, the local educational agency shall enter into an agreement with such provider. Such agreement shall—

[(A) require the local educational agency to develop, in consultation with parents (and the provider chosen by the parents), a statement of specific achievement goals for the student, how the student's progress will be measured, and a timetable for improving achievement that, in the case of a student with disabilities, is consistent with the student's individualized education program under section 614(d) of the Individuals with Disabilities Education Act;

[(B) describe how the student's parents and the student's teacher or teachers will be regularly informed of the student's progress;

[(C) provide for the termination of such agreement if the provider is unable to meet such goals and timetables;

[(D) contain provisions with respect to the making of payments to the provider by the local educational agency; and

[(E) prohibit the provider from disclosing to the public the identity of any student eligible for, or receiving, sup-

plemental educational services under this subsection without the written permission of the parents of such student.

[(4) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—A State educational agency shall—

[(A) in consultation with local educational agencies, parents, teachers, and other interested members of the public, promote maximum participation by providers to ensure, to the extent practicable, that parents have as many choices as possible;

[(B) develop and apply objective criteria, consistent with paragraph (5), to potential providers that are based on a demonstrated record of effectiveness in increasing the academic proficiency of students in subjects relevant to meeting the State academic content and student achievement standards adopted under section 1111(b)(1);

[(C) maintain an updated list of approved providers across the State, by school district, from which parents may select;

[(D) develop, implement, and publicly report on standards and techniques for monitoring the quality and effectiveness of the services offered by approved providers under this subsection, and for withdrawing approval from providers that fail, for 2 consecutive years, to contribute to increasing the academic proficiency of students served under this subsection as described in subparagraph (B); and

[(E) provide annual notice to potential providers of supplemental educational services of the opportunity to provide services under this subsection and of the applicable procedures for obtaining approval from the State educational agency to be an approved provider of those services.

[(5) CRITERIA FOR PROVIDERS.—In order for a provider to be included on the State list under paragraph (4)(C), a provider shall agree to carry out the following:

[(A) Provide parents of children receiving supplemental educational services under this subsection and the appropriate local educational agency with information on the progress of the children in increasing achievement, in a format and, to the extent practicable, a language that such parents can understand.

[(B) Ensure that instruction provided and content used by the provider are consistent with the instruction provided and content used by the local educational agency and State, and are aligned with State student academic achievement standards.

[(C) Meet all applicable Federal, State, and local health, safety, and civil rights laws.

[(D) Ensure that all instruction and content under this subsection are secular, neutral, and nonideological.

[(6) AMOUNTS FOR SUPPLEMENTAL EDUCATIONAL SERVICES.—The amount that a local educational agency shall make available for supplemental educational services for each child receiving those services under this subsection shall be the lesser of—

[(A) the amount of the agency's allocation under subpart 2, divided by the number of children from families below the poverty level counted under section 1124(c)(1)(A); or

[(B) the actual costs of the supplemental educational services received by the child.

[(7) FUNDS PROVIDED BY STATE EDUCATIONAL AGENCY.—Each State educational agency may use funds that the agency reserves under this part, and part A of title V, to assist local educational agencies that do not have sufficient funds to provide services under this subsection for all eligible students requesting such services.

[(8) DURATION.—The local educational agency shall continue to provide supplemental educational services to a child receiving such services under this subsection until the end of the school year in which such services were first received.

[(9) PROHIBITION.—Nothing contained in this subsection shall permit the making of any payment for religious worship or instruction.

[(10) WAIVER.—

[(A) REQUIREMENT.—At the request of a local educational agency, a State educational agency may waive, in whole or in part, the requirement of this subsection to provide supplemental educational services if the State educational agency determines that—

[(i) none of the providers of those services on the list approved by the State educational agency under paragraph (4)(C) makes those services available in the area served by the local educational agency or within a reasonable distance of that area; and

[(ii) the local educational agency provides evidence that it is not able to provide those services.

[(B) NOTIFICATION.—The State educational agency shall notify the local educational agency, within 30 days of receiving the local educational agency's request for a waiver under subparagraph (A), whether the request is approved or disapproved and, if disapproved, the reasons for the disapproval, in writing.

[(11) SPECIAL RULE.—If State law prohibits a State educational agency from carrying out one or more of its responsibilities under paragraph (4) with respect to those who provide, or seek approval to provide, supplemental educational services, each local educational agency in the State shall carry out those responsibilities with respect to its students who are eligible for those services.

[(12) DEFINITIONS.—In this subsection—

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

[(B) the term “provider” means a non-profit entity, a for-profit entity, or a local educational agency that—

[(i) has a demonstrated record of effectiveness in increasing student academic achievement;

[(ii) is capable of providing supplemental educational services that are consistent with the instruc-

tional program of the local educational agency and the academic standards described under section 1111; and

[(iii) is financially sound; and

[(C) the term “supplemental educational services” means tutoring and other supplemental academic enrichment services that are—

[(i) in addition to instruction provided during the school day; and

[(ii) are of high quality, research-based, and specifically designed to increase the academic achievement of eligible children on the academic assessments required under section 1111 and attain proficiency in meeting the State’s academic achievement standards.

[(f) SCHOOLS AND LEAS PREVIOUSLY IDENTIFIED FOR IMPROVEMENT OR CORRECTIVE ACTION.—

[(1) SCHOOLS.—

[(A) SCHOOL IMPROVEMENT.—

[(i) SCHOOLS IN SCHOOL-IMPROVEMENT STATUS BEFORE DATE OF ENACTMENT.—Any school that was in the first year of school improvement status under this section on the day preceding the date of enactment of the No Child Left Behind Act of 2001 (as this section was in effect on such day) shall be treated by the local educational agency as a school that is in the first year of school improvement status under paragraph (1).

[(ii) SCHOOLS IN SCHOOL-IMPROVEMENT STATUS FOR 2 OR MORE YEARS BEFORE DATE OF ENACTMENT.—Any school that was in school improvement status under this section for two or more consecutive school years preceding the date of enactment of the No Child Left Behind Act of 2001 (as this section was in effect on such day) shall be treated by the local educational agency as a school described in subsection (b)(5).

[(B) CORRECTIVE ACTION.—Any school that was in corrective action status under this section on the day preceding the date of enactment of the No Child Left Behind Act of 2001 (as this section was in effect on such day) shall be treated by the local educational agency as a school described in paragraph (7).

[(2) LEAs.—

[(A) LEA IMPROVEMENT.—A State shall identify for improvement under subsection (c)(3) any local educational agency that was in improvement status under this section as this section was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001.

[(B) CORRECTIVE ACTION.—A State shall identify for corrective action under subsection (c)(10) any local educational agency that was in corrective action status under this section as this section was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001.

[(C) SPECIAL RULE.—For the schools and other local educational agencies described under paragraphs (1) and (2), as required, the State shall ensure that public school choice in accordance with subparagraphs (b)(1)(E) and (F)

and supplemental education services in accordance with subsection (e) are provided not later than the first day of the 2002–2003 school year.

[(D) TRANSITION.—With respect to a determination that a local educational agency has for 2 consecutive years failed to make adequate yearly progress as defined in the State plan under section 1111(b)(2), such determination shall include in such 2-year period any continuous period of time immediately preceding the date of enactment of the No Child Left Behind Act of 2001 during which the agency has failed to make such progress.

[(g) SCHOOLS FUNDED BY THE BUREAU OF INDIAN AFFAIRS.—

[(1) ADEQUATE YEARLY PROGRESS FOR BUREAU FUNDED SCHOOLS.—

[(A) DEVELOPMENT OF DEFINITION.—

[(i) DEFINITION.—The Secretary of the Interior, in consultation with the Secretary if the Secretary of Interior requests the consultation, using the process set out in section 1138(b) of the Education Amendments of 1978, shall define adequate yearly progress, consistent with section 1111(b), for the schools funded by the Bureau of Indian Affairs on a regional or tribal basis, as appropriate, taking into account the unique circumstances and needs of such schools and the students served by such schools.

[(ii) USE OF DEFINITION.—The Secretary of the Interior, consistent with clause (i), may use the definition of adequate yearly progress that the State in which the school that is funded by the Bureau is located uses consistent with section 1111(b), or in the case of schools that are located in more than one State, the Secretary of the Interior may use whichever State definition of adequate yearly progress that best meets the unique circumstances and needs of such school or schools and the students the schools serve.

[(B) WAIVER.—The tribal governing body or school board of a school funded by the Bureau of Indian Affairs may waive, in part or in whole, the definition of adequate yearly progress established pursuant to paragraph (A) where such definition is determined by such body or school board to be inappropriate. If such definition is waived, the tribal governing body or school board shall, within 60 days thereafter, submit to the Secretary of Interior a proposal for an alternative definition of adequate yearly progress, consistent with section 1111(b), that takes into account the unique circumstances and needs of such school or schools and the students served. The Secretary of the Interior, in consultation with the Secretary if the Secretary of Interior requests the consultation, shall approve such alternative definition unless the Secretary determines that the definition does not meet the requirements of section 1111(b), taking into account the unique circumstances and needs of such school or schools and the students served.

[(C) TECHNICAL ASSISTANCE.—The Secretary of Interior shall, in consultation with the Secretary if the Secretary of

Interior requests the consultation, either directly or through a contract, provide technical assistance, upon request, to a tribal governing body or school board of a school funded by the Bureau of Indian Affairs that seeks to develop an alternative definition of adequate yearly progress.

[(2) ACCOUNTABILITY FOR BIA SCHOOLS.—For the purposes of this section, schools funded by the Bureau of Indian Affairs shall be considered schools subject to subsection (b), as specifically provided for in this subsection, except that such schools shall not be subject to subsection (c), or the requirements to provide public school choice and supplemental educational services under subsections (b) and (e).

[(3) SCHOOL IMPROVEMENT FOR BUREAU SCHOOLS.—

[(A) CONTRACT AND GRANT SCHOOLS.—For a school funded by the Bureau of Indian Affairs which is operated under a contract issued by the Secretary of the Interior pursuant to the Indian Self-Determination Act (25 U.S.C. 450 et seq.) or under a grant issued by the Secretary of the Interior pursuant to the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), the school board of such school shall be responsible for meeting the requirements of subsection (b) relating to development and implementation of any school improvement plan as described in subsections (b)(1) through (b)(3), and subsection (b)(5), other than subsection (b)(1)(E). The Bureau of Indian Affairs shall be responsible for meeting the requirements of subsection (b)(4) relating to technical assistance.

[(B) BUREAU OPERATED SCHOOLS.—For schools operated by the Bureau of Indian Affairs, the Bureau shall be responsible for meeting the requirements of subsection (b) relating to development and implementation of any school improvement plan as described in subsections (b)(1) through (b)(5), other than subsection (b)(1)(E).

[(4) CORRECTIVE ACTION AND RESTRUCTURING FOR BUREAU-FUNDED SCHOOLS.—

[(A) CONTRACT AND GRANT SCHOOLS.—For a school funded by the Bureau of Indian Affairs which is operated under a contract issued by the Secretary of the Interior pursuant to the Indian Self-Determination Act (25 U.S.C. 450 et seq.) or under a grant issued by the Secretary of the Interior pursuant to the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), the school board of such school shall be responsible for meeting the requirements of subsection (b) relating to corrective action and restructuring as described in subsection (b)(7) and (b)(8). Any action taken by such school board under subsection (b)(7) or (b)(8) shall take into account the unique circumstances and structure of the Bureau of Indian Affairs-funded school system and the laws governing that system.

[(B) BUREAU OPERATED SCHOOLS.—For schools operated by the Bureau of Indian Affairs, the Bureau shall be responsible for meeting the requirements of subsection (b) relating to corrective action and restructuring as described in subsection (b)(7) and (b)(8). Any action taken by the Bu-

reau under subsection (b)(7) or (b)(8) shall take into account the unique circumstances and structure of the Bureau of Indian Affairs-funded school system and the laws governing that system.

[(5) ANNUAL REPORT.—On an annual basis, the Secretary of the Interior shall report to the Secretary of Education and to the appropriate committees of Congress regarding any schools funded by the Bureau of Indian Affairs which have been identified for school improvement. Such report shall include—

[(A) the identity of each school;

[(B) a statement from each affected school board regarding the factors that lead to such identification; and

[(C) an analysis by the Secretary of the Interior, in consultation with the Secretary if the Secretary of Interior requests the consultation, as to whether sufficient resources were available to enable such school to achieve adequate yearly progress.

[(h) OTHER AGENCIES.—After receiving the notice described in subsection (b)(14)(D), the Secretary may notify, to the extent feasible and necessary as determined by the Secretary, other relevant Federal agencies regarding the major factors that were determined by the State educational agency to have significantly affected student academic achievement.

[SEC. 1117. SCHOOL SUPPORT AND RECOGNITION.

[(a) SYSTEM FOR SUPPORT.—

[(1) IN GENERAL.—Each State shall establish a statewide system of intensive and sustained support and improvement for local educational agencies and schools receiving funds under this part, in order to increase the opportunity for all students served by those agencies and schools to meet the State's academic content standards and student academic achievement standards.

[(2) PRIORITIES.—In carrying out this subsection, a State shall—

[(A) first, provide support and assistance to local educational agencies with schools subject to corrective action under section 1116 and assist those schools, in accordance with section 1116(b)(11), for which a local educational agency has failed to carry out its responsibilities under paragraphs (7) and (8) of section 1116(b);

[(B) second, provide support and assistance to other local educational agencies with schools identified as in need of improvement under section 1116(b); and

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

[(3) REGIONAL CENTERS.—Such a statewide system shall, to the extent practicable, work with and receive support and assistance from regional educational laboratories established under part D of the Education Sciences Reform Act of 2002 and comprehensive centers established under the Educational Technical Assistance Act of 2002 and the comprehensive regional technical assistance centers and the regional educational laboratories under section 941(h) of the Educational

Research, Development, Dissemination, and Improvement Act of 1994 (as such section existed on the day before the date of enactment of the Education Sciences Reform Act of 2002), or other providers of technical assistance.

[(4) STATEWIDE SYSTEM.—

[(A) In order to achieve the purpose described in paragraph (1), the statewide system shall include, at a minimum, the following approaches:

[(i) Establishing school support teams in accordance with subparagraph (C) for assignment to, and working in, schools in the State that are described in paragraph (2).

[(ii) Providing such support as the State educational agency determines necessary and available in order to ensure the effectiveness of such teams.

[(iii) Designating and using distinguished teachers and principals who are chosen from schools served under this part that have been especially successful in improving academic achievement.

[(iv) Devising additional approaches to providing the assistance described in paragraph (1), such as providing assistance through institutions of higher education and educational service agencies or other local consortia, and private providers of scientifically based technical assistance.

[(B) PRIORITY.—The State educational agency shall give priority to the approach described in clause (i) of subparagraph (A).

[(5) SCHOOL SUPPORT TEAMS.—

[(A) COMPOSITION.—Each school support team established under this section shall be composed of persons knowledgeable about scientifically based research and practice on teaching and learning and about successful schoolwide projects, school reform, and improving educational opportunities for low-achieving students, including—

[(i) highly qualified or distinguished teachers and principals;

[(ii) pupil services personnel;

[(iii) parents;

[(iv) representatives of institutions of higher education;

[(v) representatives of regional educational laboratories or comprehensive regional technical assistance centers;

[(vi) representatives of outside consultant groups; or

[(vii) other individuals as the State educational agency, in consultation with the local educational agency, may determine appropriate.

[(B) FUNCTIONS.—Each school support team assigned to a school under this section shall—

[(i) review and analyze all facets of the school's operation, including the design and operation of the instructional program, and assist the school in devel-

oping recommendations for improving student performance in that school;

[(ii) collaborate with parents and school staff and the local educational agency serving the school in the design, implementation, and monitoring of a plan that, if fully implemented, can reasonably be expected to improve student performance and help the school meet its goals for improvement, including adequate yearly progress under section 1111(b)(2)(B);

[(iii) evaluate, at least semiannually, the effectiveness of school personnel assigned to the school, including identifying outstanding teachers and principals, and make findings and recommendations to the school, the local educational agency, and, where appropriate, the State educational agency; and

[(iv) make additional recommendations as the school implements the plan described in clause (ii) to the local educational agency and the State educational agency concerning additional assistance that is needed by the school or the school support team.

[(C) CONTINUATION OF ASSISTANCE.—After one school year, from the beginning of the activities, such school support team, in consultation with the local educational agency, may recommend that the school support team continue to provide assistance to the school, or that the local educational agency or the State educational agency, as appropriate, take alternative actions with regard to the school.

[(b) STATE RECOGNITION.—

[(1) ACADEMIC ACHIEVEMENT AWARDS PROGRAM.—

[(A) IN GENERAL.—Each State receiving a grant under this part—

[(i) shall establish a program for making academic achievement awards to recognize schools that meet the criteria described in subparagraph (B); and

[(ii) as appropriate and as funds are available under subsection (c)(2)(A), may financially reward schools served under this part that meet the criteria described in clause (i).

[(B) CRITERIA.—The criteria referred to in subparagraph (A) are that a school—

[(i) significantly closed the achievement gap between the groups of students described in section 1111(b)(2); or

[(ii) exceeded their adequate yearly progress, consistent with section 1111(b)(2), for 2 or more consecutive years.

[(2) DISTINGUISHED SCHOOLS.—Of those schools meeting the criteria described in paragraph (2), each State shall designate as distinguished schools those schools that have made the greatest gains in closing the achievement gap as described in subparagraph (B)(i) or exceeding adequate yearly progress as described in subparagraph (B)(ii). Such distinguished schools may serve as models for and provide support to other schools, especially schools identified for improvement under section 1116, to assist such schools in meeting the State's academic

content standards and student academic achievement standards.

[(3) AWARDS TO TEACHERS.—A State program under paragraph (1) may also recognize and provide financial awards to teachers teaching in a school described in such paragraph that consistently makes significant gains in academic achievement in the areas in which the teacher provides instruction, or to teachers or principals designated as distinguished under subsection (a)(4)(A)(iii).

[(c) FUNDING.—

[(1) IN GENERAL.—Each State—

[(A) shall use funds reserved under section 1003(a) and may use funds made available under section 1003(g) for the approaches described under subsection (a)(4)(A); and

[(B) shall use State administrative funds authorized under section 1004(a) to establish the statewide system of support described under subsection (a).

[(2) RESERVATIONS OF FUNDS BY STATE.—

[(A) AWARDS PROGRAM.—For the purpose of carrying out subsection (b)(1), each State receiving a grant under this part may reserve, from the amount (if any) by which the funds received by the State under subpart 2 for a fiscal year exceed the amount received by the State under that subpart for the preceding fiscal year, not more than 5 percent of such excess amount.

[(B) TEACHER AWARDS.—For the purpose of carrying out subsection (b)(3), a State educational agency may reserve such funds as necessary from funds made available under section 2113.

[(3) USE WITHIN 3 YEARS.—Notwithstanding any other provision of law, the amount reserved under subparagraph (A) by a State for each fiscal year shall remain available to the State until expended for a period not exceeding 3 years receipt of funds.

[(4) SPECIAL ALLOCATION RULE FOR SCHOOLS IN HIGH-POVERTY AREAS.—

[(A) IN GENERAL.—Each State shall distribute not less than 75 percent of any amount reserved under paragraph (2)(A) for each fiscal year to schools described in subparagraph (B), or to teachers in those schools consistent with subsection (b)(3).

[(B) SCHOOL DESCRIBED.—A school described in subparagraph (A) is a school whose student population is in the highest quartile of schools statewide in terms of the percentage of children from low income families.]

SEC. 1118. PARENTAL INVOLVEMENT.

(a) LOCAL EDUCATIONAL AGENCY POLICY.—

(1) IN GENERAL.—A local educational agency may receive funds under this [part] *subpart* only if such agency implements programs, activities, and procedures for the involvement of parents in programs assisted under this [part] *subpart* consistent with this section. Such programs, activities, and procedures shall be planned and implemented with meaningful consultation with parents of participating children.

(2) WRITTEN POLICY.—Each local educational agency that receives funds under this [part] *subpart* shall develop jointly with, agree on with, and distribute to, parents of participating children a written parent involvement policy. The policy shall be incorporated into the local educational agency's plan developed under section 1112, establish the agency's expectations for parent involvement, and describe how the agency will—

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

* * * * *

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

(E) conduct, with the involvement of parents, an annual evaluation of the content and effectiveness of the parental involvement policy in improving the academic quality of the schools served under this [part] *subpart*, including identifying barriers to greater participation by parents in activities authorized by this section (with particular attention to parents who are economically disadvantaged, are disabled, have limited English proficiency, have limited literacy, or are of any racial or ethnic minority background), and use the findings of such evaluation to design strategies for more effective parental involvement, and to revise, if necessary, the parental involvement policies described in this section; and

(F) involve parents in the activities of the schools served under this [part] *subpart*.

(3) RESERVATION.—

(A) IN GENERAL.—Each local educational agency shall reserve not less than 1 percent of such agency's allocation under [subpart 2 of this part] *chapter B of this subpart* to carry out this section, including promoting family literacy and parenting skills, except that this paragraph shall not apply if 1 percent of such agency's allocation under [subpart 2 of this part] *chapter B of this subpart* for the fiscal year for which the determination is made is \$5,000 or less.

(B) PARENTAL INPUT.—Parents of children receiving services under this [part] *subpart* shall be involved in the decisions regarding how funds reserved under subparagraph (A) are allotted for parental involvement activities.

(C) DISTRIBUTION OF FUNDS.—Not less than 95 percent of the funds reserved under subparagraph (A) shall be distributed to schools served under this [part] *subpart*.

(b) SCHOOL PARENTAL INVOLVEMENT POLICY.—

(1) IN GENERAL.—Each school served under this [part] *subpart* shall jointly develop with, and distribute to, parents of participating children a written parental involvement policy, agreed on by such parents, that shall describe the means for carrying out the requirements of subsections (c) through (f).

Parents shall be notified of the policy in an understandable and uniform format and, to the extent practicable, provided in a language the parents can understand. Such policy shall be made available to the local community and updated periodically to meet the changing needs of parents and the school.

* * * * *

(c) **POLICY INVOLVEMENT.**—Each school served under this **[part] subpart** shall—

(1) convene an annual meeting, at a convenient time, to which all parents of participating children shall be invited and encouraged to attend, to inform parents of their school's participation under this **[part] subpart** and to explain the requirements of this **[part] subpart**, and the right of the parents to be involved;

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

(3) involve parents, in an organized, ongoing, and timely way, in the planning, review, and improvement of programs under this **[part] subpart**, including the planning, review, and improvement of the school parental involvement policy and the joint development of the schoolwide program plan under section 1114(b)(2), except that if a school has in place a process for involving parents in the joint planning and design of the school's programs, the school may use that process, if such process includes an adequate representation of parents of participating children;

(4) provide parents of participating children—

(A) timely information about programs under this **[part] subpart**;

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

(B) a description and explanation of the curriculum in use at the school and the forms of academic assessment used to measure student progress; and

(d) **SHARED RESPONSIBILITIES FOR HIGH STUDENT ACADEMIC ACHIEVEMENT.**—As a component of the school-level parental involvement policy developed under subsection (b), each school served under this **[part] subpart** shall jointly develop with parents for all children served under this **[part] subpart** a school-parent compact that outlines how parents, the entire school staff, and students will share the responsibility for improved student academic achievement and the means by which the school and parents will build and develop a partnership to help children achieve the State's high standards. Such compact shall—

(1) describe the school's responsibility to provide high-quality curriculum and instruction in a supportive and effective learning environment that enables the children served under this **[part] subpart** to meet the State's **[student academic achievement] academic** standards, and the ways in which each parent will be responsible for supporting their children's learning, such as monitoring attendance, homework completion, and tel-

evision watching; volunteering in their child's classroom; and participating, as appropriate, in decisions relating to the education of their children and positive use of extracurricular time; and

* * * * *

(e) BUILDING CAPACITY FOR INVOLVEMENT.—To ensure effective involvement of parents and to support a partnership among the school involved, parents, and the community to improve student academic achievement, each school and local educational agency assisted under this [part] *subpart*—

(1) shall provide assistance to parents of children served by the school or local educational agency, as appropriate, in understanding such topics as the [State's academic content standards and State student academic achievement standards] *State's academic standards*, State and local academic assessments, the requirements of this [part] *subpart*, and how to monitor a child's progress and work with educators to improve the achievement of their children;

* * * * *

(3) shall educate teachers, [pupil services personnel,] *specialized instructional support personnel*, [principals,] *school leaders*, and other staff, with the assistance of parents, in the value and utility of contributions of parents, and in how to reach out to, communicate with, and work with parents as equal partners, implement and coordinate parent programs, and build ties between parents and the school;

(4) shall, to the extent feasible and appropriate, coordinate and integrate parent involvement programs and activities with [Head Start, Reading First, Early Reading First, Even Start, the Home Instruction Programs for Preschool Youngsters, the Parents as Teachers Program, and public preschool and other] *other Federal, State, and local* programs, and conduct other activities, such as parent resource centers, that encourage and support parents in more fully participating in the education of their children;

* * * * *

(7) may provide necessary literacy training from funds received under this [part] *subpart* if the local educational agency has exhausted all other reasonably available sources of funding for such training;

* * * * *

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

[(g) INFORMATION FROM PARENTAL INFORMATION AND RESOURCE CENTERS.—In a State where a parental information and resource center is established to provide training, information, and support to parents and individuals who work with local parents, local edu-

cational agencies, and schools receiving assistance under this part, each local educational agency or school that receives assistance under this part and is located in the State shall assist parents and parental organizations by informing such parents and organizations of the existence and purpose of such centers.】

(g) *FAMILY ENGAGEMENT IN EDUCATION PROGRAMS.*—*In a State operating a program under subpart 3 of part A of title III, each local educational agency or school that receives assistance under this subpart shall inform such parents and organizations of the existence of such programs.*

* * * * *

**【SEC. 1119. QUALIFICATIONS FOR TEACHERS AND PARAPROFES-
SIONALS.**

【(a) TEACHER QUALIFICATIONS AND MEASURABLE OBJECTIVES.—

【(1) IN GENERAL.—Beginning with the first day of the first school year after the date of enactment of the No Child Left Behind Act of 2001, each local educational agency receiving assistance under this part shall ensure that all teachers hired after such day and teaching in a program supported with funds under this part are highly qualified.

【(2) STATE PLAN.—As part of the plan described in section 1111, each State educational agency receiving assistance under this part shall develop a plan to ensure that all teachers teaching in core academic subjects within the State are highly qualified not later than the end of the 2005–2006 school year. Such plan shall establish annual measurable objectives for each local educational agency and school that, at a minimum—

【(A) shall include an annual increase in the percentage of highly qualified teachers at each local educational agency and school, to ensure that all teachers teaching in core academic subjects in each public elementary school and secondary school are highly qualified not later than the end of the 2005–2006 school year;

【(B) shall include an annual increase in the percentage of teachers who are receiving high-quality professional development to enable such teachers to become highly qualified and successful classroom teachers; and

【(C) may include such other measures as the State educational agency determines to be appropriate to increase teacher qualifications.

【(3) LOCAL PLAN.—As part of the plan described in section 1112, each local educational agency receiving assistance under this part shall develop a plan to ensure that all teachers teaching within the school district served by the local educational agency are highly qualified not later than the end of the 2005–2006 school year.

【(b) REPORTS.—

【(1) ANNUAL STATE AND LOCAL REPORTS.—

【(A) LOCAL REPORTS.—Each State educational agency described in subsection (a)(2) shall require each local educational agency receiving funds under this part to publicly report, each year, beginning with the 2002–2003 school year, the annual progress of the local educational agency as a whole and of each of the schools served by the agency,

in meeting the measurable objectives described in subsection (a)(2).

[(B) STATE REPORTS.—Each State educational agency receiving assistance under this part shall prepare and submit each year, beginning with the 2002–2003 school year, a report to the Secretary, describing the State educational agency’s progress in meeting the measurable objectives described in subsection (a)(2).

[(C) INFORMATION FROM OTHER REPORTS.—A State educational agency or local educational agency may submit information from the reports described in section 1111(h) for the purposes of this subsection, if such report is modified, as may be necessary, to contain the information required by this subsection, and may submit such information as a part of the reports required under section 1111(h).

[(2) ANNUAL REPORTS BY THE SECRETARY.—Each year, beginning with the 2002–2003 school year, the Secretary shall publicly report the annual progress of State educational agencies, local educational agencies, and schools, in meeting the measurable objectives described in subsection (a)(2).

[(c) NEW PARAPROFESSIONALS.—

[(1) IN GENERAL.—Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired after the date of enactment of the No Child Left Behind Act of 2001 and working in a program supported with funds under this part shall have—

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

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

[(C) met a rigorous standard of quality and can demonstrate, through a formal State or local academic assessment—

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

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

[(2) CLARIFICATION.—The receipt of a secondary school diploma (or its recognized equivalent) shall be necessary but not sufficient to satisfy the requirements of paragraph (1)(C).

[(d) EXISTING PARAPROFESSIONALS.—Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired before the date of enactment of the No Child Left Behind Act of 2001, and working in a program supported with funds under this part shall, not later than 4 years after the date of enactment satisfy the requirements of subsection (c).

[(e) EXCEPTIONS FOR TRANSLATION AND PARENTAL INVOLVEMENT ACTIVITIES.—Subsections (c) and (d) shall not apply to a paraprofessional—

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

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

[(f) GENERAL REQUIREMENT FOR ALL PARAPROFESSIONALS.—Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals working in a program supported with funds under this part, regardless of the paraprofessionals' hiring date, have earned a secondary school diploma or its recognized equivalent.

[(g) DUTIES OF PARAPROFESSIONALS.—

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

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

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

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

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

[(D) to conduct parental involvement activities;

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

[(F) to act as a translator; or

[(G) to provide instructional services to students in accordance with paragraph (3).

[(3) ADDITIONAL LIMITATIONS.—A paraprofessional described in paragraph (1)—

[(A) may not provide any instructional service to a student unless the paraprofessional is working under the direct supervision of a teacher consistent with section 1119; and

[(B) may assume limited duties that are assigned to similar personnel who are not working in a program supported with funds under this part, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school.

[(h) USE OF FUNDS.—A local educational agency receiving funds under this part may use such funds to support ongoing training and professional development to assist teachers and paraprofessionals in satisfying the requirements of this section.

[(i) VERIFICATION OF COMPLIANCE.—

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

[(2) AVAILABILITY OF INFORMATION.—Copies of attestations under paragraph (1)—

[(A) shall be maintained at each school operating a program under section 1114 or 1115 and at the main office of the local educational agency; and

[(B) shall be available to any member of the general public on request.

[(j) COMBINATIONS OF FUNDS.—Funds provided under this part that are used for professional development purposes may be combined with funds provided under title II of this Act, other Acts, and other sources.

[(k) SPECIAL RULE.—Except as provided in subsection (l), no State educational agency shall require a school or a local educational agency to expend a specific amount of funds for professional development activities under this part, except that this paragraph shall not apply with respect to requirements under section 1116(c)(3).

[(l) MINIMUM EXPENDITURES.—Each local educational agency that receives funds under this part shall use not less than 5 percent, or more than 10 percent, of such funds for each of fiscal years 2002 and 2003, and not less than 5 percent of the funds for each subsequent fiscal year, for professional development activities to ensure that teachers who are not highly qualified become highly qualified not later than the end of the 2005–2006 school year.

[(SEC. 1120. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

[(a) GENERAL REQUIREMENT.—

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

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

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

[(4) EXPENDITURES.—Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools, which the local educational agency may determine each year or every 2 years.

[(5) PROVISION OF SERVICES.—The local educational agency may provide services under this section directly or through contracts with public and private agencies, organizations, and institutions.

[(b) CONSULTATION.—

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

[(A) how the children's needs will be identified;

[(B) what services will be offered;

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

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

[(E) the size and scope of the equitable services to be provided to the eligible private school children, and the proportion of funds that is allocated under subsection (a)(4) for such services;

[(F) the method or sources of data that are used under subsection (c) and section 1113(c)(1) to determine the number of children from low-income families in participating school attendance areas who attend private schools;

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

[(H) how, if the agency disagrees with the views of the private school officials on the provision of services through a contract, the local educational agency will provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to use a contractor.

[(2) TIMING.—Such consultation shall include meetings of agency and private school officials and shall occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under this part. Such meetings shall continue throughout implementation and assessment of services provided under this section.

[(3) DISCUSSION.—Such consultation shall include a discussion of service delivery mechanisms a local educational agency can use to provide equitable services to eligible private school children.

[(4) DOCUMENTATION.—Each local educational agency shall maintain in the agency's records and provide to the State educational agency involved a written affirmation signed by officials of each participating private school that the consultation required by this section has occurred. If such officials do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation that such consultation has taken place to the State educational agency.

[(5) COMPLIANCE.—

[(A) IN GENERAL.—A private school official shall have the right to complain to the State educational agency that the local educational agency did not engage in consultation

that was meaningful and timely, or did not give due consideration to the views of the private school official.

[(B) PROCEDURE.—If the private school official wishes to complain, the official shall provide the basis of the non-compliance with this section by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency.

[(c) ALLOCATION FOR EQUITABLE SERVICE TO PRIVATE SCHOOL STUDENTS.—

[(1) CALCULATION.—A local educational agency shall have the final authority, consistent with this section, to calculate the number of children, ages 5 through 17, who are from low-income families and attend private schools by—

[(A) using the same measure of low income used to count public school children;

[(B) using the results of a survey that, to the extent possible, protects the identity of families of private school students, and allowing such survey results to be extrapolated if complete actual data are unavailable;

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

[(D) using an equated measure of low income correlated with the measure of low income used to count public school children.

[(2) COMPLAINT PROCESS.—Any dispute regarding low-income data for private school students shall be subject to the complaint process authorized in section 9505.

[(d) PUBLIC CONTROL OF FUNDS.—

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

[(2) PROVISION OF SERVICES.—

[(A) PROVIDER.—The provision of services under this section shall be provided—

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

[(ii) through contract by such public agency with an individual, association, agency, or organization.

[(B) REQUIREMENT.—In the provision of such services, such employee, individual, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

[(e) STANDARDS FOR A BYPASS.—If a local educational agency is prohibited by law from providing for the participation in programs on an equitable basis of eligible children enrolled in private elementary schools and secondary schools, or if the Secretary determines that a local educational agency has substantially failed or is unwilling, to provide for such participation, as required by this section, the Secretary shall—

[(1) waive the requirements of this section for such local educational agency;

[(2) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 9503 and 9504; and

[(3) in making the determination under this subsection, consider one or more factors, including the quality, size, scope, and location of the program and the opportunity of eligible children to participate.]]

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

(a) **GENERAL REQUIREMENT.**—

(1) **IN GENERAL.**—*To the extent consistent with the number of eligible children identified under section 1115(b) in the school district served by a local educational agency who are enrolled in private elementary schools and secondary schools, a local educational agency shall—*

(A) *after timely and meaningful consultation with appropriate private school officials or representatives, provide such service, on an equitable basis and individually or in combination, as requested by the officials or representatives to best meet the needs of such children, special educational services, instructional services, counseling, mentoring, one-on-one tutoring, or other benefits under this subpart (such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) that address their needs; and*

(B) *ensure that teachers and families of the children participate, on an equitable basis, in services and activities developed pursuant to this subpart.*

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

(3) **EQUITY.**—

(A) **IN GENERAL.**—*Educational services and other benefits for such private school children shall be equitable in comparison to services and other benefits for public school children participating under this subpart, and shall be provided in a timely manner.*

(B) **OMBUDSMAN.**—*To help ensure such equity for such private school children, teachers, and other educational personnel, the State educational agency involved shall designate an ombudsman to monitor and enforce the requirements of this subpart.*

(4) **EXPENDITURES.**—

(A) **IN GENERAL.**—*Expenditures for educational services and other benefits to eligible private school children shall be equal to the expenditures for participating public school children, taking into account the number, and educational needs, of the children to be served.*

(B) **OBLIGATION OF FUNDS.**—*Funds allocated to a local educational agency for educational services and other benefits to eligible private school children shall—*

(i) be obligated in the fiscal year for which the funds are received by the agency; and

(ii) with respect to any such funds that cannot be so obligated, be used to serve such children in the following fiscal year.

(5) *PROVISION OF SERVICES.*—The local educational agency or, in a case described in subsection (b)(6)(C), the State educational agency involved, may provide services under this section directly or through contracts with public or private agencies, organizations, and institutions.

(b) *CONSULTATION.*—

(1) *IN GENERAL.*—To ensure timely and meaningful consultation, a local educational agency shall consult with appropriate private school officials or representatives during the design and development of such agency's programs under this subpart in order to reach an agreement between the agency and the officials or representatives about equitable and effective programs for eligible private school children, the results of which shall be transmitted to the designated ombudsmen under section 1120(a)(3)(B). Such process shall include consultation on issues such as—

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

(B) what services will be offered;

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

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

(E) the size and scope of the equitable services to be provided to the eligible private school children, and the proportion of funds that is allocated under subsection (a)(4) for such services, how that proportion of funds is determined under such subsection, and an itemization of the costs of the services to be provided;

(F) the method or sources of data that are used under subsection (c) and section 1113(c)(1) to determine the number of children from low-income families in participating school attendance areas who attend private schools;

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

(H) how, if the agency disagrees with the views of the private school officials or representatives on the provision of services through a contract, the local educational agency will provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to use a contractor;

(I) whether the agency will provide services under this section directly or through contracts with public and private agencies, organizations, and institutions;

(J) whether to provide equitable services to eligible private school children—

(i) by creating a pool or pools of funds with all of the funds allocated under paragraph (4) based on all the children from low-income families who attend private schools in a participating school attendance area of the agency from which the local educational agency will provide such services to all such children; or

(ii) by providing such services to eligible children in each private school in the agency's participating school attendance area with the proportion of funds allocated under paragraph (4) based on the number of children from low-income families who attend such school; and

(K) whether to consolidate and use funds under this subpart to provide schoolwide programs for a private school.

(2) **DISAGREEMENT.**—If a local educational agency disagrees with the views of private school officials or representatives with respect to an issue described in paragraph (1), the local educational agency shall provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to adopt the course of action requested by such officials.

(3) **TIMING.**—Such consultation shall include meetings of agency and private school officials or representatives and shall occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under this subpart. Such meetings shall continue throughout implementation and assessment of services provided under this section.

(4) **DISCUSSION.**—Such consultation shall include a discussion of service delivery mechanisms a local educational agency can use to provide equitable services to eligible private school children.

(5) **DOCUMENTATION.**—Each local educational agency shall maintain in the agency's records and provide to the State educational agency involved a written affirmation signed by officials or representatives of each participating private school that the meaningful consultation required by this section has occurred. The written affirmation shall provide the option for private school officials or representatives to indicate that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to eligible private school children. If such officials or representatives do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation that such consultation has, or attempts at such consultation have, taken place to the State educational agency.

(6) **COMPLIANCE.**—

(A) **IN GENERAL.**—A private school official shall have the right to file a complaint with the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, did not give due consideration to the views of the private school official, or did not treat the private school or its students equitably as required by this section.

(B) **PROCEDURE.**—If the private school official wishes to file a complaint, the official shall provide the basis of the

noncompliance with this section by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency.

(C) STATE EDUCATIONAL AGENCIES.—A State educational agency shall provide services under this section directly or through contracts with public or private agencies, organizations, and institutions, if—

(i) the appropriate private school officials or their representatives have—

(I) requested that the State educational agency provide such services directly; and

(II) demonstrated that the local educational agency involved has not met the requirements of this section; or

(ii) in a case in which—

(I) a local educational agency has more than 10,000 children from low-income families who attend private elementary schools or secondary schools in a participating school attendance area of the agency that are not being served by the agency's program under this section; or

(II) 90 percent of the eligible private school students in a participating school attendance area of the agency are not being served by the agency's program under this section.

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

(1) CALCULATION.—A local educational agency shall have the final authority, consistent with this section, to calculate the number of children, ages 5 through 17, who are from low-income families and attend private schools by—

(A) using the same measure of low income used to count public school children;

(B) using the results of a survey that, to the extent possible, protects the identity of families of private school students, and allowing such survey results to be extrapolated if complete actual data are unavailable;

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

(D) using an equated measure of low income correlated with the measure of low income used to count public school children.

(2) COMPLAINT PROCESS.—Any dispute regarding low-income data for private school students shall be subject to the complaint process authorized in section 5503.

(d) PUBLIC CONTROL OF FUNDS.—

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

(2) PROVISION OF SERVICES.—

(A) *PROVIDER.*—*The provision of services under this section shall be provided—*

(i) by employees of a public agency; or

(ii) through a contract by such public agency with an individual, association, agency, or organization.

(B) *REQUIREMENT.*—*In the provision of such services, such employee, individual, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.*

(e) *STANDARDS FOR A BYPASS.*—*If a local educational agency is prohibited by law from providing for the participation in programs on an equitable basis of eligible children enrolled in private elementary schools and secondary schools, or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for such participation, as required by this section, the Secretary shall—*

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

(2) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 5503 and 5504; and

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

SEC. 1120A. FISCAL REQUIREMENTS.

[(a) **MAINTENANCE OF EFFORT.**—A local educational agency may receive funds under this part for any fiscal year only if the State educational agency involved finds that the local educational agency has maintained the agency's fiscal effort in accordance with section 9521.]

[(b) (a) **FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT, NON-FEDERAL FUNDS.**—

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

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

[(c) (b) **COMPARABILITY OF SERVICES.**—

(1) **IN GENERAL.**—

(A) **COMPARABLE SERVICES.**—Except as provided in paragraphs (4) and (5), a local educational agency may receive funds under this [part] *subpart* only if State and local funds will be used in schools served under this [part] *subpart* to provide services that, taken as a whole, are at least

comparable to services in schools that are not receiving funds under this [part] subpart.

(B) SUBSTANTIALLY COMPARABLE SERVICES.—If the local educational agency is serving all of such agency’s schools under this [part] subpart, such agency may receive funds under this [part] subpart only if such agency will use State and local funds to provide services that, taken as a whole, are substantially comparable in each school.

* * * * *

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

(A) * * *

* * * * *

[(d)] (c) EXCLUSION OF FUNDS.—For the purpose of complying with subsections (b) and (c), a State educational agency or local educational agency may exclude supplemental State or local funds expended in any school attendance area or school for programs that meet the intent and purposes of this [part] subpart.

SEC. 1120B. COORDINATION REQUIREMENTS.

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

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

(1) developing and implementing a systematic procedure for receiving records regarding such children, transferred with parental consent from a Head Start program or, where applicable, another early childhood development program [such as the Early Reading First program];

(2) establishing channels of communication between school staff and their counterparts (including teachers, social workers, and health staff) in such Head Start agencies or other entities carrying out early childhood development programs [such as the Early Reading First program], as appropriate, to facilitate coordination of programs;

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

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

(5) linking the educational services provided by such local educational agency with the services provided by local Head Start agencies [and entities carrying out Early Reading First programs].

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

[Subpart 2—Allocations]

CHAPTER B—ALLOCATIONS

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

(a) RESERVATION OF FUNDS.—From the amount [appropriated for payments to States for any fiscal year under section 1002(a) and 1125A(f)] *reserved for this chapter under section 1122(a)*, the Secretary shall reserve a total of 1 percent to provide assistance to—

- (1) * * *
- * * * * *

(b) ASSISTANCE TO OUTLYING AREAS.—

- (1) * * *
- (2) COMPETITIVE GRANTS.—Until each appropriate outlying area enters into an agreement for extension of United States educational assistance under the Compact of Free Association after the date of enactment of [the No Child Left Behind Act of 2001] *the Student Success Act*, the Secretary shall carry out the competition described in paragraph (3), except that the amount reserved to carry out such competition shall not exceed \$5,000,000.

(3) LIMITATION FOR COMPETITIVE GRANTS.—

- (A) * * *
- (B) AWARD BASIS.—The Secretary shall award grants under subparagraph (A) on a competitive [basis, taking into consideration the recommendations of the Pacific Region Educational Laboratory in Honolulu, Hawaii.] *basis*.

(C) USES.—Except as provided in subparagraph (D), grant funds awarded under this paragraph may be used only—

- (i) * * *
- (ii) to provide direct educational services that assist all students with meeting [challenging State academic content standards] *State academic standards*.

[(D) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the amount reserved for grants under this paragraph to pay the administrative costs of the Pacific Region Educational Laboratory under subparagraph (B).]

- * * * * *

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

- (1) * * *
- (2) PAYMENTS.—From the amount allotted for payments to the Secretary of the Interior under subsection (a)(2), the Secretary of the Interior shall make payments to local educational agencies, on such terms as the Secretary determines will best carry out the purposes of this [part] *subpart*, with respect to out-of-State Indian children described in paragraph (1). The

amount of such payment may not exceed, for each such child, the greater of—

(A) * * *

* * * * *

SEC. 1122. ALLOCATIONS TO STATES.

[(a) ALLOCATION FORMULA.—Of the amount appropriated under section 1002(a) to carry out this part for each of fiscal years 2002–2007 (referred to in this subsection as the current fiscal year)—

[(1) an amount equal to the amount made available to carry out section 1124 for fiscal year 2001 shall be allocated in accordance with section 1124;

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

[(3) an amount equal to 100 percent of the amount, if any, by which the amount made available to carry out sections 1124, 1124A, and 1125 for the current fiscal year for which the determination is made exceeds the amount available to carry out sections 1124 and 1124A for fiscal year 2001 shall be allocated in accordance with section 1125.]

(a) RESERVATION.—

(1) *IN GENERAL.*—From the amounts appropriated under section 3(a)(1), the Secretary shall reserve 91 percent of such amounts to carry out this chapter.

(2) *ALLOCATION FORMULA.*—Of the amount reserved under paragraph (1) for each of fiscal years 2013 to 2018 (referred to in this subsection as the current fiscal year)—

(A) an amount equal to the amount made available to carry out section 1124 for fiscal year 2001 shall be used to carry out section 1124;

(B) an amount equal to the amount made available to carry out section 1124A for fiscal year 2001 shall be used to carry out section 1124A; and

(C) an amount equal to 100 percent of the amount, if any, by which the total amount made available to carry out this chapter for the fiscal year for which the determination is made exceeds the total amount available to carry out sections 1124 and 1124A for fiscal year 2001 shall be used to carry out section 1125 and 1125A and such amount shall be divided equally between section 1125 and section 1125A.

(b) ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS.—

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

* * * * *

(c) HOLD-HARMLESS AMOUNTS.—

(1) * * *

* * * * *

(3) APPLICABILITY.—Notwithstanding any other provision of law, the Secretary shall not take into consideration the hold-harmless provisions of this subsection for any fiscal year for purposes of calculating State or local allocations for the fiscal year under any program administered by the Secretary other than a program authorized under this [part] *subpart*.

* * * * *

(d) RATABLE REDUCTIONS.—

(1) IN GENERAL.—If the sums made available under this [subpart] *chapter* for any fiscal year are insufficient to pay the full amounts that local educational agencies in all States are eligible to receive under subsection (c) for such year, the Secretary shall ratably reduce such amounts for such year.

* * * * *

SEC. 1124. BASIC GRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) AMOUNT OF GRANTS.—

(1) * * *

* * * * *

(3) ALLOCATIONS TO COUNTIES.—

(A) * * *

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

(C) ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—If the Secretary approves the State educational agency's application under subparagraph (B), the State educational agency shall provide the Secretary an assurance that such allocations shall be made—

(i) using precisely the same factors for determining a grant as are used under this [subpart] *chapter*; or

* * * * *

(4) PUERTO RICO.—

(A) * * *

* * * * *

(C) LIMITATION.—If the application of subparagraph (B) would result in any of the 50 States or the District of Columbia receiving less under this [subpart] *chapter* than it received under this [subpart] *chapter* for the preceding fiscal year, the percentage in subparagraph (A) shall be the greater of—

(i) * * *

* * * * *

(c) CHILDREN TO BE COUNTED.—

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

(A) * * *

(B) the number of children (determined under paragraph (4) for either the preceding year as described in that paragraph, or for the second preceding year, as the Secretary finds appropriate) aged 5 to 17, inclusive, in the school district of such agency in institutions for neglected and delinquent children (other than such institutions operated by the United States), but not counted pursuant to [subpart 1 of part D] *chapter A of subpart 3* for the purposes of a grant to a State agency, or being supported in foster homes with public funds; and

* * * * *

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

* * * * *

[SEC. 1125AA. ADEQUACY OF FUNDING OF TARGETED GRANTS TO LOCAL EDUCATIONAL AGENCIES IN FISCAL YEARS AFTER FISCAL YEAR 2001.

[(a) FINDINGS.—Congress makes the following findings:

[(1) The current Basic Grant Formula for the distribution of funds under this part often does not provide funds for the economically disadvantaged students for which such funds are targeted.

[(2) Any school district in which more than 2 percent of the students live below the poverty level qualifies for funding under the Basic Grant Formula. As a result, 9 out of every 10 school districts in the country receive some form of aid under the Formula.

[(3) Fifty-eight percent of all schools receive at least some funding under this part, including many suburban schools with predominantly well-off students.

[(4) One out of every 5 schools with concentrations of poor students between 50 and 75 percent receive no funding at all under this part.

[(5) In passing the Improving America's Schools Act in 1994, Congress declared that grants under this part would more sharply target high poverty schools by using the Targeted Grant Formula, but annual appropriation Acts have prevented the use of that Formula.

[(6) The advantage of the Targeted Grant Formula over other funding formulas under this part is that the Targeted Grant Formula provides increased grants per poor child as the percentage of economically disadvantaged children in a school district increases.

[(7) Studies have found that the poverty of a child's family is much more likely to be associated with educational disadvantage if the family lives in an area with large concentrations of poor families.

[(8) States with large populations of high poverty students would receive significantly more funding if more funds under this part were allocated through the Targeted Grant Formula.

[(9) Congress has an obligation to allocate funds under this part so that such funds will positively affect the largest number of economically disadvantaged students.

[(b) LIMITATION ON ALLOCATION OF TITLE I FUNDS CONTINGENT ON ADEQUATE FUNDING OF TARGETED GRANTS.—Pursuant to section 1122, the total amount allocated in any fiscal year after fiscal year 2001 for programs and activities under this part shall not exceed the amount allocated in fiscal year 2001 for such programs and activities unless the amount available for targeted grants to local educational agencies under section 1125 in the applicable fiscal year meets the requirements of section 1122(a).]

SEC. 1125AA. ADEQUACY OF FUNDING OF TARGETED GRANTS TO LOCAL EDUCATIONAL AGENCIES IN FISCAL YEARS AFTER FISCAL YEAR 2001.

Pursuant to section 1122, the total amount allocated in any fiscal year after fiscal year 2001 for programs and activities under this subpart shall not exceed the amount allocated in fiscal year 2001 for such programs and activities unless the amount available for targeted grants to local educational agencies under section 1125 in the applicable fiscal year meets the requirements of section 1122(a).

SEC. 1125A. EDUCATION FINANCE INCENTIVE GRANT PROGRAM.

[(a) GRANTS.—From funds appropriated under subsection (f) the Secretary is authorized to make grants to States, from allotments under subsection (b), to carry out the programs and activities of this part.]

[(b)] (a) DISTRIBUTION BASED UPON FISCAL EFFORT AND EQUITY.—

(1) IN GENERAL.—

(A) IN GENERAL.—Except as provided in subparagraph (B), funds [appropriated pursuant to subsection (f)] made available for any fiscal year to carry out this section shall be allotted to each State based upon the number of children counted under section 1124(c) in such State multiplied by the product of—

(i) * * *

* * * * *

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

(i) 0.35 percent of **total appropriations** *the total amount reserved under section 1122(a) to carry out this section*; or

* * * * *

[(c)] (b) USE OF FUNDS; ELIGIBILITY OF LOCAL EDUCATIONAL AGENCIES.—All funds awarded to each State under this section shall be allocated to local educational agencies under the following provisions. Within local educational agencies, funds allocated under this section shall be distributed to schools on a basis consistent with section 1113, and may only be used to carry out activities under this **[part] subpart**. A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if—

(A) * * *

* * * * *

[(d)] (c) ALLOCATION OF FUNDS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—Funds received by States under this section shall be allocated within States to eligible local educational agencies on the basis of weighted child counts calculated in accordance with paragraph (1), (2), or (3), as appropriate for each State.

(1) * * *

* * * * *

[(e)] MAINTENANCE OF EFFORT.—

[(1) IN GENERAL.—Except as provided in paragraph (2), a State is entitled to receive its full allotment of funds under this section for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

[(2) REDUCTION OF FUNDS.—The Secretary shall reduce the amount of funds awarded to any State under this section in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

[(3) WAIVERS.—The Secretary may waive, for 1 fiscal year only, the requirements of this subsection if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

[(f)] AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2002 and for each of the 5 succeeding fiscal years.]

[(g)] (d) ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS.—

(1) * * *

* * * * *

(4) APPLICABILITY.—Notwithstanding any other provision of law, the Secretary shall not take into consideration the hold-harmless provisions of this subsection for any fiscal year for purposes of calculating State or local allocations for the fiscal year under any program administered by the Secretary other than a program authorized under this [part] subpart.

* * * * *

SEC. 1127. CARRYOVER AND WAIVER.

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

(b) WAIVER.—A State educational agency may, once every 3 years, waive the percentage limitation in subsection (a) if—

(1) * * *

(2) supplemental appropriations for this [subpart] chapter become available.

(c) EXCLUSION.—The percentage limitation under subsection (a) shall not apply to any local educational agency that receives less than \$50,000 under this [subpart] chapter for any fiscal year.

[PART B—STUDENT READING SKILLS IMPROVEMENT GRANTS

[Subpart 1—Reading First

[SEC. 1201. PURPOSES.

[The purposes of this subpart are as follows:

[(1) To provide assistance to State educational agencies and local educational agencies in establishing reading programs for students in kindergarten through grade 3 that are based on scientifically based reading research, to ensure that every student can read at grade level or above not later than the end of grade 3.

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

[(3) To provide assistance to State educational agencies and local educational agencies in selecting or administering screening, diagnostic, and classroom-based instructional reading assessments.

[(4) To provide assistance to State educational agencies and local educational agencies in selecting or developing effective instructional materials (including classroom-based materials to assist teachers in implementing the essential components of

reading instruction), programs, learning systems, and strategies to implement methods that have been proven to prevent or remediate reading failure within a State.

[(5) To strengthen coordination among schools, early literacy programs, and family literacy programs to improve reading achievement for all children.

[SEC. 1202. FORMULA GRANTS TO STATE EDUCATIONAL AGENCIES.

[(a) IN GENERAL.—

[(1) AUTHORIZATION TO MAKE GRANTS.—In the case of each State educational agency that in accordance with section 1203 submits to the Secretary an application for a 6-year period, the Secretary, from amounts appropriated under section 1002(b)(1) and subject to the application's approval, shall make a grant to the State educational agency for the uses specified in subsections (c) and (d). For each fiscal year, the funds provided under the grant shall equal the allotment determined for the State educational agency under subsection (b).

[(2) DURATION OF GRANTS.—Subject to subsection (e)(3), a grant under this section shall be awarded for a period of not more than 6 years.

[(b) DETERMINATION OF AMOUNT OF ALLOTMENTS.—

[(1) RESERVATIONS FROM APPROPRIATIONS.—From the total amount made available to carry out this subpart for a fiscal year, the Secretary—

[(A) shall reserve one-half of 1 percent for allotments for the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be distributed among these outlying areas on the basis of their relative need, as determined by the Secretary in accordance with the purposes of this subpart;

[(B) shall reserve one-half of 1 percent for the Secretary of the Interior for programs under this subpart in schools operated or funded by the Bureau of Indian Affairs;

[(C) may reserve not more than 2½ percent or \$25,000,000, whichever is less, to carry out section 1205 (relating to external evaluation) and section 1206 (relating to national activities);

[(D) shall reserve \$5,000,000 to carry out sections 1207 and 1224 (relating to information dissemination); and

[(E) for any fiscal year, beginning with fiscal year 2004, for which the amount appropriated to carry out this subpart exceeds the amount appropriated for fiscal year 2003, shall reserve, to carry out section 1204, the lesser of—

[(i) \$90,000,000; or

[(ii) 10 percent of such excess amount.

[(2) STATE ALLOTMENTS.—In accordance with paragraph (3), the Secretary shall allot among each of the States the total amount made available to carry out this subpart for any fiscal year and not reserved under paragraph (1).

[(3) DETERMINATION OF STATE ALLOTMENT AMOUNTS.—

[(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall allot the amount made available under paragraph (2) for a fiscal year among the States in proportion to the number of children, aged 5 to 17, who reside within the State and are from families with incomes below the

poverty line for the most recent fiscal year for which satisfactory data are available, compared to the number of such individuals who reside in all such States for that fiscal year.

[(B) EXCEPTIONS.—

[(i) MINIMUM GRANT AMOUNT.—Subject to clause (ii), no State receiving an allotment under subparagraph (A) may receive less than one-fourth of 1 percent of the total amount allotted under such subparagraph.

[(ii) PUERTO RICO.—The percentage of the amount allotted under subparagraph (A) that is allotted to the Commonwealth of Puerto Rico for a fiscal year may not exceed the percentage that was received by the Commonwealth of Puerto Rico of the funds allocated to all States under subpart 2 of part A for the preceding fiscal year.

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

[(5) REALLOTMENT.—If a State educational agency described in paragraph (2) does not apply for an allotment under this section for any fiscal year, or if the State educational agency's application is not approved, the Secretary shall reallocate such amount to the remaining State educational agencies in accordance with paragraph (3).

[(6) DEFINITION OF STATE.—For purposes of this subsection, the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

[(c) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

[(1) AUTHORIZATION TO MAKE SUBGRANTS.—In accordance with paragraph (2), a State educational agency that receives a grant under this section shall make competitive subgrants to eligible local educational agencies.

[(2) ALLOCATION.—

[(A) MINIMUM SUBGRANT AMOUNT.—In making subgrants under paragraph (1), a State educational agency shall allocate to each eligible local educational agency that receives such a subgrant, at a minimum, an amount that bears the same relation to the funds made available under subsection (b)(4) as the amount the eligible local educational agency received under part A for the preceding fiscal year bears to the amount all the local educational agencies in the State received under part A for the preceding fiscal year.

[(B) PRIORITY.—In making subgrants under paragraph (1), a State educational agency shall give priority to eligible local educational agencies in which at least—

[(i) 15 percent of the children served by the eligible local educational agency are from families with incomes below the poverty line; or

[(ii) 6,500 children served by the eligible local educational agency are from families with incomes below the poverty line.

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

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

[(5) STATE REQUIREMENT.—In distributing subgrant funds to eligible local educational agencies under this subsection, a State educational agency shall—

[(A) provide funds in sufficient size and scope to enable the eligible local educational agencies to improve reading instruction; and

[(B) provide the funds in amounts related to the number or percentage of students in kindergarten through grade 3 who are reading below grade level.

[(6) LIMITATION TO CERTAIN SCHOOLS.—In distributing subgrant funds under this subsection, an eligible local educational agency shall provide funds only to schools that both—

[(A) are among the schools served by that eligible local educational agency with the highest percentages or numbers of students in kindergarten through grade 3 reading below grade level, based on the most currently available data; and

[(B)(i) are identified for school improvement under section 1116(b); or

[(ii) have the highest percentages or numbers of children counted under section 1124(c).

[(7) LOCAL USES OF FUNDS.—

[(A) REQUIRED USES.—Subject to paragraph (8), an eligible local educational agency that receives a subgrant under this subsection shall use the funds provided under the subgrant to carry out the following activities:

[(i) Selecting and administering screening, diagnostic, and classroom-based instructional reading assessments.

[(ii) Selecting and implementing a learning system or program of reading instruction based on scientifically based reading research that—

[(I) includes the essential components of reading instruction; and

[(II) provides such instruction to the children in kindergarten through grade 3 in the schools served by the eligible local educational agency, including children who—

[(aa) may have reading difficulties;

[(bb) are at risk of being referred to special education based on these difficulties;

[(cc) have been evaluated under section 614 of the Individuals with Disabilities Education Act but, in accordance with section 614(b)(5) of that Act, have not been identified as being a child with a disability (as defined in section 602 of that Act);

[(dd) are being served under such Act primarily due to being identified as being a child with a specific learning disability (as defined in section 602 of that Act) related to reading;

[(ee) are deficient in the essential components of reading skills, as listed in subparagraphs (A) through (E) of section 1208(3); or

[(ff) are identified as having limited English proficiency.

[(iii) Procuring and implementing instructional materials, including education technology such as software and other digital curricula, that are based on scientifically based reading research.

[(iv) Providing professional development for teachers of kindergarten through grade 3, and special education teachers of kindergarten through grade 12, that—

[(I) will prepare these teachers in all of the essential components of reading instruction;

[(II) shall include—

[(aa) information on instructional materials, programs, strategies, and approaches based on scientifically based reading research, including early intervention, classroom reading materials, and remedial programs and approaches; and

[(bb) instruction in the use of screening, diagnostic, and classroom-based instructional reading assessments and other procedures that effectively identify students who may be at risk for reading failure or who are having difficulty reading;

[(III) shall be provided by eligible professional development providers; and

[(IV) will assist teachers in becoming highly qualified in reading instruction in accordance with the requirements of section 1119.

[(v) Collecting and summarizing data—

[(I) to document the effectiveness of activities carried out under this subpart in individual schools and in the local educational agency as a whole; and

[(II) to stimulate and accelerate improvement by identifying the schools that produce significant gains in reading achievement.

[(vi) Reporting data for all students and categories of students described in section 1111(b)(2)(C)(v)(II).

[(vii) Promoting reading and library programs that provide access to engaging reading material, including

coordination with programs funded through grants received under subpart 4, where applicable.

[(B) ADDITIONAL USES.—Subject to paragraph (8), an eligible local educational agency that receives a subgrant under this subsection may use the funds provided under the subgrant to carry out the following activities:

[(i) Humanities-based family literacy programs (which may be referred to as “Prime Time Family Reading Time”) that bond families around the acts of reading and using public libraries.

[(ii) Providing training in the essential components of reading instruction to a parent or other individual who volunteers to be a student’s reading tutor, to enable such parent or individual to support instructional practices that are based on scientifically based reading research and are being used by the student’s teacher.

[(iii) Assisting parents, through the use of materials and reading programs, strategies, and approaches (including family literacy services) that are based on scientifically based reading research, to encourage reading and support their child’s reading development.

[(8) LOCAL PLANNING AND ADMINISTRATION.—An eligible local educational agency that receives a subgrant under this subsection may use not more than 3.5 percent of the funds provided under the subgrant for planning and administration.

[(d) STATE USES OF FUNDS.—

[(1) IN GENERAL.—A State educational agency that receives a grant under this section may expend not more than a total of 20 percent of the grant funds to carry out the activities described in paragraphs (3), (4), and (5).

[(2) PRIORITY.—A State educational agency shall give priority to carrying out the activities described in paragraphs (3), (4), and (5) for schools described in subsection (c)(6).

[(3) PROFESSIONAL INSERVICE AND PRESERVICE DEVELOPMENT AND REVIEW.—A State educational agency may expend not more than 65 percent of the amount of the funds made available under paragraph (1)—

[(A) to develop and implement a program of professional development for teachers, including special education teachers, of kindergarten through grade 3 that—

[(i) will prepare these teachers in all the essential components of reading instruction;

[(ii) shall include—

[(I) information on instructional materials, programs, strategies, and approaches based on scientifically based reading research, including early intervention and reading remediation materials, programs, and approaches; and

[(II) instruction in the use of screening, diagnostic, and classroom-based instructional reading assessments and other scientifically based procedures that effectively identify students who may be at risk for reading failure or who are having difficulty reading; and

[(iii) shall be provided by eligible professional development providers;

[(B) to strengthen and enhance preservice courses for students preparing, at all public institutions of higher education in the State, to teach kindergarten through grade 3 by—

[(i) reviewing such courses to determine whether the courses' content is consistent with the findings of the most current scientifically based reading research, including findings on the essential components of reading instruction;

[(ii) following up such reviews with recommendations to ensure that such institutions offer courses that meet the highest standards; and

[(iii) preparing a report on the results of such reviews, submitting the report to the reading and literacy partnership for the State established under section 1203(d), and making the report available for public review by means of the Internet; and

[(C) to make recommendations on how the State licensure and certification standards in the area of reading might be improved.

[(4) TECHNICAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES AND SCHOOLS.—A State educational agency may expend not more than 25 percent of the amount of the funds made available under paragraph (1) for one or more of the following:

[(A) Assisting local educational agencies in accomplishing the tasks required to design and implement a program under this subpart, including—

[(i) selecting and implementing a program or programs of reading instruction based on scientifically based reading research;

[(ii) selecting screening, diagnostic, and classroom-based instructional reading assessments; and

[(iii) identifying eligible professional development providers to help prepare reading teachers to teach students using the programs and assessments described in clauses (i) and (ii).

[(B) Providing expanded opportunities to students in kindergarten through grade 3 who are served by eligible local educational agencies for receiving reading assistance from alternative providers that includes—

[(i) screening, diagnostic, and classroom-based instructional reading assessments; and

[(ii) as need is indicated by the assessments under clause (i), instruction based on scientifically based reading research that includes the essential components of reading instruction.

[(5) PLANNING, ADMINISTRATION, AND REPORTING.—

[(A) EXPENDITURE OF FUNDS.—A State educational agency may expend not more than 10 percent of the amount of funds made available under paragraph (1) for the activities described in this paragraph.

[(B) PLANNING AND ADMINISTRATION.—A State educational agency that receives a grant under this section

may expend funds made available under subparagraph (A) for planning and administration relating to the State uses of funds authorized under this subpart, including the following:

[(i) Administering the distribution of competitive subgrants to eligible local educational agencies under subsection (c) and section 1204(d).

[(ii) Assessing and evaluating, on a regular basis, eligible local educational agency activities assisted under this subpart, with respect to whether they have been effective in increasing the number of children in grades 1, 2, and 3 served under this subpart who can read at or above grade level.

[(C) ANNUAL REPORTING.—

[(i) IN GENERAL.—A State educational agency that receives a grant under this section shall expend funds made available under subparagraph (A) to provide the Secretary annually with a report on the implementation of this subpart.

[(ii) INFORMATION INCLUDED.—Each report under this subparagraph shall include information on the following:

[(I) Evidence that the State educational agency is fulfilling its obligations under this subpart.

[(II) Specific identification of those schools and local educational agencies that report the largest gains in reading achievement.

[(III) The progress the State educational agency and local educational agencies within the State are making in reducing the number of students served under this subpart in grades 1, 2, and 3 who are reading below grade level, as demonstrated by such information as teacher reports and school evaluations of mastery of the essential components of reading instruction.

[(IV) Evidence on whether the State educational agency and local educational agencies within the State have significantly increased the number of students reading at grade level or above, significantly increased the percentages of students described in section 1111(b)(2)(C)(v)(II) who are reading at grade level or above, and successfully implemented this subpart.

[(iii) PRIVACY PROTECTION.—Data in the report shall be reported in a manner that protects the privacy of individuals.

[(iv) CONTRACT.—To the extent practicable, a State educational agency shall enter into a contract with an entity that conducts scientifically based reading research, under which contract the entity will assist the State educational agency in producing the reports required to be submitted under this subparagraph.

[(e) REVIEW.—

[(1) PROGRESS REPORT.—

[(A) SUBMISSION.—Not later than 60 days after the termination of the third year of the grant period, each State educational agency receiving a grant under this section shall submit a progress report to the Secretary.

[(B) INFORMATION INCLUDED.—The progress report shall include information on the progress the State educational agency and local educational agencies within the State are making in reducing the number of students served under this subpart in grades 1, 2, and 3 who are reading below grade level (as demonstrated by such information as teacher reports and school evaluations of mastery of the essential components of reading instruction). The report shall also include evidence from the State educational agency and local educational agencies within the State that the State educational agency and the local educational agencies have significantly increased the number of students reading at grade level or above, significantly increased the percentages of students described in section 1111(b)(2)(C)(v)(II) who are reading at grade level or above, and successfully implemented this subpart.

[(2) PEER REVIEW.—The progress report described in paragraph (1) shall be reviewed by the peer review panel convened under section 1203(c)(2).

[(3) CONSEQUENCES OF INSUFFICIENT PROGRESS.—After submission of the progress report described in paragraph (1), if the Secretary determines that the State educational agency is not making significant progress in meeting the purposes of this subpart, the Secretary may withhold from the State educational agency, in whole or in part, further payments under this section in accordance with section 455 of the General Education Provisions Act or take such other action authorized by law as the Secretary determines necessary, including providing technical assistance upon request of the State educational agency.

[(f) FUNDS NOT USED FOR STATE LEVEL ACTIVITIES.—Any portion of funds described in subsection (d)(1) that a State educational agency does not expend in accordance with subsection (d)(1) shall be expended for the purpose of making subgrants in accordance with subsection (c).

[(g) SUPPLEMENT, NOT SUPPLANT.—A State or local educational agency shall use funds received under this subpart only to supplement the level of non-Federal funds that, in the absence of funds under this subpart, would be expended for activities authorized under this subpart, and not to supplant those non-Federal funds.

[SEC. 1203. STATE FORMULA GRANT APPLICATIONS.

[(a) APPLICATIONS.—

[(1) IN GENERAL.—A State educational agency that desires to receive a grant under section 1202 shall submit an application to the Secretary at such time and in such form as the Secretary may require. The application shall contain the information described in subsection (b).

[(2) SPECIAL APPLICATION PROVISIONS.—For those State educational agencies that have received a grant under part C of title II (as such part was in effect on the day before the date of enactment of the No Child Left Behind Act of 2001), the Sec-

retary shall establish a modified set of requirements for an application under this section that takes into account the information already submitted and approved under that program and minimizes the duplication of effort on the part of such State educational agencies.

[(b) CONTENTS.—An application under this section shall contain the following:

[(1) An assurance that the Governor of the State, in consultation with the State educational agency, has established a reading and literacy partnership described in subsection (d), and a description of how such partnership—

[(A) coordinated the development of the application; and

[(B) will assist in the oversight and evaluation of the State educational agency's activities under this subpart.

[(2) A description, if applicable, of the State's strategy to expand, continue, or modify activities authorized under part C of title II (as such part was in effect on the day before the date of enactment of the No Child Left Behind Act of 2001).

[(3) An assurance that the State educational agency, and any local educational agencies receiving a subgrant from that State educational agency under section 1202, will, if requested, participate in the external evaluation under section 1205.

[(4) A State educational agency plan containing a description of the following:

[(A) How the State educational agency will assist local educational agencies in identifying screening, diagnostic, and classroom-based instructional reading assessments.

[(B) How the State educational agency will assist local educational agencies in identifying instructional materials, programs, strategies, and approaches, based on scientifically based reading research, including early intervention and reading remediation materials, programs, and approaches.

[(C) How the State educational agency will ensure that professional development activities related to reading instruction and provided under section 1202 are—

[(i) coordinated with other Federal, State, and local level funds, and used effectively to improve instructional practices for reading; and

[(ii) based on scientifically based reading research.

[(D) How the activities assisted under section 1202 will address the needs of teachers and other instructional staff in implementing the essential components of reading instruction.

[(E) How subgrants made by the State educational agency under section 1202 will meet the requirements of section 1202, including how the State educational agency will ensure that eligible local educational agencies receiving subgrants under section 1202 will use practices based on scientifically based reading research.

[(F) How the State educational agency will, to the extent practicable, make grants to eligible local educational agencies in both rural and urban areas.

[(G) How the State educational agency will build on, and promote coordination among literacy programs in the

State (including federally funded programs such as programs under the Adult Education and Family Literacy Act, the Individuals with Disabilities Education Act, and subpart 2), to increase the effectiveness of the programs in improving reading for adults and children and to avoid duplication of the efforts of the program.

[(H) How the State educational agency will assess and evaluate, on a regular basis, eligible local educational agency activities assisted under section 1202, with respect to whether the activities have been effective in achieving the purposes of section 1202.

[(I) Any other information that the Secretary may reasonably require.

[(c) APPROVAL OF APPLICATIONS.—

[(1) IN GENERAL.—The Secretary shall approve an application of a State educational agency under this section only if such application meets the requirements of this section.

[(2) PEER REVIEW.—

[(A) IN GENERAL.—The Secretary, in consultation with the National Institute for Literacy, shall convene a panel to evaluate applications under this section. At a minimum, the panel shall include—

[(i) three individuals selected by the Secretary;

[(ii) three individuals selected by the National Institute for Literacy;

[(iii) three individuals selected by the National Research Council of the National Academy of Sciences; and

[(iv) three individuals selected by the Eunice Kennedy Shriver National Institute of Child Health and Human Development.

[(B) EXPERTS.—The panel shall include—

[(i) experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under this section;

[(ii) experts who provide professional development to individuals who teach reading to children and adults based on scientifically based reading research;

[(iii) experts who provide professional development to other instructional staff based on scientifically based reading research; and

[(iv) an individual who has expertise in screening, diagnostic, and classroom-based instructional reading assessments.

[(C) RECOMMENDATIONS.—The panel shall recommend grant applications from State educational agencies under this section to the Secretary for funding or for disapproval.

[(d) READING AND LITERACY PARTNERSHIPS.—

[(1) IN GENERAL.—For a State educational agency to receive a grant under section 1202, the Governor of the State, in consultation with the State educational agency, shall establish a reading and literacy partnership.

[(2) REQUIRED PARTICIPANTS.—The reading and literacy partnership shall include the following participants:

[(A) The Governor of the State.

[(B) The chief State school officer.

[(C) The chairman and the ranking member of each committee of the State legislature that is responsible for education policy.

[(D) A representative, selected jointly by the Governor and the chief State school officer, of at least one eligible local educational agency.

[(E) A representative, selected jointly by the Governor and the chief State school officer, of a community-based organization working with children to improve their reading skills, particularly a community-based organization using tutors and scientifically based reading research.

[(F) State directors of appropriate Federal or State programs with a strong reading component, selected jointly by the Governor and the chief State school officer.

[(G) A parent of a public or private school student or a parent who educates the parent's child in the parent's home, selected jointly by the Governor and the chief State school officer.

[(H) A teacher, who may be a special education teacher, who successfully teaches reading, and another instructional staff member, selected jointly by the Governor and the chief State school officer.

[(I) A family literacy service provider selected jointly by the Governor and the chief State school officer.

[(3) OPTIONAL PARTICIPANTS.—The reading and literacy partnership may include additional participants, who shall be selected jointly by the Governor and the chief State school officer, and who may include a representative of—

[(A) an institution of higher education operating a program of teacher preparation in the State that is based on scientifically based reading research;

[(B) a local educational agency;

[(C) a private nonprofit or for-profit eligible professional development provider providing instruction based on scientifically based reading research;

[(D) an adult education provider;

[(E) a volunteer organization that is involved in reading programs; or

[(F) a school library or a public library that offers reading or literacy programs for children or families.

[(4) PREEXISTING PARTNERSHIP.—If, before the date of enactment of the No Child Left Behind Act of 2001, a State educational agency established a consortium, partnership, or any other similar body that was considered a reading and literacy partnership for purposes of part C of title II of this Act (as such part was in effect on the day before the date of enactment of No Child Left Behind Act of 2001), that consortium, partnership, or body may be considered a reading and literacy partnership for purposes of this subsection consistent with the provisions of this subpart.

[SEC. 1204. TARGETED ASSISTANCE GRANTS.

[(a) ELIGIBILITY CRITERIA FOR AWARDING TARGETED ASSISTANCE GRANTS TO STATES.—Beginning with fiscal year 2004, from funds appropriated under section 1202(b)(1)(E), the Secretary shall make

grants, on a competitive basis, to those State educational agencies that—

[(1) for each of 2 consecutive years, demonstrate that an increasing percentage of third graders in each of the groups described in section 1111(b)(2)(C)(v)(II) in the schools served by the local educational agencies receiving funds under section 1202 are reaching the proficient level in reading; and

[(2) for each of the same such consecutive 2 years, demonstrate that schools receiving funds under section 1202 are improving the reading skills of students in grades 1, 2, and 3 based on screening, diagnostic, and classroom-based instructional reading assessments.

[(b) CONTINUATION OF PERFORMANCE AWARDS.—For any State educational agency that receives a competitive grant under this section, the Secretary shall make an award for each of the succeeding years that the State educational agency demonstrates it is continuing to meet the criteria described in subsection (a).

[(c) DISTRIBUTION OF TARGETED ASSISTANCE GRANTS.—

[(1) IN GENERAL.—The Secretary shall make a grant to each State educational agency with an application approved under this section in an amount that bears the same relation to the amount made available to carry out this section for a fiscal year as the number of children counted under section 1124(c) for the State bears to the number of such children so counted for all States with applications approved for that year.

[(2) PEER REVIEW.—The peer review panel convened under section 1203(c)(2) shall review the applications submitted under this subsection. The panel shall recommend such applications to the Secretary for funding or for disapproval.

[(3) APPLICATION CONTENTS.—A State educational agency that desires to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall include the following:

[(A) Evidence that the State educational agency has carried out its obligations under section 1203.

[(B) Evidence that the State educational agency has met the criteria described in subsection (a).

[(C) The amount of funds requested by the State educational agency and a description of the criteria the State educational agency intends to use in distributing subgrants to eligible local educational agencies under this section to continue or expand activities under subsection (d)(5).

[(D) Evidence that the State educational agency has increased significantly the percentage of students reading at grade level or above.

[(E) Any additional evidence that demonstrates success in the implementation of this section.

[(d) SUBGRANTS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—

[(1) IN GENERAL.—The Secretary may make a grant to a State educational agency under this section only if the State educational agency agrees to expend 100 percent of the amount of the funds provided under the grant for the purpose of mak-

ing competitive subgrants in accordance with this subsection to eligible local educational agencies.

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

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

[(4) DISTRIBUTION.—

[(A) IN GENERAL.—A State educational agency shall distribute subgrants under this section through a competitive process based on relative need of eligible local educational agencies and the evidence described in this paragraph.

[(B) EVIDENCE USED IN ALL YEARS.—For all fiscal years, a State educational agency shall distribute subgrants under this section based on evidence that an eligible local educational agency—

[(i) satisfies the requirements of section 1202(c)(4);

[(ii) will carry out its obligations under this subpart;

[(iii) will work with other local educational agencies in the State that have not received a subgrant under this subsection to assist such nonreceiving agencies in increasing the reading achievement of students; and

[(iv) is meeting the criteria described in subsection (a).

[(5) LOCAL USES OF FUNDS.—An eligible local educational agency that receives a subgrant under this subsection—

[(A) shall use the funds provided under the subgrant to carry out the activities described in section 1202(c)(7)(A); and

[(B) may use such funds to carry out the activities described in section 1202(c)(7)(B).

[SEC. 1205. EXTERNAL EVALUATION.

[(a) IN GENERAL.—From funds reserved under section 1202(b)(1)(C), the Secretary shall contract with an independent organization outside of the Department for a 5-year, rigorous, scientifically valid, quantitative evaluation of this subpart.

[(b) PROCESS.—The evaluation under subsection (a) shall be conducted by an organization that is capable of designing and carrying out an independent evaluation that identifies the effects of specific activities carried out by State educational agencies and local educational agencies under this subpart on improving reading instruction. Such evaluation shall take into account factors influencing student performance that are not controlled by teachers or education administrators.

[(c) ANALYSIS.—The evaluation under subsection (a) shall include the following:

[(1) An analysis of the relationship between each of the essential components of reading instruction and overall reading proficiency.

[(2) An analysis of whether assessment tools used by State educational agencies and local educational agencies measure the essential components of reading.

[(3) An analysis of how State reading standards correlate with the essential components of reading instruction.

[(4) An analysis of whether the receipt of a targeted assistance grant under section 1204 results in an increase in the number of children who read proficiently.

[(5) A measurement of the extent to which specific instructional materials improve reading proficiency.

[(6) A measurement of the extent to which specific screening, diagnostic, and classroom-based instructional reading assessments assist teachers in identifying specific reading deficiencies.

[(7) A measurement of the extent to which professional development programs implemented by State educational agencies using funds received under this subpart improve reading instruction.

[(8) A measurement of how well students preparing to enter the teaching profession are prepared to teach the essential components of reading instruction.

[(9) An analysis of changes in students' interest in reading and time spent reading outside of school.

[(10) Any other analysis or measurement pertinent to this subpart that is determined to be appropriate by the Secretary.

[(d) PROGRAM IMPROVEMENT.—The findings of the evaluation conducted under this section shall be provided to State educational agencies and local educational agencies on a periodic basis for use in program improvement.

[SEC. 1206. NATIONAL ACTIVITIES.

[(From funds reserved under section 1202(b)(1)(C), the Secretary—

[(1) may provide technical assistance in achieving the purposes of this subpart to State educational agencies, local educational agencies, and schools requesting such assistance;

[(2) shall, at a minimum, evaluate the impact of services provided to children under this subpart with respect to their referral to, and eligibility for, special education services under the Individuals with Disabilities Education Act (based on their difficulties learning to read); and

[(3) shall carry out the external evaluation as described in section 1205.

[SEC. 1207. INFORMATION DISSEMINATION.

[(a) IN GENERAL.—From funds reserved under section 1202(b)(1)(D), the National Institute for Literacy, in collaboration with the Secretary of Education, the Secretary of Health and Human Services, and the Director of the Eunice Kennedy Shriver National Institute of Child Health and Human Development shall—

[(1) disseminate information on scientifically based reading research pertaining to children, youth, and adults;

[(2) identify and disseminate information about schools, local educational agencies, and State educational agencies that have effectively developed and implemented classroom reading pro-

grams that meet the requirements of this subpart, including those State educational agencies, local educational agencies, and schools that have been identified as effective through the evaluation and peer review provisions of this subpart; and

[(3) support the continued identification and dissemination of information on reading programs that contain the essential components of reading instruction as supported by scientifically based reading research, that can lead to improved reading outcomes for children, youth, and adults.

[(b) DISSEMINATION AND COORDINATION.—At a minimum, the National Institute for Literacy shall disseminate the information described in subsection (a) to—

[(1) recipients of Federal financial assistance under this title, title III, the Head Start Act, the Individuals with Disabilities Education Act, and the Adult Education and Family Literacy Act; and

[(2) each Bureau funded school (as defined in section 1141 of the Education Amendments of 1978).

[(c) USE OF EXISTING NETWORKS.—In carrying out this section, the National Institute for Literacy shall, to the extent practicable, use existing information and dissemination networks developed and maintained through other public and private entities including through the Department and the National Center for Family Literacy.

[(d) NATIONAL INSTITUTE FOR LITERACY.—For purposes of funds reserved under section 1202(b)(1)(D) to carry out this section, the National Institute for Literacy shall administer such funds in accordance with section 242(b) of Public Law 105–220 (relating to the establishment and administration of the National Institute for Literacy).

[SEC. 1208. DEFINITIONS.

[In this subpart:

[(1) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term “eligible local educational agency” means a local educational agency that—

[(A) is among the local educational agencies in the State with the highest numbers or percentages of students in kindergarten through grade 3 reading below grade level, based on the most currently available data; and

[(B) has—

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

[(ii) jurisdiction over a significant number or percentage of schools that are identified for school improvement under section 1116(b); or

[(iii) the highest numbers or percentages of children who are counted under section 1124(c), in comparison to other local educational agencies in the State.

[(2) ELIGIBLE PROFESSIONAL DEVELOPMENT PROVIDER.—The term “eligible professional development provider” means a provider of professional development in reading instruction to teachers, including special education teachers, that is based on scientifically based reading research.

[(3) ESSENTIAL COMPONENTS OF READING INSTRUCTION.—The term “essential components of reading instruction” means explicit and systematic instruction in—

- [(A) phonemic awareness;
- [(B) phonics;
- [(C) vocabulary development;
- [(D) reading fluency, including oral reading skills; and
- [(E) reading comprehension strategies.

[(4) INSTRUCTIONAL STAFF.—The term “instructional staff”—

[(A) means individuals who have responsibility for teaching children to read; and

- [(B) includes principals, teachers, supervisors of instruction, librarians, library school media specialists, teachers of academic subjects other than reading, and other individuals who have responsibility for assisting children to learn to read.

[(5) READING.—The term “reading” means a complex system of deriving meaning from print that requires all of the following:

- [(A) The skills and knowledge to understand how phonemes, or speech sounds, are connected to print.
- [(B) The ability to decode unfamiliar words.
- [(C) The ability to read fluently.
- [(D) Sufficient background information and vocabulary to foster reading comprehension.
- [(E) The development of appropriate active strategies to construct meaning from print.
- [(F) The development and maintenance of a motivation to read.

[(6) SCIENTIFICALLY BASED READING RESEARCH.—The term “scientifically based reading research” means research that—

- [(A) applies rigorous, systematic, and objective procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading difficulties; and
- [(B) includes research that—

- [(i) employs systematic, empirical methods that draw on observation or experiment;

- [(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

- [(iii) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations; and

- [(iv) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

[(7) SCREENING, DIAGNOSTIC, AND CLASSROOM-BASED INSTRUCTIONAL READING ASSESSMENTS.—

[(A) IN GENERAL.—The term “screening, diagnostic, and classroom-based instructional reading assessments” means—

- [(i) screening reading assessments;
- [(ii) diagnostic reading assessments; and

[(iii) classroom-based instructional reading assessments.

[(B) SCREENING READING ASSESSMENT.—The term “screening reading assessment” means an assessment that is—

[(i) valid, reliable, and based on scientifically based reading research; and

[(ii) a brief procedure designed as a first step in identifying children who may be at high risk for delayed development or academic failure and in need of further diagnosis of their need for special services or additional reading instruction.

[(C) DIAGNOSTIC READING ASSESSMENT.—The term “diagnostic reading assessment” means an assessment that is—

[(i) valid, reliable, and based on scientifically based reading research; and

[(ii) used for the purpose of—

[(I) identifying a child’s specific areas of strengths and weaknesses so that the child has learned to read by the end of grade 3;

[(II) determining any difficulties that a child may have in learning to read and the potential cause of such difficulties; and

[(III) helping to determine possible reading intervention strategies and related special needs.

[(D) CLASSROOM-BASED INSTRUCTIONAL READING ASSESSMENT.—The term “classroom-based instructional reading assessment” means an assessment that—

[(i) evaluates children’s learning based on systematic observations by teachers of children performing academic tasks that are part of their daily classroom experience; and

[(ii) is used to improve instruction in reading, including classroom instruction.

[Subpart 2—Early Reading First

[SEC. 1221. PURPOSES; DEFINITIONS.

[(a) PURPOSES.—The purposes of this subpart are as follows:

[(1) To support local efforts to enhance the early language, literacy, and prereading development of preschool age children, particularly those from low-income families, through strategies and professional development that are based on scientifically based reading research.

[(2) To provide preschool age children with cognitive learning opportunities in high-quality language and literature-rich environments, so that the children can attain the fundamental knowledge and skills necessary for optimal reading development in kindergarten and beyond.

[(3) To demonstrate language and literacy activities based on scientifically based reading research that supports the age-appropriate development of—

[(A) recognition, leading to automatic recognition, of letters of the alphabet;

[(B) knowledge of letter sounds, the blending of sounds, and the use of increasingly complex vocabulary;

[(C) an understanding that written language is composed of phonemes and letters each representing one or more speech sounds that in combination make up syllables, words, and sentences;

[(D) spoken language, including vocabulary and oral comprehension abilities; and

[(E) knowledge of the purposes and conventions of print.

[(4) To use screening assessments to effectively identify preschool age children who may be at risk for reading failure.

[(5) To integrate such scientific reading research-based instructional materials and literacy activities with existing programs of preschools, child care agencies and programs, Head Start centers, and family literacy services.

[(b) DEFINITIONS.—For purposes of this subpart:

[(1) ELIGIBLE APPLICANT.—The term “eligible applicant” means—

[(A) one or more local educational agencies that are eligible to receive a subgrant under subpart 1;

[(B) one or more public or private organizations or agencies, acting on behalf of one or more programs that serve preschool age children (such as a program at a Head Start center, a child care program, or a family literacy program), which organizations or agencies shall be located in a community served by a local educational agency described in subparagraph (A); or

[(C) one or more local educational agencies described in subparagraph (A) in collaboration with one or more organizations or agencies described in subparagraph (B).

[(2) SCIENTIFICALLY BASED READING RESEARCH.—The term “scientifically based reading research” has the same meaning given to that term in section 1208.

[(3) SCREENING READING ASSESSMENT.—The term “screening reading assessment” has the same meaning given to that term in section 1208.

[(SEC. 1222. LOCAL EARLY READING FIRST GRANTS.

[(a) PROGRAM AUTHORIZED.—From amounts appropriated under section 1002(b)(2), the Secretary shall award grants, on a competitive basis, for periods of not more than 6 years, to eligible applicants to enable the eligible applicants to carry out the authorized activities described in subsection (d).

[(b) APPLICATIONS.—An eligible applicant that desires to receive a grant under this section shall submit an application to the Secretary, which shall include a description of—

[(1) the programs to be served by the proposed project, including demographic and socioeconomic information on the preschool age children enrolled in the programs;

[(2) how the proposed project will enhance the school readiness of preschool age children in high-quality oral language and literature-rich environments;

[(3) how the proposed project will prepare and provide ongoing assistance to staff in the programs, through professional development and other support, to provide high-quality lan-

guage, literacy, and prereading activities using scientifically based reading research, for preschool age children;

[(4) how the proposed project will provide services and use instructional materials that are based on scientifically based reading research on early language acquisition, prereading activities, and the development of spoken vocabulary skills;

[(5) how the proposed project will help staff in the programs to meet more effectively the diverse needs of preschool age children in the community, including such children with limited English proficiency, disabilities, or other special needs;

[(6) how the proposed project will integrate such instructional materials and literacy activities with existing preschool programs and family literacy services;

[(7) how the proposed project will help children, particularly children experiencing difficulty with spoken language, prereading, and early reading skills, to make the transition from preschool to formal classroom instruction in school;

[(8) if the eligible applicant has received a subgrant under subpart 1, how the activities conducted under this subpart will be coordinated with the eligible applicant's activities under subpart 1 at the kindergarten through grade 3 level;

[(9) how the proposed project will evaluate the success of the activities supported under this subpart in enhancing the early language, literacy, and prereading development of preschool age children served by the project; and

[(10) such other information as the Secretary may require.

[(c) APPROVAL OF LOCAL APPLICATIONS.—The Secretary shall select applicants for funding under this subpart based on the quality of the applications and the recommendations of a peer review panel convened under section 1203(c)(2), that includes, at a minimum, three individuals, selected from the entities described in clauses (ii), (iii), and (iv) of section 1203(c)(2)(A), who are experts in early reading development and early childhood development.

[(d) AUTHORIZED ACTIVITIES.—An eligible applicant that receives a grant under this subpart shall use the funds provided under the grant to carry out the following activities:

[(1) Providing preschool age children with high-quality oral language and literature-rich environments in which to acquire language and prereading skills.

[(2) Providing professional development that is based on scientifically based reading research knowledge of early language and reading development for the staff of the eligible applicant and that will assist in developing the preschool age children's—

[(A) recognition, leading to automatic recognition, of letters of the alphabet, knowledge of letters, sounds, blending of letter sounds, and increasingly complex vocabulary;

[(B) understanding that written language is composed of phonemes and letters each representing one or more speech sounds that in combination make up syllables, words, and sentences;

[(C) spoken language, including vocabulary and oral comprehension abilities; and

[(D) knowledge of the purposes and conventions of print.

[(3) Identifying and providing activities and instructional materials that are based on scientifically based reading research for use in developing the skills and abilities described in paragraph (2).

[(4) Acquiring, providing training for, and implementing screening reading assessments or other appropriate measures that are based on scientifically based reading research to determine whether preschool age children are developing the skills described in this subsection.

[(5) Integrating such instructional materials, activities, tools, and measures into the programs offered by the eligible applicant.

[(e) AWARD AMOUNTS.—The Secretary may establish a maximum award amount, or ranges of award amounts, for grants under this subpart.

[SEC. 1223. FEDERAL ADMINISTRATION.

[The Secretary shall consult with the Secretary of Health and Human Services to coordinate the activities under this subpart with preschool age programs administered by the Department of Health and Human Services.

[SEC. 1224. INFORMATION DISSEMINATION.

[From the funds the National Institute for Literacy receives under section 1202(b)(1)(D), the National Institute for Literacy, in consultation with the Secretary, shall disseminate information regarding projects assisted under this subpart that have proven effective.

[SEC. 1225. REPORTING REQUIREMENTS.

[Each eligible applicant receiving a grant under this subpart shall report annually to the Secretary regarding the eligible applicant's progress in addressing the purposes of this subpart. Such report shall include, at a minimum, a description of—

[(1) the research-based instruction, materials, and activities being used in the programs funded under the grant;

[(2) the types of programs funded under the grant and the ages of children served by such programs;

[(3) the qualifications of the program staff who provide early literacy instruction under such programs and the type of ongoing professional development provided to such staff; and

[(4) the results of the evaluation described in section 1222(b)(9).

[SEC. 1226. EVALUATION.

[(a) IN GENERAL.—From the total amount made available under section 1002(b)(2) for the period beginning October 1, 2002, and ending September 30, 2006, the Secretary shall reserve not more than \$3,000,000 to conduct an independent evaluation of the effectiveness of this subpart.

[(b) REPORTS.—

[(1) INTERIM REPORT.—Not later than October 1, 2004, the Secretary shall submit an interim report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

[(2) FINAL REPORT.—Not later than September 30, 2006, the Secretary shall submit a final report to the committees described in paragraph (1).

[(c) CONTENTS.—The reports submitted under subsection (b) shall include information on the following:

[(1) How the grant recipients under this subpart are improving the prereading skills of preschool children.

[(2) The effectiveness of the professional development program assisted under this subpart.

[(3) How early childhood teachers are being prepared with scientifically based reading research on early reading development.

[(4) What activities and instructional practices are most effective.

[(5) How prereading instructional materials and literacy activities based on scientifically based reading research are being integrated into preschools, child care agencies and programs, programs carried out under the Head Start Act, and family literacy programs.

[(6) Any recommendations on strengthening or modifying this subpart.

[Subpart 3—William F. Goodling Even Start Family Literacy Programs

[SEC. 1231. STATEMENT OF PURPOSE.

[(It is the purpose of this subpart to help break the cycle of poverty and illiteracy by—

[(1) improving the educational opportunities of the Nation’s low-income families by integrating early childhood education, adult literacy or adult basic education, and parenting education into a unified family literacy program, to be referred to as “Even Start”; and

[(2) establishing a program that shall—

[(A) be implemented through cooperative projects that build on high-quality existing community resources to create a new range of services;

[(B) promote the academic achievement of children and adults;

[(C) assist children and adults from low-income families to achieve to challenging State content standards and challenging State student achievement standards; and

[(D) use instructional programs based on scientifically based reading research and addressing the prevention of reading difficulties for children and adults, to the extent such research is available.

[SEC. 1232. PROGRAM AUTHORIZED.

[(a) RESERVATION FOR MIGRANT PROGRAMS, OUTLYING AREAS, AND INDIAN TRIBES.—

[(1) IN GENERAL.—For each fiscal year, the Secretary shall reserve 5 percent of the amount appropriated under section 1002(b)(3) (or, if such appropriated amount exceeds \$200,000,000, 6 percent of such amount) for programs, under such terms and conditions as the Secretary shall establish,

that are consistent with the purpose of this subpart, and according to their relative needs, for—

- [(A) children of migratory workers;
- [(B) the outlying areas; and
- [(C) Indian tribes and tribal organizations.

[(2) SPECIAL RULE.—After December 21, 2000, the Secretary shall award a grant, on a competitive basis, of sufficient size and for a period of sufficient duration to demonstrate the effectiveness of a family literacy program in a prison that houses women and their preschool age children and that has the capability of developing a program of high quality.

[(3) COORDINATION OF PROGRAMS FOR AMERICAN INDIANS.—The Secretary shall ensure that programs under paragraph (1)(C) are coordinated with family literacy programs operated by the Bureau of Indian Affairs in order to avoid duplication and to encourage the dissemination of information on high-quality family literacy programs serving American Indians.

[(b) RESERVATION FOR FEDERAL ACTIVITIES.—

[(1) EVALUATION, TECHNICAL ASSISTANCE, PROGRAM IMPROVEMENT, AND REPLICATION ACTIVITIES.—Subject to paragraph (2), from amounts appropriated under section 1002(b)(3), the Secretary may reserve not more than 3 percent of such amounts for purposes of—

[(A) carrying out the evaluation required by section 1239; and

[(B) providing, through grants or contracts with eligible organizations, technical assistance, program improvement, and replication activities.

[(2) RESEARCH.—In any fiscal year, if the amount appropriated under section 1002(b)(3) for such year—

[(A) is equal to or less than the amount appropriated for the preceding fiscal year, the Secretary may reserve from such amount only the amount necessary to continue multi-year activities carried out pursuant to section 1241(b) that began during or prior to the fiscal year preceding the fiscal year for which the determination is made; or

[(B) exceeds the amount appropriated for the preceding fiscal year, then the Secretary shall reserve from such excess amount \$2,000,000 or 50 percent, whichever is less, to carry out section 1241(b).

[(c) RESERVATION FOR GRANTS.—

[(1) GRANTS AUTHORIZED.—

[(A) IN GENERAL.—For any fiscal year for which at least one State educational agency applies and submits an application that meets the requirements and goals of this subsection and for which the amount appropriated under section 1002(b)(3) exceeds the amount appropriated under that section for the preceding fiscal year, the Secretary shall reserve, from the amount of the excess remaining after the application of subsection (b)(2), the amount of the remainder or \$1,000,000, whichever is less, to award grants, on a competitive basis, to State educational agencies to enable them to plan and implement statewide family literacy initiatives to coordinate and, where appro-

priate, integrate existing Federal, State, and local literacy resources consistent with the purposes of this subpart.

[(B) COORDINATION AND INTEGRATION.—The coordination and integration described in subparagraph (A) shall include coordination and integration of funds available under the Adult Education and Family Literacy Act, the Head Start Act, this subpart, part A of this title, and part A of title IV of the Social Security Act.

[(C) RESTRICTION.—No State educational agency may receive more than one grant under this subsection.

[(2) CONSORTIA.—

[(A) ESTABLISHMENT.—To receive a grant under this subsection, a State educational agency shall establish a consortium of State-level programs under the following provisions of laws:

[(i) This title (other than part D).

[(ii) The Head Start Act.

[(iii) The Adult Education and Family Literacy Act.

[(iv) All other State-funded preschool programs and programs providing literacy services to adults.

[(B) PLAN.—To receive a grant under this subsection, the consortium established by a State educational agency shall create a plan to use a portion of the State educational agency's resources, derived from the programs referred to in subparagraph (A), to strengthen and expand family literacy services in the State.

[(C) COORDINATION WITH SUBPART 1.—The consortium shall coordinate its activities under this paragraph with the activities of the reading and literacy partnership for the State educational agency established under section 1203(d), if the State educational agency receives a grant under section 1202.

[(3) READING INSTRUCTION.—Statewide family literacy initiatives implemented under this subsection shall base reading instruction on scientifically based reading research.

[(4) TECHNICAL ASSISTANCE.—The Secretary shall provide, directly or through a grant or contract with an organization with experience in the development and operation of successful family literacy services, technical assistance to State educational agencies receiving a grant under this subsection.

[(5) MATCHING REQUIREMENT.—The Secretary shall not make a grant to a State educational agency under this subsection unless the State educational agency agrees that, with respect to the costs to be incurred by the eligible consortium in carrying out the activities for which the grant was awarded, the State educational agency will make available non-Federal contributions in an amount equal to not less than the Federal funds provided under the grant.

[(d) STATE EDUCATIONAL AGENCY ALLOCATION.—

[(1) IN GENERAL.—From amounts appropriated under section 1002(b)(3) and not reserved under subsection (a), (b), or (c), the Secretary shall make grants to State educational agencies from allocations under paragraph (2).

[(2) ALLOCATIONS.—Except as provided in paragraph (3), from the total amount available under paragraph (1) for alloca-

tion to State educational agencies in any fiscal year, each State educational agency shall be eligible to receive a grant under paragraph (1) in an amount that bears the same ratio to the total amount as the amount allocated under part A to that State educational agency bears to the total amount allocated under that part to all State educational agencies.

[(3) MINIMUM.—No State educational agency shall receive a grant under paragraph (1) in any fiscal year in an amount that is less than \$250,000, or one-half of 1 percent of the amount appropriated under section 1002(b)(3) and not reserved under subsections (a), (b), and (c) for such year, whichever is greater.

[(e) DEFINITIONS.—For the purpose of this subpart—

[(1) the term “eligible entity” means a partnership composed of—

[(A) a local educational agency; and

[(B) a nonprofit community-based organization, a public agency other than a local educational agency, an institution of higher education, or a public or private nonprofit organization other than a local educational agency, of demonstrated quality;

[(2) the term “eligible organization” means any public or private nonprofit organization with a record of providing effective services to family literacy providers, such as the National Center for Family Literacy, Parents as Teachers, Inc., the Home Instruction Program for Preschool Youngsters, and the Home and School Institute, Inc.;

[(3) the terms “Indian tribe” and “tribal organization” have the meanings given those terms in section 4 of the Indian Self-Determination and Education Assistance Act;

[(4) the term “scientifically based reading research” has the meaning given that term in section 1208; and

[(5) the term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

[SEC. 1233. STATE EDUCATIONAL AGENCY PROGRAMS.

[(a) STATE EDUCATIONAL AGENCY LEVEL ACTIVITIES.—Each State educational agency that receives a grant under section 1232(d)(1) may use not more than a total of 6 percent of the grant funds for the costs of—

[(1) administration, which amount shall not exceed half of the total;

[(2) providing, through one or more subgrants or contracts, technical assistance for program improvement and replication, to eligible entities that receive subgrants under subsection (b); and

[(3) carrying out sections 1240 and 1234(c).

[(b) SUBGRANTS FOR LOCAL PROGRAMS.—

[(1) IN GENERAL.—Each State educational agency shall use the grant funds received under section 1232(d)(1) and not reserved under subsection (a) to award subgrants to eligible entities to carry out Even Start programs.

[(2) MINIMUM SUBGRANT AMOUNTS.—

[(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no State educational agency shall award a subgrant under paragraph (1) in an amount less than \$75,000.

[(B) SUBGRANTEES IN NINTH AND SUCCEEDING YEARS.—No State educational agency shall award a subgrant under paragraph (1) in an amount less than \$52,500 to an eligible entity for a fiscal year to carry out an Even Start program that is receiving assistance under this subpart or its predecessor authority for the ninth (or any subsequent) fiscal year.

[(C) EXCEPTION FOR SINGLE SUBGRANT.—A State educational agency may award one subgrant in each fiscal year of sufficient size, scope, and quality to be effective in an amount less than \$75,000 if, after awarding subgrants under paragraph (1) for that fiscal year in accordance with subparagraphs (A) and (B), less than \$75,000 is available to the State educational agency to award those subgrants.

[SEC. 1234. USES OF FUNDS.

[(a) IN GENERAL.—In carrying out an Even Start program under this subpart, a recipient of funds under this subpart shall use those funds to pay the Federal share of the cost of providing intensive family literacy services that involve parents and children, from birth through age 7, in a cooperative effort to help parents become full partners in the education of their children and to assist children in reaching their full potential as learners.

[(b) FEDERAL SHARE LIMITATION.—

[(1) IN GENERAL.—

[(A) FEDERAL SHARE.—Except as provided in paragraph (2), the Federal share under this subpart may not exceed—

[(i) 90 percent of the total cost of the program in the first year that the program receives assistance under this subpart or its predecessor authority;

[(ii) 80 percent in the second year;

[(iii) 70 percent in the third year;

[(iv) 60 percent in the fourth year;

[(v) 50 percent in the fifth, sixth, seventh, and eighth such years; and

[(vi) 35 percent in any subsequent year.

[(B) REMAINING COST.—The remaining cost of a program assisted under this subpart may be provided in cash or in kind, fairly evaluated, and may be obtained from any source, including other Federal funds under this Act.

[(2) WAIVER.—The State educational agency may waive, in whole or in part, the Federal share described in paragraph (1) for an eligible entity if the entity—

[(A) demonstrates that it otherwise would not be able to participate in the program assisted under this subpart; and

[(B) negotiates an agreement with the State educational agency with respect to the amount of the remaining cost to which the waiver will be applicable.

[(3) PROHIBITION.—Federal funds provided under this subpart may not be used for the indirect costs of a program assisted under this subpart, except that the Secretary may waive this paragraph if an eligible recipient of funds reserved under section 1232(a)(1)(C) demonstrates to the Secretary's satisfaction that the recipient otherwise would not be able to participate in the program assisted under this subpart.

[(c) USE OF FUNDS FOR FAMILY LITERACY SERVICES.—

[(1) IN GENERAL.—A State educational agency may use a portion of funds reserved under section 1233(a), to assist eligible entities receiving a subgrant under section 1233(b) in improving the quality of family literacy services provided under Even Start programs under this subpart, except that in no case may a State educational agency's use of funds for this purpose for a fiscal year result in a decrease from the level of activities and services provided to program participants in the preceding year.

[(2) PRIORITY.—In carrying out paragraph (1), a State educational agency shall give priority to programs that were of low quality, as evaluated based on the indicators of program quality developed by the State educational agency under section 1240.

[(3) TECHNICAL ASSISTANCE TO HELP LOCAL PROGRAMS RAISE ADDITIONAL FUNDS.—In carrying out paragraph (1), a State educational agency may use the funds referred to in that paragraph to provide technical assistance to help local programs of demonstrated effectiveness to access and leverage additional funds for the purpose of expanding services and reducing waiting lists, including requesting and applying for non-Federal resources.

[(4) TECHNICAL ASSISTANCE AND TRAINING.—Assistance under paragraph (1) shall be in the form of technical assistance and training, provided by a State educational agency through a grant, contract, or cooperative agreement with an entity that has experience in offering high-quality training and technical assistance to family literacy providers.

[SEC. 1235. PROGRAM ELEMENTS.

[Each program assisted under this subpart shall—

[(1) include the identification and recruitment of families most in need of services provided under this subpart, as indicated by a low level of income, a low level of adult literacy or English language proficiency of the eligible parent or parents, and other need-related indicators;

[(2) include screening and preparation of parents, including teenage parents, and children to enable those parents and children to participate fully in the activities and services provided under this subpart, including testing, referral to necessary counselling, other developmental and support services, and related services;

[(3) be designed to accommodate the participants' work schedule and other responsibilities, including the provision of support services, when those services are unavailable from other sources, necessary for participation in the activities assisted under this subpart, such as—

[(A) scheduling and locating of services to allow joint participation by parents and children;

[(B) child care for the period that parents are involved in the program provided under this subpart; and

[(C) transportation for the purpose of enabling parents and their children to participate in programs authorized by this subpart;

[(4) include high-quality, intensive instructional programs that promote adult literacy and empower parents to support the educational growth of their children, developmentally appropriate early childhood educational services, and preparation of children for success in regular school programs;

[(5) with respect to the qualifications of staff the cost of whose salaries are paid, in whole or in part, with Federal funds provided under this subpart, ensure that—

[(A) not later than December 21, 2004—

[(i) a majority of the individuals providing academic instruction—

[(I) shall have obtained an associate's, bachelor's, or graduate degree in a field related to early childhood education, elementary school or secondary school education, or adult education; and

[(II) if applicable, shall meet qualifications established by the State for early childhood education, elementary school or secondary school education, or adult education provided as part of an Even Start program or another family literacy program;

[(ii) the individual responsible for administration of family literacy services under this subpart has received training in the operation of a family literacy program; and

[(iii) paraprofessionals who provide support for academic instruction have a secondary school diploma or its recognized equivalent; and

[(B) all new personnel hired to provide academic instruction—

[(i) have obtained an associate's, bachelor's, or graduate degree in a field related to early childhood education, elementary school or secondary school education, or adult education; and

[(ii) if applicable, meet qualifications established by the State for early childhood education, elementary school or secondary school education, or adult education provided as part of an Even Start program or another family literacy program;

[(6) include special training of staff, including child-care staff, to develop the skills necessary to work with parents and young children in the full range of instructional services offered through this subpart;

[(7) provide and monitor integrated instructional services to participating parents and children through home-based programs;

[(8) operate on a year-round basis, including the provision of some program services, including instructional and enrichment services, during the summer months;

[(9) be coordinated with—

[(A) other programs assisted under this Act;

[(B) any relevant programs under the Adult Education and Family Literacy Act, the Individuals with Disabilities

Education Act, and title I of the Workforce Investment Act of 1998; and

[(C) the Head Start program, volunteer literacy programs, and other relevant programs;

[(10) use instructional programs based on scientifically based reading research for children and adults, to the extent that research is available;

[(11) encourage participating families to attend regularly and to remain in the program a sufficient time to meet their program goals;

[(12) include reading-readiness activities for preschool children based on scientifically based reading research, to the extent available, to ensure that children enter school ready to learn to read;

[(13) if applicable, promote the continuity of family literacy to ensure that individuals retain and improve their educational outcomes;

[(14) ensure that the programs will serve those families most in need of the activities and services provided by this subpart; and

[(15) provide for an independent evaluation of the program, to be used for program improvement.

[SEC. 1236. ELIGIBLE PARTICIPANTS.

[(a) IN GENERAL.—Except as provided in subsection (b), eligible participants in an Even Start program are—

[(1) a parent or parents—

[(A) who are eligible for participation in adult education and literacy activities under the Adult Education and Family Literacy Act; or

[(B) who are within the State's compulsory school attendance age range, so long as a local educational agency provides (or ensures the availability of) the basic education component required under this subpart, or who are attending secondary school; and

[(2) the child or children, from birth through age 7, of any individual described in paragraph (1).

[(b) ELIGIBILITY FOR CERTAIN OTHER PARTICIPANTS.—

[(1) IN GENERAL.—Family members of eligible participants described in subsection (a) may participate in activities and services provided under this subpart, when appropriate to serve the purpose of this subpart.

[(2) SPECIAL RULE.—Any family participating in a program assisted under this subpart that becomes ineligible to participate as a result of one or more members of the family becoming ineligible to participate may continue to participate in the program until all members of the family become ineligible to participate, which—

[(A) in the case of a family in which ineligibility was due to the child or children of the family attaining the age of 8, shall be in 2 years or when the parent or parents become ineligible due to educational advancement, whichever occurs first; and

[(B) in the case of a family in which ineligibility was due to the educational advancement of the parent or parents of

the family, shall be when all children in the family attain the age of 8.

[(3) CHILDREN 8 YEARS OF AGE OR OLDER.—If an Even Start program assisted under this subpart collaborates with a program under part A, and funds received under the part A program contribute to paying the cost of providing programs under this subpart to children 8 years of age or older, the Even Start program may, notwithstanding subsection (a)(2), permit the participation of children 8 years of age or older if the focus of the program continues to remain on families with young children.

[SEC. 1237. APPLICATIONS.

[(a) SUBMISSION.—To be eligible to receive a subgrant under this subpart, an eligible entity shall submit an application to the State educational agency in such form and containing or accompanied by such information as the State educational agency shall require.

[(b) REQUIRED DOCUMENTATION.—Each application shall include documentation, satisfactory to the State educational agency, that the eligible entity has the qualified personnel needed—

[(1) to develop, administer, and implement an Even Start program under this subpart; and

[(2) to provide access to the special training necessary to prepare staff for the program, which may be offered by an eligible organization.

[(c) PLAN.—

[(1) IN GENERAL.—The application shall also include a plan of operation and continuous improvement for the program, that includes—

[(A) a description of the program objectives, strategies to meet those objectives, and how those strategies and objectives are consistent with the program indicators established by the State;

[(B) a description of the activities and services that will be provided under the program, including a description of how the program will incorporate the program elements required by section 1235;

[(C) a description of the population to be served and an estimate of the number of participants to be served;

[(D) as appropriate, a description of the applicant's collaborative efforts with institutions of higher education, community-based organizations, the State educational agency, private elementary schools, or other eligible organizations in carrying out the program for which assistance is sought;

[(E) a statement of the methods that will be used—

[(i) to ensure that the programs will serve families most in need of the activities and services provided by this subpart;

[(ii) to provide services under this subpart to individuals with special needs, such as individuals with limited English proficiency and individuals with disabilities; and

[(iii) to encourage participants to remain in the program for a time sufficient to meet the program's purpose;

[(F) a description of how the plan is integrated with other programs under this Act or other Acts, as appropriate; and

[(G) a description of how the plan provides for rigorous and objective evaluation of progress toward the program objectives described in subparagraph (A) and for continuing use of evaluation data for program improvement.

[(2) DURATION OF THE PLAN.—Each plan submitted under paragraph (1) shall—

[(A) remain in effect for the duration of the eligible entity's participation under this subpart; and

[(B) be periodically reviewed and revised by the eligible entity as necessary.

[(d) CONSOLIDATED APPLICATION.—The plan described in subsection (c)(1) may be submitted as part of a consolidated application under section 9305.

[SEC. 1238. AWARD OF SUBGRANTS.

[(a) SELECTION PROCESS.—

[(1) IN GENERAL.—The State educational agency shall establish a review panel in accordance with paragraph (3) that will approve applications that—

[(A) are most likely to be successful in—

[(i) meeting the purpose of this subpart; and

[(ii) effectively implementing the program elements required under section 1235;

[(B) demonstrate that the area to be served by the program has a high percentage or a large number of children and families who are in need of those services as indicated by high levels of poverty, illiteracy, unemployment, limited English proficiency, or other need-related indicators, such as a high percentage of children to be served by the program who reside in a school attendance area served by a local educational agency eligible for participation in programs under part A, a high number or percentage of parents who have been victims of domestic violence, or a high number or percentage of parents who are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

[(C) provide services for at least a 3-year age range, which may begin at birth;

[(D) demonstrate the greatest possible cooperation and coordination between a variety of relevant service providers in all phases of the program;

[(E) include cost-effective budgets, given the scope of the application;

[(F) demonstrate the applicant's ability to provide the non-Federal share required by section 1234(b);

[(G) are representative of urban and rural regions of the State; and

[(H) show the greatest promise for providing models that may be adopted by other family literacy projects and other local educational agencies.

[(2) PRIORITY FOR SUBGRANTS.—The State educational agency shall give priority for subgrants under this subsection to applications that—

[(A) target services primarily to families described in paragraph (1)(B); or

[(B) are located in areas designated as empowerment zones or enterprise communities.

[(3) REVIEW PANEL.—A review panel shall consist of at least three members, including one early childhood professional, one adult education professional, and one individual with expertise in family literacy programs, and may include other individuals, such as one or more of the following:

[(A) A representative of a parent-child education organization.

[(B) A representative of a community-based literacy organization.

[(C) A member of a local board of education.

[(D) A representative of business and industry with a commitment to education.

[(E) An individual who has been involved in the implementation of programs under this title in the State.

[(b) DURATION.—

[(1) IN GENERAL.—Subgrants under this subpart may be awarded for a period not to exceed 4 years.

[(2) STARTUP PERIOD.—The State educational agency may provide subgrant funds to an eligible recipient, at the recipient's request, for a 3- to 6-month start-up period during the first year of the 4-year grant period, which may include staff recruitment and training, and the coordination of services, before requiring full implementation of the program.

[(3) CONTINUING ELIGIBILITY.—In awarding subgrant funds to continue a program under this subpart after the first year, the State educational agency shall review the progress of each eligible entity in meeting the objectives of the program referred to in section 1237(c)(1)(A) and shall evaluate the program based on the indicators of program quality developed by the State under section 1240.

[(4) INSUFFICIENT PROGRESS.—The State educational agency may refuse to award subgrant funds to an eligible entity if the agency finds that the eligible entity has not sufficiently improved the performance of the program, as evaluated based on the indicators of program quality developed by the State under section 1240, after—

[(A) providing technical assistance to the eligible entity; and

[(B) affording the eligible entity notice and an opportunity for a hearing.

[(5) GRANT RENEWAL.—(A) An eligible entity that has previously received a subgrant under this subpart may reapply under this subpart for additional subgrants.

[(B) The Federal share of any subgrant renewed under subparagraph (A) shall be limited in accordance with section 1234(b).

[SEC. 1239. EVALUATION.

[From funds reserved under section 1232(b)(1), the Secretary shall provide for an independent evaluation of programs assisted under this subpart—

[(1) to determine the performance and effectiveness of programs assisted under this subpart;

[(2) to identify effective Even Start programs assisted under this subpart that can be duplicated and used in providing technical assistance to Federal, State, and local programs; and

[(3) to provide State educational agencies and eligible entities receiving a subgrant under this subpart, directly or through a grant or contract with an organization with experience in the development and operation of successful family literacy services, technical assistance to ensure that local evaluations undertaken under section 1235(15) provide accurate information on the effectiveness of programs assisted under this subpart.

[SEC. 1240. INDICATORS OF PROGRAM QUALITY.

[Each State educational agency receiving funds under this subpart shall develop, based on the best available research and evaluation data, indicators of program quality for programs assisted under this subpart. The indicators shall be used to monitor, evaluate, and improve those programs within the State. The indicators shall include the following:

[(1) With respect to eligible participants in a program who are adults—

[(A) achievement in the areas of reading, writing, English-language acquisition, problem solving, and numeracy;

[(B) receipt of a secondary school diploma or a general equivalency diploma (GED);

[(C) entry into a postsecondary school, job retraining program, or employment or career advancement, including the military; and

[(D) such other indicators as the State may develop.

[(2) With respect to eligible participants in a program who are children—

[(A) improvement in ability to read on grade level or reading readiness;

[(B) school attendance;

[(C) grade retention and promotion; and

[(D) such other indicators as the State may develop.

[SEC. 1241. RESEARCH.

[(a) IN GENERAL.—The Secretary shall carry out, through grant or contract, research into the components of successful family literacy services, in order to—

[(1) improve the quality of existing programs assisted under this subpart or other family literacy programs carried out under this Act or the Adult Education and Family Literacy Act; and

[(2) develop models for new programs to be carried out under this Act or the Adult Education and Family Literacy Act.

[(b) SCIENTIFICALLY BASED RESEARCH ON FAMILY LITERACY.—

[(1) IN GENERAL.—From amounts reserved under section 1232(b)(2), the National Institute for Literacy, in consultation with the Secretary, shall carry out research that—

[(A) is scientifically based reading research; and

[(B) determines—

[(i) the most effective ways of improving the literacy skills of adults with reading difficulties; and

[(ii) how family literacy services can best provide parents with the knowledge and skills the parents need to support their children’s literacy development.

[(2) USE OF EXPERT ENTITY.—The National Institute for Literacy, in consultation with the Secretary, shall carry out the research under paragraph (1) through an entity, including a Federal agency, that has expertise in carrying out longitudinal studies of the development of literacy skills in children and has developed effective interventions to help children with reading difficulties.

[(c) DISSEMINATION.—The National Institute for Literacy shall disseminate, pursuant to section 1207, the results of the research described in subsections (a) and (b) to State educational agencies and recipients of subgrants under this subpart.

[SEC. 1242. CONSTRUCTION.

[(Nothing in this subpart shall be construed to prohibit a recipient of funds under this subpart from serving students participating in Even Start simultaneously with students with similar educational needs, in the same educational settings where appropriate.

[Subpart 4—Improving Literacy Through School Libraries

[SEC. 1251. IMPROVING LITERACY THROUGH SCHOOL LIBRARIES.

[(a) PURPOSES.—The purpose of this subpart is to improve literacy skills and academic achievement of students by providing students with increased access to up-to-date school library materials, a well-equipped, technologically advanced school library media center, and well-trained, professionally certified school library media specialists.

[(b) RESERVATION.—From the funds appropriated under section 1002(b)(4) for a fiscal year, the Secretary shall reserve—

[(1) one-half of 1 percent to award assistance under this section to the Bureau of Indian Affairs to carry out activities consistent with the purpose of this subpart; and

[(2) one-half of 1 percent to award assistance under this section to the outlying areas according to their respective needs for assistance under this subpart.

[(c) GRANTS.—

[(1) COMPETITIVE GRANTS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—If the amount of funds appropriated under section 1002(b)(4) for a fiscal year is less than \$100,000,000, then the Secretary shall award grants, on a competitive basis, to eligible local educational agencies under subsection (e).

[(2) FORMULA GRANTS TO STATES.—If the amount of funds appropriated under section 1002(b)(4) for a fiscal year equals or exceeds \$100,000,000, then the Secretary shall award grants to State educational agencies from allotments under subsection (d).

[(3) DEFINITION OF ELIGIBLE LOCAL EDUCATIONAL AGENCY.—In this section the term “eligible local educational agency” means—

[(A) in the case of a local educational agency receiving assistance made available under paragraph (1), a local educational agency in which 20 percent of the students served by the local educational agency are from families with incomes below the poverty line; and

[(B) in the case of a local educational agency receiving assistance from State allocations made available under paragraph (2), a local educational agency in which—

[(i) 15 percent of the students who are served by the local educational agency are from such families; or

[(ii) the percentage of students from such families who are served by the local educational agency is greater than the statewide percentage of children from such families.

[(d) STATE GRANTS.—

[(1) ALLOTMENTS.—From funds made available under subsection (c)(2) and not reserved under subsections (b) and (j) for a fiscal year, the Secretary shall allot to each State educational agency having an application approved under subsection (f)(1) an amount that bears the same relation to the funds as the amount the State educational agency received under part A for the preceding fiscal year bears to the amount all such State educational agencies received under part A for the preceding fiscal year, to increase literacy and reading skills by improving school libraries.

[(2) COMPETITIVE GRANTS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—Each State educational agency receiving an allotment under paragraph (1) for a fiscal year—

[(A) may reserve not more than 3 percent of the allotted funds to provide technical assistance, disseminate information about school library media programs that are effective and based on scientifically based research, and pay administrative costs related to activities under this section; and

[(B) shall use the allotted funds that remain after making the reservation under subparagraph (A) to award grants, for a period of 1 year, on a competitive basis, to eligible local educational agencies in the State that have an application approved under subsection (f)(2) for activities described in subsection (g).

[(3) REALLOTMENT.—If a State educational agency does not apply for an allotment under this section for any fiscal year, or if the State educational agency’s application is not approved, the Secretary shall reallocate the amount of the State educational agency’s allotment to the remaining State educational agencies in accordance with paragraph (1).

[(e) DIRECT COMPETITIVE GRANTS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—

[(1) IN GENERAL.—From amounts made available under subsection (c)(1) and not reserved under subsections (b) and (j) for a fiscal year, the Secretary shall award grants, on a competitive basis, to eligible local educational agencies that have ap-

plications approved under subsection (f)(2) for activities described in subsection (g).

[(2) DURATION.—The Secretary shall award grants under this subsection for a period of 1 year.

[(3) DISTRIBUTION.—The Secretary shall ensure that grants under this subsection are equitably distributed among the different geographic regions of the United States, and among local educational agencies serving urban and rural areas.

[(f) APPLICATIONS.—

[(1) STATE EDUCATIONAL AGENCY.—Each State educational agency desiring assistance under this section shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall require. The application shall contain a description of—

[(A) how the State educational agency will assist eligible local educational agencies in meeting the requirements of this section and in using scientifically based research to implement effective school library media programs; and

[(B) the standards and techniques the State educational agency will use to evaluate the quality and impact of activities carried out under this section by eligible local educational agencies to determine the need for technical assistance and whether to continue to provide additional funding to the agencies under this section.

[(2) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—Each eligible local educational agency desiring assistance under this section shall submit to the Secretary or State educational agency, as appropriate, an application at such time, in such manner, and containing such information as the Secretary or State educational agency, respectively, shall require. The application shall contain a description of—

[(A) a needs assessment relating to the need for school library media improvement, based on the age and condition of school library media resources, including book collections, access of school library media centers to advanced technology, and the availability of well-trained, professionally certified school library media specialists, in schools served by the eligible local educational agency;

[(B) the manner in which the eligible local educational agency will use the funds made available through the grant to carry out the activities described in subsection (g);

[(C) how the eligible local educational agency will extensively involve school library media specialists, teachers, administrators, and parents in the activities assisted under this section, and the manner in which the eligible local educational agency will carry out the activities described in subsection (g) using programs and materials that are grounded in scientifically based research;

[(D) the manner in which the eligible local educational agency will effectively coordinate the funds and activities provided under this section with Federal, State, and local funds and activities under this subpart and other literacy, library, technology, and professional development funds and activities; and

[(E) the manner in which the eligible local educational agency will collect and analyze data on the quality and impact of activities carried out under this section by schools served by the eligible local educational agency.

[(g) LOCAL ACTIVITIES.—Funds under this section may be used to—

[(1) acquire up-to-date school library media resources, including books;

[(2) acquire and use advanced technology, incorporated into the curricula of the school, to develop and enhance the information literacy, information retrieval, and critical thinking skills of students;

[(3) facilitate Internet links and other resource-sharing networks among schools and school library media centers, and public and academic libraries, where possible;

[(4) provide professional development described in section 1222(d)(2) for school library media specialists, and activities that foster increased collaboration between school library media specialists, teachers, and administrators; and

[(5) provide students with access to school libraries during nonschool hours, including the hours before and after school, during weekends, and during summer vacation periods.

[(h) ACCOUNTABILITY AND REPORTING.—

[(1) LOCAL REPORTS.—Each eligible local educational agency that receives funds under this section for a fiscal year shall report to the Secretary or State educational agency, as appropriate, on how the funding was used and the extent to which the availability of, the access to, and the use of, up-to-date school library media resources in the elementary schools and secondary schools served by the eligible local educational agency was increased.

[(2) STATE REPORT.—Each State educational agency that receives funds under this section shall compile the reports received under paragraph (1) and submit the compiled reports to the Secretary.

[(i) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section shall be used to supplement, and not supplant, other Federal, State, and local funds expended to carry out activities relating to library, technology, or professional development activities.

[(j) NATIONAL ACTIVITIES.—

[(1) EVALUATIONS.—From the funds appropriated under section 1002(b)(4) for each fiscal year, the Secretary shall reserve not more than 1 percent for annual, independent, national evaluations of the activities assisted under this section and their impact on improving the reading skills of students. The evaluations shall be conducted not later than 3 years after the date of enactment of the No Child Left Behind Act of 2001, and biennially thereafter.

[(2) REPORT TO CONGRESS.—The Secretary shall transmit the State reports received under subsection (h)(2) and the evaluations conducted under paragraph (1) to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives.

[PART C—EDUCATION OF MIGRATORY CHILDREN

[SEC. 1301. PROGRAM PURPOSE.

[It is the purpose of this part to assist States to—

[(1) support high-quality and comprehensive educational programs for migratory children to help reduce the educational disruptions and other problems that result from repeated moves;

[(2) ensure that migratory children who move among the States are not penalized in any manner by disparities among the States in curriculum, graduation requirements, and State academic content and student academic achievement standards;

[(3) ensure that migratory children are provided with appropriate educational services (including supportive services) that address their special needs in a coordinated and efficient manner;

[(4) ensure that migratory children receive full and appropriate opportunities to meet the same challenging State academic content and student academic achievement standards that all children are expected to meet;

[(5) design programs to help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of such children to do well in school, and to prepare such children to make a successful transition to postsecondary education or employment; and

[(6) ensure that migratory children benefit from State and local systemic reforms.

[SEC. 1302. PROGRAM AUTHORIZED.

[In order to carry out the purpose of this part, the Secretary shall make grants to State educational agencies, or combinations of such agencies, to establish or improve, directly or through local operating agencies, programs of education for migratory children in accordance with this part.

[SEC. 1303. STATE ALLOCATIONS.

[(a) STATE ALLOCATIONS.—

[(1) FISCAL YEAR 2002.—For fiscal year 2002, each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part an amount equal to—

[(A) the sum of the estimated number of migratory children aged 3 through 21 who reside in the State full time and the full-time equivalent of the estimated number of migratory children aged 3 through 21 who reside in the State part time, as determined in accordance with subsection (e); multiplied by

[(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this paragraph shall not be less than 32 percent, nor more than 48 percent, of the average per-pupil expenditure in the United States.

[(2) SUBSEQUENT YEARS.—

[(A) BASE AMOUNT.—

[(i) IN GENERAL.—Except as provided in subsection (b) and clause (ii), each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part, for fiscal year 2003 and succeeding fiscal years, an amount equal to—

[(I) the amount that such State received under this part for fiscal year 2002; plus

[(II) the amount allocated to the State under subparagraph (B).

[(ii) NONPARTICIPATING STATES.—In the case of a State (other than the Commonwealth of Puerto Rico) that did not receive any funds for fiscal year 2002 under this part, the State shall receive, for fiscal year 2003 and succeeding fiscal years, an amount equal to—

[(I) the amount that such State would have received under this part for fiscal year 2002 if its application under section 1304 for the year had been approved; plus

[(II) the amount allocated to the State under subparagraph (B).

[(B) ALLOCATION OF ADDITIONAL AMOUNT.—For fiscal year 2003 and succeeding fiscal years, the amount (if any) by which the funds appropriated to carry out this part for the year exceed such funds for fiscal year 2002 shall be allocated to a State (other than the Commonwealth of Puerto Rico) so that the State receives an amount equal to—

[(i) the sum of—

[(I) the number of identified eligible migratory children, aged 3 through 21, residing in the State during the previous year; and

[(II) the number of identified eligible migratory children, aged 3 through 21, who received services under this part in summer or intersession programs provided by the State during such year; multiplied by

[(ii) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this clause may not be less than 32 percent, or more than 48 percent, of the average per-pupil expenditure in the United States.

[(b) ALLOCATION TO PUERTO RICO.—

[(1) IN GENERAL.—For each fiscal year, the grant which the Commonwealth of Puerto Rico shall be eligible to receive under this part shall be the amount determined by multiplying the number of children who would be counted under subsection (a)(1)(A) if such subsection applied to the Commonwealth of Puerto Rico by the product of—

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

[(B) 32 percent of the average per-pupil expenditure in the United States.

[(2) MINIMUM PERCENTAGE.—The percentage in paragraph (1)(A) shall not be less than—

- [(A) for fiscal year 2002, 77.5 percent;
- [(B) for fiscal year 2003, 80.0 percent;
- [(C) for fiscal year 2004, 82.5 percent; and
- [(D) for fiscal year 2005 and succeeding fiscal years, 85.0 percent.

[(3) LIMITATION.—If the application of paragraph (2) for any fiscal year would result in any of the 50 States or the District of Columbia receiving less under this part than it received under this part for the preceding fiscal year, then the percentage described in paragraph (1)(A) that is used for the Commonwealth of Puerto Rico for the fiscal year for which the determination is made shall be the greater of the percentage in paragraph (1)(A) for such fiscal year or the percentage used for the preceding fiscal year.

[(c) RATABLE REDUCTIONS; REALLOCATIONS.—

[(1) IN GENERAL.—(A) If, after the Secretary reserves funds under section 1308(c), the amount appropriated to carry out this part for any fiscal year is insufficient to pay in full the amounts for which all States are eligible, the Secretary shall ratably reduce each such amount.

[(B) If additional funds become available for making such payments for any fiscal year, the Secretary shall allocate such funds to States in amounts that the Secretary determines will best carry out the purpose of this part.

[(2) SPECIAL RULE.—(A) The Secretary shall further reduce the amount of any grant to a State under this part for any fiscal year if the Secretary determines, based on available information on the numbers and needs of migratory children in the State and the program proposed by the State to address such needs, that such amount exceeds the amount required under section 1304.

[(B) The Secretary shall reallocate such excess funds to other States whose grants under this part would otherwise be insufficient to provide an appropriate level of services to migratory children, in such amounts as the Secretary determines are appropriate.

[(d) CONSORTIUM ARRANGEMENTS.—

[(1) IN GENERAL.—In the case of a State that receives a grant of \$1,000,000 or less under this section, the Secretary shall consult with the State educational agency to determine whether consortium arrangements with another State or other appropriate entity would result in delivery of services in a more effective and efficient manner.

[(2) PROPOSALS.—Any State, regardless of the amount of such State's allocation, may submit a consortium arrangement to the Secretary for approval.

[(3) APPROVAL.—The Secretary shall approve a consortium arrangement under paragraph (1) or (2) if the proposal demonstrates that the arrangement will—

- [(A) reduce administrative costs or program function costs for State programs; and

- [(B) make more funds available for direct services to add substantially to the welfare or educational attainment of children to be served under this part.

[(e) DETERMINING NUMBERS OF ELIGIBLE CHILDREN.—In order to determine the estimated number of migratory children residing in each State for purposes of this section, the Secretary shall—

[(1) use such information as the Secretary finds most accurately reflects the actual number of migratory children;

[(2) develop and implement a procedure for more accurately reflecting cost factors for different types of summer and intersession program designs;

[(3) adjust the full-time equivalent number of migratory children who reside in each State to take into account—

[(A) the special needs of those children participating in special programs provided under this part that operate during the summer and intersession periods; and

[(B) the additional costs of operating such programs; and

[(4) conduct an analysis of the options for adjusting the formula so as to better direct services to the child whose education has been interrupted.

[SEC. 1304. STATE APPLICATIONS; SERVICES.

[(a) APPLICATION REQUIRED.—Any State desiring to receive a grant under this part for any fiscal year shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

[(b) PROGRAM INFORMATION.—Each such application shall include—

[(1) a description of how, in planning, implementing, and evaluating programs and projects assisted under this part, the State and its local operating agencies will ensure that the special educational needs of migratory children, including preschool migratory children, are identified and addressed through—

[(A) the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;

[(B) joint planning among local, State, and Federal educational programs serving migrant children, including language instruction educational programs under part A or B of title III;

[(C) the integration of services available under this part with services provided by those other programs; and

[(D) measurable program goals and outcomes;

[(2) a description of the steps the State is taking to provide all migratory students with the opportunity to meet the same challenging State academic content standards and challenging State student academic achievement standards that all children are expected to meet;

[(3) a description of how the State will use funds received under this part to promote interstate and intrastate coordination of services for migratory children, including how, consistent with procedures the Secretary may require, the State will provide for educational continuity through the timely transfer of pertinent school records, including information on health, when children move from one school to another, whether or not such move occurs during the regular school year;

[(4) a description of the State's priorities for the use of funds received under this part, and how such priorities relate to the State's assessment of needs for services in the State;

[(5) a description of how the State will determine the amount of any subgrants the State will award to local operating agencies, taking into account the numbers and needs of migratory children, the requirements of subsection (d), and the availability of funds from other Federal, State, and local programs;

[(6) such budgetary and other information as the Secretary may require; and

[(7) a description of how the State will encourage programs and projects assisted under this part to offer family literacy services if the program or project serves a substantial number of migratory children who have parents who do not have a high school diploma or its recognized equivalent or who have low levels of literacy.

[(c) ASSURANCES.—Each such application shall also include assurances, satisfactory to the Secretary, that—

[(1) funds received under this part will be used only—

[(A) for programs and projects, including the acquisition of equipment, in accordance with section 1306; and

[(B) to coordinate such programs and projects with similar programs and projects within the State and in other States, as well as with other Federal programs that can benefit migratory children and their families;

[(2) such programs and projects will be carried out in a manner consistent with the objectives of section 1114, subsections (b) and (d) of section 1115, subsections (b) and (c) of section 1120A, and part I;

[(3) in the planning and operation of programs and projects at both the State and local agency operating level, there is consultation with parent advisory councils for programs of 1 school year in duration, and that all such programs and projects are carried out—

[(A) in a manner that provides for the same parental involvement as is required for programs and projects under section 1118, unless extraordinary circumstances make such provision impractical; and

[(B) in a format and language understandable to the parents;

[(4) in planning and carrying out such programs and projects, there has been, and will be, adequate provision for addressing the unmet education needs of preschool migratory children;

[(5) the effectiveness of such programs and projects will be determined, where feasible, using the same approaches and standards that will be used to assess the performance of students, schools, and local educational agencies under part A;

[(6) to the extent feasible, such programs and projects will provide for—

[(A) advocacy and outreach activities for migratory children and their families, including informing such children and families of, or helping such children and families gain

access to, other education, health, nutrition, and social services;

[(B) professional development programs, including mentoring, for teachers and other program personnel;

[(C) family literacy programs, including such programs that use models developed under Even Start;

[(D) the integration of information technology into educational and related programs; and

[(E) programs to facilitate the transition of secondary school students to postsecondary education or employment; and

[(7) the State will assist the Secretary in determining the number of migratory children under paragraphs (1)(A) and (2)(B)(i) of section 1303(a), through such procedures as the Secretary may require.

[(d) PRIORITY FOR SERVICES.—In providing services with funds received under this part, each recipient of such funds shall give priority to migratory children who are failing, or most at risk of failing, to meet the State's challenging State academic content standards and challenging State student academic achievement standards, and whose education has been interrupted during the regular school year.

[(e) CONTINUATION OF SERVICES.—Notwithstanding any other provision of this part—

[(1) a child who ceases to be a migratory child during a school term shall be eligible for services until the end of such term;

[(2) a child who is no longer a migratory child may continue to receive services for 1 additional school year, but only if comparable services are not available through other programs; and

[(3) secondary school students who were eligible for services in secondary school may continue to be served through credit accrual programs until graduation.

[SEC. 1305. SECRETARIAL APPROVAL; PEER REVIEW.

[(a) SECRETARIAL APPROVAL.—The Secretary shall approve each State application that meets the requirements of this part.

[(b) PEER REVIEW.—The Secretary may review any such application with the assistance and advice of State officials and other individuals with relevant expertise.

[SEC. 1306. COMPREHENSIVE NEEDS ASSESSMENT AND SERVICE-DELIVERY PLAN; AUTHORIZED ACTIVITIES.

[(a) COMPREHENSIVE PLAN.—

[(1) IN GENERAL.—Each State that receives assistance under this part shall ensure that the State and its local operating agencies identify and address the special educational needs of migratory children in accordance with a comprehensive State plan that—

[(A) is integrated with other programs under this Act or other Acts, as appropriate;

[(B) may be submitted as a part of a consolidated application under section 9302, if—

[(i) the special needs of migratory children are specifically addressed in the comprehensive State plan;

[(ii) the comprehensive State plan is developed in collaboration with parents of migratory children; and

[(iii) the comprehensive State plan is not used to supplant State efforts regarding, or administrative funding for, this part;

[(C) provides that migratory children will have an opportunity to meet the same challenging State academic content standards and challenging State student academic achievement standards that all children are expected to meet;

[(D) specifies measurable program goals and outcomes;

[(E) encompasses the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;

[(F) is the product of joint planning among such local, State, and Federal programs, including programs under part A, early childhood programs, and language instruction educational programs under part A or B of title III; and

[(G) provides for the integration of services available under this part with services provided by such other programs.

[(2) DURATION OF THE PLAN.—Each such comprehensive State plan shall—

[(A) remain in effect for the duration of the State's participation under this part; and

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

[(b) AUTHORIZED ACTIVITIES.—

[(1) FLEXIBILITY.—In implementing the comprehensive plan described in subsection (a), each State educational agency, where applicable through its local educational agencies, shall have the flexibility to determine the activities to be provided with funds made available under this part, except that such funds first shall be used to meet the identified needs of migratory children that result from their migratory lifestyle, and to permit these children to participate effectively in school.

[(2) UNADDRESSED NEEDS.—Funds provided under this part shall be used to address the needs of migratory children that are not addressed by services available from other Federal or non-Federal programs, except that migratory children who are eligible to receive services under part A may receive those services through funds provided under that part, or through funds under this part that remain after the agency addresses the needs described in paragraph (1).

[(3) CONSTRUCTION.—Nothing in this part shall be construed to prohibit a local educational agency from serving migratory children simultaneously with students with similar educational needs in the same educational settings, where appropriate.

[(4) SPECIAL RULE.—Notwithstanding section 1114, a school that receives funds under this part shall continue to address the identified needs described in paragraph (1), and shall meet the special educational needs of migratory children before

using funds under this part for schoolwide programs under section 1114.

[SEC. 1307. BYPASS.

【The Secretary may use all or part of any State's allocation under this part to make arrangements with any public or private nonprofit agency to carry out the purpose of this part in such State if the Secretary determines that—

- 【(1) the State is unable or unwilling to conduct educational programs for migratory children;
- 【(2) such arrangements would result in more efficient and economic administration of such programs; or
- 【(3) such arrangements would add substantially to the welfare or educational attainment of such children.

[SEC. 1308. COORDINATION OF MIGRANT EDUCATION ACTIVITIES.

[(a) IMPROVEMENT OF COORDINATION.—

【(1) IN GENERAL.—The Secretary, in consultation with the States, may make grants to, or enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, and other public and private nonprofit entities to improve the interstate and intrastate coordination among such agencies' educational programs, including the establishment or improvement of programs for credit accrual and exchange, available to migratory students.

【(2) DURATION.—Grants under this subsection may be awarded for not more than 5 years.

[(b) STUDENT RECORDS.—

【(1) ASSISTANCE.—The Secretary shall assist States in developing effective methods for the electronic transfer of student records and in determining the number of migratory children in each State.

[(2) INFORMATION SYSTEM.—

【(A) IN GENERAL.—The Secretary, in consultation with the States, shall ensure the linkage of migrant student record systems for the purpose of electronically exchanging, among the States, health and educational information regarding all migratory students. The Secretary shall ensure such linkage occurs in a cost-effective manner, utilizing systems used by the States prior to, or developed after, the date of enactment of the No Child Left Behind Act of 2001, and shall determine the minimum data elements that each State receiving funds under this part shall collect and maintain. Such elements may include—

- 【(i) immunization records and other health information;
- 【(ii) elementary and secondary academic history (including partial credit), credit accrual, and results from State assessments required under section 1111(b);
- 【(iii) other academic information essential to ensuring that migratory children achieve to high standards; and
- 【(iv) eligibility for services under the Individuals with Disabilities Education Act.

【(B) NOTICE AND COMMENT.—After consulting with the States under subparagraph (A), the Secretary shall publish

a notice in the Federal Register seeking public comment on the proposed data elements that each State receiving funds under this part shall be required to collect for purposes of electronic transfer of migratory student information and the requirements that States shall meet for immediate electronic access to such information. Such publication shall occur not later than 120 days after the date of enactment of the No Child Left Behind Act of 2001.

[(3) NO COST FOR CERTAIN TRANSFERS.—A State educational agency or local educational agency receiving assistance under this part shall make student records available to another State educational agency or local educational agency that requests the records at no cost to the requesting agency, if the request is made in order to meet the needs of a migratory child.

[(4) REPORT TO CONGRESS.—

[(A) IN GENERAL.—Not later than April 30, 2003, the Secretary shall report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives the Secretary's findings and recommendations regarding the maintenance and transfer of health and educational information for migratory students by the States.

[(B) REQUIRED CONTENTS.—The Secretary shall include in such report—

[(i) a review of the progress of States in developing and linking electronic records transfer systems;

[(ii) recommendations for the development and linkage of such systems; and

[(iii) recommendations for measures that may be taken to ensure the continuity of services provided for migratory students.

[(c) AVAILABILITY OF FUNDS.—For the purpose of carrying out this section in any fiscal year, the Secretary shall reserve not more than \$10,000,000 of the amount appropriated to carry out this part for such year.

[(d) INCENTIVE GRANTS.—From the amounts made available to carry out this section for any fiscal year, the Secretary may reserve not more than \$3,000,000 to award grants of not more than \$250,000 on a competitive basis to State educational agencies that propose a consortium arrangement with another State or other appropriate entity that the Secretary determines, pursuant to criteria that the Secretary shall establish, will improve the delivery of services to migratory children whose education is interrupted.

[(e) DATA COLLECTION.—The Secretary shall direct the National Center for Education Statistics to collect data on migratory children.

[SEC. 1309. DEFINITIONS.

[As used in this part:

[(1) LOCAL OPERATING AGENCY.—The term “local operating agency” means—

[(A) a local educational agency to which a State educational agency makes a subgrant under this part;

[(B) a public or nonprofit private agency with which a State educational agency or the Secretary makes an arrangement to carry out a project under this part; or

[(C) a State educational agency, if the State educational agency operates the State's migrant education program or projects directly.

[(2) MIGRATORY CHILD.—The term “migratory child” means a child who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent or spouse, in order to obtain, temporary or seasonal employment in agricultural or fishing work—

[(A) has moved from one school district to another;

[(B) in a State that is comprised of a single school district, has moved from one administrative area to another within such district; or

[(C) resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

[PART D—PREVENTION AND INTERVENTION PROGRAMS FOR CHILDREN AND YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT-RISK

[SEC. 1401. PURPOSE AND PROGRAM AUTHORIZATION.

[(a) PURPOSE.—It is the purpose of this part—

[(1) to improve educational services for children and youth in local and State institutions for neglected or delinquent children and youth so that such children and youth have the opportunity to meet the same challenging State academic content standards and challenging State student academic achievement standards that all children in the State are expected to meet;

[(2) to provide such children and youth with the services needed to make a successful transition from institutionalization to further schooling or employment; and

[(3) to prevent at-risk youth from dropping out of school, and to provide dropouts, and children and youth returning from correctional facilities or institutions for neglected or delinquent children and youth, with a support system to ensure their continued education.

[(b) PROGRAM AUTHORIZED.—In order to carry out the purpose of this part and from amounts appropriated under section 1002(d), the Secretary shall make grants to State educational agencies to enable such agencies to award subgrants to State agencies and local educational agencies to establish or improve programs of education for neglected, delinquent, or at-risk children and youth.

[SEC. 1402. PAYMENTS FOR PROGRAMS UNDER THIS PART.

[(a) AGENCY SUBGRANTS.—Based on the allocation amount computed under section 1412, the Secretary shall allocate to each State educational agency an amount necessary to make subgrants to State agencies under subpart 1.

[(b) LOCAL SUBGRANTS.—Each State shall retain, for the purpose of carrying out subpart 2, funds generated throughout the State under part A of this title based on children and youth residing in local correctional facilities, or attending community day programs for delinquent children and youth.

[Subpart 1—State Agency Programs

[SEC. 1411. ELIGIBILITY.

[A State agency is eligible for assistance under this subpart if such State agency is responsible for providing free public education for children and youth—

[(1) in institutions for neglected or delinquent children and youth;

[(2) attending community day programs for neglected or delinquent children and youth; or

[(3) in adult correctional institutions.

[SEC. 1412. ALLOCATION OF FUNDS.

[(a) SUBGRANTS TO STATE AGENCIES.—

[(1) IN GENERAL.—Each State agency described in section 1411 (other than an agency in the Commonwealth of Puerto Rico) is eligible to receive a subgrant under this subpart, for each fiscal year, in an amount equal to the product of—

[(A) the number of neglected or delinquent children and youth described in section 1411 who—

[(i) are enrolled for at least 15 hours per week in education programs in adult correctional institutions; and

[(ii) are enrolled for at least 20 hours per week—

[(I) in education programs in institutions for neglected or delinquent children and youth; or

[(II) in community day programs for neglected or delinquent children and youth; and

[(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this subparagraph shall not be less than 32 percent, nor more than 48 percent, of the average per-pupil expenditure in the United States.

[(2) SPECIAL RULE.—The number of neglected or delinquent children and youth determined under paragraph (1) shall—

[(A) be determined by the State agency by a deadline set by the Secretary, except that no State agency shall be required to determine the number of such children and youth on a specific date set by the Secretary; and

[(B) be adjusted, as the Secretary determines is appropriate, to reflect the relative length of such agency's annual programs.

[(b) SUBGRANTS TO STATE AGENCIES IN PUERTO RICO.—

[(1) IN GENERAL.—For each fiscal year, the amount of the subgrant which a State agency in the Commonwealth of Puerto Rico shall be eligible to receive under this subpart shall be the amount determined by multiplying the number of children counted under subsection (a)(1)(A) for the Commonwealth of Puerto Rico by the product of—

[(A) the percentage which the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and
 [(B) 32 percent of the average per-pupil expenditure in the United States.

[(2) MINIMUM PERCENTAGE.—The percentage in paragraph (1)(A) shall not be less than—

[(A) for fiscal year 2002, 77.5 percent;

[(B) for fiscal year 2003, 80.0 percent;

[(C) for fiscal year 2004, 82.5 percent; and

[(D) for fiscal year 2005 and succeeding fiscal years, 85.0 percent.

[(3) LIMITATION.—If the application of paragraph (2) would result in any of the 50 States or the District of Columbia receiving less under this subpart than it received under this subpart for the preceding fiscal year, then the percentage described in paragraph (1)(A) that is used for the Commonwealth of Puerto Rico for the fiscal year for which the determination is made shall be the greater of—

[(A) the percentage in paragraph (1)(A) for such fiscal year; or

[(B) the percentage used for the preceding fiscal year.

[(c) RATABLE REDUCTIONS IN CASE OF INSUFFICIENT APPROPRIATIONS.—If the amount appropriated for any fiscal year for subgrants under subsections (a) and (b) is insufficient to pay the full amount for which all State agencies are eligible under such subsections, the Secretary shall ratably reduce each such amount.

[SEC. 1413. STATE REALLOCATION OF FUNDS.

[(If a State educational agency determines that a State agency does not need the full amount of the subgrant for which such State agency is eligible under this subpart for any fiscal year, the State educational agency may reallocate the amount that will not be needed to other eligible State agencies that need additional funds to carry out the purpose of this part, in such amounts as the State educational agency shall determine.

[SEC. 1414. STATE PLAN AND STATE AGENCY APPLICATIONS.

[(a) STATE PLAN.—

[(1) IN GENERAL.—Each State educational agency that desires to receive a grant under this subpart shall submit, for approval by the Secretary, a plan—

[(A) for meeting the educational needs of neglected, delinquent, and at-risk children and youth;

[(B) for assisting in the transition of children and youth from correctional facilities to locally operated programs; and

[(C) that is integrated with other programs under this Act or other Acts, as appropriate.

[(2) CONTENTS.—Each such State plan shall—

[(A) describe the program goals, objectives, and performance measures established by the State that will be used to assess the effectiveness of the program in improving the academic, vocational, and technical skills of children in the program;

[(B) provide that, to the extent feasible, such children will have the same opportunities to achieve as such children would have if such children were in the schools of local educational agencies in the State; and

[(C) contain an assurance that the State educational agency will—

[(i) ensure that programs assisted under this subpart will be carried out in accordance with the State plan described in this subsection;

[(ii) carry out the evaluation requirements of section 1431;

[(iii) ensure that the State agencies receiving subgrants under this subpart comply with all applicable statutory and regulatory requirements; and

[(iv) provide such other information as the Secretary may reasonably require.

[(3) DURATION OF THE PLAN.—Each such State plan shall—

[(A) remain in effect for the duration of the State's participation under this part; and

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

[(b) SECRETARIAL APPROVAL AND PEER REVIEW.—

[(1) SECRETARIAL APPROVAL.—The Secretary shall approve each State plan that meets the requirements of this subpart.

[(2) PEER REVIEW.—The Secretary may review any State plan with the assistance and advice of individuals with relevant expertise.

[(c) STATE AGENCY APPLICATIONS.—Any State agency that desires to receive funds to carry out a program under this subpart shall submit an application to the State educational agency that—

[(1) describes the procedures to be used, consistent with the State plan under section 1111, to assess the educational needs of the children to be served under this subpart;

[(2) provide an assurance that in making services available to children and youth in adult correctional institutions, priority will be given to such children and youth who are likely to complete incarceration within a 2-year period;

[(3) describes the program, including a budget for the first year of the program, with annual updates to be provided to the State educational agency;

[(4) describes how the program will meet the goals and objectives of the State plan;

[(5) describes how the State agency will consult with experts and provide the necessary training for appropriate staff, to ensure that the planning and operation of institution-wide projects under section 1416 are of high quality;

[(6) describes how the State agency will carry out the evaluation requirements of section 9601 and how the results of the most recent evaluation will be used to plan and improve the program;

[(7) includes data showing that the State agency has maintained the fiscal effort required of a local educational agency, in accordance with section 9521;

[(8) describes how the programs will be coordinated with other appropriate State and Federal programs, such as programs under title I of Public Law 105-220, vocational and technical education programs, State and local dropout prevention programs, and special education programs;

[(9) describes how the State agency will encourage correctional facilities receiving funds under this subpart to coordinate with local educational agencies or alternative education programs attended by incarcerated children and youth prior to their incarceration to ensure that student assessments and appropriate academic records are shared jointly between the correctional facility and the local educational agency or alternative education program;

[(10) describes how appropriate professional development will be provided to teachers and other staff;

[(11) designates an individual in each affected correctional facility or institution for neglected or delinquent children and youth to be responsible for issues relating to the transition of children and youth from such facility or institution to locally operated programs;

[(12) describes how the State agency will endeavor to coordinate with businesses for training and mentoring for participating children and youth;

[(13) provides an assurance that the State agency will assist in locating alternative programs through which students can continue their education if the students are not returning to school after leaving the correctional facility or institution for neglected or delinquent children and youth;

[(14) provides assurances that the State agency will work with parents to secure parents' assistance in improving the educational achievement of their children and youth, and preventing their children's and youth's further involvement in delinquent activities;

[(15) provides an assurance that the State agency will work with children and youth with disabilities in order to meet an existing individualized education program and an assurance that the agency will notify the child's or youth's local school if the child or youth—

[(A) is identified as in need of special education services while the child or youth is in the correctional facility or institution for neglected or delinquent children and youth; and

[(B) intends to return to the local school;

[(16) provides an assurance that the State agency will work with children and youth who dropped out of school before entering the correctional facility or institution for neglected or delinquent children and youth to encourage the children and youth to reenter school once the term of the incarceration is completed or provide the child or youth with the skills necessary to gain employment, continue the education of the child or youth, or achieve a secondary school diploma or its recognized equivalent if the child or youth does not intend to return to school;

[(17) provides an assurance that teachers and other qualified staff are trained to work with children and youth with disabil-

ities and other students with special needs taking into consideration the unique needs of such students;

[(18) describes any additional services to be provided to children and youth, such as career counseling, distance learning, and assistance in securing student loans and grants; and

[(19) provides an assurance that the program under this subpart will be coordinated with any programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) or other comparable programs, if applicable.

[SEC. 1415. USE OF FUNDS.

[(a) USES.—

[(1) IN GENERAL.—A State agency shall use funds received under this subpart only for programs and projects that—

[(A) are consistent with the State plan under section 1414(a); and

[(B) concentrate on providing participants with the knowledge and skills needed to make a successful transition to secondary school completion, vocational or technical training, further education, or employment.

[(2) PROGRAMS AND PROJECTS.—Such programs and projects—

[(A) may include the acquisition of equipment;

[(B) shall be designed to support educational services that—

[(i) except for institution-wide projects under section 1416, are provided to children and youth identified by the State agency as failing, or most at-risk of failing, to meet the State's challenging academic content standards and student academic achievement standards;

[(ii) supplement and improve the quality of the educational services provided to such children and youth by the State agency; and

[(iii) afford such children and youth an opportunity to meet challenging State academic achievement standards;

[(C) shall be carried out in a manner consistent with section 1120A and part I (as applied to programs and projects under this part); and

[(D) may include the costs of meeting the evaluation requirements of section 9601.

[(b) SUPPLEMENT, NOT SUPPLANT.—A program under this subpart that supplements the number of hours of instruction students receive from State and local sources shall be considered to comply with the supplement, not supplant requirement of section 1120A (as applied to this part) without regard to the subject areas in which instruction is given during those hours.

[SEC. 1416. INSTITUTION-WIDE PROJECTS.

[A State agency that provides free public education for children and youth in an institution for neglected or delinquent children and youth (other than an adult correctional institution) or attending a community-day program for such children and youth may use funds received under this subpart to serve all children in, and up-

grade the entire educational effort of, that institution or program if the State agency has developed, and the State educational agency has approved, a comprehensive plan for that institution or program that—

[(1) provides for a comprehensive assessment of the educational needs of all children and youth in the institution or program serving juveniles;

[(2) provides for a comprehensive assessment of the educational needs of youth aged 20 and younger in adult facilities who are expected to complete incarceration within a 2-year period;

[(3) describes the steps the State agency has taken, or will take, to provide all children and youth under age 21 with the opportunity to meet challenging State academic content standards and student academic achievement standards in order to improve the likelihood that the children and youth will complete secondary school, attain a secondary diploma or its recognized equivalent, or find employment after leaving the institution;

[(4) describes the instructional program, pupil services, and procedures that will be used to meet the needs described in paragraph (1), including, to the extent feasible, the provision of mentors for the children and youth described in paragraph (1);

[(5) specifically describes how such funds will be used;

[(6) describes the measures and procedures that will be used to assess student progress;

[(7) describes how the agency has planned, and will implement and evaluate, the institution-wide or program-wide project in consultation with personnel providing direct instructional services and support services in institutions or community-day programs for neglected or delinquent children and youth, and with personnel from the State educational agency; and

[(8) includes an assurance that the State agency has provided for appropriate training for teachers and other instructional and administrative personnel to enable such teachers and personnel to carry out the project effectively.

[SEC. 1417. THREE-YEAR PROGRAMS OR PROJECTS.

[(a) If a State agency operates a program or project under this subpart in which individual children or youth are likely to participate for more than 1 year, the State educational agency may approve the State agency's application for a subgrant under this subpart for a period of not more than 3 years.

[SEC. 1418. TRANSITION SERVICES.

[(a) TRANSITION SERVICES.—Each State agency shall reserve not less than 15 percent and not more than 30 percent of the amount such agency receives under this subpart for any fiscal year to support—

[(1) projects that facilitate the transition of children and youth from State-operated institutions to schools served by local educational agencies; or

[(2) the successful reentry of youth offenders, who are age 20 or younger and have received a secondary school diploma or its

recognized equivalent, into postsecondary education, or vocational and technical training programs, through strategies designed to expose the youth to, and prepare the youth for, postsecondary education, or vocational and technical training programs, such as—

[(A) preplacement programs that allow adjudicated or incarcerated youth to audit or attend courses on college, university, or community college campuses, or through programs provided in institutional settings;

[(B) worksite schools, in which institutions of higher education and private or public employers partner to create programs to help students make a successful transition to postsecondary education and employment; and

[(C) essential support services to ensure the success of the youth, such as—

[(i) personal, vocational and technical, and academic, counseling;

[(ii) placement services designed to place the youth in a university, college, or junior college program;

[(iii) information concerning, and assistance in obtaining, available student financial aid;

[(iv) counseling services; and

[(v) job placement services.

[(b) CONDUCT OF PROJECTS.—A project supported under this section may be conducted directly by the State agency, or through a contract or other arrangement with one or more local educational agencies, other public agencies, or private nonprofit organizations.

[(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a school that receives funds under subsection (a) from serving neglected and delinquent children and youth simultaneously with students with similar educational needs, in the same educational settings where appropriate.

[SEC. 1419. EVALUATION; TECHNICAL ASSISTANCE; ANNUAL MODEL PROGRAM.

[(The Secretary may reserve not more than 2.5 percent of the amount made available to carry out this subpart for a fiscal year—

[(1) to develop a uniform model to evaluate the effectiveness of programs assisted under this subpart; and

[(2) to provide technical assistance to and support the capacity building of State agency programs assisted under this subpart.

[Subpart 2—Local Agency Programs

[SEC. 1421. PURPOSE.

[(The purpose of this subpart is to support the operation of local educational agency programs that involve collaboration with locally operated correctional facilities—

[(1) to carry out high quality education programs to prepare children and youth for secondary school completion, training, employment, or further education;

[(2) to provide activities to facilitate the transition of such children and youth from the correctional program to further education or employment; and

[(3) to operate programs in local schools for children and youth returning from correctional facilities, and programs which may serve at-risk children and youth.

[SEC. 1422. PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES.

[(a) LOCAL SUBGRANTS.—With funds made available under section 1402(b), the State educational agency shall award subgrants to local educational agencies with high numbers or percentages of children and youth residing in locally operated (including county operated) correctional facilities for children and youth (including facilities involved in community day programs).

[(b) SPECIAL RULE.—A local educational agency that serves a school operated by a correctional facility is not required to operate a program of support for children and youth returning from such school to a school that is not operated by a correctional agency but served by such local educational agency, if more than 30 percent of the children and youth attending the school operated by the correctional facility will reside outside the boundaries served by the local educational agency after leaving such facility.

[(c) NOTIFICATION.—A State educational agency shall notify local educational agencies within the State of the eligibility of such agencies to receive a subgrant under this subpart.

[(d) TRANSITIONAL AND ACADEMIC SERVICES.—Transitional and supportive programs operated in local educational agencies under this subpart shall be designed primarily to meet the transitional and academic needs of students returning to local educational agencies or alternative education programs from correctional facilities. Services to students at-risk of dropping out of school shall not have a negative impact on meeting the transitional and academic needs of the students returning from correctional facilities.

[SEC. 1423. LOCAL EDUCATIONAL AGENCY APPLICATIONS.

[Each local educational agency desiring assistance under this subpart shall submit an application to the State educational agency that contains such information as the State educational agency may require. Each such application shall include—

[(1) a description of the program to be assisted;

[(2) a description of formal agreements, regarding the program to be assisted, between—

[(A) the local educational agency; and

[(B) correctional facilities and alternative school programs serving children and youth involved with the juvenile justice system;

[(3) as appropriate, a description of how participating schools will coordinate with facilities working with delinquent children and youth to ensure that such children and youth are participating in an education program comparable to one operating in the local school such youth would attend;

[(4) a description of the program operated by participating schools for children and youth returning from correctional facilities and, as appropriate, the types of services that such schools will provide such children and youth and other at-risk children and youth;

[(5) a description of the characteristics (including learning difficulties, substance abuse problems, and other special needs)

of the children and youth who will be returning from correctional facilities and, as appropriate, other at-risk children and youth expected to be served by the program, and a description of how the school will coordinate existing educational programs to meet the unique educational needs of such children and youth;

[(6) as appropriate, a description of how schools will coordinate with existing social, health, and other services to meet the needs of students returning from correctional facilities, at-risk children or youth, and other participating children or youth, including prenatal health care and nutrition services related to the health of the parent and the child or youth, parenting and child development classes, child care, targeted reentry and outreach programs, referrals to community resources, and scheduling flexibility;

[(7) as appropriate, a description of any partnerships with local businesses to develop training, curriculum-based youth entrepreneurship education, and mentoring services for participating students;

[(8) as appropriate, a description of how the program will involve parents in efforts to improve the educational achievement of their children, assist in dropout prevention activities, and prevent the involvement of their children in delinquent activities;

[(9) a description of how the program under this subpart will be coordinated with other Federal, State, and local programs, such as programs under title I of Public Law 105-220 and vocational and technical education programs serving at-risk children and youth;

[(10) a description of how the program will be coordinated with programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable;

[(11) as appropriate, a description of how schools will work with probation officers to assist in meeting the needs of children and youth returning from correctional facilities;

[(12) a description of the efforts participating schools will make to ensure correctional facilities working with children and youth are aware of a child's or youth's existing individualized education program; and

[(13) as appropriate, a description of the steps participating schools will take to find alternative placements for children and youth interested in continuing their education but unable to participate in a regular public school program.

[SEC. 1424. USES OF FUNDS.

[Funds provided to local educational agencies under this subpart may be used, as appropriate, for—

[(1) programs that serve children and youth returning to local schools from correctional facilities, to assist in the transition of such children and youth to the school environment and help them remain in school in order to complete their education;

[(2) dropout prevention programs which serve at-risk children and youth, including pregnant and parenting teens, children and youth who have come in contact with the juvenile

justice system, children and youth at least 1 year behind their expected grade level, migrant youth, immigrant youth, students with limited English proficiency, and gang members;

[(3) the coordination of health and social services for such individuals if there is a likelihood that the provision of such services, including day care, drug and alcohol counseling, and mental health services, will improve the likelihood such individuals will complete their education;

[(4) special programs to meet the unique academic needs of participating children and youth, including vocational and technical education, special education, career counseling, curriculum-based youth entrepreneurship education, and assistance in securing student loans or grants for postsecondary education; and

[(5) programs providing mentoring and peer mediation.

[SEC. 1425. PROGRAM REQUIREMENTS FOR CORRECTIONAL FACILITIES RECEIVING FUNDS UNDER THIS SECTION.

[Each correctional facility entering into an agreement with a local educational agency under section 1423(2) to provide services to children and youth under this subpart shall—

[(1) where feasible, ensure that educational programs in the correctional facility are coordinated with the student's home school, particularly with respect to a student with an individualized education program under part B of the Individuals with Disabilities Education Act;

[(2) if the child or youth is identified as in need of special education services while in the correctional facility, notify the local school of the child or youth of such need;

[(3) where feasible, provide transition assistance to help the child or youth stay in school, including coordination of services for the family, counseling, assistance in accessing drug and alcohol abuse prevention programs, tutoring, and family counseling;

[(4) provide support programs that encourage children and youth who have dropped out of school to reenter school once their term at the correctional facility has been completed, or provide such children and youth with the skills necessary to gain employment or seek a secondary school diploma or its recognized equivalent;

[(5) work to ensure that the correctional facility is staffed with teachers and other qualified staff who are trained to work with children and youth with disabilities taking into consideration the unique needs of such children and youth;

[(6) ensure that educational programs in the correctional facility are related to assisting students to meet high academic achievement standards;

[(7) to the extent possible, use technology to assist in coordinating educational programs between the correctional facility and the community school;

[(8) where feasible, involve parents in efforts to improve the educational achievement of their children and prevent the further involvement of such children in delinquent activities;

[(9) coordinate funds received under this subpart with other local, State, and Federal funds available to provide services to participating children and youth, such as funds made available

under title I of Public Law 105–220, and vocational and technical education funds;

[(10) coordinate programs operated under this subpart with activities funded under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable; and

[(11) if appropriate, work with local businesses to develop training, curriculum-based youth entrepreneurship education, and mentoring programs for children and youth.

[SEC. 1426. ACCOUNTABILITY.

[(The State educational agency may—

[(1) reduce or terminate funding for projects under this subpart if a local educational agency does not show progress in reducing dropout rates for male students and for female students over a 3-year period; and

[(2) require correctional facilities or institutions for neglected or delinquent children and youth to demonstrate, after receiving assistance under this subpart for 3 years, that there has been an increase in the number of children and youth returning to school, obtaining a secondary school diploma or its recognized equivalent, or obtaining employment after such children and youth are released.

[Subpart 3—General Provisions

[SEC. 1431. PROGRAM EVALUATIONS.

[(a) SCOPE OF EVALUATION.—Each State agency or local educational agency that conducts a program under subpart 1 or 2 shall evaluate the program, disaggregating data on participation by gender, race, ethnicity, and age, not less than once every 3 years, to determine the program’s impact on the ability of participants—

[(1) to maintain and improve educational achievement;

[(2) to accrue school credits that meet State requirements for grade promotion and secondary school graduation;

[(3) to make the transition to a regular program or other education program operated by a local educational agency;

[(4) to complete secondary school (or secondary school equivalency requirements) and obtain employment after leaving the correctional facility or institution for neglected or delinquent children and youth; and

[(5) as appropriate, to participate in postsecondary education and job training programs.

[(b) EXCEPTION.—The disaggregation required under subsection (a) shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student.

[(c) EVALUATION MEASURES.—In conducting each evaluation under subsection (a), a State agency or local educational agency shall use multiple and appropriate measures of student progress.

[(d) EVALUATION RESULTS.—Each State agency and local educational agency shall—

[(1) submit evaluation results to the State educational agency and the Secretary; and

[(2) use the results of evaluations under this section to plan and improve subsequent programs for participating children and youth.

[SEC. 1432. DEFINITIONS.

[In this part:

[(1) ADULT CORRECTIONAL INSTITUTION.—The term “adult correctional institution” means a facility in which persons (including persons under 21 years of age) are confined as a result of a conviction for a criminal offense.

[(2) AT-RISK.—The term “at-risk”, when used with respect to a child, youth, or student, means a school aged individual who is at-risk of academic failure, has a drug or alcohol problem, is pregnant or is a parent, has come into contact with the juvenile justice system in the past, is at least 1 year behind the expected grade level for the age of the individual, has limited English proficiency, is a gang member, has dropped out of school in the past, or has a high absenteeism rate at school.

[(3) COMMUNITY DAY PROGRAM.—The term “community day program” means a regular program of instruction provided by a State agency at a community day school operated specifically for neglected or delinquent children and youth.

[(4) INSTITUTION FOR NEGLECTED OR DELINQUENT CHILDREN AND YOUTH.—The term “institution for neglected or delinquent children and youth” means—

[(A) a public or private residential facility, other than a foster home, that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of their parents or guardians; or

[(B) a public or private residential facility for the care of children who have been adjudicated to be delinquent or in need of supervision.]

Subpart 2—Education of Migratory Children

SEC. 1131. PROGRAM PURPOSES.

The purposes of this subpart are as follows:

(1) To assist States in supporting high-quality and comprehensive educational programs and services during the school year, and as applicable, during summer or intercession periods, that address the unique educational needs of migratory children.

(2) To ensure that migratory children who move among the States, not be penalized in any manner by disparities among the States in curriculum, graduation requirements, and State academic standards.

(3) To help such children succeed in school, meet the State academic standards that all children are expected to meet, and graduate from high school prepared for postsecondary education and the workforce without the need for remediation.

(4) To help such children overcome educational disruption, cultural and language barriers, social isolation, various health-

related problems, and other factors that inhibit the ability of such children to succeed in school.

(5) To help such children benefit from State and local systemic reforms.

SEC. 1132. PROGRAM AUTHORIZED.

(a) IN GENERAL.—From the amounts appropriated under section 3(a)(1), the Secretary shall reserve 2.4 percent to carry out this subpart.

(b) GRANTS AWARDED.—From the amounts reserved under subsection (a) and not reserved under section 1138(c), the Secretary shall make allotments for the fiscal year to State educational agencies, or consortia of such agencies, to establish or improve, directly or through local operating agencies, programs of education for migratory children in accordance with this subpart.

SEC. 1133. STATE ALLOCATIONS.

(a) STATE ALLOCATIONS.—Except as provided in subsection (c), each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this subpart an amount equal to the product of—

(1) the sum of—

(A) the average number of identified eligible full-time equivalent migratory children aged 3 through 21 residing in the State, based on data for the preceding 3 years; and

(B) the number of identified eligible migratory children, aged 3 through 21, who received services under this subpart in summer or intersession programs provided by the State during the previous year; multiplied by

(2) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this paragraph shall not be less than 32 percent, nor more than 48 percent, of the average per-pupil expenditure in the United States.

(b) HOLD HARMLESS.—Notwithstanding subsection (a), for each of fiscal years 2013 through 2015, no State shall receive less than 90 percent of the State's allocation under this section for the previous year.

(c) ALLOCATION TO PUERTO RICO.—For each fiscal year, the grant which the Commonwealth of Puerto Rico shall be eligible to receive under this subpart shall be the amount determined by multiplying the number of children who would be counted under subsection (a)(1) if such subsection applied to the Commonwealth of Puerto Rico by the product of—

(1) the percentage that the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States, except that the percentage calculated under this subparagraph shall not be less than 85 percent; and

(2) 32 percent of the average per-pupil expenditure in the United States.

(d) RATABLE REDUCTIONS; REALLOCATIONS.—

(1) IN GENERAL.—

(A) RATABLE REDUCTIONS.—If, after the Secretary reserves funds under section 1138(c), the amount appropriated to carry out this subpart for any fiscal year is insufficient to pay in full the amounts for which all States are

eligible, the Secretary shall ratably reduce each such amount.

(B) REALLOCATION.—If additional funds become available for making such payments for any fiscal year, the Secretary shall allocate such funds to States in amounts that the Secretary determines will best carry out the purpose of this subpart.

(2) SPECIAL RULE.—

(A) FURTHER REDUCTIONS.—The Secretary shall further reduce the amount of any grant to a State under this subpart for any fiscal year if the Secretary determines, based on available information on the numbers and needs of migratory children in the State and the program proposed by the State to address such needs, that such amount exceeds the amount required under section 1134.

(B) REALLOCATION.—The Secretary shall reallocate such excess funds to other States whose grants under this subpart would otherwise be insufficient to provide an appropriate level of services to migratory children, in such amounts as the Secretary determines are appropriate.

(e) CONSORTIUM ARRANGEMENTS.—

(1) IN GENERAL.—In the case of a State that receives a grant of \$1,000,000 or less under this section, the Secretary shall consult with the State educational agency to determine whether consortium arrangements with another State or other appropriate entity would result in delivery of services in a more effective and efficient manner.

(2) PROPOSALS.—Any State, regardless of the amount of such State's allocation, may submit a consortium arrangement to the Secretary for approval.

(3) APPROVAL.—The Secretary shall approve a consortium arrangement under paragraph (1) or (2) if the proposal demonstrates that the arrangement will—

(A) reduce administrative costs or program function costs for State programs; and

(B) make more funds available for direct services to add substantially to the educational achievement of children to be served under this subpart.

(f) DETERMINING NUMBERS OF ELIGIBLE CHILDREN.—In order to determine the identified number of migratory children residing in each State for purposes of this section, the Secretary shall—

(1) use the most recent information that most accurately reflects the actual number of migratory children;

(2) develop and implement a procedure for monitoring the accuracy of such information;

(3) develop and implement a procedure for more accurately reflecting cost factors for different types of summer and intersession program designs;

(4) adjust the full-time equivalent number of migratory children who reside in each State to take into account—

(A) the unique needs of those children participating in evidence-based or other effective special programs provided under this subpart that operate during the summer and intersession periods; and

(B) the additional costs of operating such programs; and

(5) conduct an analysis of the options for adjusting the formula so as to better direct services to migratory children, including the most at-risk migratory children.

(g) **NONPARTICIPATING STATES.**—In the case of a State desiring to receive an allocation under this subpart for a fiscal year that did not receive an allocation for the previous fiscal year or that has been participating for less than 3 consecutive years, the Secretary shall calculate the State's number of identified migratory children aged 3 through 21 for purposes of subsection (a)(1)(A) by using the most recent data available that identifies the migratory children residing in the State until data is available to calculate the 3-year average number of such children in accordance with such subsection.

SEC. 1134. STATE APPLICATIONS; SERVICES.

(a) **APPLICATION REQUIRED.**—Any State desiring to receive a grant under this subpart for any fiscal year shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(b) **PROGRAM INFORMATION.**—Each such application shall include—

(1) a description of how, in planning, implementing, and evaluating programs and projects assisted under this subpart, the State and its local operating agencies will ensure that the unique educational needs of migratory children, including preschool migratory children, are identified and addressed through—

(A) the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;

(B) joint planning among local, State, and Federal educational programs serving migratory children, including language instruction educational programs under chapter A of subpart 4; and

(C) the integration of services available under this subpart with services provided by those other programs;

(2) a description of the steps the State is taking to provide all migratory students with the opportunity to meet the same State academic standards that all children are expected to meet;

(3) a description of how the State will use funds received under this subpart to promote interstate and intrastate coordination of services for migratory children, including how the State will provide for educational continuity through the timely transfer of pertinent school records, including information on health, when children move from one school to another, whether or not such a move occurs during the regular school year;

(4) a description of the State's priorities for the use of funds received under this subpart, and how such priorities relate to the State's assessment of needs for services in the State;

(5) a description of how the State will determine the amount of any subgrants the State will award to local operating agencies, taking into account the numbers and needs of migratory children, the requirements of subsection (d), and the availability of funds from other Federal, State, and local programs; and

(6) a description of how the State will encourage programs and projects assisted under this subpart to offer family literacy

services if the programs and projects serve a substantial number of migratory children whose parents do not have a regular high school diploma or its recognized equivalent or who have low levels of literacy.

(c) ASSURANCES.—Each such application shall also include assurances that—

(1) funds received under this subpart will be used only—

(A) for programs and projects, including the acquisition of equipment, in accordance with section 1136; and

(B) to coordinate such programs and projects with similar programs and projects within the State and in other States, as well as with other Federal programs that can benefit migratory children and their families;

(2) such programs and projects will be carried out in a manner consistent with the objectives of section 1114, subsections (b) and (d) of section 1115, subsections (b) and (c) of section 1120A, and part C;

(3) in the planning and operation of programs and projects at both the State and local agency operating level, there is consultation with parents of migratory children for programs of not less than one school year in duration, and that all such programs and projects are carried out—

(A) in a manner that provides for the same parental involvement as is required for programs and projects under section 1118, unless extraordinary circumstances make such provision impractical; and

(B) in a format and language understandable to the parents;

(4) in planning and carrying out such programs and projects, there has been, and will be, adequate provision for addressing the unmet education needs of preschool migratory children;

(5) the effectiveness of such programs and projects will be determined, where feasible, using the same approaches and standards that will be used to assess the performance of students, schools, and local educational agencies under subpart 1;

(6) to the extent feasible, such programs and projects will provide for—

(A) advocacy and outreach activities for migratory children and their families, including informing such children and families of, or helping such children and families gain access to, other education, health, nutrition, and social services;

(B) professional development programs, including mentoring, for teachers and other program personnel;

(C) high-quality, evidence-based family literacy programs;

(D) the integration of information technology into educational and related programs; and

(E) programs to facilitate the transition of secondary school students to postsecondary education or employment without the need for remediation; and

(7) the State will assist the Secretary in determining the number of migratory children under paragraph (1) of section 1133(a).

(d) *PRIORITY FOR SERVICES.*—*In providing services with funds received under this subpart, each recipient of such funds shall give priority to migratory children who are failing, or most at risk of failing, to meet the State’s academic standards under section 1111(b)(1).*

(e) *CONTINUATION OF SERVICES.*—*Notwithstanding any other provision of this subpart—*

(1) *a child who ceases to be a migratory child during a school term shall be eligible for services until the end of such term;*

(2) *a child who is no longer a migratory child may continue to receive services for one additional school year, but only if comparable services are not available through other programs; and*

(3) *secondary school students who were eligible for services in secondary school may continue to be served through credit accrual programs until graduation.*

SEC. 1135. SECRETARIAL APPROVAL; PEER REVIEW.

The Secretary shall approve each State application that meets the requirements of this subpart, and may review any such application using a peer review process.

SEC. 1136. COMPREHENSIVE NEEDS ASSESSMENT AND SERVICE-DELIVERY PLAN; AUTHORIZED ACTIVITIES.

(a) *COMPREHENSIVE PLAN.*—

(1) *IN GENERAL.*—*Each State that receives assistance under this subpart shall ensure that the State and its local operating agencies identify and address the unique educational needs of migratory children in accordance with a comprehensive State plan that—*

(A) *is integrated with other programs under this Act or other Acts, as appropriate;*

(B) *may be submitted as a part of a consolidated application under section 5302, if—*

(i) *the unique needs of migratory children are specifically addressed in the comprehensive State plan;*

(ii) *the comprehensive State plan is developed in collaboration with parents of migratory children; and*

(iii) *the comprehensive State plan is not used to supplant State efforts regarding, or administrative funding for, this subpart;*

(C) *provides that migratory children will have an opportunity to meet the same State academic standards under section 1111(b)(1) that all children are expected to meet;*

(D) *specifies measurable program goals and outcomes;*

(E) *encompasses the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;*

(F) *is the product of joint planning among such local, State, and Federal programs, including programs under subpart 1, early childhood programs, and language instruction educational programs under chapter A of subpart 4; and*

(G) *provides for the integration of services available under this subpart with services provided by such other programs.*

(2) *DURATION OF THE PLAN.*—Each such comprehensive State plan shall—

(A) remain in effect for the duration of the State's participation under this subpart; and

(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this subpart.

(b) *AUTHORIZED ACTIVITIES.*—

(1) *FLEXIBILITY.*—In implementing the comprehensive plan described in subsection (a), each State educational agency, where applicable through its local educational agencies, shall have the flexibility to determine the activities to be provided with funds made available under this subpart, except that such funds first shall be used to meet the identified needs of migratory children that result from their migratory lifestyle, and to permit these children to participate effectively in school.

(2) *UNADDRESSED NEEDS.*—Funds provided under this subpart shall be used to address the needs of migratory children that are not addressed by services available from other Federal or non-Federal programs, except that migratory children who are eligible to receive services under subpart 1 may receive those services through funds provided under that subpart, or through funds under this subpart that remain after the agency addresses the needs described in paragraph (1).

(3) *CONSTRUCTION.*—Nothing in this subpart shall be construed to prohibit a local educational agency from serving migratory children simultaneously with students with similar educational needs in the same educational settings, where appropriate.

SEC. 1137. BYPASS.

The Secretary may use all or part of any State's allocation under this subpart to make arrangements with any public or private agency to carry out the purpose of this subpart in such State if the Secretary determines that—

(1) the State is unable or unwilling to conduct educational programs for migratory children;

(2) such arrangements would result in more efficient and economic administration of such programs; or

(3) such arrangements would add substantially to the educational achievement of such children.

SEC. 1138. COORDINATION OF MIGRATORY EDUCATION ACTIVITIES.

(a) *IMPROVEMENT OF COORDINATION.*—

(1) *IN GENERAL.*—The Secretary, in consultation with the States, may make grants to, or enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, and other public and private entities to improve the interstate and intrastate coordination among such agencies' educational programs, including through the establishment or improvement of programs for credit accrual and exchange, available to migratory students.

(2) *DURATION.*—Grants or contracts under this subsection may be awarded for not more than 5 years.

(b) *STUDENT RECORDS.*—

(1) ASSISTANCE.—*The Secretary shall assist States in developing and maintaining an effective system for the electronic transfer of student records and in determining the number of migratory children in each State.*

(2) INFORMATION SYSTEM.—

(A) IN GENERAL.—*The Secretary, in consultation with the States, shall ensure the linkage of migratory student record systems for the purpose of electronically exchanging, among the States, health and educational information regarding all migratory students. The Secretary shall ensure such linkage occurs in a cost-effective manner, utilizing systems used by the States prior to, or developed after, the date of enactment of this Act. The Secretary shall determine the minimum data elements that each State receiving funds under this subpart shall collect and maintain. Such minimum data elements may include—*

(i) immunization records and other health information;

(ii) elementary and secondary academic history (including partial credit), credit accrual, and results from State assessments required under section 1111(b)(2);

(iii) other academic information essential to ensuring that migratory children achieve to the States's academic standards; and

(iv) eligibility for services under the Individuals with Disabilities Education Act.

(B) *The Secretary shall consult with States before updating the data elements that each State receiving funds under this subpart shall be required to collect for purposes of electronic transfer of migratory student information and the requirements that States shall meet for immediate electronic access to such information.*

(3) NO COST FOR CERTAIN TRANSFERS.—*A State educational agency or local educational agency receiving assistance under this subpart shall make student records available to another State educational agency or local educational agency that requests the records at no cost to the requesting agency, if the request is made in order to meet the needs of a migratory child.*

(4) REPORT TO CONGRESS.—

(A) IN GENERAL.—*Not later than April 30, 2013, the Secretary shall report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives the Secretary's findings and recommendations regarding the maintenance and transfer of health and educational information for migratory students by the States.*

(B) REQUIRED CONTENTS.—*The Secretary shall include in such report—*

(i) a review of the progress of States in developing and linking electronic records transfer systems;

(ii) recommendations for maintaining such systems; and

(iii) recommendations for improving the continuity of services provided for migratory students.

(c) *AVAILABILITY OF FUNDS.*—The Secretary shall reserve not more than \$10,000,000 of the amount reserved under section 1132 to carry out this section for each fiscal year.

(d) *DATA COLLECTION.*—The Secretary shall direct the National Center for Education Statistics to collect data on migratory children.

SEC. 1139. DEFINITIONS.

As used in this subpart:

(1) *LOCAL OPERATING AGENCY.*—The term “local operating agency” means—

(A) a local educational agency to which a State educational agency makes a subgrant under this subpart;

(B) a public or private agency with which a State educational agency or the Secretary makes an arrangement to carry out a project under this subpart; or

(C) a State educational agency, if the State educational agency operates the State’s migratory education program or projects directly.

(2) *MIGRATORY CHILD.*—The term “migratory child” means a child who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent or spouse, in order to obtain, temporary or seasonal employment in agricultural or fishing work—

(A) has moved from one school district to another;

(B) in a State that is comprised of a single school district, has moved from one administrative area to another within such district; or

(C) resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

Subpart 3—Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk

SEC. 1141. PURPOSE AND PROGRAM AUTHORIZATION.

(a) *PURPOSE.*—It is the purpose of this subpart—

(1) to improve educational services for children and youth in local and State institutions for neglected or delinquent children and youth so that such children and youth have the opportunity to meet the same State academic standards that all children in the State are expected to meet;

(2) to provide such children and youth with the services needed to make a successful transition from institutionalization to further schooling or employment; and

(3) to prevent at-risk youth from dropping out of school, and to provide dropouts, and children and youth returning from correctional facilities or institutions for neglected or delinquent children and youth, with a support system to ensure their continued education.

(b) *PROGRAM AUTHORIZED.*—From amounts appropriated under section 3(a)(1), the Secretary shall reserve 0.3 of one percent to carry out this subpart.

(c) *GRANTS AWARDED.*—From the amounts reserved under subsection (b) and not reserved under section 1004 and section 1159, the Secretary shall make grants to State educational agencies that have plans submitted under section 1154 approved to enable such agencies to award subgrants to State agencies and local educational agencies to establish or improve programs of education for neglected, delinquent, or at-risk children and youth.

SEC. 1142. PAYMENTS FOR PROGRAMS UNDER THIS SUBPART.

(a) *AGENCY SUBGRANTS.*—Based on the allocation amount computed under section 1152, the Secretary shall allocate to each State educational agency an amount necessary to make subgrants to State agencies under chapter A.

(b) *LOCAL SUBGRANTS.*—Each State shall retain, for the purpose of carrying out chapter B, funds generated throughout the State under subpart 1 of this part based on children and youth residing in local correctional facilities, or attending community day programs for delinquent children and youth.

CHAPTER A—STATE AGENCY PROGRAMS

SEC. 1151. ELIGIBILITY.

A State agency is eligible for assistance under this chapter if such State agency is responsible for providing free public education for children and youth—

- (1) in institutions for neglected or delinquent children and youth;
- (2) attending community day programs for neglected or delinquent children and youth; or
- (3) in adult correctional institutions.

SEC. 1152. ALLOCATION OF FUNDS.

(a) *SUBGRANTS TO STATE AGENCIES.*—

(1) *IN GENERAL.*—Each State agency described in section 1151 (other than an agency in the Commonwealth of Puerto Rico) is eligible to receive a subgrant under this chapter, for each fiscal year, in an amount equal to the product of—

(A) the number of neglected or delinquent children and youth described in section 1151 who—

- (i) are enrolled for at least 15 hours per week in education programs in adult correctional institutions; and
- (ii) are enrolled for at least 20 hours per week—

(I) in education programs in institutions for neglected or delinquent children and youth; or

(II) in community day programs for neglected or delinquent children and youth; and

(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this subparagraph shall not be less than 32 percent, nor more than 48 percent, of the average per-pupil expenditure in the United States.

(2) *SPECIAL RULE.*—The number of neglected or delinquent children and youth determined under paragraph (1) shall—

(A) be determined by the State agency by a deadline set by the Secretary, except that no State agency shall be required to determine the number of such children and youth on a specific date set by the Secretary; and

(B) be adjusted, as the Secretary determines is appropriate, to reflect the relative length of such agency's annual programs.

(b) **SUBGRANTS TO STATE AGENCIES IN PUERTO RICO.—**

(1) **IN GENERAL.—**For each fiscal year, the amount of the subgrant which a State agency in the Commonwealth of Puerto Rico shall be eligible to receive under this chapter shall be the amount determined by multiplying the number of children counted under subsection (a)(1)(A) for the Commonwealth of Puerto Rico by the product of—

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

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

(2) **MINIMUM PERCENTAGE.—**The percentage in paragraph (1)(A) shall not be less than 85 percent.

(c) **RATABLE REDUCTIONS IN CASE OF INSUFFICIENT APPROPRIATIONS.—**If the amount reserved for any fiscal year for subgrants under subsections (a) and (b) is insufficient to pay the full amount for which all State agencies are eligible under such subsections, the Secretary shall ratably reduce each such amount.

SEC. 1153. STATE REALLOCATION OF FUNDS.

If a State educational agency determines that a State agency does not need the full amount of the subgrant for which such State agency is eligible under this chapter for any fiscal year, the State educational agency may reallocate the amount that will not be needed to other eligible State agencies that need additional funds to carry out the purpose of this chapter, in such amounts as the State educational agency shall determine.

SEC. 1154. STATE PLAN AND STATE AGENCY APPLICATIONS.

(a) **STATE PLAN.—**

(1) **IN GENERAL.—**Each State educational agency that desires to receive a grant under this chapter shall submit, for approval by the Secretary, a plan—

(A) for meeting the educational needs of neglected, delinquent, and at-risk children and youth;

(B) for assisting in the transition of children and youth from correctional facilities to locally operated programs; and

(C) that is integrated with other programs under this Act or other Acts, as appropriate.

(2) **CONTENTS.—**Each such State plan shall—

(A) describe how the State will assess the effectiveness of the program in improving the academic, career, and technical skills of children in the program;

(B) provide that, to the extent feasible, such children will have the same opportunities to achieve as such children would have if such children were in the schools of local educational agencies in the State;

- (C) describe how the State will place a priority for such children to obtain a regular high school diploma, to the extent feasible; and
- (D) contain an assurance that the State educational agency will—
- (i) ensure that programs assisted under this chapter will be carried out in accordance with the State plan described in this subsection;
 - (ii) carry out the evaluation requirements of section 1171; and
 - (iii) ensure that the State agencies receiving subgrants under this chapter comply with all applicable statutory and regulatory requirements.
- (3) DURATION OF THE PLAN.—Each such State plan shall—
- (A) remain in effect for the duration of the State's participation under this chapter; and
 - (B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this chapter.
- (b) SECRETARIAL APPROVAL AND PEER REVIEW.—
- (1) SECRETARIAL APPROVAL.—The Secretary shall approve each State plan that meets the requirements of this chapter.
 - (2) PEER REVIEW.—The Secretary may review any State plan with the assistance and advice of individuals with relevant expertise.
- (c) STATE AGENCY APPLICATIONS.—Any State agency that desires to receive funds to carry out a program under this chapter shall submit an application to the State educational agency that—
- (1) describes the procedures to be used, consistent with the State plan under section 1111, to assess the educational needs of the children to be served under this chapter;
 - (2) provide an assurance that in making services available to children and youth in adult correctional institutions, priority will be given to such children and youth who are likely to complete incarceration within a 2-year period;
 - (3) describes the program, including a budget for the first year of the program, with annual updates to be provided to the State educational agency;
 - (4) describes how the program will meet the goals and objectives of the State plan;
 - (5) describes how the State agency will consult with experts and provide the necessary training for appropriate staff, to ensure that the planning and operation of institution-wide projects under section 1156 are of high quality;
 - (6) describes how the programs will be coordinated with other appropriate State and Federal programs, such as programs under title I of Public Law 105-220, career and technical education programs, State and local dropout prevention programs, and special education programs;
 - (7) describes how the State agency will encourage correctional facilities receiving funds under this chapter to coordinate with local educational agencies or alternative education programs attended by incarcerated children and youth prior to and after their incarceration to ensure that student assessments and appropriate academic records are shared jointly between the cor-

rectional facility and the local educational agency or alternative education program;

(8) describes how appropriate professional development will be provided to teachers and other staff;

(9) designates an individual in each affected correctional facility or institution for neglected or delinquent children and youth to be responsible for issues relating to the transition of such children and youth from such facility or institution to locally operated programs;

(10) describes how the State agency will endeavor to coordinate with businesses for training and mentoring for participating children and youth;

(11) provides an assurance that the State agency will assist in locating alternative programs through which students can continue their education if the students are not returning to school after leaving the correctional facility or institution for neglected or delinquent children and youth;

(12) provides assurances that the State agency will work with parents to secure parents' assistance in improving the educational achievement of their children and youth, and preventing their children's and youth's further involvement in delinquent activities;

(13) provides an assurance that the State agency will work with children and youth with disabilities in order to meet an existing individualized education program and an assurance that the agency will notify the child's or youth's local school if the child or youth—

(A) is identified as in need of special education services while the child or youth is in the correctional facility or institution for neglected or delinquent children and youth; and

(B) intends to return to the local school;

(14) provides an assurance that the State agency will work with children and youth who dropped out of school before entering the correctional facility or institution for neglected or delinquent children and youth to encourage the children and youth to reenter school and obtain a regular high school diploma once the term of the incarceration is completed, or provide the child or youth with the skills necessary to gain employment, continue the education of the child or youth, or obtain a regular high school diploma or its recognized equivalent if the child or youth does not intend to return to school;

(15) provides an assurance that effective teachers and other qualified staff are trained to work with children and youth with disabilities and other students with special needs taking into consideration the unique needs of such students;

(16) describes any additional services to be provided to children and youth, such as career counseling, distance education, and assistance in securing student loans and grants; and

(17) provides an assurance that the program under this chapter will be coordinated with any programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) or other comparable programs, if applicable.

SEC. 1155. USE OF FUNDS.*(a) USES.—*

(1) IN GENERAL.—A State agency shall use funds received under this chapter only for programs and projects that—

(A) are consistent with the State plan under section 1154(a); and

(B) concentrate on providing participants with the knowledge and skills needed to make a successful transition to secondary school completion, career or technical training, further education, or employment without the need for remediation.

(2) PROGRAMS AND PROJECTS.—Such programs and projects—

(A) may include the acquisition of equipment;

(B) shall be designed to support educational services that—

(i) except for institution-wide projects under section 1156, are provided to children and youth identified by the State agency as failing, or most at-risk of failing, to meet the State's academic standards; and

(ii) supplement and improve the quality of the educational services provided to such children and youth by the State agency; and

(iii) afford such children and youth an opportunity to meet State academic standards; and

(C) shall be carried out in a manner consistent with section 1120A and part C (as applied to programs and projects under this chapter).

(b) SUPPLEMENT, NOT SUPPLANT.—A program under this chapter that supplements the number of hours of instruction students receive from State and local sources shall be considered to comply with the supplement, not supplant the requirement of section 1120A (as applied to this chapter) without regard to the subject areas in which instruction is given during those hours.

SEC. 1156. INSTITUTION-WIDE PROJECTS.

A State agency that provides free public education for children and youth in an institution for neglected or delinquent children and youth (other than an adult correctional institution) or attending a community day program for such children and youth may use funds received under this chapter to serve all children in, and upgrade the entire educational effort of, that institution or program if the State agency has developed, and the State educational agency has approved, a comprehensive plan for that institution or program that—

(1) provides for a comprehensive assessment of the educational needs of all children and youth in the institution or program serving juveniles;

(2) provides for a comprehensive assessment of the educational needs of youth aged 20 and younger in adult facilities who are expected to complete incarceration within a 2-year period;

(3) describes the steps the State agency has taken, or will take, to provide all children and youth under age 21 with the opportunity to meet State academic standards in order to improve the likelihood that the children and youth will complete secondary school, obtain a regular high school diploma or its

recognized equivalent, or find employment after leaving the institution;

(4) describes the instructional program, specialized instructional support services, and procedures that will be used to meet the needs described in paragraph (1), including, to the extent feasible, the provision of mentors for the children and youth described in paragraph (1);

(5) specifically describes how such funds will be used;

(6) describes the measures and procedures that will be used to assess and improve student achievement;

(7) describes how the agency has planned, and will implement and evaluate, the institution-wide or program-wide project in consultation with personnel providing direct instructional services and support services in institutions or community day programs for neglected or delinquent children and youth, and with personnel from the State educational agency; and

(8) includes an assurance that the State agency has provided for appropriate training for teachers and other instructional and administrative personnel to enable such teachers and personnel to carry out the project effectively.

SEC. 1157. THREE-YEAR PROGRAMS OR PROJECTS.

If a State agency operates a program or project under this chapter in which individual children or youth are likely to participate for more than one year, the State educational agency may approve the State agency's application for a subgrant under this chapter for a period of not more than 3 years.

SEC. 1158. TRANSITION SERVICES.

(a) **TRANSITION SERVICES.**—Each State agency shall reserve not less than 15 percent and not more than 30 percent of the amount such agency receives under this chapter for any fiscal year to support—

(1) projects that facilitate the transition of children and youth from State-operated institutions to schools served by local educational agencies; or

(2) the successful re-entry of youth offenders, who are age 20 or younger and have received a regular high school diploma or its recognized equivalent, into postsecondary education, or career and technical training programs, through strategies designed to expose the youth to, and prepare the youth for, postsecondary education, or career and technical training programs, such as—

(A) preplacement programs that allow adjudicated or incarcerated youth to audit or attend courses on college, university, or community college campuses, or through programs provided in institutional settings;

(B) worksite schools, in which institutions of higher education and private or public employers partner to create programs to help students make a successful transition to postsecondary education and employment; and

(C) essential support services to ensure the success of the youth, such as—

(i) personal, career and technical, and academic counseling;

- (ii) placement services designed to place the youth in a university, college, or junior college program;
- (iii) information concerning, and assistance in obtaining, available student financial aid;
- (iv) counseling services; and
- (v) job placement services.

(b) **CONDUCT OF PROJECTS.**—A project supported under this section may be conducted directly by the State agency, or through a contract or other arrangement with one or more local educational agencies, other public agencies, or private organizations.

(c) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to prohibit a school that receives funds under subsection (a) from serving neglected and delinquent children and youth simultaneously with students with similar educational needs, in the same educational settings where appropriate.

SEC. 1159. TECHNICAL ASSISTANCE.

The Secretary shall reserve not more than 1 percent of the amount reserved under section 1141 to provide technical assistance to and support State agency programs assisted under this chapter.

CHAPTER B—LOCAL AGENCY PROGRAMS

SEC. 1161. PURPOSE.

The purpose of this chapter is to support the operation of local educational agency programs that involve collaboration with locally operated correctional facilities—

- (1) to carry out high quality education programs to prepare children and youth for secondary school completion, training, employment, or further education;
- (2) to provide activities to facilitate the transition of such children and youth from the correctional program to further education or employment; and
- (3) to operate programs in local schools for children and youth returning from correctional facilities, and programs which may serve at-risk children and youth.

SEC. 1162. PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES.

(a) **LOCAL SUBGRANTS.**—With funds made available under section 1142(b), the State educational agency shall award subgrants to local educational agencies with high numbers or percentages of children and youth residing in locally operated (including county operated) correctional facilities for children and youth (including facilities involved in community day programs).

(b) **SPECIAL RULE.**—A local educational agency that serves a school operated by a correctional facility is not required to operate a program of support for children and youth returning from such school to a school that is not operated by a correctional agency but served by such local educational agency, if more than 30 percent of the children and youth attending the school operated by the correctional facility will reside outside the boundaries served by the local educational agency after leaving such facility.

(c) **NOTIFICATION.**—A State educational agency shall notify local educational agencies within the State of the eligibility of such agencies to receive a subgrant under this chapter.

(d) **TRANSITIONAL AND ACADEMIC SERVICES.**—Transitional and supportive programs operated in local educational agencies under

this chapter shall be designed primarily to meet the transitional and academic needs of students returning to local educational agencies or alternative education programs from correctional facilities. Services to students at-risk of dropping out of school shall not have a negative impact on meeting the transitional and academic needs of the students returning from correctional facilities.

SEC. 1163. LOCAL EDUCATIONAL AGENCY APPLICATIONS.

Each local educational agency desiring assistance under this chapter shall submit an application to the State educational agency that contains such information as the State educational agency may require. Each such application shall include—

- (1) a description of the program to be assisted;*
- (2) a description of formal agreements, regarding the program to be assisted, between—*
 - (A) the local educational agency; and*
 - (B) correctional facilities and alternative school programs serving children and youth involved with the juvenile justice system;*
- (3) as appropriate, a description of how participating schools will coordinate with facilities working with delinquent children and youth to ensure that such children and youth are participating in an education program comparable to one operating in the local school such youth would attend;*
- (4) a description of the program operated by participating schools for children and youth returning from correctional facilities and, as appropriate, the types of services that such schools will provide such children and youth and other at-risk children and youth;*
- (5) a description of the characteristics (including learning difficulties, substance abuse problems, and other needs) of the children and youth who will be returning from correctional facilities and, as appropriate, other at-risk children and youth expected to be served by the program, and a description of how the school will coordinate existing educational programs to meet the unique educational needs of such children and youth;*
- (6) as appropriate, a description of how schools will coordinate with existing social, health, and other services to meet the needs of students returning from correctional facilities and at-risk children or youth, including prenatal health care and nutrition services related to the health of the parent and the child or youth, parenting and child development classes, child care, targeted reentry and outreach programs, referrals to community resources, and scheduling flexibility;*
- (7) as appropriate, a description of any partnerships with local businesses to develop training, curriculum-based youth entrepreneurship education, and mentoring services for participating students;*
- (8) as appropriate, a description of how the program will involve parents in efforts to improve the educational achievement of their children, assist in dropout prevention activities, and prevent the involvement of their children in delinquent activities;*
- (9) a description of how the program under this chapter will be coordinated with other Federal, State, and local programs, such as programs under title I of Public Law 105–220 and ca-*

reer and technical education programs serving at-risk children and youth;

(10) a description of how the program will be coordinated with programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable;

(11) as appropriate, a description of how schools will work with probation officers to assist in meeting the needs of children and youth returning from correctional facilities;

(12) a description of the efforts participating schools will make to ensure correctional facilities working with children and youth are aware of a child's or youth's existing individualized education program; and

(13) as appropriate, a description of the steps participating schools will take to find alternative placements for children and youth interested in continuing their education but unable to participate in a traditional public school program.

SEC. 1164. USES OF FUNDS.

Funds provided to local educational agencies under this chapter may be used, as appropriate, for—

(1) programs that serve children and youth returning to local schools from correctional facilities, to assist in the transition of such children and youth to the school environment and help them remain in school in order to complete their education;

(2) dropout prevention programs which serve at-risk children and youth;

(3) the coordination of health and social services for such individuals if there is a likelihood that the provision of such services, including day care, drug and alcohol counseling, and mental health services, will improve the likelihood such individuals will complete their education;

(4) special programs to meet the unique academic needs of participating children and youth, including career and technical education, special education, career counseling, curriculum-based youth entrepreneurship education, and assistance in securing student loans or grants for postsecondary education; and

(5) programs providing mentoring and peer mediation.

SEC. 1165. PROGRAM REQUIREMENTS FOR CORRECTIONAL FACILITIES RECEIVING FUNDS UNDER THIS SECTION.

Each correctional facility entering into an agreement with a local educational agency under section 1163(2) to provide services to children and youth under this chapter shall—

(1) where feasible, ensure that educational programs in the correctional facility are coordinated with the student's home school, particularly with respect to a student with an individualized education program under part B of the Individuals with Disabilities Education Act;

(2) if the child or youth is identified as in need of special education services while in the correctional facility, notify the local school of the child or youth of such need;

(3) where feasible, provide transition assistance to help the child or youth stay in school, including coordination of services for the family, counseling, assistance in accessing drug and al-

cohol abuse prevention programs, tutoring, and family counseling;

(4) provide support programs that encourage children and youth who have dropped out of school to re-enter school and obtain a regular high school diploma once their term at the correctional facility has been completed, or provide such children and youth with the skills necessary to gain employment or seek a regular high school diploma or its recognized equivalent;

(5) work to ensure that the correctional facility is staffed with effective teachers and other qualified staff who are trained to work with children and youth with disabilities taking into consideration the unique needs of such children and youth;

(6) ensure that educational programs in the correctional facility are related to assisting students to meet the States's academic standards;

(7) to the extent possible, use technology to assist in coordinating educational programs between the correctional facility and the community school;

(8) where feasible, involve parents in efforts to improve the educational achievement of their children and prevent the further involvement of such children in delinquent activities;

(9) coordinate funds received under this chapter with other local, State, and Federal funds available to provide services to participating children and youth, such as funds made available under title I of Public Law 105-220, and career and technical education funds;

(10) coordinate programs operated under this chapter with activities funded under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable;

(11) if appropriate, work with local businesses to develop training, curriculum-based youth entrepreneurship education, and mentoring programs for children and youth; and

(12) consult with the local educational agency for a period jointly determined necessary by the correctional facility and local educational agency upon discharge from that facility to coordinate educational services so as to minimize disruption to the child's or youth's achievement.

SEC. 1166. ACCOUNTABILITY.

The State educational agency—

(1) may require correctional facilities or institutions for neglected or delinquent children and youth to demonstrate, after receiving assistance under this chapter for 3 years, that there has been an increase in the number of children and youth returning to school, obtaining a regular high school diploma or its recognized equivalent, or obtaining employment after such children and youth are released; and

(2) may reduce or terminate funding for projects under this chapter if a local educational agency does not show progress in the number of children and youth obtaining a regular high school diploma or its recognized equivalent.

CHAPTER C—GENERAL PROVISIONS

SEC. 1171. PROGRAM EVALUATIONS.

(a) *SCOPE OF EVALUATION.*—Each State agency or local educational agency that conducts a program under chapters A or B shall evaluate the program, disaggregating data on participation by gender, race, ethnicity, and age, not less than once every 3 years, to determine the program’s impact on the ability of participants—

- (1) to maintain and improve educational achievement;
- (2) to accrue school credits that meet State requirements for grade promotion and high school graduation;
- (3) to make the transition to a regular program or other education program operated by a local educational agency;
- (4) to complete high school (or high school equivalency requirements) and obtain employment after leaving the correctional facility or institution for neglected or delinquent children and youth; and
- (5) as appropriate, to participate in postsecondary education and job training programs.

(b) *EXCEPTION.*—The disaggregation required under subsection (a) shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student.

(c) *EVALUATION MEASURES.*—In conducting each evaluation under subsection (a), a State agency or local educational agency shall use multiple and appropriate measures of student progress.

(d) *EVALUATION RESULTS.*—Each State agency and local educational agency shall—

- (1) submit evaluation results to the State educational agency and the Secretary; and
- (2) use the results of evaluations under this section to plan and improve subsequent programs for participating children and youth.

SEC. 1172. DEFINITIONS.

In this subpart:

(1) *ADULT CORRECTIONAL INSTITUTION.*—The term “adult correctional institution” means a facility in which persons (including persons under 21 years of age) are confined as a result of a conviction for a criminal offense.

(2) *AT-RISK.*—The term “at-risk”, when used with respect to a child, youth, or student, means a school-aged individual who

(A) is at-risk of academic failure; and

(B) has a drug or alcohol problem, is pregnant or is a parent, has come into contact with the juvenile justice system in the past, is at least 1 year behind the expected grade level for the age of the individual, is an English learner, is a gang member, has dropped out of school in the past, or has a high absenteeism rate at school.

(3) *COMMUNITY DAY PROGRAM.*—The term “community day program” means a regular program of instruction provided by a State agency at a community day school operated specifically for neglected or delinquent children and youth.

(4) *INSTITUTION FOR NEGLECTED OR DELINQUENT CHILDREN AND YOUTH.*—The term “institution for neglected or delinquent children and youth” means—

(A) a public or private residential facility, other than a foster home, that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of their parents or guardians; or

(B) a public or private residential facility for the care of children who have been adjudicated to be delinquent or in need of supervision.

Subpart 4—English Language Acquisition, Language Enhancement, and Academic Achievement

SEC. 1181. PURPOSES.

The purposes of this subpart are—

(1) to help ensure that English learners, including immigrant children and youth, attain English proficiency and develop high levels of academic achievement in English;

(2) to assist all English learners, including immigrant children and youth, to achieve at high levels in the core academic subjects so that those children can meet the same State academic standards that all children are expected to meet, consistent with section 1111(b)(1);

(3) to assist State educational agencies, local educational agencies, and schools in establishing, implementing, and sustaining high-quality, flexible, evidence-based language instruction educational programs designed to assist in teaching English learners, including immigrant children and youth;

(4) to assist State educational agencies and local educational agencies to develop and enhance their capacity to provide high-quality, evidence-based instructional programs designed to prepare English learners, including immigrant children and youth, to enter all-English instruction settings; and

(5) to promote parental and community participation in language instruction educational programs for the parents and communities of English learners.

CHAPTER A—GRANTS AND SUBGRANTS FOR ENGLISH LANGUAGE ACQUISITION AND LANGUAGE ENHANCEMENT

SEC. 1191. FORMULA GRANTS TO STATES.

(a) *IN GENERAL.*—In the case of each State educational agency having a plan approved by the Secretary for a fiscal year under section 1192, the Secretary shall reserve 4.4 percent of funds appropriated under section 3(a)(1) to make a grant for the year to the agency for the purposes specified in subsection (b). The grant shall consist of the allotment determined for the State educational agency under subsection (c).

(b) *USE OF FUNDS.*—

(1) *SUBGRANTS TO ELIGIBLE ENTITIES.*—The Secretary may make a grant under subsection (a) only if the State educational agency involved agrees to expend at least 95 percent of the State

educational agency's allotment under subsection (c) for a fiscal year—

(A) to award subgrants, from allocations under section 1193, to eligible entities to carry out the activities described in section 1194 (other than subsection (e)); and

(B) to award subgrants under section 1193(d)(1) to eligible entities that are described in that section to carry out the activities described in section 1194(e).

(2) *STATE ACTIVITIES.*—Subject to paragraph (3), each State educational agency receiving a grant under subsection (a) may reserve not more than 5 percent of the agency's allotment under subsection (c) to carry out the following activities:

(A) Professional development activities, and other activities, which may include assisting personnel in—

(i) meeting State and local certification and licensing requirements for teaching English learners; and

(ii) improving teacher skills in meeting the diverse needs of English learners, including in how to implement evidence-based programs and curricula on teaching English learners.

(B) Planning, evaluation, administration, and inter-agency coordination related to the subgrants referred to in paragraph (1).

(C) Providing technical assistance and other forms of assistance to eligible entities that are receiving subgrants from a State educational agency under this chapter, including assistance in—

(i) identifying and implementing evidence-based language instruction educational programs and curricula for teaching English learners;

(ii) helping English learners meet the same State academic standards that all children are expected to meet;

(iii) identifying or developing, and implementing, measures of English proficiency; and

(iv) strengthening and increasing parent, family, and community engagement.

(D) Providing recognition, which may include providing financial awards, to subgrantees that have significantly improved the achievement and progress of English learners in—

(i) reaching English language proficiency, based on the State's English language proficiency assessment under section 1111(b)(2)(D); and

(ii) meeting the State academic standards under section 1111(b)(1).

(3) *ADMINISTRATIVE EXPENSES.*—From the amount reserved under paragraph (2), a State educational agency may use not more than 40 percent of such amount or \$175,000, whichever is greater, for the planning and administrative costs of carrying out paragraphs (1) and (2).

(c) *RESERVATIONS AND ALLOTMENTS.*—

(1) *RESERVATIONS.*—From the amount reserved under section 1191(a) for each fiscal year, the Secretary shall reserve—

(A) 0.5 percent of such amount for payments to outlying areas, to be allotted in accordance with their respective needs for assistance under this chapter, as determined by the Secretary, for activities, approved by the Secretary, consistent with this chapter; and

(B) 6.5 percent of such amount for national activities under sections 1211 and 1222, except that not more than \$2,000,000 of such amount may be reserved for the National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs described in section 1222.

(2) STATE ALLOTMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), from the amount reserved under section 1191(a) for each fiscal year that remains after making the reservations under paragraph (1), the Secretary shall allot to each State educational agency having a plan approved under section 1192(c)—

(i) an amount that bears the same relationship to 80 percent of the remainder as the number of English learners in the State bears to the number of such children in all States, as determined by data available from the American Community Survey conducted by the Department of Commerce or State-reported data; and

(ii) an amount that bears the same relationship to 20 percent of the remainder as the number of immigrant children and youth in the State bears to the number of such children and youth in all States, as determined based only on data available from the American Community Survey conducted by the Department of Commerce.

(B) MINIMUM ALLOTMENTS.—No State educational agency shall receive an allotment under this paragraph that is less than \$500,000.

(C) REALLOTMENT.—If any State educational agency described in subparagraph (A) does not submit a plan to the Secretary for a fiscal year, or submits a plan (or any amendment to a plan) that the Secretary, after reasonable notice and opportunity for a hearing, determines does not satisfy the requirements of this chapter, the Secretary shall reallocate any portion of such allotment to the remaining State educational agencies in accordance with subparagraph (A).

(D) SPECIAL RULE FOR PUERTO RICO.—The total amount allotted to Puerto Rico for any fiscal year under subparagraph (A) shall not exceed 0.5 percent of the total amount allotted to all States for that fiscal year.

(3) USE OF DATA FOR DETERMINATIONS.—In making State allotments under paragraph (2) for each fiscal year, the Secretary shall determine the number of English learners in a State and in all States, using the most accurate, up-to-date data, which shall be—

(A) data from the American Community Survey conducted by the Department of Commerce, which may be multiyear estimates;

(B) the number of students being assessed for English language proficiency, based on the State's English language proficiency assessment under section 1111(b)(2)(D), which may be multiyear estimates; or

(C) a combination of data available under subparagraphs (A) and (B).

SEC. 1192. STATE EDUCATIONAL AGENCY PLANS.

(a) **PLAN REQUIRED.**—Each State educational agency desiring a grant under this chapter shall submit a plan to the Secretary at such time and in such manner as the Secretary may require.

(b) **CONTENTS.**—Each plan submitted under subsection (a) shall—

(1) describe the process that the agency will use in awarding subgrants to eligible entities under section 1193(d)(1);

(2) provide an assurance that—

(A) the agency will ensure that eligible entities receiving a subgrant under this chapter comply with the requirement in section 1111(b)(2)(B)(x) to annually assess in English learners who have been in the United States for 3 or more consecutive years;

(B) the agency will ensure that eligible entities receiving a subgrant under this chapter annually assess the English proficiency of all English learners participating in a program funded under this chapter, consistent with section 1111(b)(2)(D);

(C) in awarding subgrants under section 1193, the agency will address the needs of school systems of all sizes and in all geographic areas, including school systems with rural and urban schools;

(D) subgrants to eligible entities under section 1193(d)(1) will be of sufficient size and scope to allow such entities to carry out high-quality, evidence-based language instruction educational programs for English learners;

(E) the agency will require an eligible entity receiving a subgrant under this chapter to use the subgrant in ways that will build such recipient's capacity to continue to offer high-quality evidence-based language instruction educational programs that assist English learners in meeting State academic standards;

(F) the agency will monitor the eligible entity receiving a subgrant under this chapter for compliance with applicable Federal fiscal requirements; and

(G) the plan has been developed in consultation with local educational agencies, teachers, administrators of programs implemented under this chapter, parents, and other relevant stakeholders;

(3) describe how the agency will coordinate its programs and activities under this chapter with other programs and activities under this Act and other Acts, as appropriate;

(4) describe how eligible entities in the State will be given the flexibility to teach English learners—

(A) using a high-quality, evidence-based language instruction curriculum for teaching English learners; and

(B) in the manner the eligible entities determine to be the most effective; and

(5) describe how the agency will assist eligible entities in increasing the number of English learners who acquire English proficiency.

(c) **APPROVAL.**—The Secretary, after using a peer review process, shall approve a plan submitted under subsection (a) if the plan meets the requirements of this section.

(d) **DURATION OF PLAN.**—

(1) **IN GENERAL.**—Each plan submitted by a State educational agency and approved under subsection (c) shall—

(A) remain in effect for the duration of the agency's participation under this chapter; and

(B) be periodically reviewed and revised by the agency, as necessary, to reflect changes to the agency's strategies and programs carried out under this subpart.

(2) **ADDITIONAL INFORMATION.**—

(A) **AMENDMENTS.**—If the State educational agency amends the plan, the agency shall submit such amendment to the Secretary.

(B) **APPROVAL.**—The Secretary shall approve such amendment to an approved plan, unless the Secretary determines that the amendment will result in the agency not meeting the requirements, or fulfilling the purposes, of this subpart.

(e) **CONSOLIDATED PLAN.**—A plan submitted under subsection (a) may be submitted as part of a consolidated plan under section 5302.

(f) **SECRETARY ASSISTANCE.**—The Secretary shall provide technical assistance, if requested, in the development of English proficiency standards and assessments.

SEC. 1193. WITHIN-STATE ALLOCATIONS.

(a) **IN GENERAL.**—After making the reservation required under subsection (d)(1), each State educational agency receiving a grant under section 1191(c)(2) shall award subgrants for a fiscal year by allocating in a timely manner to each eligible entity in the State having a plan approved under section 1195 an amount that bears the same relationship to the amount received under the grant and remaining after making such reservation as the population of English learners in schools served by the eligible entity bears to the population of English learners in schools served by all eligible entities in the State.

(b) **LIMITATION.**—A State educational agency shall not award a subgrant from an allocation made under subsection (a) if the amount of such subgrant would be less than \$10,000.

(c) **REALLOCATION.**—Whenever a State educational agency determines that an amount from an allocation made to an eligible entity under subsection (a) for a fiscal year will not be used by the entity for the purpose for which the allocation was made, the agency shall, in accordance with such rules as it determines to be appropriate, reallocate such amount, consistent with such subsection, to other eligible entities in the State that the agency determines will use the amount to carry out that purpose.

(d) **REQUIRED RESERVATION.**—A State educational agency receiving a grant under this chapter for a fiscal year—

(1) shall reserve not more than 15 percent of the agency's allotment under section 1191(c)(2) to award subgrants to eligible entities in the State that have experienced a significant in-

crease, as compared to the average of the 2 preceding fiscal years, in the percentage or number of immigrant children and youth, who have enrolled, during the fiscal year preceding the fiscal year for which the subgrant is made, in public and non-public elementary schools and secondary schools in the geographic areas under the jurisdiction of, or served by, such entities; and

(2) in awarding subgrants under paragraph (1)—

(A) shall equally consider eligible entities that satisfy the requirement of such paragraph but have limited or no experience in serving immigrant children and youth; and

(B) shall consider the quality of each local plan under section 1195 and ensure that each subgrant is of sufficient size and scope to meet the purposes of this subpart.

SEC. 1194. SUBGRANTS TO ELIGIBLE ENTITIES.

(a) **PURPOSES OF SUBGRANTS.**—A State educational agency may make a subgrant to an eligible entity from funds received by the agency under this chapter only if the entity agrees to expend the funds to improve the education of English learners, by assisting the children to learn English and meet State academic standards. In carrying out activities with such funds, the eligible entity shall use evidence-based approaches and methodologies for teaching English learners and immigrant children and youth for the following purposes:

(1) Developing and implementing new language instruction educational programs and academic content instruction programs for English learners and immigrant children and youth, including programs of early childhood education, elementary school programs, and secondary school programs.

(2) Carrying out highly focused, innovative, locally designed, evidence-based activities to expand or enhance existing language instruction educational programs and academic content instruction programs for English learners and immigrant children and youth.

(3) Implementing, within an individual school, schoolwide programs for restructuring, reforming, and upgrading all relevant programs, activities, and operations relating to language instruction educational programs and academic content instruction for English learners and immigrant children and youth.

(4) Implementing, within the entire jurisdiction of a local educational agency, agencywide programs for restructuring, reforming, and upgrading all relevant programs, activities, and operations relating to language instruction educational programs and academic content instruction for English learners and immigrant children and youth.

(b) **ADMINISTRATIVE EXPENSES.**—Each eligible entity receiving funds under section 1193(a) for a fiscal year shall use not more than 2 percent of such funds for the cost of administering this chapter.

(c) **REQUIRED SUBGRANTEE ACTIVITIES.**—An eligible entity receiving funds under section 1193(a) shall use the funds—

(1) to increase the English language proficiency of English learners by providing high-quality, evidence-based language instruction educational programs that meet the needs of English learners and have demonstrated success in increasing—

(A) *English language proficiency; and*

(B) *student academic achievement in the core academic subjects;*

(2) *to provide high-quality, evidence-based professional development to classroom teachers (including teachers in classroom settings that are not the settings of language instruction educational programs), school leaders, administrators, and other school or community-based organization personnel, that is—*

(A) *designed to improve the instruction and assessment of English learners;*

(B) *designed to enhance the ability of teachers and school leaders to understand and implement curricula, assessment practices and measures, and instruction strategies for English learners;*

(C) *evidence-based in increasing children's English language proficiency or substantially increasing the subject matter knowledge, teaching knowledge, and teaching skills of teachers; and*

(D) *of sufficient intensity and duration (which shall not include activities such as one-day or short-term workshops and conferences) to have a positive and lasting impact on the teachers' performance in the classroom, except that this subparagraph shall not apply to an activity that is one component of a long-term, comprehensive professional development plan established by a teacher and the teacher's supervisor based on an assessment of the needs of the teacher, the supervisor, the students of the teacher, and any local educational agency employing the teacher, as appropriate; and*

(3) *to provide and implement other evidence-based activities and strategies that enhance or supplement language instruction educational programs for English learners, including parental and community engagement activities and strategies that serve to coordinate and align related programs.*

(d) **AUTHORIZED SUBGRANTEE ACTIVITIES.**—*Subject to subsection (c), an eligible entity receiving funds under section 1193(a) may use the funds to achieve one of the purposes described in subsection (a) by undertaking one or more of the following activities:*

(1) *Upgrading program objectives and effective instruction strategies.*

(2) *Improving the instruction program for English learners by identifying, acquiring, and upgrading curricula, instruction materials, educational software, and assessment procedures.*

(3) *Providing to English learners—*

(A) *tutorials and academic or career education for English learners; and*

(B) *intensified instruction.*

(4) *Developing and implementing elementary school or secondary school language instruction educational programs that are coordinated with other relevant programs and services.*

(5) *Improving the English language proficiency and academic achievement of English learners.*

(6) *Providing community participation programs, family literacy services, and parent outreach and training activities to English learners and their families—*

(A) to improve the English language skills of English learners; and

(B) to assist parents in helping their children to improve their academic achievement and becoming active participants in the education of their children.

(7) Improving the instruction of English learners by providing for—

(A) the acquisition or development of educational technology or instructional materials;

(B) access to, and participation in, electronic networks for materials, training, and communication; and

(C) incorporation of the resources described in subparagraphs (A) and (B) into curricula and programs, such as those funded under this chapter.

(8) Carrying out other activities that are consistent with the purposes of this section.

(e) ACTIVITIES BY AGENCIES EXPERIENCING SUBSTANTIAL INCREASES IN IMMIGRANT CHILDREN AND YOUTH.—

(1) IN GENERAL.—An eligible entity receiving funds under section 1193(d)(1) shall use the funds to pay for activities that provide enhanced instructional opportunities for immigrant children and youth, which may include—

(A) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

(B) support for personnel, including paraprofessionals who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

(C) provision of tutorials, mentoring, and academic or career counseling for immigrant children and youth;

(D) identification, development, and acquisition of curricular materials, educational software, and technologies to be used in the program carried out with awarded funds;

(E) basic instruction services that are directly attributable to the presence in the local educational agency involved of immigrant children and youth, including the payment of costs of providing additional classroom supplies, costs of transportation, or such other costs as are directly attributable to such additional basic instruction services;

(F) other instruction services that are designed to assist immigrant children and youth to achieve in elementary schools and secondary schools in the United States, such as programs of introduction to the educational system and civics education; and

(G) activities, coordinated with community-based organizations, institutions of higher education, private sector entities, or other entities with expertise in working with immigrants, to assist parents of immigrant children and youth by offering comprehensive community services.

(2) DURATION OF SUBGRANTS.—The duration of a subgrant made by a State educational agency under section 1193(d)(1) shall be determined by the agency in its discretion.

(f) SELECTION OF METHOD OF INSTRUCTION.—

(1) IN GENERAL.—To receive a subgrant from a State educational agency under this chapter, an eligible entity shall se-

lect one or more methods or forms of instruction to be used in the programs and activities undertaken by the entity to assist English learners to attain English language proficiency and meet State academic standards.

(2) *CONSISTENCY.—Such selection shall be consistent with sections 1204 through 1206.*

(g) *SUPPLEMENT, NOT SUPPLANT.—Federal funds made available under this chapter shall be used so as to supplement the level of Federal, State, and local public funds that, in the absence of such availability, would have been expended for programs for English learners and immigrant children and youth and in no case to supplant such Federal, State, and local public funds.*

SEC. 1195. LOCAL PLANS.

(a) *PLAN REQUIRED.—Each eligible entity desiring a subgrant from the State educational agency under section 1193 shall submit a plan to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require.*

(b) *CONTENTS.—Each plan submitted under subsection (a) shall—*

(1) *describe the evidence-based programs and activities proposed to be developed, implemented, and administered under the subgrant that will help English learners increase their English language proficiency and meet the State academic standards;*

(2) *describe how the eligible entity will hold elementary schools and secondary schools receiving funds under this chapter accountable for annually assessing the English language proficiency of all children participating under this subpart, consistent with section 1111(b);*

(3) *describe how the eligible entity will promote parent and community engagement in the education of English learners;*

(4) *contain an assurance that the eligible entity consulted with teachers, researchers, school administrators, parents and community members, public or private organizations, and institutions of higher education, in developing and implementing such plan;*

(5) *describe how language instruction educational programs carried out under the subgrant will ensure that English learners being served by the programs develop English language proficiency; and*

(6) *contain assurances that—*

(A) *each local educational agency that is included in the eligible entity is complying with section 1112(g) prior to, and throughout, each school year; and*

(B) *the eligible entity is not in violation of any State law, including State constitutional law, regarding the education of English learners, consistent with sections 1205 and 1206.*

(c) *TEACHER ENGLISH FLUENCY.—Each eligible entity receiving a subgrant under section 1193 shall include in its plan a certification that all teachers in any language instruction educational program for English learners that is, or will be, funded under this subpart are fluent in English and any other language used for instruction, including having written and oral communications skills.*

CHAPTER B—ADMINISTRATION

SEC. 1201. REPORTING.

(a) *IN GENERAL.*—Each eligible entity that receives a subgrant from a State educational agency under chapter A shall provide such agency, at the conclusion of every second fiscal year during which the subgrant is received, with a report, in a form prescribed by the agency, on the activities conducted and students served under this subpart that includes—

(1) a description of the programs and activities conducted by the entity with funds received under chapter A during the two immediately preceding fiscal years, including how such programs and activities supplemented programs funded primarily with State or local funds;

(2) a description of the progress made by English learners in learning the English language and in meeting State academic standards;

(3) the number and percentage of English learners in the programs and activities attaining English language proficiency based on the State English language proficiency standards established under section 1111(b)(1)(E) by the end of each school year, as determined by the State's English language proficiency assessment under section 1111(b)(2)(D);

(4) the number of English learners who exit the language instruction educational programs based on their attainment of English language proficiency and transitioned to classrooms not tailored for English learners;

(5) a description of the progress made by English learners in meeting the State academic standards for each of the 2 years after such children are no longer receiving services under this subpart;

(6) the number and percentage of English learners who have not attained English language proficiency within five years of initial classification as an English learner and first enrollment in the local educational agency; and

(7) any such other information as the State educational agency may require.

(b) *USE OF REPORT.*—A report provided by an eligible entity under subsection (a) shall be used by the entity and the State educational agency—

(1) to determine the effectiveness of programs and activities in assisting children who are English learners—

(A) to attain English language proficiency; and

(B) to make progress in meeting State academic standards under section 1111(b)(1); and

(2) upon determining the effectiveness of programs and activities based on the criteria in paragraph (1), to decide how to improve programs.

SEC. 1202. ANNUAL REPORT.

(a) *STATES.*—Based upon the reports provided to a State educational agency under section 1201, each such agency that receives a grant under this subpart shall prepare and submit annually to the Secretary a report on programs and activities carried out by the State educational agency under this subpart and the effectiveness of

such programs and activities in improving the education provided to English learners.

(b) **SECRETARY.**—Annually, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report—

(1) on programs and activities carried out to serve English learners under this subpart, and the effectiveness of such programs and activities in improving the academic achievement and English language proficiency of English learners;

(2) on the types of language instruction educational programs used by local educational agencies or eligible entities receiving funding under this subpart to teach English learners;

(3) containing a critical synthesis of data reported by eligible entities to States under section 1201(a);

(4) containing a description of technical assistance and other assistance provided by State educational agencies under section 1191(b)(2)(C);

(5) containing an estimate of the number of effective teachers working in language instruction educational programs and educating English learners, and an estimate of the number of such teachers that will be needed for the succeeding 5 fiscal years;

(6) containing the number of programs or activities, if any, that were terminated because the entities carrying out the programs or activities were not able to reach program goals;

(7) containing the number of English learners served by eligible entities receiving funding under this subpart who were transitioned out of language instruction educational programs funded under this subpart into classrooms where instruction is not tailored for English learners; and

(8) containing other information gathered from other reports submitted to the Secretary under this subpart when applicable.

SEC. 1203. COORDINATION WITH RELATED PROGRAMS.

In order to maximize Federal efforts aimed at serving the educational needs of English learners, the Secretary shall coordinate and ensure close cooperation with other entities carrying out programs serving language-minority and English learners that are administered by the Department and other agencies.

SEC. 1204. RULES OF CONSTRUCTION.

Nothing in this subpart shall be construed—

(1) to prohibit a local educational agency from serving English learners simultaneously with children with similar educational needs, in the same educational settings where appropriate;

(2) to require a State or a local educational agency to establish, continue, or eliminate any particular type of instructional program for English learners; or

(3) to limit the preservation or use of Native American languages.

SEC. 1205. LEGAL AUTHORITY UNDER STATE LAW.

Nothing in this subpart shall be construed to negate or supersede State law, or the legal authority under State law of any State agen-

cy, State entity, or State public official, over programs that are under the jurisdiction of the State agency, entity, or official.

SEC. 1206. CIVIL RIGHTS.

Nothing in this subpart shall be construed in a manner inconsistent with any Federal law guaranteeing a civil right.

SEC. 1207. PROHIBITION.

In carrying out this subpart, the Secretary shall neither mandate nor preclude the use of a particular curricular or pedagogical approach to educating English learners.

SEC. 1208. PROGRAMS FOR NATIVE AMERICANS AND PUERTO RICO.

Notwithstanding any other provision of this subpart, programs authorized under this subpart that serve Native American (including Native American Pacific Islander) children and children in the Commonwealth of Puerto Rico may include programs of instruction, teacher training, curriculum development, evaluation, and assessment designed for Native American children learning and studying Native American languages and children of limited Spanish proficiency, except that an outcome of programs serving such children shall be increased English proficiency among such children.

CHAPTER C—NATIONAL ACTIVITIES

SEC. 1211. NATIONAL PROFESSIONAL DEVELOPMENT PROJECT.

The Secretary shall use funds made available under section 1191(c)(1)(B) to award grants on a competitive basis, for a period of not more than 5 years, to institutions of higher education or public or private organizations with relevant experience and capacity (in consortia with State educational agencies or local educational agencies) to provide for professional development activities that will improve classroom instruction for English learners and assist educational personnel working with such children to meet high professional standards, including standards for certification and licensure as teachers who work in language instruction educational programs or serve English learners. Grants awarded under this subsection may be used—

(1) for preservice, evidence-based professional development programs that will assist local schools and institutions of higher education to upgrade the qualifications and skills of educational personnel who are not certified or licensed, especially educational paraprofessionals;

(2) for the development of curricula or other instructional strategies appropriate to the needs of the consortia participants involved;

(3) to support strategies that strengthen and increase parent and community member engagement in the education of English learners; and

(4) to share and disseminate evidence-based practices in the instruction of English learners and in increasing their student achievement.

CHAPTER D—GENERAL PROVISIONS

SEC. 1221. DEFINITIONS.

Except as otherwise provided, in this subpart:

(1) *CHILD*.—The term “child” means any individual aged 3 through 21.

(2) *COMMUNITY-BASED ORGANIZATION*.—The term “community-based organization” means a private nonprofit organization of demonstrated effectiveness, Indian tribe, or tribally sanctioned educational authority, that is representative of a community or significant segments of a community and that provides educational or related services to individuals in the community. Such term includes a Native Hawaiian or Native American Pacific Islander native language educational organization.

(3) *ELIGIBLE ENTITY*.—The term “eligible entity” means—

(A) one or more local educational agencies; or

(B) one or more local educational agencies, in consortia (or collaboration) with an institution of higher education, community-based organization, or State educational agency.

(4) *IMMIGRANT CHILDREN AND YOUTH*.—The term “immigrant children and youth” means individuals who—

(A) are age 3 through 21;

(B) were not born in any State; and

(C) have not been attending one or more schools in any one or more States for more than 3 full academic years.

(5) *INDIAN TRIBE*.—The term “Indian tribe” means any Indian tribe, band, nation, or other organized group or community, including any Native village or Regional Corporation or Village Corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(6) *LANGUAGE INSTRUCTION EDUCATIONAL PROGRAM*.—The term “language instruction educational program” means an instruction course—

(A) in which an English learner is placed for the purpose of developing and attaining English language proficiency, while meeting State academic standards, as required by section 1111(b)(1); and

(B) that may make instructional use of both English and a child’s native language to enable the child to develop and attain English language proficiency, and may include the participation of English language proficient children if such course is designed to enable all participating children to become proficient in English and a second language.

(7) *NATIVE AMERICAN AND NATIVE AMERICAN LANGUAGE*.—The terms “Native American” and “Native American language” shall have the meanings given such terms in section 103 of the Native American Languages Act.

(8) *NATIVE LANGUAGE*.—The term “native language”, when used with reference to English learner, means—

(A) the language normally used by such individual; or

(B) in the case of a child or youth, the language normally used by the parents of the child or youth.

(9) *PARAPROFESSIONAL*.—The term “paraprofessional” means an individual who is employed in a preschool, elementary school, or secondary school under the supervision of a certified or licensed teacher, including individuals employed in language

instruction educational programs, special education, and migratory education.

(10) *STATE.*—The term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 1222. NATIONAL CLEARINGHOUSE.

The Secretary shall establish and support the operation of a National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs, which shall collect, analyze, synthesize, and disseminate information about language instruction educational programs for English learners, and related programs. The National Clearinghouse shall—

(1) *be administered as an adjunct clearinghouse of the Educational Resources Information Center Clearinghouses system supported by the Institute of Education Sciences;*

(2) *coordinate activities with Federal data and information clearinghouses and entities operating Federal dissemination networks and systems;*

(3) *develop a system for improving the operation and effectiveness of federally funded language instruction educational programs; and*

(4) *collect and disseminate information on—*

(A) *educational research and processes related to the education of English learners; and*

(B) *accountability systems that monitor the academic progress of English learners in language instruction educational programs, including information on academic content and English language proficiency assessments for language instruction educational programs; and*

(5) *publish, on an annual basis, a list of grant recipients under this subpart.*

SEC. 1223. REGULATIONS.

In developing regulations under this subpart, the Secretary shall consult with State educational agencies and local educational agencies, organizations representing English learners, and organizations representing teachers and other personnel involved in the education of English learners.

Subpart 5—Rural Education Achievement Program

SEC. 1230. PURPOSE.

It is the purpose of this subpart to address the unique needs of rural school districts that frequently—

(1) *lack the personnel and resources needed to compete effectively for Federal competitive grants; and*

(2) *receive formula grant allocations in amounts too small to be effective in meeting their intended purposes.*

**CHAPTER A—SMALL, RURAL SCHOOL ACHIEVEMENT
PROGRAM**

SEC. 1231. GRANT PROGRAM AUTHORIZED.

(a) *IN GENERAL.*—From amounts appropriated under section 3(a)(1) for a fiscal year, the Secretary shall reserve .55 of one percent to award grants to eligible local educational agencies to enable the local educational agencies to carry out activities authorized under any of the following provisions:

- (1) Part A of title I.
- (2) Title II.
- (3) Title III.

(b) *ALLOCATION.*—

(1) *IN GENERAL.*—Except as provided in paragraph (3), the Secretary shall award a grant under subsection (a) to a local educational agency eligible under subsection (d) for a fiscal year in an amount equal to the initial amount determined under paragraph (2) for the fiscal year minus the total amount received by the agency in subpart 2 of part A of title II for the preceding fiscal year.

(2) *DETERMINATION OF INITIAL AMOUNT.*—The initial amount referred to in paragraph (1) is equal to \$100 multiplied by the total number of students in excess of 50 students, in average daily attendance at the schools served by the local educational agency, plus \$20,000, except that the initial amount may not exceed \$60,000.

(3) *RATABLE ADJUSTMENT.*—

(A) *IN GENERAL.*—If the amount made available to carry out this section for any fiscal year is not sufficient to pay in full the amounts that local educational agencies are eligible to receive under paragraph (1) for such year, the Secretary shall ratably reduce such amounts for such year.

(B) *ADDITIONAL AMOUNTS.*—If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subparagraph (A) shall be increased on the same basis as such payments were reduced.

(c) *DISBURSEMENT.*—The Secretary shall disburse the funds awarded to a local educational agency under this section for a fiscal year not later than July 1 of that fiscal year.

(d) *ELIGIBILITY.*—

(1) *IN GENERAL.*—A local educational agency shall be eligible to use the applicable funding in accordance with subsection (a) if—

(A)(i)(I) the total number of students in average daily attendance at all of the schools served by the local educational agency is fewer than 600; or

(II) each county in which a school served by the local educational agency is located has a total population density of fewer than 10 persons per square mile; and

(ii) all of the schools served by the local educational agency are designated with a school locale code of 41, 42, or 43, as determined by the Secretary; or

(B) the agency meets the criteria established in subparagraph (A)(i) and the Secretary, in accordance with para-

graph (2), grants the local educational agency's request to waive the criteria described in subparagraph (A)(ii).

(2) *CERTIFICATION.*—The Secretary shall determine whether to waive the criteria described in paragraph (1)(A)(ii) based on a demonstration by the local educational agency, and concurrence by the State educational agency, that the local educational agency is located in an area defined as rural by a governmental agency of the State.

(3) *HOLD HARMLESS.*—For a local educational agency that is not eligible under this chapter but met the eligibility requirements under this subsection as it was in effect prior to the date of the enactment of the Student Success Act, the agency shall receive—

(A) for fiscal year 2013, 75 percent of the amount such agency received for fiscal year 2012;

(B) for fiscal year 2014, 50 percent of the amount such agency received for fiscal year 2012; and

(C) for fiscal year 2015, 25 percent of the amount such agency received for fiscal year 2012.

(e) *SPECIAL ELIGIBILITY RULE.*—A local educational agency that receives a grant under this chapter for a fiscal year is not eligible to receive funds for such fiscal year under chapter B.

CHAPTER B—RURAL AND LOW-INCOME SCHOOL PROGRAM

SEC. 1235. PROGRAM AUTHORIZED.

(a) *GRANTS TO STATES.*—

(1) *IN GENERAL.*—From amounts appropriated under section 3(a)(1) for a fiscal year, the Secretary shall reserve .55 of one percent to for this chapter for a fiscal year that are not reserved under subsection (c) to award grants (from allotments made under paragraph (2)) for the fiscal year to State educational agencies that have applications submitted under section 1237 approved to enable the State educational agencies to award grants to eligible local educational agencies for local authorized activities described in section 1236(a).

(2) *ALLOTMENT.*—From amounts described in paragraph (1) for a fiscal year, the Secretary shall allot to each State educational agency for that fiscal year an amount that bears the same ratio to those amounts as the number of students in average daily attendance served by eligible local educational agencies in the State for that fiscal year bears to the number of all such students served by eligible local educational agencies in all States for that fiscal year.

(3) *SPECIALLY QUALIFIED AGENCIES.*—

(A) *ELIGIBILITY AND APPLICATION.*—If a State educational agency elects not to participate in the program under this subpart or does not have an application submitted under section 1237 approved, a specially qualified agency in such State desiring a grant under this subpart may submit an application under such section directly to the Secretary to receive an award under this subpart.

(B) *DIRECT AWARDS.*—The Secretary may award, on a competitive basis or by formula, the amount the State educational agency is eligible to receive under paragraph (2)

directly to a specially qualified agency in the State that has submitted an application in accordance with subparagraph (A) and obtained approval of the application.

(C) **SPECIALLY QUALIFIED AGENCY DEFINED.**—In this subpart, the term “specially qualified agency” means an eligible local educational agency served by a State educational agency that does not participate in a program under this subpart in a fiscal year, that may apply directly to the Secretary for a grant in such year under this subsection.

(b) **LOCAL AWARDS.**—

(1) **ELIGIBILITY.**—A local educational agency shall be eligible to receive a grant under this subpart if—

(A) 20 percent or more of the children ages 5 through 17 years served by the local educational agency are from families with incomes below the poverty line; and

(B) all of the schools served by the agency are designated with a school locale code of 32, 33, 41, 42, 43, as determined by the Secretary.

(2) **AWARD BASIS.**—A State educational agency shall award grants to eligible local educational agencies—

(A) on a competitive basis;

(B) according to a formula based on the number of students in average daily attendance served by the eligible local educational agencies or schools in the State; or

(C) according to an alternative formula, if, prior to awarding the grants, the State educational agency demonstrates, to the satisfaction of the Secretary, that the alternative formula enables the State educational agency to allot the grant funds in a manner that serves equal or greater concentrations of children from families with incomes below the poverty line, relative to the concentrations that would be served if the State educational agency used the formula described in subparagraph (B).

(c) **RESERVATIONS.**—From amounts reserved under section 1235(a)(1) for this chapter for a fiscal year, the Secretary shall reserve—

(1) one-half of 1 percent to make awards to elementary schools or secondary schools operated or supported by the Bureau of Indian Education, to carry out the activities authorized under this chapter; and

(2) one-half of 1 percent to make awards to the outlying areas in accordance with their respective needs, to carry out the activities authorized under this chapter.

SEC. 1236. USES OF FUNDS.

(a) **LOCAL AWARDS.**—Grant funds awarded to local educational agencies under this chapter shall be used for activities authorized under any of the following:

(1) Part A of title I.

(2) Title II.

(3) Title III.

(b) **ADMINISTRATIVE COSTS.**—A State educational agency receiving a grant under this chapter may not use more than 5 percent of the amount of the grant for State administrative costs and to provide technical assistance to eligible local educational agencies.

SEC. 1237. APPLICATIONS.

(a) *IN GENERAL.*—Each State educational agency or specially qualified agency desiring to receive a grant under this chapter shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(b) *CONTENTS.*—Each application submitted under subsection (a) shall include—

(1) a description of how the State educational agency or specially qualified agency will ensure eligible local educational agencies receiving a grant under this chapter will use such funds to help students meet the State academic standards under section 1111(b)(1);

(2) if the State educational agency or specially qualified agency will competitively award grants to eligible local educational agencies, as described in section 1235(b)(2)(A), the application under the section shall include—

(A) the methods and criteria the State educational agency or specially qualified agency will use for reviewing applications and awards funds to local educational agencies on a competitive basis; and

(B) how the State educational agency or specially qualified agency will notify eligible local educational agencies of the grant competition; and

(3) a description of how the State educational agency or specially qualified agency will provide technical assistance to eligible local educational agencies to help such agencies implement the activities described in section 1236(a).

SEC. 1238. ACCOUNTABILITY.

(a) *STATE REPORT.*—Each State educational agency or specially qualified agency that receives a grant under this chapter shall prepare and submit an annual report to the Secretary. The report shall describe—

(1) the methods and criteria the State educational agency or specially qualified agency used to award grants to eligible local educational agencies, and to provide assistance to schools, under this chapter;

(2) how local educational agencies and schools used funds provided under this chapter; and

(3) the degree to which progress has been made toward having all students meet the State academic standards under section 1111(b)(1).

(b) *REPORT TO CONGRESS.*—The Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a biennial report. The report shall describe—

(1) how State local educational agencies, local educational agencies, and schools used funds provided under this chapter; and

(2) the degree to which progress has been made toward having all students meet the State academic standards under section 1111(b)(1).

SEC. 1239. CHOICE OF PARTICIPATION.

(a) *IN GENERAL.*—If a local educational agency is eligible for funding under chapters A and B of this subpart, such local educational agency may receive funds under either chapter A or chapter B for a fiscal year, but may not receive funds under both chapters.

(b) *NOTIFICATION.*—A local educational agency eligible for both chapters A and B of this subpart shall notify the Secretary and the State educational agency under which of such chapters such local educational agency intends to receive funds for a fiscal year by a date that is established by the Secretary for the notification.

CHAPTER C—GENERAL PROVISIONS**SEC. 1241. ANNUAL AVERAGE DAILY ATTENDANCE DETERMINATION.**

(a) *CENSUS DETERMINATION.*—Each local educational agency desiring a grant under section 1231 and each local educational agency or specially qualified agency desiring a grant under chapter B shall—

(1) not later than December 1 of each year, conduct a census to determine the number of students in average daily attendance in kindergarten through grade 12 at the schools served by the agency; and

(2) not later than March 1 of each year, submit the number described in paragraph (1) to the Secretary (and to the State educational agency, in the case of a local educational agency seeking a grant under subpart 2).

(b) *PENALTY.*—If the Secretary determines that a local educational agency or specially qualified agency has knowingly submitted false information under subsection (a) for the purpose of gaining additional funds under section 1231 or chapter B, then the agency shall be fined an amount equal to twice the difference between the amount the agency received under this section and the correct amount the agency would have received under section 1231 or chapter B if the agency had submitted accurate information under subsection (a).

SEC. 1242. SUPPLEMENT, NOT SUPPLANT.

Funds made available under chapter A or chapter B shall be used to supplement, and not supplant, any other Federal, State, or local education funds.

SEC. 1243. RULE OF CONSTRUCTION.

Nothing in this subpart shall be construed to prohibit a local educational agency that enters into cooperative arrangements with other local educational agencies for the provision of special, compensatory, or other education services, pursuant to State law or a written agreement, from entering into similar arrangements for the use, or the coordination of the use, of the funds made available under this subpart.

Subpart 6—Indian Education**SEC. 1251. STATEMENT OF POLICY.**

It is the policy of the United States to fulfill the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children. The Federal Government will continue to work with local educational

agencies, Indian tribes and organizations, postsecondary institutions, and other entities toward the goal of ensuring that programs that serve Indian children are of the highest quality and provide for not only the basic elementary and secondary educational needs, but also the unique educational and culturally related academic needs of these children.

SEC. 1252. PURPOSE.

It is the purpose of this subpart to support the efforts of local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities—

(1) to meet the unique educational and culturally related academic needs of American Indian and Alaska Native students, so that such students can meet the State academic standards that all students are expected to meet; and

(2) to ensure that school leaders, teachers, and other staff who serve Indian and Alaska Native students have the ability and training to provide appropriate instruction to meet the unique academic needs of such students.

CHAPTER A—FORMULA GRANTS TO LOCAL EDUCATIONAL AGENCIES

SEC. 1261. PURPOSE.

It is the purpose of this chapter to support local educational agencies in their efforts to reform elementary school and secondary school programs that serve Indian students in order to ensure that such programs are designed to—

(1) meet the unique educational needs of such students; and

(2) ensure that such students have the opportunity to meet the State academic standards.

SEC. 1262. GRANTS TO LOCAL EDUCATIONAL AGENCIES AND TRIBES.

(a) IN GENERAL.—From amounts appropriated under section 3(a)(1), the Secretary shall reserve .6 of one percent to local educational agencies and Indian tribes in accordance with this section and section 1263.

(b) LOCAL EDUCATIONAL AGENCIES.—

(1) ENROLLMENT REQUIREMENTS.—A local educational agency shall be eligible for a grant under this chapter for any fiscal year if the number of Indian children eligible under section 1267 who were enrolled in the schools of the agency, and to whom the agency provided free public education, during the preceding fiscal year—

(A) was at least 10; or

(B) constituted not less than 25 percent of the total number of individuals enrolled in the schools of such agency.

(2) EXCLUSION.—The requirement of paragraph (1) shall not apply in Alaska, California, or Oklahoma, or with respect to any local educational agency located on, or in proximity to, an Indian reservation.

(c) INDIAN TRIBES.—

(1) IN GENERAL.—If a local educational agency that is otherwise eligible for a grant under this chapter does not establish a committee under section 1264(c)(4) for such grant, an Indian tribe or a consortium of such entities that represents not less

than $\frac{1}{3}$ of the eligible Indian children who are served by such local educational agency may apply for such grant.

(2) *SPECIAL RULE.*—The Secretary shall treat each Indian tribe or consortium of such entities applying for a grant pursuant to paragraph (1) as if such Indian tribe were a local educational agency for purposes of this chapter, except that any such tribe is not subject to section 1264(c)(4) or section 1269.

(3) *ELIGIBILITY.*—If more than 1 Indian tribe qualifies to apply for a grant under paragraph (1), the entity that represents the most eligible Indian children who are served by the local educational agency shall be eligible to receive the grant or the tribes may choose to apply in consortium.

SEC. 1263. AMOUNT OF GRANTS.

(a) *AMOUNT OF GRANT AWARDS.*—

(1) *IN GENERAL.*—Except as provided in subsection (b) and paragraph (2), the Secretary shall allocate to each local educational agency that has an approved application under this chapter an amount equal to the product of—

(A) the number of Indian children who are eligible under section 1267 and served by such agency; and

(B) the greater of—

(i) the average per pupil expenditure of the State in which such agency is located; or

(ii) 80 percent of the average per pupil expenditure of all the States.

(2) *REDUCTION.*—The Secretary shall reduce the amount of each allocation otherwise determined under this section in accordance with subsection (e).

(b) *MINIMUM GRANT.*—

(1) *IN GENERAL.*—Notwithstanding subsection (e), an entity that is eligible for a grant under section 1262, and a school that is operated or supported by the Bureau of Indian Education that is eligible for a grant under subsection (d), that submits an application that is approved by the Secretary, shall, subject to appropriations, receive a grant under this chapter in an amount that is not less than \$3,000.

(2) *CONSORTIA.*—Local educational agencies may form a consortium with other local educational agencies or Indian tribes for the purpose of obtaining grants under this chapter.

(3) *INCREASE.*—The Secretary may increase the minimum grant under paragraph (1) to not more than \$4,000 for all grantees if the Secretary determines such an increase is necessary to ensure the quality of the programs provided.

(c) *DEFINITION.*—For the purpose of this section, the term “average per pupil expenditure”, used with respect to a State, means an amount equal to—

(1) the sum of the aggregate current expenditures of all the local educational agencies in the State, plus any direct current expenditures by the State for the operation of such agencies, without regard to the sources of funds from which such local or State expenditures were made, during the second fiscal year preceding the fiscal year for which the computation is made; divided by

(2) the aggregate number of children who were included in average daily attendance for whom such agencies provided free public education during such preceding fiscal year.

(d) **SCHOOLS OPERATED OR SUPPORTED BY THE BUREAU OF INDIAN EDUCATION.**—

(1) **IN GENERAL.**—Subject to subsection (e), in addition to the grants awarded under subsection (a), the Secretary shall allocate to the Secretary of the Interior an amount equal to the product of—

(A) the total number of Indian children enrolled in schools that are operated by—

(i) the Bureau of Indian Education; or

(ii) an Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, for the children of that tribe under a contract with, or grant from, the Department of the Interior under the Indian Self-Determination Act or the Tribally Controlled Schools Act of 1988; and

(B) the greater of—

(i) the average per pupil expenditure of the State in which the school is located; or

(ii) 80 percent of the average per pupil expenditure of all the States.

(2) **SPECIAL RULE.**—Any school described in paragraph (1)(A) that wishes to receive an allocation under this chapter shall submit an application in accordance with section 1264, and shall otherwise be treated as a local educational agency for the purpose of this chapter, except that such school shall not be subject to section 1264(c)(4) or section 1269.

(e) **RATABLE REDUCTIONS.**—If the sums reserved for any fiscal year under section 1262(a) are insufficient to pay in full the amounts determined for local educational agencies under subsection (a)(1) and for the Secretary of the Interior under subsection (d), each of those amounts shall be ratably reduced.

SEC. 1264. APPLICATIONS.

(a) **APPLICATION REQUIRED.**—Each local educational agency that desires to receive a grant under this chapter shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

(b) **COMPREHENSIVE PROGRAM REQUIRED.**—Each application submitted under subsection (a) shall include a description of a comprehensive program for meeting the needs of Indian children served by the local educational agency, including the language and cultural needs of the children, that—

(1) describes how the comprehensive program will offer programs and activities to meet the culturally related academic needs of American Indian and Alaska Native students;

(2)(A) is aligned with and supports the State and local plans submitted under other provisions of this Act; and

(B) includes academic standards for such children that are based on the State academic standards adopted under subpart 1 for all children;

(3) explains how the local educational agency will use the funds made available under this chapter to supplement other

Federal, State, and local programs, especially programs carried out under subpart 1, to meet the needs of such students;

(4) demonstrates how funds made available under this chapter will be used for activities described in section 1265;

(5) describes the professional development opportunities that will be provided, as needed, to ensure that—

(A) teachers, school leaders, and other school professionals who are new to the Indian community are prepared to work with Indian children; and

(B) all teachers who will be involved in programs assisted under this chapter have been properly trained to carry out such programs; and

(6) describes how the local educational agency—

(A) will periodically assess the progress of all Indian children enrolled in the schools of the local educational agency, including Indian children who do not participate in programs assisted under this chapter, in meeting the standards described in paragraph (2);

(B) will provide the results of each assessment referred to in subparagraph (A) to—

(i) the committee described in subsection (c)(4); and

(ii) the community, including Indian tribes, whose children are served by the local educational agency; and

(C) is responding to findings of any previous assessments that are similar to the assessments described in subparagraph (A); and

(7) describes the processes the local educational agency used to collaborate with Indian tribes in the community in the development of the comprehensive programs.

(c) ASSURANCES.—Each application submitted under subsection (a) shall include assurances that—

(1) the local educational agency will use funds received under this chapter only to supplement the funds that, in the absence of the Federal funds made available under this chapter, such agency would make available for the education of Indian children, and not to supplant such funds;

(2) the local educational agency will prepare and submit to the Secretary such reports in such form as the Secretary may require to—

(A) carry out the functions of the Secretary under this chapter; and

(B) determine the extent to which activities carried out with funds provided to the local educational agency under this chapter are effective in improving the educational achievement of Indian students served by such agency;

(3) the program for which assistance is sought—

(A) is based on a comprehensive local assessment and prioritization of the unique educational and culturally related academic needs of the American Indian and Alaska Native students for whom the local educational agency is providing an education;

(B) will use the best available talents and resources, including individuals from the Indian community; and

- (C) was developed by such agency in open consultation with parents of Indian children and teachers, and, if appropriate, Indian students from secondary schools, including through public hearings held by such agency to provide to the individuals described in this subparagraph a full opportunity to understand the program and to offer recommendations regarding the program; and
- (4) the local educational agency developed the program with the participation and written approval of a committee—
- (A) that is composed of, and selected by—
- (i) parents of Indian children in the local educational agency's schools;
 - (ii) teachers in the schools; and
 - (iii) if appropriate, Indian students attending secondary schools of the agency;
- (B) a majority of whose members are parents of Indian children;
- (C) that has set forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children, and representatives of the area, to be served;
- (D) with respect to an application describing a schoolwide program in accordance with section 1265(c), that has—
- (i) reviewed in a timely fashion the program; and
 - (ii) determined that the program will not diminish the availability of culturally related activities for American Indian and Alaska Native students; and
- (E) that has adopted reasonable bylaws for the conduct of the activities of the committee and abides by such bylaws.

SEC. 1265. AUTHORIZED SERVICES AND ACTIVITIES.

- (a) **GENERAL REQUIREMENTS.**—Each local educational agency that receives a grant under this chapter shall use the grant funds, in a manner consistent with the purpose specified in section 1261, for services and activities that—
- (1) are designed to carry out the comprehensive program of the local educational agency for Indian students, and described in the application of the local educational agency submitted to the Secretary under section 1264(a);
 - (2) are designed with special regard for the language and cultural needs of the Indian students; and
 - (3) supplement and enrich the regular school program of such agency.
- (b) **PARTICULAR ACTIVITIES.**—The services and activities referred to in subsection (a) may include—
- (1) culturally related activities that support the program described in the application submitted by the local educational agency;
 - (2) early childhood and family programs that emphasize school readiness;

(3) enrichment programs that focus on problem solving and cognitive skills development and directly support the attainment of State academic standards;

(4) integrated educational services in combination with other programs that meet the needs of Indian children and their families;

(5) programs that help engage parents and tribes to meet the unique educational needs of Indian children;

(6) career preparation activities to enable Indian students to participate in programs such as the programs supported by the Carl D. Perkins Career and Technical Education Act of 2006;

(7) activities to educate individuals concerning the prevention of substance abuse, violence, and suicide;

(8) the acquisition of equipment, but only if the acquisition of the equipment is essential to achieve the purpose described in section 1261;

(9) activities that promote the incorporation of culturally responsive teaching and learning strategies into the educational program of the local educational agency;

(10) activities that incorporate American Indian and Alaska Native specific curriculum content, consistent with State academic standards into the curriculum used by the local educational agency;

(11) family literacy services; and

(12) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors.

(c) **SCHOOLWIDE PROGRAMS.**—Notwithstanding any other provision of law, a local educational agency may use funds made available to such agency under this chapter to support a schoolwide program under section 1114 if—

(1) the committee established pursuant to section 1264(c)(4) approves the use of the funds for the schoolwide program; and

(2) the schoolwide program is consistent with the purpose described in section 1261.

(d) **LIMITATION ON ADMINISTRATIVE COSTS.**—Not more than 5 percent of the funds provided to a grantee under this chapter for any fiscal year may be used for administrative purposes.

(e) **LIMITATION ON USE OF FUNDS.**—Funds provided to a grantee under this chapter may not be used for long-distance travel expenses for training activities available locally or regionally.

SEC. 1266. INTEGRATION OF SERVICES AUTHORIZED.

(a) **PLAN.**—An entity receiving funds under this chapter may submit a plan to the Secretary for the integration of education and related services provided to Indian students.

(b) **CONSOLIDATION OF PROGRAMS.**—Upon the receipt of an acceptable plan under subsection (a), the Secretary, in cooperation with each Federal agency providing grants for the provision of education and related services to the entity, shall authorize the entity to consolidate, in accordance with such plan, the federally funded education and related services programs of the entity and the Federal programs, or portions of the programs, serving Indian students in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

(c) *PROGRAMS AFFECTED.*—The funds that may be consolidated in a demonstration project under any such plan referred to in subsection (a) shall include funds for any Federal program exclusively serving Indian children, or the funds reserved under any Federal program to exclusively serve Indian children, under which the entity is eligible for receipt of funds under a statutory or administrative formula for the purposes of providing education and related services that would be used to serve Indian students.

(d) *PLAN REQUIREMENTS.*—For a plan to be acceptable pursuant to subsection (b), the plan shall—

(1) identify the programs or funding sources to be consolidated;

(2) be consistent with the objectives of this section concerning authorizing the services to be integrated in a demonstration project;

(3) describe a comprehensive strategy that identifies the full range of potential educational opportunities and related services to be provided to assist Indian students to achieve the objectives set forth in this chapter;

(4) describe the way in which services are to be integrated and delivered and the results expected from the plan;

(5) identify the projected expenditures under the plan in a single budget;

(6) identify the State, tribal, or local agency or agencies to be involved in the delivery of the services integrated under the plan;

(7) identify any statutory provisions, regulations, policies, or procedures that the entity believes need to be waived in order to implement the plan;

(8) set forth measures for student academic achievement consistent with State academic standards under section 1111(b)(1); and

(9) be approved by a committee formed in accordance with section 1264(c)(4), if such a committee exists.

(e) *PLAN REVIEW.*—Upon receipt of the plan from an eligible entity, the Secretary shall consult with the Secretary of each Federal department providing funds to be used to implement the plan, and with the entity submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal departmental regulations, policies, or procedures necessary to enable the entity to implement the plan. Notwithstanding any other provision of law, the Secretary of the affected department shall have the authority to waive any regulation, policy, or procedure promulgated by that department that has been so identified by the entity or department, unless the Secretary of the affected department determines that such a waiver is inconsistent with the objectives of this chapter or those provisions of the statute from which the program involved derives authority that are specifically applicable to Indian students.

(f) *PLAN APPROVAL.*—Within 90 days after the receipt of an entity's plan by the Secretary, the Secretary shall inform the entity, in writing, of the Secretary's approval or disapproval of the plan. If the plan is disapproved, the entity shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend the plan or to petition the Secretary to reconsider such disapproval.

(g) *RESPONSIBILITIES OF DEPARTMENT OF EDUCATION.*—The Secretary of Education, the Secretary of the Interior, and the head of any other Federal department or agency identified by the Secretary of Education, shall enter into an interdepartmental memorandum of agreement providing for the implementation and coordination of the demonstration projects authorized under this section. The lead agency head for a demonstration project under this section shall be—

(1) the Secretary of the Interior, in the case of an entity meeting the definition of a contract or grant school under title XI of the Education Amendments of 1978; or

(2) the Secretary of Education, in the case of any other entity.

(h) *RESPONSIBILITIES OF LEAD AGENCY.*—The responsibilities of the lead agency shall include—

(1) the use of a single report format related to the plan for the individual project, which shall be used by an eligible entity to report on the activities undertaken under the project;

(2) the use of a single report format related to the projected expenditures for the individual project which shall be used by an eligible entity to report on all project expenditures;

(3) the development of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

(4) the provision of technical assistance to an eligible entity appropriate to the project, except that an eligible entity shall have the authority to accept or reject the plan for providing such technical assistance and the technical assistance provider.

(i) *REPORT REQUIREMENTS.*—A single report format shall be developed by the Secretary, consistent with the requirements of this section. Such report format shall require that reports described in subsection (h), together with records maintained on the consolidated program at the local level, shall contain such information as will allow a determination that the eligible entity has complied with the requirements incorporated in its approved plan, including making a demonstration of student academic achievement, and will provide assurances to each Secretary that the eligible entity has complied with all directly applicable statutory requirements and with those directly applicable regulatory requirements that have not been waived.

(j) *NO REDUCTION IN AMOUNTS.*—In no case shall the amount of Federal funds available to an eligible entity involved in any demonstration project be reduced as a result of the enactment of this section.

(k) *INTERAGENCY FUND TRANSFERS AUTHORIZED.*—The Secretary is authorized to take such action as may be necessary to provide for an interagency transfer of funds otherwise available to an eligible entity in order to further the objectives of this section.

(l) *ADMINISTRATION OF FUNDS.*—

(1) *IN GENERAL.*—Program funds for the consolidated programs shall be administered in such a manner as to allow for a determination that funds from a specific program are spent on allowable activities authorized under such program, except that the eligible entity shall determine the proportion of the funds granted that shall be allocated to such program.

(2) *SEPARATE RECORDS NOT REQUIRED.*—Nothing in this section shall be construed as requiring the eligible entity to main-

tain separate records tracing any services or activities conducted under the approved plan to the individual programs under which funds were authorized for the services or activities, nor shall the eligible entity be required to allocate expenditures among such individual programs.

(m) *OVERAGE.*—The eligible entity may commingle all administrative funds from the consolidated programs and shall be entitled to the full amount of such funds (under each program's or agency's regulations). The overage (defined as the difference between the amount of the commingled funds and the actual administrative cost of the programs) shall be considered to be properly spent for Federal audit purposes, if the overage is used for the purposes provided for under this section.

(n) *FISCAL ACCOUNTABILITY.*—Nothing in this part shall be construed so as to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to chapter 75 of title 31, United States Code.

(o) *REPORT ON STATUTORY OBSTACLES TO PROGRAM INTEGRATION.*—

(1) *IN GENERAL.*—The Secretary of Education shall annually submit a report to the Committee on Health, Education, Labor, and Pensions and the Committee on Indian Affairs of the Senate, and the Committee on Education and the Workforce and the Committee on Natural Resources of the House of Representatives on the status of the implementation of the demonstration projects authorized under this section.

(2) *CONTENTS.*—Such report shall identify—

(A) statutory barriers to the ability of participants to more effectively integrate their education and related services to Indian students in a manner consistent with the objectives of this section; and

(B) the effective practices for program integration that result in increased student achievement and other relevant outcomes for Indian students.

(p) *DEFINITIONS.*—For the purposes of this section, the term “Secretary” means—

(1) the Secretary of the Interior, in the case of an entity meeting the definition of a contract or grant school under title XI of the Education Amendments of 1978; or

(2) the Secretary of Education, in the case of any other entity.

SEC. 1267. STUDENT ELIGIBILITY FORMS.

(a) *IN GENERAL.*—The Secretary shall require that, as part of an application for a grant under this chapter, each applicant shall maintain a file, with respect to each Indian child for whom the local educational agency provides a free public education, that contains a form that sets forth information establishing the status of the child as an Indian child eligible for assistance under this chapter, and that otherwise meets the requirements of subsection (b).

(b) *FORMS.*—The form described in subsection (a) shall include—

(1) either—

(A)(i) the name of the tribe or band of Indians (as defined in section 1291) with respect to which the child claims membership;

(ii) the enrollment number establishing the membership of the child (if readily available); and

(iii) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians; or

(B) the name, the enrollment number (if readily available), and the name and address of the organization responsible for maintaining updated and accurate membership data, of any parent or grandparent of the child from whom the child claims eligibility under this chapter, if the child is not a member of the tribe or band of Indians (as so defined);

(2) a statement of whether the tribe or band of Indians (as so defined), with respect to which the child, or parent or grandparent of the child, claims membership, is federally recognized;

(3) the name and address of the parent or legal guardian of the child; and

(4) a signature of the parent or legal guardian of the child that verifies the accuracy of the information supplied.

(c) **STATUTORY CONSTRUCTION.**—Nothing in this section shall be construed to affect a definition contained in section 1291.

(d) **FORMS AND STANDARDS OF PROOF.**—The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985–1986 academic year to establish the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the forms and standards of proof used—

(1) to establish eligibility under this chapter; and

(2) to meet the requirements of subsection (a).

(e) **DOCUMENTATION.**—For purposes of determining whether a child is eligible to be counted for the purpose of computing the amount of a grant award under section 1263, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians (as so defined) may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number for a member of such tribe or band. Nothing in subsection (b) shall be construed to require the furnishing of an enrollment number.

(f) **MONITORING AND EVALUATION REVIEW.**—

(1) **IN GENERAL.**—

(A) **REVIEW.**—For each fiscal year, in order to provide such information as is necessary to carry out the responsibility of the Secretary to provide technical assistance under this chapter, the Secretary shall conduct a monitoring and evaluation review of a sampling of the recipients of grants under this chapter. The sampling conducted under this subparagraph shall take into account the size of and the geographic location of each local educational agency.

(B) **EXCEPTION.**—A local educational agency may not be held liable to the United States or be subject to any penalty, by reason of the findings of an audit that relates to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, the eligibility of a child for an entitlement under the Indian Elementary and Secondary School Assistance Act.

(2) *FALSE INFORMATION.*—Any local educational agency that provides false information in an application for a grant under this chapter shall—

(A) be ineligible to apply for any other grant under this chapter; and

(B) be liable to the United States for any funds from the grant that have not been expended.

(3) *EXCLUDED CHILDREN.*—A student who provides false information for the form required under subsection (a) shall not be counted for the purpose of computing the amount of a grant under section 1263.

(g) *TRIBAL GRANT AND CONTRACT SCHOOLS.*—Notwithstanding any other provision of this section, in calculating the amount of a grant under this chapter to a tribal school that receives a grant or contract from the Bureau of Indian Education, the Secretary shall use only one of the following, as selected by the school:

(1) A count of the number of students in the schools certified by the Bureau.

(2) A count of the number of students for whom the school has eligibility forms that comply with this section.

(h) *TIMING OF CHILD COUNTS.*—For purposes of determining the number of children to be counted in calculating the amount of a local educational agency's grant under this chapter (other than in the case described in subsection (g)(1)), the local educational agency shall—

(1) establish a date on, or a period not longer than 31 consecutive days during, which the agency counts those children, if that date or period occurs before the deadline established by the Secretary for submitting an application under section 1264; and

(2) determine that each such child was enrolled, and receiving a free public education, in a school of the agency on that date or during that period, as the case may be.

SEC. 1268. PAYMENTS.

(a) *IN GENERAL.*—Subject to subsections (b) and (c), the Secretary shall pay to each local educational agency that submits an application that is approved by the Secretary under this chapter the amount determined under section 1263. The Secretary shall notify the local educational agency of the amount of the payment not later than June 1 of the year for which the Secretary makes the payment.

(b) *PAYMENTS TAKEN INTO ACCOUNT BY THE STATE.*—The Secretary may not make a grant under this chapter to a local educational agency for a fiscal year if, for such fiscal year, the State in which the local educational agency is located takes into consideration payments made under this chapter in determining the eligibility of the local educational agency for State aid, or the amount of the State aid, with respect to the free public education of children during such fiscal year or the preceding fiscal year.

(c) *REALLOCATIONS.*—The Secretary may reallocate, in a manner that the Secretary determines will best carry out the purpose of this chapter, any amounts that—

(1) based on estimates made by local educational agencies or other information, the Secretary determines will not be needed by such agencies to carry out approved programs under this chapter; or

(2) otherwise become available for reallocation under this chapter.

SEC. 1269. STATE EDUCATIONAL AGENCY REVIEW.

Before submitting an application to the Secretary under section 1264, a local educational agency shall submit the application to the State educational agency, which may comment on such application. If the State educational agency comments on the application, the agency shall comment on all applications submitted by local educational agencies in the State and shall provide those comments to the respective local educational agencies, with an opportunity to respond.

CHAPTER B—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

SEC. 1271. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

(a) *PURPOSE.*—

(1) *IN GENERAL.*—It is the purpose of this section to support projects to develop, test, and demonstrate the effectiveness of services and programs to improve educational opportunities and achievement of Indian children.

(2) *COORDINATION.*—The Secretary shall take the necessary actions to achieve the coordination of activities assisted under this chapter with—

(A) other programs funded under this Act; and

(B) other Federal programs operated for the benefit of American Indian and Alaska Native children.

(b) *ELIGIBLE ENTITIES.*—In this section, the term “eligible entity” means a State educational agency, local educational agency, Indian tribe, Indian organization, federally supported elementary school or secondary school for Indian students, Indian institution (including an Indian institution of higher education), or a consortium of such entities.

(c) *GRANTS AUTHORIZED.*—

(1) *IN GENERAL.*—From amounts appropriated under section 3(a)(1), the Secretary shall reserve 0.2 of one percent to award grants to eligible entities to enable such entities to carry out activities under this section and section 1272.

(2) *USES OF FUNDS.*—An eligible entity that receives a grant under this section shall use the funds for one or more activities, including—

(A) innovative programs related to the educational needs of educationally disadvantaged children;

(B) educational services that are not available to such children in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in one or more of the core academic subjects of English, mathematics, science, foreign languages, art, history, and geography;

(C) bilingual and bicultural programs and projects;

(D) special health and nutrition services, and other related activities, that address the special health, social, and psychological problems of Indian children;

(E) special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or reenter school, and to increase the rate of high school graduation for Indian children;

(F) comprehensive guidance, counseling, and testing services;

(G) early childhood and kindergarten programs, including family-based preschool programs that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

(H) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to aid such students in the transition from secondary to postsecondary education;

(I) partnership projects between schools and local businesses for career preparation programs designed to provide Indian youth with the knowledge and skills such youth need to make an effective transition from school to a high-skill, high-wage career;

(J) programs designed to encourage and assist Indian students to work toward, and gain entrance into, an institution of higher education;

(K) family literacy services;

(L) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors; or

(M) other services that meet the purpose described in this section.

(3) PROFESSIONAL DEVELOPMENT.—Evidence based professional development of teaching professionals and paraprofessionals may be a part of any program assisted under this section.

(d) GRANT REQUIREMENTS AND APPLICATIONS.—

(1) GRANT REQUIREMENTS.—

(A) IN GENERAL.—The Secretary may make multiyear grants under subsection (c) for the planning, development, pilot operation, or demonstration of any activity described in subsection (c) for a period not to exceed 5 years.

(B) PRIORITY.—In making multiyear grants described in this paragraph, the Secretary shall give priority to entities submitting applications that present a plan for combining two or more of the activities described in subsection (c) over a period of more than 1 year.

(C) PROGRESS.—The Secretary shall make a grant payment for a grant described in this paragraph to an eligible entity after the initial year of the multiyear grant only if the Secretary determines that the eligible entity has made substantial progress in carrying out the activities assisted under the grant in accordance with the application submitted under paragraph (3) and any subsequent modifications to such application.

(2) DISSEMINATION GRANTS.—

(A) IN GENERAL.—In addition to awarding the multiyear grants described in paragraph (1), the Secretary may

award grants under subsection (c) to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

(B) *DETERMINATION.*—The Secretary may award a dissemination grant described in this paragraph if, prior to awarding the grant, the Secretary determines that the material or program to be disseminated—

- (i) has been adequately reviewed;
- (ii) has demonstrated educational merit; and
- (iii) can be replicated.

(3) *APPLICATION.*—

(A) *IN GENERAL.*—Any eligible entity that desires to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

(B) *CONTENTS.*—Each application submitted to the Secretary under subparagraph (A), other than an application for a dissemination grant under paragraph (2), shall contain—

(i) a description of how parents of Indian children and representatives of Indian tribes have been, and will be, involved in developing and implementing the activities for which assistance is sought;

(ii) assurances that the applicant will participate, at the request of the Secretary, in any national evaluation of activities assisted under this section;

(iii) information demonstrating that the proposed program for the activities is an evidence-based program, which may include a program that has been modified to be culturally appropriate for students who will be served; and

(iv) a description of how the applicant will incorporate the proposed activities into the ongoing school program involved once the grant period is over.

(e) *ADMINISTRATIVE COSTS.*—Not more than 5 percent of the funds provided to a grantee under this chapter for any fiscal year may be used for administrative purposes.

SEC. 1272. PROFESSIONAL DEVELOPMENT FOR TEACHERS AND EDUCATION PROFESSIONALS.

(a) *PURPOSES.*—The purposes of this section are—

(1) to increase the number of qualified Indian teachers, school leaders, or other education professionals serving Indian students, including through recruitment strategies;

(2) to provide training to qualified Indian individuals to enable such individuals to become effective teachers, school leaders, administrators, teacher aides, social workers, and ancillary educational personnel; and

(3) to improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (2).

(b) *ELIGIBLE ENTITIES.*—For the purpose of this section, the term “eligible entity” means—

(1) an institution of higher education, including an Indian institution of higher education;

(2) a State educational agency or local educational agency, in consortium with an institution of higher education;

(3) an Indian tribe or organization, in consortium with an institution of higher education; and

(4) a Bureau-funded school (as defined in section 1146 of the Education Amendments of 1978).

(c) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants from funds reserved under section 1271(c)(1) to eligible entities having applications approved under this section to enable those entities to carry out the activities described in subsection (d).

(d) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—Grant funds under this section shall be used for activities to provide support and training for Indian individuals in a manner consistent with the purposes of this section.

(2) SPECIAL RULES.—

(A) TYPE OF TRAINING.—For education personnel, the training received pursuant to a grant under this section may be inservice or preservice training.

(B) PROGRAM.—For individuals who are being trained to enter any education-related field other than teaching, the training received pursuant to a grant under this section shall be in a program that results in a graduate degree.

(e) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonable require. An application shall include how the eligible entity will—

(1) recruit qualified Indian individuals, such as students who may not be of traditional college age, to become teachers or school leaders;

(2) use funds made available under the grant to support the recruitment, preparation, and professional development of Indian teachers or school leaders in local educational agencies that serve a high proportion of Indian students; and

(3) assist participants in meeting the requirements under subsection (h).

(f) SPECIAL RULE.—In awarding grants under this section, the Secretary—

(1) shall consider the prior performance of the eligible entity; and

(2) may not limit eligibility to receive a grant under this section on the basis of—

(A) the number of previous grants the Secretary has awarded such entity; or

(B) the length of any period during which such entity received such grants.

(g) GRANT PERIOD.—Each grant under this section shall be awarded for an initial period of not more than three years, and may be renewed for not more than an additional two years if the Secretary finds that the grantee is meeting the grant objectives.

(h) SERVICE OBLIGATION.—

(1) IN GENERAL.—The Secretary shall require, by regulation, that an individual who receives training pursuant to a grant made under this section—

(A) perform work—

(i) related to the training received under this section; and

- (ii) that benefits Indian people; or
 - (B) repay all or a prorated part of the assistance received.
- (2) **REPORTING.**—The Secretary shall establish, by regulation, a reporting procedure under which a grant recipient under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning compliance with the work requirement under paragraph (1).

CHAPTER C—FEDERAL ADMINISTRATION

SEC. 1281. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.

(a) **MEMBERSHIP.**—There is established a National Advisory Council on Indian Education (hereafter in this section referred to as the “Council”), which shall—

- (1) consist of 15 Indian members, who shall be appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations; and
- (2) represent different geographic areas of the United States.

(b) **DUTIES.**—The Council shall—

(1) advise the Secretary concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under this subpart—

(A) with respect to which the Secretary has jurisdiction; and

(B)(i) that includes Indian children or adults as participants; or

(ii) that may benefit Indian children or adults;

(2) make recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs; and

(3) submit to Congress, not later than June 30 of each year, a report on the activities of the Council, including—

(A) any recommendations that the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants, or that may benefit Indian children or adults; and

(B) recommendations concerning the funding of any program described in subparagraph (A).

SEC. 1282. PEER REVIEW.

The Secretary may use a peer review process to review applications submitted to the Secretary under chapter B.

SEC. 1283. PREFERENCE FOR INDIAN APPLICANTS.

In making grants and entering into contracts or cooperative agreements under chapter B, the Secretary shall give a preference to Indian tribes, organizations, and institutions of higher education under any program with respect to which Indian tribes, organizations, and institutions are eligible to apply for grants, contracts, or cooperative agreements.

SEC. 1284. MINIMUM GRANT CRITERIA.

The Secretary may not approve an application for a grant, contract, or cooperative agreement under chapter B unless the application is for a grant, contract, or cooperative agreement that is—

- (1) of sufficient size, scope, and quality to achieve the purpose or objectives of such grant, contract, or cooperative agreement; and
- (2) based on relevant research findings.

CHAPTER D—DEFINITIONS

SEC. 1291. DEFINITIONS.

For the purposes of this subpart:

- (1) **ADULT.**—The term “adult” means an individual who—
- (A) has attained the age of 16 years; or
- (B) has attained an age that is greater than the age of compulsory school attendance under an applicable State law.
- (2) **ALASKA NATIVE.**—The term “Alaska Native” has the same meaning as the term “Native” has in section 3(b) of the Alaska Native Claims Settlement Act.
- (3) **FREE PUBLIC EDUCATION.**—The term “free public education” means education that is—
- (A) provided at public expense, under public supervision and direction, and without tuition charge; and
- (B) provided as elementary or secondary education in the applicable State or to preschool children.
- (4) **INDIAN.**—The term “Indian” means an individual who is—
- (A) a member of an Indian tribe or band, as membership is defined by the tribe or band, including—
- (i) any tribe or band terminated since 1940; and
- (ii) any tribe or band recognized by the State in which the tribe or band resides;
- (B) a descendant, in the first or second degree, of an individual described in subparagraph (A);
- (C) considered by the Secretary of the Interior to be an Indian for any purpose;
- (D) an Eskimo, Aleut, or other Alaska Native; or
- (E) a member of an organized Indian group that received a grant under the Indian Education Act of 1988 as in effect the day preceding the date of enactment of the Improving America’s Schools Act of 1994.

PART [E] B—NATIONAL ASSESSMENT OF TITLE I

SEC. [1501.] 1301. EVALUATIONS.

(a) NATIONAL ASSESSMENT OF TITLE I.—

- (1) **IN GENERAL.**—The Secretary, acting through the Director of the Institute of Education Sciences (in this section and section 1302 referred to as the “Director”), shall conduct a national assessment of the programs assisted under this title and the impact of this title on States, local educational agencies, schools, and students.
- (2) **ISSUES TO BE EXAMINED.**—In conducting the assessment under this subsection, the [Secretary] Director shall examine, at a minimum, the following:

(A) The implementation of programs assisted under this title and the impact of such implementation on increasing student academic achievement (particularly in schools with high concentrations of children living in poverty), relative to the goal of all students **【reaching the proficient level of achievement based on State academic assessments, challenging State academic content standards, and challenging State student academic achievement standards under section 1111.】** *graduating high school prepared for postsecondary education or the workforce.*

(B) The types of programs and services that have demonstrated the greatest likelihood of helping students **【reach the proficient and advanced levels of achievement based on State student academic achievement standards and State academic content standards.】** *meet State academic standards.*

* * * * *

【(D) Each State’s definition of adequate yearly progress, including—

【(i) the impact of applying this definition to schools, local educational agencies, and the State;

【(ii) the number of schools and local educational agencies not meeting this definition; and

【(iii) the changes in the identification of schools in need of improvement as a result of such definition.】

【(E) (D) How schools, local educational agencies, and States have—

(i) * * *

* * * * *

(v) used State educational agency and local educational agency funds and resources to **【help schools in which 50 percent or more of the students are from families with incomes below the poverty line meet the requirement described in section 1119 of having all teachers highly qualified not later than the end of the 2005–2006 school year.】** *address disparities in the percentages of effective teachers teaching in low-income schools.*

【(F) (E) The implementation of schoolwide programs and targeted assistance programs under this title and the impact of such programs on improving student academic achievement, including the extent to which schools meet the requirements of such programs.

【(G) The extent to which varying models of comprehensive school reform are funded and implemented under this title, and the effect of the implementation of such models on improving achievement of disadvantaged students.】

【(H) (F) The costs as compared to the benefits of the activities assisted under this title.

【(I) (G) The extent to which actions authorized under [section 1116] section 1111(b)(3)(B)(iii) are implemented by State educational agencies and local educational agencies to improve the academic achievement of students in

low-performing schools, and the effectiveness of the implementation of such actions[, including the following:

[(i)] The number of schools identified for school improvement and how many years the schools remain in this status.

[(ii)] The types of support provided by the State educational agencies and local educational agencies to schools and local educational agencies respectively identified as in need of improvement, and the impact of such support on student achievement.

[(iii)] The number of parents who take advantage of the public school choice provisions of this title, the costs (including transportation costs) associated with implementing these provisions, the implementation of these provisions, and the impact of these provisions (including the impact of attending another school) on student achievement.

[(iv)] The number of parents who choose to take advantage of the supplemental educational services option, the criteria used by the States to determine the quality of providers, the kinds of services that are available and utilized, the costs associated with implementing this option, and the impact of receiving supplemental educational services on student achievement.

[(v)] The implementation and impact of actions that are taken with regard to schools and local educational agencies identified for corrective action and restructuring.].

[(J)] (*H*) The extent to which State and local fiscal accounting requirements under this title affect the flexibility of schoolwide programs.

[(K)] (*I*) The implementation and impact of the professional development activities assisted under this title and title II on instruction, student academic achievement, and teacher [qualifications] *effectiveness*.

[(L)] (*J*) The extent to which the assistance made available under this title[, including funds under section 1002,] is targeted to disadvantaged students, schools, and local educational agencies with the greatest need.

[(M)] (*K*) The effectiveness of Federal administration assistance made available under this title, including monitoring and technical assistance.

[(N)] (*L*) The academic achievement of the groups of students described in [section 1111(b)(2)(C)(v)(II)] *section 1111(b)(3)(B)(ii)(II)*.

[(O)] (*M*) Such other issues as the [Secretary] *Director* considers appropriate.

(3) SOURCES OF INFORMATION.—In conducting the assessment under this subsection, the [Secretary] *Director* shall use information from a variety of sources, including the National Assessment of Educational Progress (carried out under section 303 of the National Assessment of Educational Progress Authorization Act), State evaluations, and other research studies.

(4) COORDINATION.—In carrying out this subsection, the **Secretary** *Director* shall—

(A) * * *

* * * * *

(5) DEVELOPMENTALLY APPROPRIATE MEASURES.—In conducting the national assessment under this subsection, the **Secretary** *Director* shall use developmentally appropriate measures to assess student academic achievement.

(6) REPORTS.—

(A) INTERIM REPORT.—Not later than 3 years after the date of enactment of the **No Child Left Behind Act of 2001** *Student Success Act*, the **Secretary** *Director* shall transmit to the President, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate an interim report on the national assessment conducted under this subsection.

(B) FINAL REPORT.—Not later than 5 years after the date of enactment of the **No Child Left Behind Act of 2001** *Student Success Act*, the **Secretary** *Director* shall transmit to the President, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate a final report on the national assessment conducted under this subsection.

(b) STUDIES AND DATA COLLECTION.—

(1) IN GENERAL.—In addition to other activities described in this section, the **Secretary** *Director* may, directly or through awarding grants to or entering into contracts with appropriate entities—

(A) * * *

* * * * *

(2) MINIMUM INFORMATION.—In carrying out this subsection, the **Secretary** *Director* shall collect, at a minimum, trend information on the effect of each program authorized under this title, which shall complement the data collected and reported under subsections (a) and (c).

(c) NATIONAL LONGITUDINAL STUDY.—

(1) IN GENERAL.—The **Secretary** *Director* shall conduct a longitudinal study of schools receiving assistance under **part A** *subpart 1 of part A*.

(2) ISSUES TO BE EXAMINED.—In carrying out this subsection, the **Secretary** *Director* shall ensure that the study referred to in paragraph (1) provides Congress and educators with each of the following:

(A) * * *

(B) Information that can be used to improve the effectiveness of the assistance made available under this title in enabling students to meet **challenging academic achievement standards** *State academic standards*.

* * * * *

(E) An analysis of the **effects of the availability of school choice options under section 1116 on the academic**

achievement of disadvantaged students, on schools in school improvement, and on schools from which students have transferred under such options.] *extent to which actions authorized under section 1111(b)(3)(B)(iii) improve the academic achievement of disadvantaged students and low-performing schools.*

(F) Such other information as the [Secretary] Director considers appropriate.

(3) SCOPE.—In conducting the study referred to in paragraph (1), the [Secretary] Director shall ensure that the study—

(A) * * *

* * * * *

[(C) analyzes varying models or strategies for delivering school services, including—

[(i) schoolwide and targeted services; and

[(ii) comprehensive school reform models.]

(C) *analyzes varying models or strategies for delivering school services, including schoolwide and targeted services.*

(d) INDEPENDENT REVIEW PANEL.—

(1) IN GENERAL.—The [Secretary] Director shall establish an independent review panel (in this subsection referred to as the “Review Panel”) to advise the [Secretary] Director on methodological and other issues that arise in carrying out subsections (a) and (c).

(2) APPOINTMENT OF MEMBERS.—

(A) IN GENERAL.—Subject to subparagraph (B), the [Secretary] Director shall appoint members of the Review Panel from among qualified individuals who are—

(i) * * *

* * * * *

(B) LIMITATIONS.—In appointing members of the Review Panel, the [Secretary] Director shall ensure that—

(i) * * *

* * * * *

(3) FUNCTIONS.—The Review Panel shall consult with and advise the [Secretary] Director—

(A) * * *

* * * * *

[SEC. 1502. DEMONSTRATIONS OF INNOVATIVE PRACTICES.

[(a) IN GENERAL.—From the funds appropriated for any fiscal year under section 1002(e)(1), the Secretary may award grants to State educational agencies, local educational agencies, other public agencies, nonprofit organizations, public or private partnerships involving business and industry organizations, and consortia of such entities to carry out demonstration projects that show the most promise of enabling children served under this title to meet challenging State academic content standards and challenging State student academic achievement standards.

[(b) EVALUATION.—The Secretary shall evaluate the demonstration projects supported under this title, using rigorous methodological designs and techniques, including control groups and random assignment, to the extent feasible, to produce reliable evidence of effectiveness.

[(c) PARTNERSHIPS.—From funds appropriated under section 1002(e)(1) for any fiscal year, the Secretary may, directly or through grants or contracts, work in partnership with State educational agencies, local educational agencies, other public agencies, and nonprofit organizations to disseminate and use the highest quality research and knowledge about effective practices to improve the quality of teaching and learning in schools assisted under this title.]

SEC. [1503.] 1302. ASSESSMENT EVALUATION.

(a) IN GENERAL.—The [Secretary] *Director* shall conduct an independent study of assessments used for State accountability purposes [and for making decisions about the promotion and graduation of students]. Such research shall be conducted over a period not to exceed 5 years and shall address the components described in subsection (d).

(b) CONTRACT AUTHORIZED.—The [Secretary] *Director* is authorized to award a contract, through a peer review [process,] *process consistent with section 1206*, to an organization or entity capable of conducting rigorous, independent research. The [Assistant Secretary of Educational Research and Improvement] *Director* shall appoint peer reviewers to evaluate the applications for this contract.

* * * * *

(d) COMPONENTS OF THE RESEARCH PROGRAM.—The study described in subsection (a) shall examine—

(1) the effect of the assessment and accountability systems described in section (c) on students, teachers, parents, families, schools, school districts, and States, including correlations between such systems and—

(A) student academic achievement, progress [to the State-defined level of proficiency] *toward meeting the State academic standards*, and progress toward closing achievement gaps, based on independent measures;

* * * * *

(C) changes in turnover rates among teachers, principals, and [pupil-services] *specialized instructional support services* personnel;

* * * * *

(3) the effect of the academic assessments on low, middle, and high socioeconomic status students, [limited and nonlimited English proficient students] *English learners*, racial and ethnic minority students, and nonracial or nonethnic minority students;

* * * * *

(6) such other factors as the [Secretary] *Director* finds appropriate.

* * * * *

(f) RESERVATION OF FUNDS.—The [Secretary] *Director* may reserve up to 15 percent of the funds [authorized to be appropriated for this part] *appropriated under section 3(a)(2)* to carry out the study, except such reservation of funds shall not exceed \$1,500,000.

[SEC. 1504. CLOSE UP FELLOWSHIP PROGRAM.**[(a) PROGRAM FOR MIDDLE SCHOOL AND SECONDARY SCHOOL STUDENTS.—****[(1) ESTABLISHMENT.—**

[(A) GENERAL AUTHORITY.—In accordance with this subsection, the Secretary may make grants to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing civic responsibility and understanding of the Federal Government among middle school and secondary school students.

[(B) USE OF FUNDS.—Grants under this subsection shall be used only to provide financial assistance to economically disadvantaged students who participate in the programs described in subparagraph (A).

[(C) NAME OF FELLOWSHIPS.—Financial assistance received by students pursuant to this subsection shall be known as Close Up fellowships.

[(2) APPLICATIONS.—

[(A) APPLICATION REQUIRED.—No grant under this subsection may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

[(B) CONTENTS OF APPLICATION.—Each application submitted under this paragraph shall contain assurances that—

[(i) Close Up fellowships provided under this subsection shall be made to economically disadvantaged middle school and secondary school students;

[(ii) every effort shall be made to ensure the participation of students from rural, small town, and urban areas;

[(iii) in awarding the fellowships to economically disadvantaged students, special consideration shall be given to the participation of those students with special educational needs, including students with disabilities, ethnic minority students, and students with migrant parents; and

[(iv) the funds received under this subsection shall be properly disbursed.

[(b) PROGRAM FOR MIDDLE SCHOOL AND SECONDARY SCHOOL TEACHERS.—**[(1) ESTABLISHMENT.—**

[(A) GENERAL AUTHORITY.—In accordance with this subsection, the Secretary may make grants to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of professional development for middle school and secondary school teachers and its programs to increase civic responsibility and understanding of the Federal Government among the teachers' students.

[(B) USE OF FUNDS.—Grants under this subsection shall be used only to provide financial assistance to teachers

who participate in the programs described in subparagraph (A).

[(C) NAME OF FELLOWSHIPS.—Financial assistance received by teachers pursuant to this subsection shall be known as Close Up fellowships.

[(2) APPLICATIONS.—

[(A) APPLICATION REQUIRED.—No grant under this subsection may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

[(B) CONTENTS OF APPLICATION.—Each application submitted under this paragraph shall contain assurances that—

[(i) Close Up fellowships provided under this subsection shall be made only to a teacher who has worked with at least one student from such teacher's school who participates in a program described in subsection (a)(1)(A);

[(ii) no teacher shall receive more than one such fellowship in any fiscal year; and

[(iii) the funds received under this subsection shall be properly disbursed.

[(c) PROGRAMS FOR NEW AMERICANS.—

[(1) ESTABLISHMENT.—

[(A) GENERAL AUTHORITY.—In accordance with this subsection, the Secretary may make grants to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing civic responsibility and understanding of the Federal Government among economically disadvantaged middle school and secondary school recent immigrant students.

[(B) DEFINITION.—In this subsection, the term “recent immigrant student” means a student who is a member of a family that immigrated to the United States within 5 years of the student's participation in such a program.

[(C) USE OF FUNDS.—Grants under this subsection shall be used only to provide financial assistance to economically disadvantaged recent immigrant students and their teachers who participate in the programs described in subparagraph (A).

[(D) NAME OF FELLOWSHIPS.—Financial assistance received by students and teachers pursuant to this subsection shall be known as Close Up Fellowships for New Americans.

[(2) APPLICATIONS.—

[(A) APPLICATION REQUIRED.—No grant under this subsection may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

[(B) CONTENTS OF APPLICATION.—Each application submitted under this paragraph shall contain assurances that—

[(i) Close Up Fellowships for New Americans shall be made to economically disadvantaged middle school and secondary school recent immigrant students;

[(ii) every effort shall be made to ensure the participation of recent immigrant students from rural, small town, and urban areas;

[(iii) in awarding the fellowships to economically disadvantaged recent immigrant students, special consideration shall be given to the participation of those students with special educational needs, including students with disabilities, students with migrant parents, and ethnic minority students;

[(iv) fully describe the activities to be carried out with the proceeds of the grant made under paragraph (1); and

[(v) the funds received under this subsection shall be properly disbursed.

[(d) GENERAL PROVISIONS.—

[(1) ADMINISTRATIVE PROVISIONS.—

[(A) ACCOUNTABILITY.—In consultation with the Secretary, the Close Up Foundation shall devise and implement procedures to measure the efficacy of the programs authorized in subsections (a), (b), and (c) in attaining objectives that include the following:

[(i) Providing young people with an increased understanding of the Federal Government.

[(ii) Heightening a sense of civic responsibility among young people.

[(iii) Enhancing the skills of educators in teaching young people about civic responsibility, the Federal Government, and attaining citizenship competencies.

[(B) GENERAL RULE.—Payments under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayments or overpayments.

[(C) AUDIT RULE.—The Comptroller General of the United States or any of the Comptroller General's duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grant under this section.

[(2) CONTINUATION OF AWARDS.—Notwithstanding any other provision of this Act, any person or entity that was awarded a grant under part G of title X before the date of enactment of the No Child Left Behind Act of 2001 shall continue to receive funds in accordance with the terms of such award until the date on which the award period terminates under such terms.

[PART I—GENERAL PROVISIONS

[SEC. 1901. FEDERAL REGULATIONS.

[(a) IN GENERAL.—The Secretary may issue such regulations as are necessary to reasonably ensure that there is compliance with this title.

[(b) NEGOTIATED RULEMAKING PROCESS.—

[(1) IN GENERAL.—Before publishing in the Federal Register proposed regulations to carry out this title, the Secretary shall obtain the advice and recommendations of representatives of Federal, State, and local administrators, parents, teachers, paraprofessionals, and members of local school boards and other organizations involved with the implementation and operation of programs under this title.

[(2) MEETINGS AND ELECTRONIC EXCHANGE.—Such advice and recommendations may be obtained through such mechanisms as regional meetings and electronic exchanges of information.

[(3) PROPOSED REGULATIONS.—After obtaining such advice and recommendations, and before publishing proposed regulations, the Secretary shall—

[(A) establish a negotiated rulemaking process on, at a minimum, standards and assessments;

[(B) select individuals to participate in such process from among individuals or groups that provided advice and recommendations, including representation from all geographic regions of the United States, in such numbers as will provide an equitable balance between representatives of parents and students and representatives of educators and education officials; and

[(C) prepare a draft of proposed policy options that shall be provided to the individuals selected by the Secretary under subparagraph (B) not less than 15 days before the first meeting under such process.

[(4) PROCESS.—Such process—

[(A) shall be conducted in a timely manner to ensure that final regulations are issued by the Secretary not later than 1 year after the date of enactment of the No Child Left Behind Act of 2001; and

[(B) shall not be subject to the Federal Advisory Committee Act, but shall otherwise follow the provisions of the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561 et seq.).

[(5) EMERGENCY SITUATION.—In an emergency situation in which regulations to carry out this title must be issued within a very limited time to assist State educational agencies and local educational agencies with the operation of a program under this title, the Secretary may issue proposed regulations without following such process but shall, immediately thereafter and before issuing final regulations, conduct regional meetings to review such proposed regulations.

[(c) LIMITATION.—Regulations to carry out this part may not require local programs to follow a particular instructional model, such as the provision of services outside the regular classroom or school program.

[SEC. 1902. AGREEMENTS AND RECORDS.

[(a) AGREEMENTS.—All published proposed regulations shall conform to agreements that result from negotiated rulemaking described in section 1901 unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants involved in the process explaining why the Secretary decided to depart from, and not adhere to, such agreements.

[(b) RECORDS.—The Secretary shall ensure that an accurate and reliable record of agreements reached during the negotiations process is maintained.

[SEC. 1903. STATE ADMINISTRATION.

[(a) RULEMAKING.—

[(1) IN GENERAL.—Each State that receives funds under this title shall—

[(A) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title and provide any such proposed rules, regulations, and policies to the committee of practitioners created under subsection (b) for review and comment;

[(B) minimize such rules, regulations, and policies to which the State's local educational agencies and schools are subject;

[(C) eliminate or modify State and local fiscal accounting requirements in order to facilitate the ability of schools to consolidate funds under schoolwide programs; and

[(D) identify any such rule, regulation, or policy as a State-imposed requirement.

[(2) SUPPORT AND FACILITATION.—State rules, regulations, and policies under this title shall support and facilitate local educational agency and school-level systemic reform designed to enable all children to meet the challenging State student academic achievement standards.

[(b) COMMITTEE OF PRACTITIONERS.—

[(1) IN GENERAL.—Each State educational agency that receives funds under this title shall create a State committee of practitioners to advise the State in carrying out its responsibilities under this title.

[(2) MEMBERSHIP.—Each such committee shall include—

[(A) as a majority of its members, representatives from local educational agencies;

[(B) administrators, including the administrators of programs described in other parts of this title;

[(C) teachers, including vocational educators;

[(D) parents;

[(E) members of local school boards;

[(F) representatives of private school children; and

[(G) pupil services personnel.

[(3) DUTIES.—The duties of such committee shall include a review, before publication, of any proposed or final State rule or regulation pursuant to this title. In an emergency situation where such rule or regulation must be issued within a very limited time to assist local educational agencies with the operation of the program under this title, the State educational agency may issue a regulation without prior consultation, but shall immediately thereafter convene the State committee of practitioners to review the emergency regulation before issuance in final form.

[SEC. 1904. LOCAL EDUCATIONAL AGENCY SPENDING AUDITS.

[(a) AUDITS.—The Comptroller General of the United States shall conduct audits of not less than 6 local educational agencies that receive funds under part A in each fiscal year to determine

more clearly and specifically how local educational agencies are expending such funds. Such audits—

[(1) shall be conducted in 6 local educational agencies that represent the size, ethnic, economic, and geographic diversity of local educational agencies; and

[(2) shall examine the extent to which funds have been expended for academic instruction in the core curriculum and activities unrelated to academic instruction in the core curriculum, such as the payment of janitorial, utility, and other maintenance services, the purchase and lease of vehicles, and the payment for travel and attendance costs at conferences.

[(b) REPORT.—Not later than 3 months after the completion of the audits under subsection (a) each year, the Comptroller General of the United States shall submit a report on each audit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate.

[SEC. 1905. PROHIBITION AGAINST FEDERAL MANDATES, DIRECTION, OR CONTROL.

[Nothing in this title shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction.

[SEC. 1906. RULE OF CONSTRUCTION ON EQUALIZED SPENDING.

Nothing in this title shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

[SEC. 1907. STATE REPORT ON DROPOUT DATA.

[Not later than 1 year after a State educational agency receives funds under this title, the agency shall report to the Secretary and statewide, all school district data regarding annual school dropout rates in the State disaggregated by race and ethnicity according to procedures that conform with the National Center for Education Statistics' Common Core of Data.

[SEC. 1908. REGULATIONS FOR SECTIONS 1111 AND 1116.

[The Secretary shall issue regulations for sections 1111 and 1116 not later than 6 months after the date of enactment of the No Child Left Behind Act of 2001.]

PART C—GENERAL PROVISIONS

SEC. 1401. FEDERAL REGULATIONS.

(a) IN GENERAL.—The Secretary may, in accordance with subsections (b) through (d), issue such regulations as are necessary to reasonably ensure there is compliance with this title.

(b) NEGOTIATED RULEMAKING PROCESS.—

(1) IN GENERAL.—Before publishing in the Federal Register proposed regulations to carry out this title, the Secretary shall obtain the advice and recommendations of representatives of Federal, State, and local administrators, parents, teachers, and members of local school boards and other organizations involved with the implementation and operation of programs under this title.

(2) *MEETINGS AND ELECTRONIC EXCHANGE.*—Such advice and recommendations may be obtained through such mechanisms as regional meetings and electronic exchanges of information.

(3) *PROPOSED REGULATIONS.*—After obtaining such advice and recommendations, and before publishing proposed regulations, the Secretary shall—

(A) establish a negotiated rulemaking process;

(B) select individuals to participate in such process from among individuals or groups that provided advice and recommendations, including representation from all geographic regions of the United States, in such numbers as will provide an equitable balance between representatives of parents and students and representatives of educators and education officials; and

(C) prepare a draft of proposed policy options that shall be provided to the individuals selected by the Secretary under subparagraph (B) not less than 15 days before the first meeting under such process.

(c) *PROPOSED RULEMAKING.*—If the Secretary determines that a negotiated rulemaking process is unnecessary or the individuals selected to participate in the process under paragraph (3)(B) fail to reach unanimous agreement, the Secretary may propose regulations under the following procedure:

(1) Not less than 30 days prior to beginning a rulemaking process, the Secretary shall provide to Congress, including the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, notice that shall include—

(A) a copy of the proposed regulations;

(B) the need to issue regulations;

(C) the anticipated burden the regulations will have on State educational agencies, local educational agencies, schools, and other entities that may be impacted by the regulations; and

(D) any regulations that will be repealed when the new regulations are issued.

(2) 30 days after giving notice of the proposed rule to Congress, the Secretary may proceed with the rulemaking process after addressing all comments received from the Congress and publishing how such comments are addressed with the proposed rule.

(3) The comment and review period for any proposed regulation shall be 90 days unless an emergency requires a shorter period, in which case such period shall be not less than 45 days and the Secretary shall—

(A) designate the proposed regulation as an emergency with an explanation of the emergency in the notice and report to Congress under paragraph (1); and

(B) publish the length of the comment and review period in such notice and in the Federal Register.

(4) No regulation shall be made final after the comment and review period until the Secretary has published in the Federal Register an independent assessment of—

(A) the burden, including the cost burden, the regulation will impose on State educational agencies, local edu-

ational agencies, schools and other entities that may be impacted by the regulation; and

(B) an explanation of how the entities described in subparagraph (A) may pay for implementing the new regulation.

(d) *LIMITATION.*—Regulations to carry out this title may not require local programs to follow a particular instructional model, such as the provision of services outside the regular classroom or school program.

SEC. 1402. AGREEMENTS AND RECORDS.

(a) *AGREEMENTS.*—In the case in which a negotiated rule making process is established under subsection (b) of section 1401, all published proposed regulations shall conform to agreements that result from the rulemaking described in section 1401 unless the Secretary reopens the negotiated rulemaking process.

(b) *RECORDS.*—The Secretary shall ensure that an accurate and reliable record of agreements reached during the negotiations process is maintained.

SEC. 1403. STATE ADMINISTRATION.

(a) *RULEMAKING.*—

(1) *IN GENERAL.*—Each State that receives funds under this title shall—

(A) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title and provide any such proposed rules, regulations, and policies to the committee of practitioners created under subsection (b) for review and comment;

(B) minimize such rules, regulations, and policies to which the State's local educational agencies and schools are subject;

(C) eliminate or modify State and local fiscal accounting requirements in order to facilitate the ability of schools to consolidate funds under schoolwide programs;

(D) identify any such rule, regulation, or policy as a State-imposed requirement; and

(E)(i) identify any duplicative or contrasting requirements between the State and Federal rules or regulations;

(ii) eliminate the rules and regulations that are duplicative of Federal requirements; and

(iii) report any conflicting requirements to the Secretary and determine which Federal or State rule or regulation shall be followed.

(2) *SUPPORT AND FACILITATION.*—State rules, regulations, and policies under this title shall support and facilitate local educational agency and school-level systemic reform designed to enable all children to meet the State academic standards.

(b) *COMMITTEE OF PRACTITIONERS.*—

(1) *IN GENERAL.*—Each State educational agency that receives funds under this title shall create a State committee of practitioners to advise the State in carrying out its responsibilities under this title.

(2) *MEMBERSHIP.*—Each such committee shall include—

(A) as a majority of its members, representatives from local educational agencies;

(B) administrators, including the administrators of programs described in other parts of this title;

(C) teachers from public charter schools, traditional public schools, and career and technical educators;

(D) parents;

(E) members of local school boards;

(F) representatives of private school children; and

(G) specialized instructional support personnel.

(3) *DUTIES.*—The duties of such committee shall include a review, before publication, of any proposed or final State rule or regulation pursuant to this title. In an emergency situation where such rule or regulation must be issued within a very limited time to assist local educational agencies with the operation of the program under this title, the State educational agency may issue a regulation without prior consultation, but shall immediately thereafter convene the State committee of practitioners to review the emergency regulation before issuance in final form.

SEC. 1404. RULE OF CONSTRUCTION ON EQUALIZED SPENDING.

Nothing in this title shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

[PART F—COMPREHENSIVE SCHOOL REFORM

[SEC. 1601. PURPOSE.

[The purpose of this part is to provide financial incentives for schools to develop comprehensive school reforms, based upon scientifically based research and effective practices that include an emphasis on basic academics and parental involvement so that all children can meet challenging State academic content and academic achievement standards.

[SEC. 1602. PROGRAM AUTHORIZATION.

[(a) PROGRAM AUTHORIZED.—

[(1) IN GENERAL.—The Secretary is authorized to award grants to State educational agencies, from allotments under paragraph (2), to enable the State educational agencies to award subgrants to local educational agencies to carry out the purpose described in section 1601.

[(2) ALLOTMENTS.—

[(A) RESERVATIONS.—Of the amount appropriated under section 1002(f), the Secretary may reserve—

[(i) not more than 1 percent for each fiscal year to provide assistance to schools supported by the Bureau of Indian Affairs and in the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands according to their respective needs for assistance under this part;

[(ii) not more than 1 percent for each fiscal year to conduct national evaluation activities described in section 1607; and

[(iii) not more than 3 percent of the amount appropriated in fiscal year 2002 to carry out this part, for quality initiatives described in section 1608.

[(B) IN GENERAL.—Of the amount appropriated under section 1002(f) that remains after making the reservation under subparagraph (A) for a fiscal year, the Secretary shall allot to each State for the fiscal year an amount that bears the same ratio to the remainder for that fiscal year as the amount made available under section 1124 to the State for the preceding fiscal year bears to the total amount made available under section 1124 to all States for that year.

[(C) REALLOTMENT.—If a State does not apply for funds under this section, the Secretary shall reallocate such funds to other States that do apply in proportion to the amount allotted to such other States under subparagraph (B).

[SEC. 1603. STATE APPLICATIONS.

[(a) IN GENERAL.—Each State educational agency that desires to receive a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

[(b) CONTENTS.—Each such application shall describe—

[(1) the process and selection criteria by which the State educational agency, using expert review, will select local educational agencies to receive subgrants under this part;

[(2) how the State educational agency will ensure that funds under this part are limited to comprehensive school reform programs that—

[(A) include each of the components described in section 1606(a);

[(B) have the capacity to improve the academic achievement of all students in core academic subjects within participating schools; and

[(C) are supported by technical assistance providers that have a successful track record, financial stability, and the capacity to deliver high quality materials, professional development for school personnel, and on-site support during the full implementation period of the reforms;

[(3) how the State educational agency will disseminate materials and information on comprehensive school reforms that are based on scientifically based research and effective practices;

[(4) how the State educational agency will evaluate annually the implementation of such reforms and measure the extent to which the reforms have resulted in increased student academic achievement; and

[(5) how the State educational agency will provide technical assistance to the local educational agency or consortia of local educational agencies, and to participating schools, in evaluating, developing, and implementing comprehensive school reform.

[SEC. 1604. STATE USE OF FUNDS.

[(a) IN GENERAL.—Except as provided in subsection (e), a State educational agency that receives a grant under this part shall use the grant funds to award subgrants, on a competitive basis, to local educational agencies or consortia of local educational agencies in the State that receive funds under part A, to support comprehen-

sive school reforms in schools that are eligible for funds under part A.

[(b) SUBGRANT REQUIREMENTS.—A subgrant to a local educational agency or consortium shall be—

[(1) of sufficient size and scope to support the initial costs of comprehensive school reforms selected or designed by each school identified in the application of the local educational agency or consortium;

[(2) in an amount not less than \$50,000—

[(A) for each participating school; or

[(B) for each participating consortium of small schools (which for purposes of this subparagraph means a consortium of small schools serving a total of not more than 500 students); and

[(3) renewable for two additional 1-year subgrant periods after the initial 1-year subgrant is made if the school is or the schools are making substantial progress in the implementation of reforms.

[(c) PRIORITY.—A State educational agency, in awarding subgrants under this part, shall give priority to local educational agencies or consortia that—

[(1) plan to use the funds in schools identified as being in need of improvement or corrective action under section 1116(c); and

[(2) demonstrate a commitment to assist schools with budget allocation, professional development, and other strategies necessary to ensure the comprehensive school reforms are properly implemented and are sustained in the future.

[(d) GRANT CONSIDERATION.—In awarding subgrants under this part, the State educational agency shall take into consideration the equitable distribution of subgrants to different geographic regions within the State, including urban and rural areas, and to schools serving elementary and secondary students.

[(e) ADMINISTRATIVE COSTS.—A State educational agency that receives a grant under this part may reserve not more than 5 percent of the grant funds for administrative, evaluation, and technical assistance expenses.

[(f) SUPPLEMENT.—Funds made available under this part shall be used to supplement, and not supplant, any other Federal, State, or local funds that would otherwise be available to carry out the activities assisted under this part.

[(g) REPORTING.—Each State educational agency that receives a grant under this part shall provide to the Secretary such information as the Secretary may require, including the names of local educational agencies and schools receiving assistance under this part, the amount of the assistance, a description of the comprehensive school reforms selected and used, and a copy of the State's annual evaluation of the implementation of comprehensive school reforms supported under this part and the student achievement results.

[SEC. 1605. LOCAL APPLICATIONS.

[(a) IN GENERAL.—Each local educational agency or consortium of local educational agencies desiring a subgrant under this part shall submit an application to the State educational agency at such

time, in such manner, and containing such information as the State educational agency may reasonably require.

[(b) CONTENTS.—Each such application shall—

[(1) identify the schools that are eligible for assistance under part A and plan to implement a comprehensive school reform program, including the projected costs of such a program;

[(2) describe the comprehensive school reforms based on scientifically based research and effective practices that such schools will implement;

[(3) describe how the local educational agency or consortium will provide technical assistance and support for the effective implementation of the comprehensive school reforms based on scientifically based research and effective practices selected by such schools; and

[(4) describe how the local educational agency or consortium will evaluate the implementation of such comprehensive school reforms and measure the results achieved in improving student academic achievement.

[(SEC. 1606. LOCAL USE OF FUNDS.

[(a) USES OF FUNDS.—A local educational agency or consortium that receives a subgrant under this part shall provide the subgrant funds to schools that are eligible for assistance under part A and served by the agency, to enable the schools to implement a comprehensive school reform program that—

[(1) employs proven strategies and proven methods for student learning, teaching, and school management that are based on scientifically based research and effective practices and have been replicated successfully in schools;

[(2) integrates a comprehensive design for effective school functioning, including instruction, assessment, classroom management, professional development, parental involvement, and school management, that aligns the school's curriculum, technology, and professional development into a comprehensive school reform plan for schoolwide change designed to enable all students to meet challenging State content and student academic achievement standards and addresses needs identified through a school needs assessment;

[(3) provides high quality and continuous teacher and staff professional development;

[(4) includes measurable goals for student academic achievement and benchmarks for meeting such goals;

[(5) is supported by teachers, principals, administrators, school personnel staff, and other professional staff;

[(6) provides support for teachers, principals, administrators, and other school staff;

[(7) provides for the meaningful involvement of parents and the local community in planning, implementing, and evaluating school improvement activities consistent with section 1118;

[(8) uses high quality external technical support and assistance from an entity that has experience and expertise in schoolwide reform and improvement, which may include an institution of higher education;

[(9) includes a plan for the annual evaluation of the implementation of school reforms and the student results achieved;

[(10) identifies other resources, including Federal, State, local, and private resources, that shall be used to coordinate services that will support and sustain the comprehensive school reform effort; and

[(11)(A) has been found, through scientifically based research to significantly improve the academic achievement of students participating in such program as compared to students in schools who have not participated in such program; or

[(B) has been found to have strong evidence that such program will significantly improve the academic achievement of participating children.

[(b) SPECIAL RULE.—A school that receives funds to develop a comprehensive school reform program shall not be limited to using nationally available approaches, but may develop the school's own comprehensive school reform program for schoolwide change as described in subsection (a).

[SEC. 1607. EVALUATION AND REPORTS.

[(a) IN GENERAL.—The Secretary shall develop a plan for a national evaluation of the programs assisted under this part.

[(b) EVALUATION.—The national evaluation shall—

[(1) evaluate the implementation and results achieved by schools after 3 years of implementing comprehensive school reforms; and

[(2) assess the effectiveness of comprehensive school reforms in schools with diverse characteristics.

[(c) REPORTS.—The Secretary shall submit a report describing the results of the evaluation under subsection (b) for the Comprehensive School Reform Program to the Committee on Education and the Workforce, and the Committee on Appropriations of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate.

[SEC. 1608. QUALITY INITIATIVES.

[The Secretary, through grants or contracts, shall provide funds for—

[(1) a public-private effort, in which funds are matched by private organizations, to assist States, local educational agencies, and schools, in making informed decisions regarding approving or selecting providers of comprehensive school reform, consistent with the requirements described in section 1606(a); and

[(2) activities to foster the development of comprehensive school reform models and to provide effective capacity building for comprehensive school reform providers to expand their work in more schools, assure quality, and promote financial stability.

[PART G—ADVANCED PLACEMENT PROGRAMS

[SEC. 1701. SHORT TITLE.

[This part may be cited as the “Access to High Standards Act”.

[SEC. 1702. PURPOSES.

[The purposes of this part are—

[(1) to support State and local efforts to raise academic standards through advanced placement programs, and thus further increase the number of students who participate and succeed in advanced placement programs;

[(2) to encourage more of the 600,000 students who take advanced placement courses each year but do not take advanced placement exams each year, to demonstrate their achievements through taking the exams;

[(3) to build on the many benefits of advanced placement programs for students, which benefits may include the acquisition of skills that are important to many employers, Scholastic Aptitude Test (SAT) scores that are 100 points above the national averages, and the achievement of better grades in secondary school and in college than the grades of students who have not participated in the programs;

[(4) to increase the availability and broaden the range of schools, including middle schools, that have advanced placement and pre-advanced placement programs;

[(5) to demonstrate that larger and more diverse groups of students can participate and succeed in advanced placement programs;

[(6) to provide greater access to advanced placement and pre-advanced placement courses and highly trained teachers for low-income and other disadvantaged students;

[(7) to provide access to advanced placement courses for secondary school students at schools that do not offer advanced placement programs, increase the rate at which secondary school students participate in advanced placement courses, and increase the numbers of students who receive advanced placement test scores for which college academic credit is awarded;

[(8) to increase the participation of low-income individuals in taking advanced placement tests through the payment or partial payment of the costs of the advanced placement test fees; and

[(9) to increase the number of individuals that achieve a baccalaureate or advanced degree, and to decrease the amount of time such individuals require to attain such degrees.

[SEC. 1703. FUNDING DISTRIBUTION RULE.

[From amounts appropriated under section 1002(g) for a fiscal year, the Secretary shall give priority to funding activities under section 1704 and shall distribute any remaining funds under section 1705.

[SEC. 1704. ADVANCED PLACEMENT TEST FEE PROGRAM.

[(a) GRANTS AUTHORIZED.—From amounts made available under section 1703 for a fiscal year, the Secretary shall award grants to State educational agencies having applications approved under this section to enable the State educational agencies to reimburse low-income individuals to cover part or all of the costs of advanced placement test fees, if the low-income individuals—

[(1) are enrolled in an advanced placement course; and

[(2) plan to take an advanced placement test.

[(b) AWARD BASIS.—In determining the amount of the grant awarded to a State educational agency under this section for a fiscal year, the Secretary shall consider the number of children eligi-

ble to be counted under section 1124(c) in the State in relation to the number of such children so counted in all the States.

[(c) INFORMATION DISSEMINATION.—A State educational agency awarded a grant under this section shall disseminate information regarding the availability of advanced placement test fee payments under this section to eligible individuals through secondary school teachers and guidance counselors.

[(d) APPLICATIONS.—Each State educational agency desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. At a minimum, each State educational agency application shall—

[(1) describe the advanced placement test fees the State educational agency will pay on behalf of low-income individuals in the State from grant funds awarded under this section;

[(2) provide an assurance that any grant funds awarded under this section shall be used only to pay for advanced placement test fees; and

[(3) contain such information as the Secretary may require to demonstrate that the State educational agency will ensure that a student is eligible for payments authorized under this section, including documentation required under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965.

[(e) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out this section.

[(f) REPORT.—

[(1) IN GENERAL.—Each State educational agency awarded a grant under this section shall, with respect to each advanced placement subject, annually report to the Secretary on—

[(A) the number of students in the State who are taking an advanced placement course in that subject;

[(B) the number of advanced placement tests taken by students in the State who have taken an advanced placement course in that subject;

[(C) the number of students in the State scoring at different levels on advanced placement tests in that subject; and

[(D) demographic information regarding individuals in the State taking advanced placement courses and tests in that subject disaggregated by race, ethnicity, sex, English proficiency status, and socioeconomic status.

[(2) REPORT TO CONGRESS.—The Secretary shall annually compile the information received from each State educational agency under paragraph (1) and report to the appropriate committees of Congress regarding the information.

[(g) BIA AS SEA.—For purposes of this section the Bureau of Indian Affairs shall be treated as a State educational agency.

SEC. 1705. ADVANCED PLACEMENT INCENTIVE PROGRAM GRANTS.

[(a) GRANTS AUTHORIZED.—

[(1) IN GENERAL.—From amounts made available under section 1703 for a fiscal year, the Secretary shall award grants, on a competitive basis, to eligible entities to enable those entities to carry out the authorized activities described in subsection (d).

[(2) DURATION AND PAYMENTS.—

[(A) DURATION.—The Secretary shall award a grant under this section for a period of not more than 3 years.

[(B) PAYMENTS.—The Secretary shall make grant payments under this section on an annual basis.

[(3) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term “eligible entity” means a State educational agency, local educational agency, or national nonprofit educational entity with expertise in advanced placement services.

[(b) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

[(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to an eligible entity that submits an application under subsection (b) that—

[(1) demonstrates a pervasive need for access to advanced placement incentive programs;

[(2) provides for the involvement of business and community organizations in the activities to be assisted;

[(3) assures the availability of matching funds from State, local, or other sources to pay for the cost of activities to be assisted;

[(4) demonstrates a focus on developing or expanding advanced placement programs and participation in the core academic areas of English, mathematics, and science;

[(5) demonstrates an intent to carry out activities that target—

[(A) local educational agencies serving schools with a high concentration of low-income students; or

[(B) schools with a high concentration of low-income students; and

[(6) in the case of a local educational agency, assures that the local educational agency serves schools with a high concentration of low-income students; or

[(7) demonstrates an intent to carry out activities to increase the availability of, and participation in, on-line advanced placement courses.

[(d) AUTHORIZED ACTIVITIES.—

[(1) IN GENERAL.—Subject to paragraph (2), an eligible entity shall use grant funds made available under this section to expand access for low-income individuals to advanced placement incentive programs that involve—

[(A) teacher training;

[(B) pre-advanced placement course development;

[(C) coordination and articulation between grade levels to prepare students for academic achievement in advanced placement courses;

[(D) books and supplies; or

[(E) activities to increase the availability of, and participation in, on-line advanced placement courses; or

[(F) any other activity directly related to expanding access to and participation in advanced placement incentive programs, particularly for low-income individuals.

[(2) STATE EDUCATIONAL AGENCY.—In the case of an eligible entity that is a State educational agency, the entity may use grant funds made available under this section to award subgrants to local educational agencies to enable the local educational agencies to carry out the activities under paragraph (1).

[(e) CONTRACTS.—An eligible entity awarded a grant to provide online advanced placement courses under this part may enter into a contract with a nonprofit or for profit organization to provide the online advanced placement courses, including contracting for necessary support services.

[(f) DATA COLLECTION AND REPORTING.—

[(1) DATA COLLECTION.—Each eligible entity awarded a grant under this section shall, with respect to each advanced placement subject, annually report to the Secretary on—

[(A) the number of students served by the eligible entity who are taking an advanced placement course in that subject;

[(B) the number of advanced placement tests taken by students served by the eligible entity in that subject;

[(C) the number of students served by the eligible entity scoring at different levels on advanced placement tests in that subject; and

[(D) demographic information regarding individuals served by such agency who taking advanced placement courses and tests in that subject disaggregated by race, ethnicity, sex, English proficiency status, and socioeconomic status.

[(2) REPORT.—The Secretary shall annually compile the information received from each eligible entity under paragraph (1) and report to the appropriate committees of Congress regarding the information.

[SEC. 1706. SUPPLEMENT, NOT SUPPLANT.

[Grant funds provided under this part shall supplement, and not supplant, other non-Federal funds that are available to assist low-income individuals to pay for the cost of advanced placement test fees or to expand access to advanced placement and pre-advanced placement courses.

[SEC. 1707. DEFINITIONS.

[In this part:

[(1) ADVANCED PLACEMENT TEST.—The term “advanced placement test” means an advanced placement test administered by the College Board or approved by the Secretary.

[(2) HIGH CONCENTRATION OF LOW-INCOME STUDENTS.—The term “high concentration of low-income students”, used with respect to a school, means a school that serves a student population 40 percent or more of whom are low-income individuals.

[(3) LOW-INCOME INDIVIDUAL.—The term “low-income individual” means an individual who is determined by a State educational agency or local educational agency to be a child, ages 5 through 19, from a low-income family, on the basis of data used by the Secretary to determine allocations under section 1124 of this Act, data on children eligible for free or reduced-price lunches under the National School Lunch Act, data on

children in families receiving assistance under part A of title IV of the Social Security Act, or data on children eligible to receive medical assistance under the medicaid program under title XIX of the Social Security Act, or through an alternate method that combines or extrapolates from those data.

[PART H—SCHOOL DROPOUT PREVENTION

[SEC. 1801. SHORT TITLE.

【This part may be cited as the “Dropout Prevention Act”.

[SEC. 1802. PURPOSE.

【The purpose of this part is to provide for school dropout prevention and reentry and to raise academic achievement levels by providing grants that—

【(1) challenge all children to attain their highest academic potential; and

【(2) ensure that all students have substantial and ongoing opportunities to attain their highest academic potential through schoolwide programs proven effective in school dropout prevention and reentry.

[SEC. 1803. AUTHORIZATION OF APPROPRIATIONS.

【For the purpose of carrying out this part, there are authorized to be appropriated \$125,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years, of which—

【(1) 10 percent shall be available to carry out subpart 1 for each fiscal year; and

【(2) 90 percent shall be available to carry out subpart 2 for each fiscal year.

[Subpart 1—Coordinated National Strategy

[SEC. 1811. NATIONAL ACTIVITIES.

【(a) IN GENERAL.—The Secretary is authorized—

【(1) to collect systematic data on the effectiveness of the programs assisted under this part in reducing school dropout rates and increasing school reentry and secondary school graduation rates;

【(2) to establish a national clearinghouse of information on effective school dropout prevention and reentry programs that shall disseminate to State educational agencies, local educational agencies, and schools—

【(A) the results of research on school dropout prevention and reentry; and

【(B) information on effective programs, best practices, and Federal resources to—

【(i) reduce annual school dropout rates;

【(ii) increase school reentry; and

【(iii) increase secondary school graduation rates;

【(3) to provide technical assistance to State educational agencies, local educational agencies, and schools in designing and implementing programs and securing resources to implement effective school dropout prevention and reentry programs;

[(4) to establish and consult with an interagency working group that shall—

[(A) address inter- and intra-agency program coordination issues at the Federal level with respect to school dropout prevention and reentry, and assess the targeting of existing Federal services to students who are most at risk of dropping out of school, and the cost-effectiveness of various programs and approaches used to address school dropout prevention and reentry;

[(B) describe the ways in which State educational agencies and local educational agencies can implement effective school dropout prevention and reentry programs using funds from a variety of Federal programs, including the programs under this part; and

[(C) examine Federal programs that may have a positive impact on secondary school graduation or school reentry;

[(5) to carry out a national recognition program in accordance with subsection (b) that recognizes schools that have made extraordinary progress in lowering school dropout rates; and

[(6) to use funds made available for this subpart to carry out the evaluation required under section 1830(c).

[(b) RECOGNITION PROGRAM.—

[(1) ESTABLISHMENT.—The Secretary shall—

[(A) establish a national recognition program; and

[(B) develop uniform national guidelines for the recognition program that shall be used to recognize eligible schools from nominations submitted by State educational agencies.

[(2) RECOGNITION.—The Secretary shall recognize, under the recognition program established under paragraph (1), eligible schools.

[(3) SUPPORT.—The Secretary may make monetary awards to an eligible school recognized under this subsection in amounts determined appropriate by the Secretary that shall be used for dissemination activities within the eligible school district or nationally.

[(4) DEFINITION OF ELIGIBLE SCHOOL.—In this subsection, the term “eligible school” means a public middle school or secondary school, including a charter school, that has implemented comprehensive reforms that have been effective in lowering school dropout rates for all students—

[(A) in that secondary school or charter school; or

[(B) in the case of a middle school, in the secondary school that the middle school feeds students into.

[(c) CAPACITY BUILDING.—

[(1) IN GENERAL.—The Secretary, through a contract with one or more non-Federal entities, may conduct a capacity building and design initiative in order to increase the types of proven strategies for school dropout prevention and reentry that address the needs of an entire school population rather than a subset of students.

[(2) NUMBER AND DURATION.—

[(A) NUMBER.—The Secretary may award not more than five contracts under this subsection.

[(B) DURATION.—The Secretary may award a contract under this subsection for a period of not more than 5 years.

[(d) SUPPORT FOR EXISTING REFORM NETWORKS.—

[(1) IN GENERAL.—The Secretary may provide appropriate support to eligible entities to enable the eligible entities to provide training, materials, development, and staff assistance to schools assisted under this part.

[(2) DEFINITION OF ELIGIBLE ENTITY.—In this subsection, the term “eligible entity” means an entity that, prior to the date of enactment of the Dropout Prevention Act—

[(A) provided training, technical assistance, and materials related to school dropout prevention or reentry to 100 or more elementary schools or secondary schools; and

[(B) developed and published a specific educational program or design related to school dropout prevention or reentry for use by the schools.

[Subpart 2—School Dropout Prevention Initiative

[SEC. 1821. DEFINITIONS.

[In this subpart:

[(1) LOW-INCOME STUDENT.—The term “low-income student” means a student who is determined by a local educational agency to be from a low-income family using the measures described in section 1113(c).

[(2) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Bureau of Indian Affairs for purposes of serving schools funded by the Bureau.

[SEC. 1822. PROGRAM AUTHORIZED.

[(a) GRANTS TO STATE EDUCATIONAL AGENCIES AND LOCAL EDUCATIONAL AGENCIES.—

[(1) AMOUNT LESS THAN \$75,000,000.—

[(A) IN GENERAL.—If the amount appropriated under section 1803 for a fiscal year equals or is less than \$75,000,000, then the Secretary shall use such amount to award grants, on a competitive basis, to—

[(i) State educational agencies to support activities—

[(I) in schools that—

[(aa) serve students in grades 6 through 12; and

[(bb) have annual school dropout rates that are above the State average annual school dropout rate; or

[(II) in the middle schools that feed students into the schools described in subclause (I); or

[(ii) local educational agencies that operate—

[(I) schools that—

[(aa) serve students in grades 6 through 12; and

[(bb) have annual school dropout rates that are above the State average annual school dropout rate; or

[(II) middle schools that feed students into the schools described in subclause (I).

[(B) USE OF GRANT FUNDS.—Grant funds awarded under this paragraph shall be used to fund effective, sustainable, and coordinated school dropout prevention and reentry programs that may include the activities described in subsection (b)(2), in—

[(i) schools serving students in grades 6 through 12 that have annual school dropout rates that are above the State average annual school dropout rate; or

[(ii) the middle schools that feed students into the schools described in clause (i).

[(2) AMOUNT LESS THAN \$250,000,000 BUT MORE THAN \$75,000,000.—If the amount appropriated under section 1803 for a fiscal year is less than \$250,000,000 but more than \$75,000,000, then the Secretary shall use such amount to award grants, on a competitive basis, to State educational agencies to enable the State educational agencies to award subgrants under subsection (b).

[(3) AMOUNT EQUAL TO OR EXCEEDS \$250,000,000.—If the amount appropriated under section 1803 for a fiscal year equals or exceeds \$250,000,000, then the Secretary shall use such amount to award a grant to each State educational agency in an amount that bears the same relation to such appropriated amount as the amount the State educational agency received under part A for the preceding fiscal year bears to the amount received by all State educational agencies under such part for the preceding fiscal year, to enable the State educational agency to award subgrants under subsection (b).

[(b) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

[(1) IN GENERAL.—From amounts made available to a State educational agency under paragraph (2) or (3) of subsection (a), the State educational agency shall award subgrants, on a competitive basis, to local educational agencies that operate public schools that serve students in grades 6 through 12 and that have annual school dropout rates that are above the State average annual school dropout rate, to enable those schools, or the middle schools that feed students into those schools, to implement effective, sustainable, and coordinated school dropout prevention and reentry programs that involve activities such as—

[(A) professional development;

[(B) obtaining curricular materials;

[(C) release time for professional staff to obtain professional development;

[(D) planning and research;

[(E) remedial education;

[(F) reduction in pupil-to-teacher ratios;

[(G) efforts to meet State student academic achievement standards;

[(H) counseling and mentoring for at-risk students;

- [(I) implementing comprehensive school reform models, such as creating smaller learning communities; and
- [(J) school reentry activities.
- [(2) AMOUNT.—Subject to paragraph (3), a subgrant under this subpart shall be awarded—
 - [(A) in the first year that a local educational agency receives a subgrant payment under this subpart, in an amount that is based on factors such as—
 - [(i) the size of schools operated by the local educational agency;
 - [(ii) costs of the model or set of prevention and reentry strategies being implemented; and
 - [(iii) local cost factors such as poverty rates;
 - [(B) in the second year, in an amount that is not less than 75 percent of the amount the local educational agency received under this subpart in the first such year;
 - [(C) in the third year, in an amount that is not less than 50 percent of the amount the local educational agency received under this subpart in the first such year; and
 - [(D) in each succeeding year, in an amount that is not less than 30 percent of the amount the local educational agency received under this subpart in the first year.

[(3) DURATION.—A subgrant under this subpart shall be awarded for a period of 3 years, and may be continued for a period of 2 additional years if the State educational agency determines, based on the annual reports described in section 1830(a), that significant progress has been made in lowering the annual school dropout rate for secondary schools participating in the program assisted under this subpart.

[(SEC. 1823. APPLICATIONS.

- [(a) IN GENERAL.—To receive—
 - [(1) a grant under this subpart, a State educational agency or local educational agency shall submit an application and plan to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require; and
 - [(2) a subgrant under this subpart, a local educational agency shall submit an application and plan to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may reasonably require.
- [(b) CONTENTS.—
 - [(1) STATE EDUCATIONAL AGENCY AND LOCAL EDUCATIONAL AGENCY.—Each application and plan submitted under subsection (a) shall—
 - [(A) include an outline—
 - [(i) of the State educational agency’s or local educational agency’s strategy for reducing the State educational agency or local educational agency’s annual school dropout rate;
 - [(ii) for targeting secondary schools, and the middle schools that feed students into those secondary schools, that have the highest annual school dropout rates; and

[(iii) for assessing the effectiveness of the efforts described in the plan;

[(B) contain an identification of the schools in the State or operated by the local educational agency that have annual school dropout rates that are greater than the average annual school dropout rate for the State;

[(C) describe the instructional strategies to be implemented, how the strategies will serve all students, and the effectiveness of the strategies;

[(D) describe a budget and timeline for implementing the strategies;

[(E) contain evidence of coordination with existing resources;

[(F) provide an assurance that funds provided under this subpart will supplement, and not supplant, other State and local funds available for school dropout prevention and reentry programs; and

[(G) describe how the activities to be assisted conform with research knowledge about school dropout prevention and reentry.

[(2) LOCAL EDUCATIONAL AGENCY.—Each application and plan submitted under subsection (a) by a local educational agency shall contain, in addition to the requirements of paragraph (1)—

[(A) an assurance that the local educational agency is committed to providing ongoing operational support for such schools to address the problem of school dropouts for a period of 5 years; and

[(B) an assurance that the local educational agency will support the plan, including—

[(i) provision of release time for teacher training;

[(ii) efforts to coordinate activities for secondary schools and the middle schools that feed students into those secondary schools; and

[(iii) encouraging other schools served by the local educational agency to participate in the plan.

[SEC. 1824. STATE RESERVATION.

[A State educational agency that receives a grant under paragraph (2) or (3) of section 1822(a) may reserve not more than 5 percent of the grant funds for administrative costs and State activities related to school dropout prevention and reentry activities, of which not more than 2 percent of the grant funds may be used for administrative costs.

[SEC. 1825. STRATEGIES AND CAPACITY BUILDING.

[Each local educational agency receiving a grant or subgrant under this subpart and each State educational agency receiving a grant under this subpart shall implement scientifically based, sustainable, and widely replicated strategies for school dropout prevention and reentry. The strategies may include—

[(1) specific strategies for targeted purposes, such as—

[(A) effective early intervention programs designed to identify at-risk students;

[(B) effective programs serving at-risk students, including racial and ethnic minorities and pregnant and par-

enting teenagers, designed to prevent such students from dropping out of school; and

[(C) effective programs to identify and encourage youth who have already dropped out of school to reenter school and complete their secondary education; and

[(2) approaches such as breaking larger schools down into smaller learning communities and other comprehensive reform approaches, creating alternative school programs, and developing clear linkages to career skills and employment.

[SEC. 1826. SELECTION OF LOCAL EDUCATIONAL AGENCIES FOR SUBGRANTS.

[(a) STATE EDUCATIONAL AGENCY REVIEW AND AWARD.—The State educational agency shall review applications submitted under section 1823(a)(2) and award subgrants to local educational agencies with the assistance and advice of a panel of experts on school dropout prevention and reentry.

[(b) ELIGIBILITY.—A local educational agency is eligible to receive a subgrant under this subpart if the local educational agency operates a public school (including a public alternative school)—

[(1) that is eligible to receive assistance under part A; and

[(2)(A) that serves students 50 percent or more of whom are low-income students; or

[(B) in which a majority of the students come from feeder schools that serve students 50 percent or more of whom are low-income students.

[SEC. 1827. COMMUNITY BASED ORGANIZATIONS.

[A local educational agency that receives a grant or subgrant under this subpart and a State educational agency that receives a grant under this subpart may use the funds to secure necessary services from a community-based organization or other government agency if the funds are used to provide school dropout prevention and reentry activities related to schoolwide efforts.

[SEC. 1828. TECHNICAL ASSISTANCE.

[Notwithstanding any other provision of law, each local educational agency that receives funds under this subpart shall use the funds to provide technical assistance to secondary schools served by the agency that have not made progress toward lowering annual school dropout rates after receiving assistance under this subpart for 2 fiscal years.

[SEC. 1829. SCHOOL DROPOUT RATE CALCULATION.

[For purposes of calculating an annual school dropout rate under this subpart, a school shall use the annual event school dropout rate for students leaving a school in a single year determined in accordance with the National Center for Education Statistics' Common Core of Data.

[SEC. 1830. REPORTING AND ACCOUNTABILITY.

[(a) LOCAL EDUCATIONAL AGENCY REPORTS.—

[(1) IN GENERAL.—To receive funds under this subpart for a fiscal year after the first fiscal year that a local educational agency receives funds under this subpart, the local educational agency shall provide, on an annual basis, a report regarding the status of the implementation of activities funded under this subpart, and the dropout data for students at schools assisted

under this subpart, disaggregated by race and ethnicity, to the—

[(A) Secretary, if the local educational agency receives a grant under section 1822(a)(1); or

[(B) State educational agency, if the local educational agency receives a subgrant under paragraph (2) or (3) of section 1822(a).

[(2) DROPOUT DATA.—The dropout data under paragraph (1) shall include annual school dropout rates for each fiscal year, starting with the 2 fiscal years before the local educational agency received funds under this subpart.

[(b) STATE REPORT ON PROGRAM ACTIVITIES.—Each State educational agency receiving funds under this subpart shall provide to the Secretary, at such time and in such format as the Secretary may require, information on the status of the implementation of activities funded under this subpart and outcome data for students in schools assisted under this subpart.

[(c) ACCOUNTABILITY.—The Secretary shall evaluate the effect of the activities assisted under this subpart on school dropout prevention compared, if feasible, to a control group using control procedures. The Secretary may use funds appropriated for subpart 1 to carry out this evaluation.]

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[TITLE V—PROMOTING INFORMED PARENTAL CHOICE AND INNOVATIVE PROGRAMS

[PART A—INNOVATIVE PROGRAMS

[SEC. 5101. PURPOSES, STATE AND LOCAL RESPONSIBILITY.

[(a) PURPOSES.—The purposes of this part are the following:

[(1) To support local education reform efforts that are consistent with and support statewide education reform efforts.

[(2) To provide funding to enable State educational agencies and local educational agencies to implement promising educational reform programs and school improvement programs based on scientifically based research.

[(3) To provide a continuing source of innovation and educational improvement, including support programs to provide library services and instructional and media materials.

[(4) To meet the educational needs of all students, including at-risk youth.

[(5) To develop and implement education programs to improve school, student, and teacher performance, including professional development activities and class size reduction programs.

[(b) STATE AND LOCAL RESPONSIBILITY.—The State educational agency shall bear the basic responsibility for the administration of funds made available under this part, but it is the intent of Congress that the responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under this part be mainly that of local

educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because local educational agencies and individuals have the most direct contact with students and are most likely to be able to design programs to meet the educational needs of students in their own school districts.

[Subpart 1—State and Local Programs

[SEC. 5111. ALLOTMENT TO STATES.

[(a) IN GENERAL.—From the sums appropriated to carry out this part for each fiscal year and not reserved under subsection (b), the Secretary shall allot, and make available in accordance with this part, to each State educational agency an amount that bears the same ratio to such sums as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to one-half of 1 percent of such sums.

[(b) RESERVATION.—From the sums appropriated to carry out this part for each fiscal year, the Secretary shall reserve not more than 1 percent for payments to the outlying areas, to be allotted in accordance with their respective needs for assistance under this part.

[SEC. 5112. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

[(a) DISTRIBUTION RULE.—

[(1) ALLOCATION OF BASE AMOUNTS.—From the amount made available to a State educational agency under this part for a fiscal year, the State educational agency shall distribute, to local educational agencies within the State, an amount that is not less than 85 percent of the amount made available to the State educational agency under this part for fiscal year 2002, according to the relative enrollments in public and in private nonprofit schools within the jurisdictions of such local educational agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per-pupil allocations to local educational agencies that have the greatest numbers or percentages of children whose education imposes a higher-than-average cost per child, such as—

[(A) children living in areas with high concentrations of economically disadvantaged families;

[(B) children from economically disadvantaged families;

and

[(C) children living in sparsely populated areas.

[(2) ALLOCATION OF INCREASED AMOUNTS.—From the amount made available to a State educational agency under this part for a fiscal year that exceeds the amount made available to the agency under this part for fiscal year 2002, the State educational agency shall distribute 100 percent (or, in the case of a State educational agency receiving a minimum allotment under section 5111(a), not less than 50 percent, notwithstanding subsection (b)) to local educational agencies within the State, on the same basis as the State educational agency distributes amounts under paragraph (1).

[(b) LIMITATIONS AND REQUIREMENTS.—Not more than 15 percent of funds made available under section 5111 for State programs

under this part for any fiscal year may be used for State administration under section 5121.

[(c) CALCULATION OF ENROLLMENTS.—

[(1) IN GENERAL.—The calculation of relative enrollments under subsection (a)(1) shall be on the basis of the total of—

[(A) the number of children enrolled in public schools; and

[(B) the number of children enrolled in private nonprofit schools that participated in programs assisted under this part, for the fiscal year preceding the fiscal year for which the determination is made.

[(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall diminish the responsibility of each local educational agency to contact, on an annual basis, appropriate officials from private nonprofit schools within the areas served by such agencies in order to determine whether such schools desire that their children participate in programs assisted under this part.

[(3) ADJUSTMENTS.—

[(A) STATE CRITERIA.—Relative enrollments calculated under subsection (a)(1) shall be adjusted, in accordance with criteria approved by the Secretary under subparagraph (B), to provide higher per-pupil allocations only to local educational agencies that serve the greatest numbers or percentages of—

[(i) children living in areas with high concentrations of economically disadvantaged families;

[(ii) children from economically disadvantaged families; or

[(iii) children living in sparsely populated areas.

[(B) REVIEW OF CRITERIA.—The Secretary shall review criteria submitted by a State educational agency for adjusting allocations under paragraph (1) and shall approve such criteria only if the Secretary determines that such criteria are reasonably calculated to produce an adjusted allocation that reflects the relative needs of the State's local educational agencies based on the factors set forth in subparagraph (A).

[(d) PAYMENT OF ALLOCATIONS.—

[(1) DISTRIBUTION.—From the funds paid to a State educational agency under this subpart for a fiscal year, the State educational agency shall distribute to each eligible local educational agency that has submitted an application as required by section 5133 the amount of such local educational agency's allocation, as determined under subsection (a).

[(2) ADDITIONAL FUNDS.—

[(A) USE.—Additional funds resulting from higher per-pupil allocations provided to a local educational agency on the basis of adjusted enrollments of children described in subsection (a)(1) may, in the discretion of the local educational agency, be allocated for expenditures to provide services for children enrolled in public schools and private nonprofit schools in direct proportion to the number of children described in subsection (a)(1) and enrolled in such schools within the area served by the local educational agency.

[(B) ALLOCATION.—In any fiscal year, any local educational agency that elects to allocate such additional funds in the manner described in subparagraph (A) shall allocate all additional funds to schools within the area served by the local educational agency in such manner.

[(C) RULE OF CONSTRUCTION.—Subparagraphs (A) and (B) may not be construed to require any school to limit the use of the additional funds described in subparagraph (A) to the provision of services to specific students or categories of students.

[Subpart 2—State Programs

[SEC. 5121. STATE USES OF FUNDS.

[A State educational agency may use funds made available for State use under section 5112(b) only for one or more of the following:

[(1) State administration of programs under this part, including—

[(A) allocating funds to local educational agencies;

[(B) planning, supervising, and processing State educational agency funds; and

[(C) monitoring and evaluating programs under this part.

[(2) Support for the planning, design, and initial implementation of charter schools as described in part B.

[(3) Statewide education reform, school improvement programs and technical assistance and direct grants to local educational agencies, which assist such agencies under section 5131.

[(4) Support for the design and implementation of high-quality yearly student assessments.

[(5) Support for implementation of challenging State and local academic achievement standards.

[(6) Support for arrangements that provide for independent analysis to measure and report on school district achievement.

[(7) Support for the program described in section 321 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554).

[(8) Support for programs to assist in the implementation of the policy described in section 9507 which may include payment of reasonable transportation costs and tuition costs for such students.

[SEC. 5122. STATE APPLICATIONS.

[(a) APPLICATION REQUIREMENTS.—Any State that desires to receive assistance under this part shall submit to the Secretary an application that includes each of the following:

[(1) Designation of the State educational agency as the State agency responsible for administration and supervision of programs assisted under this part.

[(2) Provision for an annual statewide summary of how assistance under this part is contributing toward improving stu-

dent academic achievement or improving the quality of education for students.

[(3) Information setting forth the allocation of funds required to implement section 5142.

[(4) A provision that the State educational agency will keep such records, and provide such information to the Secretary, as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this section).

[(5) An assurance that, apart from providing technical and advisory assistance and monitoring compliance with this part, the State educational agency has not exercised, and will not exercise, any influence in the decisionmaking processes of local educational agencies as to the expenditure made pursuant to an application submitted under section 5133.

[(6) An assurance that there is compliance with the specific requirements of this part.

[(7) Provision for timely public notice and public dissemination of the information provided under paragraph (3).

[(b) STATEWIDE SUMMARY.—The statewide summary referred to in subsection (a)(2) shall be submitted annually to the Secretary and shall be derived from the evaluation information submitted by local educational agencies to the State educational agency under section 5133(b)(8). The State educational agency shall determine the format and content of such summary and may include in the summary statistical measures, such as the number of students served by each type of innovative assistance program described in section 5131 and the number of teachers trained.

[(c) PERIOD OF APPLICATION.—An application submitted by the State educational agency under subsection (a) shall be for a period not to exceed 3 years. The agency may amend the application annually, as may be necessary to reflect changes, without filing a new application.

[(d) AUDIT RULE.—A local educational agency that receives less than an average of \$10,000 under this part for any 3 consecutive fiscal years shall not be audited more frequently than once every 5 years.

[Subpart 3—Local Innovative Education Programs

[SEC. 5131. LOCAL USES OF FUNDS.

[(a) INNOVATIVE ASSISTANCE PROGRAMS.—Funds made available to local educational agencies under section 5112 shall be used for innovative assistance programs, which may include any of the following:

[(1) Programs to recruit, train, and hire highly qualified teachers to reduce class size, especially in the early grades, and professional development activities carried out in accordance with title II, that give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State or local academic content standards and student academic achievement standards.

[(2) Technology activities related to the implementation of school-based reform efforts, including professional development

to assist teachers and other school personnel (including school library media personnel) regarding how to use technology effectively in the classrooms and the school library media centers involved.

【(3) Programs for the development or acquisition and use of instructional and educational materials, including library services and materials (including media materials), academic assessments, reference materials, computer software and hardware for instructional use, and other curricular materials that are tied to high academic standards, that will be used to improve student academic achievement, and that are part of an overall education reform program.

【(4) Promising education reform projects, including magnet schools.

【(5) Programs to improve the academic achievement of educationally disadvantaged elementary school and secondary school students, including activities to prevent students from dropping out of school.

【(6) Programs to improve the literacy skills of adults, especially the parents of children served by the local educational agency, including adult education and family literacy programs.

【(7) Programs to provide for the educational needs of gifted and talented children.

【(8) The planning, design, and initial implementation of charter schools as described in part B.

【(9) School improvement programs or activities under sections 1116 and 1117.

【(10) Community service programs that use qualified school personnel to train and mobilize young people to measurably strengthen their communities through nonviolence, responsibility, compassion, respect, and moral courage.

【(11) Activities to promote consumer, economic, and personal finance education, such as disseminating information on and encouraging use of the best practices for teaching the basic principles of economics and promoting the concept of achieving financial literacy through the teaching of personal financial management skills (including the basic principles involved with earning, spending, saving, and investing).

【(12) Activities to promote, implement, or expand public school choice.

【(13) Programs to hire and support school nurses.

【(14) Expansion and improvement of school-based mental health services, including early identification of drug use and violence, assessment, and direct individual or group counseling services provided to students, parents, and school personnel by qualified school-based mental health services personnel.

【(15) Alternative educational programs for those students who have been expelled or suspended from their regular educational setting, including programs to assist students to reenter the regular educational setting upon return from treatment or alternative educational programs.

【(16) Programs to establish or enhance prekindergarten programs for children.

[(17) Academic intervention programs that are operated jointly with community-based organizations and that support academic enrichment, and counseling programs conducted during the school day (including during extended school day or extended school year programs), for students most at risk of not meeting challenging State academic achievement standards or not completing secondary school.

[(18) Programs for cardiopulmonary resuscitation (CPR) training in schools.

[(19) Programs to establish smaller learning communities.

[(20) Activities that encourage and expand improvements throughout the area served by the local educational agency that are designed to advance student academic achievement.

[(21) Initiatives to generate, maintain, and strengthen parental and community involvement.

[(22) Programs and activities that expand learning opportunities through best-practice models designed to improve classroom learning and teaching.

[(23) Programs to provide same-gender schools and classrooms (consistent with applicable law).

[(24) Service learning activities.

[(25) School safety programs, including programs to implement the policy described in section 9507 and which may include payment of reasonable transportation costs and tuition costs for such students.

[(26) Programs that employ research-based cognitive and perceptual development approaches and rely on a diagnostic-prescriptive model to improve students' learning of academic content at the preschool, elementary, and secondary levels.

[(27) Supplemental educational services, as defined in section 1116(e).

[(b) REQUIREMENTS.—The innovative assistance programs described in subsection (a) shall be—

[(1) tied to promoting challenging academic achievement standards;

[(2) used to improve student academic achievement; and

[(3) part of an overall education reform strategy.

[(c) GUIDELINES.—Not later than 120 days after the date of enactment of the No Child Left Behind Act of 2001, the Secretary shall issue guidelines for local educational agencies seeking funding for programs described in subsection (a)(23).

[SEC. 5132. ADMINISTRATIVE AUTHORITY.

[In order to conduct the programs authorized by this part, each State educational agency or local educational agency may use funds made available under this part to make grants to, and to enter into contracts with, local educational agencies, institutions of higher education, libraries, museums, and other public and private non-profit agencies, organizations, and institutions.

[SEC. 5133. LOCAL APPLICATIONS.

[(a) SUBMISSION OF APPLICATION.—A local educational agency may receive an allocation of funds under this part for any year for which the agency submits an application under this section that the State educational agency certifies under subsection (b).

[(b) CERTIFICATION AND CONTENTS OF APPLICATION.—The State educational agency shall certify each application submitted under subsection (a) that includes each of the following:

[(1) A description of locally identified needs relative to the purposes of this part and to the innovative assistance programs described in section 5131.

[(2) A statement that sets forth the planned allocation of funds, based on the needs identified in subparagraph (A), among innovative assistance programs described in section 5131, a description of the programs that the local educational agency intends to support, and a description of the reasons for the selection of such programs.

[(3) Information setting forth the allocation of such funds required to implement section 5142.

[(4) A description of how assistance under this part will contribute to improving student academic achievement or improving the quality of education for students.

[(5) An assurance that the local educational agency will comply with this part, including the provisions of section 5142 concerning the participation of children enrolled in private non-profit schools.

[(6) An assurance that the local educational agency will keep such records, and provide such information to the State educational agency, as may be reasonably required for fiscal audit and program evaluation (consistent with the responsibilities of the State educational agency under this part).

[(7) Provision, in the allocation of funds for the assistance authorized by this part and in the planning, design, and implementation of such innovative assistance programs, for systematic consultation with parents of children attending elementary schools and secondary schools in the area served by the local educational agency, with teachers and administrative personnel in such schools, and with such other groups involved in the implementation of this part (such as librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency.

[(8) An assurance that—

[(A) programs carried out under this part will be evaluated annually;

[(B) the evaluation will be used to make decisions about appropriate changes in programs for the subsequent year;

[(C) the evaluation will describe how assistance under this part affected student academic achievement and will include, at a minimum, information and data on the use of funds, the types of services furnished, and the students served under this part; and

[(D) the evaluation will be submitted to the State educational agency at the time and in the manner requested by the State educational agency.

[(9) If the local educational agency seeks funds under section 5131(a)(23), a description of how the agency will comply with the guidelines issued by the Secretary regarding same-gender schools and classrooms under section 5131(c).

[(c) PERIOD OF APPLICATION.—An application submitted by a local educational agency under subsection (a) may seek allocations

under this part for a period not to exceed 3 fiscal years. The agency may amend the application annually, as may be necessary to reflect changes, without the filing of a new application.

[(d) LOCAL EDUCATIONAL AGENCY DISCRETION.—

[(1) IN GENERAL.—Subject to the limitations and requirements of this part, a local educational agency shall have complete discretion in determining how funds made available to carry out this subpart will be divided among programs described in section 5131.

[(2) LIMITATION.—In exercising the discretion described in paragraph (1), a local educational agency shall ensure that expenditures under this subpart carry out the purposes of this part and are used to meet the educational needs within the schools served by the local educational agency.

[Subpart 4—General Provisions

[SEC. 5141. MAINTENANCE OF EFFORT.

[(a) IN GENERAL.—Except as provided in subsection (b), a State educational agency is entitled to receive its full allotment of funds under this part for any fiscal year only if the Secretary determines that either the combined fiscal effort per student or the aggregate expenditures within the State, with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made, was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

[(b) REDUCTION OF FUNDS.—The Secretary shall reduce the amount of the allotment of funds under this part in any fiscal year in the exact proportion by which the State educational agency fails to meet the requirements of subsection (a) by falling below 90 percent of the fiscal effort per student or aggregate expenditures (using the measure most favorable to the State educational agency), and no such lesser amount shall be used for computing the effort or expenditures required under paragraph (1) for subsequent years.

[(c) WAIVER.—The Secretary may waive, for 1 fiscal year only, the requirements of this section, if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State educational agency.

[SEC. 5142. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

[(a) PARTICIPATION ON EQUITABLE BASIS.—

[(1) IN GENERAL.—To the extent consistent with the number of children in the school district of a local educational agency that is eligible to receive funds under this part, or that serves the area in which a program assisted under this part is located, who are enrolled in private nonprofit elementary schools and secondary schools, or, with respect to instructional or personnel training programs funded by the State educational agency from funds made available for State educational agency

use, the local educational agency, after consultation with appropriate private school officials—

[(A) shall provide, as may be necessary, for the benefit of such children in such schools—

[(i) secular, neutral, and nonideological services, materials, and equipment, including the participation of the teachers of such children (and other educational personnel serving such children) in training programs; and

[(ii) the repair, minor remodeling, or construction of public facilities (consistent with subsection (c)); or

[(B) if such services, materials, and equipment are not feasible or necessary in one or more such private schools, as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this part.

[(2) OTHER PROVISIONS FOR SERVICES.—If no program is carried out under paragraph (1) in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in the district are provided with services and materials to the same extent as would have occurred if the local educational agency had received funds under this part.

[(3) APPLICATION OF REQUIREMENTS.—The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs carried out under this part by a State educational agency or local educational agency, whether directly or through grants to, or contracts with, other public or private agencies, institutions, or organizations.

[(b) EQUAL EXPENDITURES.—

[(1) IN GENERAL.—Expenditures for programs under subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this part for children enrolled in the public schools of the local educational agency.

[(2) CONCENTRATED PROGRAMS.—Taking into account the needs of the individual children and other factors that relate to the expenditures referred to in paragraph (1), and when funds available to a local educational agency under this part are used to concentrate programs on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs.

[(c) ADMINISTRATIVE REQUIREMENTS.—

[(1) FUNDS AND PROPERTY.—The control of funds provided under this part, and title to materials, equipment, and property repaired, remodeled, or constructed with such funds, shall be in a public agency for the uses and purposes provided in

this part, and a public agency shall administer such funds and property.

[(2) PROVISION OF SERVICES.—Services provided under this part shall be provided by employees of a public agency or through contract by such a public agency with a person, association, agency, or corporation that, in the provision of such services, is independent of the private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such a public agency. The funds provided under this part shall not be commingled with State or local funds.

[(d) WAIVER.—

[(1) STATE PROHIBITION.—If a State educational agency or local educational agency is prohibited, by reason of any provision of law, from providing for the participation in programs of children enrolled in private elementary schools and secondary schools as required by subsections (a) through (c), the Secretary shall waive such requirements for the agency involved and shall arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section.

[(2) FAILURE TO COMPLY.—If the Secretary determines that a State educational agency or a local educational agency has substantially failed, or is unwilling, to provide for the participation on an equitable basis of children enrolled in private elementary schools and secondary schools as required by subsections (a) through (c), the Secretary may waive such requirements and shall arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section.

[(e) WITHHOLDING OF ALLOTMENT OR ALLOCATION.—Pending final resolution of any investigation or complaint that could result in a waiver under subsection (d)(1) or (d)(2), the Secretary may withhold from the allotment or allocation of the affected State educational agency or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of services to be provided by the Secretary under such subsection.

[(f) DURATION OF DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State educational agency or local educational agency to meet the requirements of subsections (a) through (c).

[(g) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services under subsection (d), the Secretary shall, after consultation with the appropriate public school and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State educational agency under this part.

[(h) REVIEW OF DETERMINATION.—

[(1) WRITTEN OBJECTIONS.—The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to

appear before the Secretary or the Secretary's designee to show cause why that action should not be taken.

[(2) COURT ACTION.—If a State educational agency or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), such agency may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the action, as provided in section 2112 of title 28, United States Code.

[(3) REMAND TO SECRETARY.—The findings of fact by the Secretary with respect to a proceeding under paragraph (1), if supported by substantial evidence, shall be conclusive. The court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive, if supported by substantial evidence.

[(4) COURT REVIEW.—Upon the filing of a petition under paragraph (2), the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

[(i) PRIOR DETERMINATION.—Any bypass determination by the Secretary under title VI (as such title was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001) shall, to the extent consistent with the purposes of this part, apply to programs under this part.

[SEC. 5143. FEDERAL ADMINISTRATION.

[(a) TECHNICAL ASSISTANCE.—The Secretary, upon request, shall provide technical assistance to State educational agencies and local educational agencies under this part.

[(b) RULEMAKING.—The Secretary shall issue regulations under this part only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this part.

[(c) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding any other provision of law, unless expressly in limitation of this subsection, funds appropriated in any fiscal year to carry out programs under this part shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

[SEC. 5144. SUPPLEMENT, NOT SUPPLANT.

[Funds made available under this part shall be used to supplement, and not supplant, any other Federal, State, or local education funds.

[SEC. 5145. DEFINITIONS.

[In this part:

[(1) LOCAL EDUCATIONAL AGENCY.—The term “local educational agency” means a local educational agency or a consortium of such agencies.

[(2) PUBLIC SCHOOL.—The term “public school” means a public elementary school or a public secondary school.

[(3) SCHOOL-AGE POPULATION.—The term “school-age population” means the population aged 5 through 17.

[(4) STATE.—The term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

[SEC. 5146. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated to carry out this part—

[(1) \$450,000,000 for fiscal year 2002;

[(2) \$475,000,000 for fiscal year 2003;

[(3) \$500,000,000 for fiscal year 2004;

[(4) \$525,000,000 for fiscal year 2005;

[(5) \$550,000,000 for fiscal year 2006; and

[(6) \$600,000,000 for fiscal year 2007.

[PART B—PUBLIC CHARTER SCHOOLS

[Subpart 1—Charter School Programs

[SEC. 5201. PURPOSE.

[It is the purpose of this subpart to increase national understanding of the charter schools model by—

[(1) providing financial assistance for the planning, program design, and initial implementation of charter schools;

[(2) evaluating the effects of such schools, including the effects on students, student academic achievement, staff, and parents;

[(3) expanding the number of high-quality charter schools available to students across the Nation; and

[(4) encouraging the States to provide support to charter schools for facilities financing in an amount more nearly commensurate to the amount the States have typically provided for traditional public schools.

[SEC. 5202. PROGRAM AUTHORIZED.

[(a) IN GENERAL.—The Secretary may award grants to State educational agencies having applications approved pursuant to section 5203 to enable such agencies to conduct a charter school grant program in accordance with this subpart.

[(b) SPECIAL RULE.—If a State educational agency elects not to participate in the program authorized by this subpart or does not have an application approved under section 5203, the Secretary may award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 5203(c).

[(c) PROGRAM PERIODS.—

[(1) GRANTS TO STATES.—Grants awarded to State educational agencies under this subpart shall be for a period of not more than 3 years.

[(2) GRANTS TO ELIGIBLE APPLICANTS.—Grants awarded by the Secretary to eligible applicants or subgrants awarded by State educational agencies to eligible applicants under this

subpart shall be for a period of not more than 3 years, of which the eligible applicant may use—

- [(A) not more than 18 months for planning and program design;
 - [(B) not more than 2 years for the initial implementation of a charter school; and
 - [(C) not more than 2 years to carry out dissemination activities described in section 5204(f)(6)(B).
- [(d) LIMITATION.—A charter school may not receive—
 - [(1) more than one grant for activities described in subparagraphs (A) and (B) of subsection (c)(2); or
 - [(2) more than one grant for activities under subparagraph (C) of subsection (c)(2).
- [(e) PRIORITY TREATMENT.—
 - [(1) IN GENERAL.—In awarding grants under this subpart for fiscal year 2002 or any succeeding fiscal year from any funds appropriated under section 5211 (other than funds reserved to carry out section 5205(b)), the Secretary shall give priority to States to the extent that the States meet the criteria described in paragraph (2) and one or more of the criteria described in subparagraph (A), (B), or (C) of paragraph (3).
 - [(2) REVIEW AND EVALUATION PRIORITY CRITERIA.—The criteria referred to in paragraph (1) are that the State provides for periodic review and evaluation by the authorized public chartering agency of each charter school, at least once every 5 years unless required more frequently by State law, to determine whether the charter school is meeting the terms of the school's charter, and is meeting or exceeding the student academic achievement requirements and goals for charter schools as set forth under State law or the school's charter.
 - [(3) PRIORITY CRITERIA.—The criteria referred to in paragraph (1) are the following:
 - [(A) The State has demonstrated progress, in increasing the number of high-quality charter schools that are held accountable in the terms of the schools' charters for meeting clear and measurable objectives for the educational progress of the students attending the schools, in the period prior to the period for which a State educational agency or eligible applicant applies for a grant under this subpart.
 - [(B) The State—
 - [(i) provides for one authorized public chartering agency that is not a local educational agency, such as a State chartering board, for each individual or entity seeking to operate a charter school pursuant to such State law; or
 - [(ii) in the case of a State in which local educational agencies are the only authorized public chartering agencies, allows for an appeals process for the denial of an application for a charter school.
 - [(C) The State ensures that each charter school has a high degree of autonomy over the charter school's budgets and expenditures.
- [(f) AMOUNT CRITERIA.—In determining the amount of a grant to be awarded under this subpart to a State educational agency, the

Secretary shall take into consideration the number of charter schools that are operating, or are approved to open, in the State.

SEC. 5203. APPLICATIONS.

[(a) APPLICATIONS FROM STATE AGENCIES.—Each State educational agency desiring a grant from the Secretary under this subpart shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

[(b) CONTENTS OF A STATE EDUCATIONAL AGENCY APPLICATION.—Each application submitted pursuant to subsection (a) shall—

[(1) describe the objectives of the State educational agency's charter school grant program and a description of how such objectives will be fulfilled, including steps taken by the State educational agency to inform teachers, parents, and communities of the State educational agency's charter school grant program; and

[(2) describe how the State educational agency—

[(A) will inform each charter school in the State regarding—

[(i) Federal funds that the charter school is eligible to receive; and

[(ii) Federal programs in which the charter school may participate;

[(B) will ensure that each charter school in the State receives the charter school's commensurate share of Federal education funds that are allocated by formula each year, including during the first year of operation of the charter school; and

[(C) will disseminate best or promising practices of charter schools to each local educational agency in the State; and

[(3) contain assurances that the State educational agency will require each eligible applicant desiring to receive a subgrant to submit an application to the State educational agency containing—

[(A) a description of the educational program to be implemented by the proposed charter school, including—

[(i) how the program will enable all students to meet challenging State student academic achievement standards;

[(ii) the grade levels or ages of children to be served; and

[(iii) the curriculum and instructional practices to be used;

[(B) a description of how the charter school will be managed;

[(C) a description of—

[(i) the objectives of the charter school; and

[(ii) the methods by which the charter school will determine its progress toward achieving those objectives;

[(D) a description of the administrative relationship between the charter school and the authorized public chartering agency;

[(E) a description of how parents and other members of the community will be involved in the planning, program design, and implementation of the charter school;

[(F) a description of how the authorized public chartering agency will provide for continued operation of the school once the Federal grant has expired, if such agency determines that the school has met the objectives described in subparagraph (C)(i);

[(G) a request and justification for waivers of any Federal statutory or regulatory provisions that the eligible applicant believes are necessary for the successful operation of the charter school, and a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school;

[(H) a description of how the subgrant funds or grant funds, as appropriate, will be used, including a description of how such funds will be used in conjunction with other Federal programs administered by the Secretary;

[(I) a description of how students in the community will be—

[(i) informed about the charter school; and

[(ii) given an equal opportunity to attend the charter school;

[(J) an assurance that the eligible applicant will annually provide the Secretary and the State educational agency such information as may be required to determine if the charter school is making satisfactory progress toward achieving the objectives described in subparagraph (C)(i);

[(K) an assurance that the eligible applicant will cooperate with the Secretary and the State educational agency in evaluating the program assisted under this subpart;

[(L) a description of how a charter school that is considered a local educational agency under State law, or a local educational agency in which a charter school is located, will comply with sections 613(a)(5) and 613(e)(1)(B) of the Individuals with Disabilities Education Act;

[(M) if the eligible applicant desires to use subgrant funds for dissemination activities under section 5202(c)(2)(C), a description of those activities and how those activities will involve charter schools and other public schools, local educational agencies, developers, and potential developers; and

[(N) such other information and assurances as the Secretary and the State educational agency may require.

[(c) ELIGIBLE APPLICANT APPLICATION.—Each eligible applicant desiring a grant pursuant to section 5202(b) shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

[(d) CONTENTS OF ELIGIBLE APPLICANT APPLICATION.—Each application submitted pursuant to subsection (c) shall contain—

[(1) the information and assurances described in subparagraphs (A) through (N) of subsection (b)(3), except that for purposes of this subsection subparagraphs (J), (K), and (N) of such

subsection shall be applied by striking “and the State educational agency” each place such term appears;

[(2) assurances that the State educational agency—

[(A) will grant, or will obtain, waivers of State statutory or regulatory requirements; and

[(B) will assist each subgrantee in the State in receiving a waiver under section 5204(e); and

[(3) assurances that the eligible applicant has provided its authorized public chartering authority timely notice, and a copy, of the application, except that the State educational agency (or the Secretary, in the case of an application submitted to the Secretary) may waive the requirement of this paragraph in the case of an application for a precharter planning grant or subgrant if the authorized public chartering authority to which a charter school proposal will be submitted has not been determined at the time the grant or subgrant application is submitted.

[SEC. 5204. ADMINISTRATION.

[(a) SELECTION CRITERIA FOR STATE EDUCATIONAL AGENCIES.—The Secretary shall award grants to State educational agencies under this subpart on the basis of the quality of the applications submitted under section 5203(b), after taking into consideration such factors as—

[(1) the contribution that the charter schools grant program will make to assisting educationally disadvantaged and other students in meeting State academic content standards and State student academic achievement standards;

[(2) the degree of flexibility afforded by the State educational agency to charter schools under the State’s charter schools law;

[(3) the ambitiousness of the objectives for the State charter school grant program;

[(4) the quality of the strategy for assessing achievement of those objectives;

[(5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students;

[(6) the number of high-quality charter schools created under this subpart in the State; and

[(7) in the case of State educational agencies that propose to use grant funds to support dissemination activities under subsection (f)(6)(B), the quality of those activities and the likelihood that those activities will improve student academic achievement.

[(b) SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.—The Secretary shall award grants to eligible applicants under this subpart on the basis of the quality of the applications submitted under section 5203(c), after taking into consideration such factors as—

[(1) the quality of the proposed curriculum and instructional practices;

[(2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school;

[(3) the extent of community support for the application;

[(4) the ambitiousness of the objectives for the charter school;

[(5) the quality of the strategy for assessing achievement of those objectives;

[(6) the likelihood that the charter school will meet those objectives and improve educational results for students; and

[(7) in the case of an eligible applicant that proposes to use grant funds to support dissemination activities under subsection (f)(6)(B), the quality of those activities and the likelihood that those activities will improve student achievement.

[(c) PEER REVIEW.—The Secretary, and each State educational agency receiving a grant under this subpart, shall use a peer review process to review applications for assistance under this subpart.

[(d) DIVERSITY OF PROJECTS.—The Secretary and each State educational agency receiving a grant under this subpart, shall award grants and subgrants under this subpart in a manner that, to the extent possible, ensures that such grants and subgrants—

[(1) are distributed throughout different areas of the Nation and each State, including urban and rural areas; and

[(2) will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.

[(e) WAIVERS.—The Secretary may waive any statutory or regulatory requirement over which the Secretary exercises administrative authority except any such requirement relating to the elements of a charter school described in section 5210(1), if—

[(1) the waiver is requested in an approved application under this subpart; and

[(2) the Secretary determines that granting such a waiver will promote the purpose of this subpart.

[(f) USE OF FUNDS.—

[(1) STATE EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under this subpart shall use such grant funds to award subgrants to one or more eligible applicants in the State to enable such applicant to plan and implement a charter school in accordance with this subpart, except that the State educational agency may reserve not more than 10 percent of the grant funds to support dissemination activities described in paragraph (6).

[(2) ELIGIBLE APPLICANTS.—Each eligible applicant receiving funds from the Secretary or a State educational agency shall use such funds to plan and implement a charter school, or to disseminate information about the charter school and successful practices in the charter school, in accordance with this subpart.

[(3) ALLOWABLE ACTIVITIES.—An eligible applicant receiving a grant or subgrant under this subpart may use the grant or subgrant funds only for—

[(A) post-award planning and design of the educational program, which may include—

[(i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and

[(ii) professional development of teachers and other staff who will work in the charter school; and

[(B) initial implementation of the charter school, which may include—

- [(i) informing the community about the school;
- [(ii) acquiring necessary equipment and educational materials and supplies;
- [(iii) acquiring or developing curriculum materials; and
- [(iv) other initial operational costs that cannot be met from State or local sources.

[(4) ADMINISTRATIVE EXPENSES.—

[(A) STATE EDUCATIONAL AGENCY ADMINISTRATIVE EXPENSES.—Each State educational agency receiving a grant pursuant to this subpart may reserve not more than 5 percent of such grant funds for administrative expenses associated with the charter school grant program assisted under this subpart.

[(B) LOCAL ADMINISTRATIVE EXPENSES.—A local educational agency may not deduct funds for administrative fees or expenses from a subgrant awarded to an eligible applicant, unless the eligible applicant enters voluntarily into a mutually agreed upon arrangement for administrative services with the relevant local educational agency. Absent such approval, the local educational agency shall distribute all such subgrant funds to the eligible applicant without delay.

[(5) REVOLVING LOAN FUNDS.—Each State educational agency receiving a grant pursuant to this subpart may reserve not more than 10 percent of the grant funds for the establishment of a revolving loan fund. Such fund may be used to make loans to eligible applicants that have received a subgrant under this subpart, under such terms as may be determined by the State educational agency, for the initial operation of the charter school grant program of the eligible applicant until such time as the recipient begins receiving ongoing operational support from State or local financing sources.

[(6) DISSEMINATION.—

[(A) IN GENERAL.—A charter school may apply for funds under this subpart, whether or not the charter school has applied for or received funds under this subpart for planning, program design, or implementation, to carry out the activities described in subparagraph (B) if the charter school has been in operation for at least 3 consecutive years and has demonstrated overall success, including—

- [(i) substantial progress in improving student academic achievement;
- [(ii) high levels of parent satisfaction; and
- [(iii) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

[(B) ACTIVITIES.—A charter school described in subparagraph (A) may use funds reserved under paragraph (1) to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school, through such activities as—

[(i) assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;

[(ii) developing partnerships with other public schools, including charter schools, designed to improve student academic achievement in each of the schools participating in the partnership;

[(iii) developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and

[(iv) conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools.

[(g) TRIBALLY CONTROLLED SCHOOLS.—Each State that receives a grant under this subpart and designates a tribally controlled school as a charter school shall not consider payments to a school under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507) in determining—

[(1) the eligibility of the school to receive any other Federal, State, or local aid; or

[(2) the amount of such aid.

[SEC. 5205. NATIONAL ACTIVITIES.

[(a) IN GENERAL.—The Secretary shall reserve for each fiscal year the greater of 5 percent or \$5,000,000 of the amount appropriated to carry out this subpart, except that in no fiscal year shall the total amount so reserved exceed \$8,000,000, to carry out the following activities:

[(1) To provide charter schools, either directly or through State educational agencies, with—

[(A) information regarding—

[(i) Federal funds that charter schools are eligible to receive; and

[(ii) other Federal programs in which charter schools may participate; and

[(B) assistance in applying for Federal education funds that are allocated by formula, including assistance with filing deadlines and submission of applications.

[(2) To provide for other evaluations or studies that include the evaluation of the impact of charter schools on student academic achievement, including information regarding—

[(A) students attending charter schools reported on the basis of race, age, disability, gender, limited English proficiency, and previous enrollment in public school; and

[(B) the professional qualifications of teachers within a charter school and the turnover of the teaching force.

[(3) To provide—

[(A) information to applicants for assistance under this subpart;

[(B) assistance to applicants for assistance under this subpart with the preparation of applications under section 5203;

[(C) assistance in the planning and startup of charter schools;

[(D) training and technical assistance to existing charter schools; and

[(E) for the dissemination to other public schools of best or promising practices in charter schools.

[(4) To provide (including through the use of one or more contracts that use a competitive bidding process) for the collection of information regarding the financial resources available to charter schools, including access to private capital, and to widely disseminate to charter schools any such relevant information and model descriptions of successful programs.

[(5) To carry out evaluations of, technical assistance for, and information dissemination regarding, the per-pupil facilities aid programs. In carrying out the evaluations, the Secretary may carry out one or more evaluations of State programs assisted under this subsection, which shall, at a minimum, address—

[(A) how, and the extent to which, the programs promote educational equity and excellence; and

[(B) the extent to which charter schools supported through the programs are—

[(i) held accountable to the public;

[(ii) effective in improving public education; and

[(iii) open and accessible to all students.

[(b) PER-PUPIL FACILITIES AID PROGRAMS.—

[(1) DEFINITION OF PER-PUPIL FACILITIES AID PROGRAM.—In this subsection, the term “per-pupil facilities aid program” means a program in which a State makes payments, on a per-pupil basis, to charter schools to provide the schools with financing—

[(A) that is dedicated solely for funding charter school facilities; or

[(B) a portion of which is dedicated for funding charter school facilities.

[(2) GRANTS.—

[(A) IN GENERAL.—From the amount made available to carry out this subsection under paragraphs (2) and (3)(B) of section 5211(b) for any fiscal year, the Secretary shall make grants, on a competitive basis, to States to pay for the Federal share of the cost of establishing or enhancing, and administering per-pupil facilities aid programs.

[(B) PERIOD.—The Secretary shall award grants under this subsection for periods of not more than 5 years.

[(C) FEDERAL SHARE.—The Federal share of the cost described in subparagraph (A) for a per-pupil facilities aid program shall be not more than—

[(i) 90 percent of the cost, for the first fiscal year for which the program receives assistance under this subsection;

[(ii) 80 percent in the second such year;

[(iii) 60 percent in the third such year;

[(iv) 40 percent in the fourth such year; and

[(v) 20 percent in the fifth such year.

[(3) USE OF FUNDS.—

[(A) IN GENERAL.—A State that receives a grant under this subsection shall use the funds made available through the grant to establish or enhance, and administer, a per-pupil facilities aid program for charter schools in the State.

[(B) EVALUATIONS; TECHNICAL ASSISTANCE; DISSEMINATION.—From the amount made available to a State through a grant under this subsection for a fiscal year, the State may reserve not more than 5 percent to carry out evaluations, to provide technical assistance, and to disseminate information.

[(C) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this subsection shall be used to supplement, and not supplant, State and local public funds expended to provide per pupil facilities aid programs, operations financing programs, or other programs, for charter schools.

[(4) REQUIREMENTS.—

[(A) VOLUNTARY PARTICIPATION.—No State may be required to participate in a program carried out under this subsection.

[(B) STATE LAW.—To be eligible to receive a grant under this subsection, a State shall establish or enhance, and administer, a per-pupil facilities aid program for charter schools in the State, that—

[(i) is specified in State law; and

[(ii) provides annual financing, on a per-pupil basis, for charter school facilities.

[(5) APPLICATIONS.—To be eligible to receive a grant under this subsection, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

[(6) PRIORITIES.—In making grants under this subsection, the Secretary shall give priority to States that meet the criteria described in paragraph (2), and subparagraphs (A), (B), and (C) of paragraph (3), of section 5202(e).

[(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require charter schools to collect any data described in subsection (a).

[SEC. 5206. FEDERAL FORMULA ALLOCATION DURING FIRST YEAR AND FOR SUCCESSIVE ENROLLMENT EXPANSIONS.

[(a) IN GENERAL.—For purposes of the allocation to schools by the States or their agencies of funds under part A of title I, and any other Federal funds which the Secretary allocates to States on a formula basis, the Secretary and each State educational agency shall take such measures as are necessary to ensure that every charter school receives the Federal funding for which the charter school is eligible not later than 5 months after the charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in that charter school are not fully and completely determined until that charter school actually opens. The measures similarly shall ensure that every charter school expanding its enrollment in any subsequent year of oper-

ation receives the Federal funding for which the charter school is eligible not later than 5 months after such expansion.

[(b) ADJUSTMENT AND LATE OPENINGS.—

[(1) IN GENERAL.—The measures described in subsection (a) shall include provision for appropriate adjustments, through recovery of funds or reduction of payments for the succeeding year, in cases where payments made to a charter school on the basis of estimated or projected enrollment data exceed the amounts that the school is eligible to receive on the basis of actual or final enrollment data.

[(2) RULE.—For charter schools that first open after November 1 of any academic year, the State, in accordance with guidance provided by the Secretary and applicable Federal statutes and regulations, shall ensure that such charter schools that are eligible for the funds described in subsection (a) for such academic year have a full and fair opportunity to receive those funds during the charter schools' first year of operation.

[SEC. 5207. SOLICITATION OF INPUT FROM CHARTER SCHOOL OPERATORS.

[To the extent practicable, the Secretary shall ensure that administrators, teachers, and other individuals directly involved in the operation of charter schools are consulted in the development of any rules or regulations required to implement this subpart, as well as in the development of any rules or regulations relevant to charter schools that are required to implement part A of title I, the Individuals with Disabilities Education Act, or any other program administered by the Secretary that provides education funds to charter schools or regulates the activities of charter schools.

[SEC. 5208. RECORDS TRANSFER.

[State educational agencies and local educational agencies, to the extent practicable, shall ensure that a student's records and, if applicable, a student's individualized education program as defined in section 602 of the Individuals with Disabilities Education Act, are transferred to a charter school upon the transfer of the student to the charter school, and to another public school upon the transfer of the student from a charter school to another public school, in accordance with applicable State law.

[SEC. 5209. PAPERWORK REDUCTION.

[To the extent practicable, the Secretary and each authorized public chartering agency shall ensure that implementation of this subpart results in a minimum of paperwork for any eligible applicant or charter school.

[SEC. 5210. DEFINITIONS.

[In this subpart:

[(1) CHARTER SCHOOL.—The term "charter school" means a public school that—

[(A) in accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

[(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

[(C) operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

[(D) provides a program of elementary or secondary education, or both;

[(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

[(F) does not charge tuition;

[(G) complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and part B of the Individuals with Disabilities Education Act;

[(H) is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

[(I) agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

[(J) meets all applicable Federal, State, and local health and safety requirements;

[(K) operates in accordance with State law; and

[(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

[(2) DEVELOPER.—The term “developer” means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out.

[(3) ELIGIBLE APPLICANT.—The term “eligible applicant” means a developer that has—

[(A) applied to an authorized public chartering authority to operate a charter school; and

[(B) provided adequate and timely notice to that authority under section 5203(d)(3).

[(4) AUTHORIZED PUBLIC CHARTERING AGENCY.—The term “authorized public chartering agency” means a State educational agency, local educational agency, or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a charter school.

[SEC. 5211. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—There are authorized to be appropriated to carry out this subpart \$300,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

[(b) RESERVATION.—From the amount appropriated under subsection (a) for each fiscal year, the Secretary shall reserve—

[(1) \$200,000,000 to carry out this subpart, other than section 5205(b); and

[(2) any funds in excess of \$200,000,000, that do not exceed \$300,000,000, to carry out section 5205(b); and

[(3)(A) 50 percent of any funds in excess of \$300,000,000 to carry out this subpart, other than section 5205(b); and

[(B) 50 percent of any funds in excess of \$300,000,000 to carry out section 5205(b).

[Subpart 2—Credit Enhancement Initiatives To Assist Charter School Facility Acquisition, Construction, and Renovation

[SEC. 5221. PURPOSE.

[(The purpose of this subpart is to provide grants to eligible entities to permit the eligible entities to demonstrate innovative credit enhancement initiatives that assist charter schools to address the cost of acquiring, constructing, and renovating facilities.

[SEC. 5222. GRANTS TO ELIGIBLE ENTITIES.

[(a) GRANTS.—The Secretary shall use 100 percent of the amount available to carry out this subpart to award not less than three grants to eligible entities that have applications approved under this subpart to demonstrate innovative methods of assisting charter schools to address the cost of acquiring, constructing, and renovating facilities by enhancing the availability of loans or bond financing.

[(b) GRANTEE SELECTION.—

[(1) EVALUATION OF APPLICATION.—The Secretary shall evaluate each application submitted under section 5223, and shall determine whether the application is sufficient to merit approval.

[(2) DISTRIBUTION OF GRANTS.—The Secretary shall award at least one grant to an eligible entity described in section 5230(2)(A), at least one grant to an eligible entity described in section 5230(2)(B), and at least one grant to an eligible entity described in section 5230(2)(C), if applications are submitted that permit the Secretary to do so without approving an application that is not of sufficient quality to merit approval.

[(c) GRANT CHARACTERISTICS.—Grants under this subpart shall be of a sufficient size, scope, and quality so as to ensure an effective demonstration of an innovative means of enhancing credit for the financing of charter school acquisition, construction, or renovation.

[(d) SPECIAL RULE.—In the event the Secretary determines that the funds made available under this subpart are insufficient to permit the Secretary to award not less than three grants in accordance with subsections (a) through (c), such three-grant minimum and subsection (b)(2) shall not apply, and the Secretary may determine the appropriate number of grants to be awarded in accordance with subsection (c).

[SEC. 5223. APPLICATIONS.

[(a) IN GENERAL.—To receive a grant under this subpart, an eligible entity shall submit to the Secretary an application in such form as the Secretary may reasonably require.

[(b) CONTENTS.—An application submitted under subsection (a) shall contain—

[(1) a statement identifying the activities proposed to be undertaken with funds received under this subpart, including how the eligible entity will determine which charter schools will receive assistance, and how much and what types of assistance charter schools will receive;

[(2) a description of the involvement of charter schools in the application's development and the design of the proposed activities;

[(3) a description of the eligible entity's expertise in capital market financing;

[(4) a description of how the proposed activities will leverage the maximum amount of private-sector financing capital relative to the amount of government funding used and otherwise enhance credit available to charter schools;

[(5) a description of how the eligible entity possesses sufficient expertise in education to evaluate the likelihood of success of a charter school program for which facilities financing is sought;

[(6) in the case of an application submitted by a State governmental entity, a description of the actions that the entity has taken, or will take, to ensure that charter schools within the State receive the funding the charter schools need to have adequate facilities; and

[(7) such other information as the Secretary may reasonably require.

[SEC. 5224. CHARTER SCHOOL OBJECTIVES.

[An eligible entity receiving a grant under this subpart shall use the funds deposited in the reserve account established under section 5225(a) to assist one or more charter schools to access private sector capital to accomplish one or both of the following objectives:

[(1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a charter school.

[(2) The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a charter school.

[SEC. 5225. RESERVE ACCOUNT.

[(a) USE OF FUNDS.—To assist charter schools to accomplish the objectives described in section 5224, an eligible entity receiving a grant under this subpart shall, in accordance with State and local law, directly or indirectly, alone or in collaboration with others, deposit the funds received under this subpart (other than funds used for administrative costs in accordance with section 5226) in a reserve account established and maintained by the eligible entity for this purpose. Amounts deposited in such account shall be used by the eligible entity for one or more of the following purposes:

[(1) Guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein, the proceeds of which are used for an objective described in section 5224.

[(2) Guaranteeing and insuring leases of personal and real property for an objective described in section 5224.

[(3) Facilitating financing by identifying potential lending sources, encouraging private lending, and other similar activities that directly promote lending to, or for the benefit of, charter schools.

[(4) Facilitating the issuance of bonds by charter schools, or by other public entities for the benefit of charter schools, by providing technical, administrative, and other appropriate assistance (including the recruitment of bond counsel, underwriters, and potential investors and the consolidation of multiple charter school projects within a single bond issue).

[(b) INVESTMENT.—Funds received under this subpart and deposited in the reserve account established under subsection (a) shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities.

[(c) REINVESTMENT OF EARNINGS.—Any earnings on funds received under this subpart shall be deposited in the reserve account established under subsection (a) and used in accordance with such subsection.

[SEC. 5226. LIMITATION ON ADMINISTRATIVE COSTS.

[An eligible entity may use not more than 0.25 percent of the funds received under this subpart for the administrative costs of carrying out its responsibilities under this subpart.

[SEC. 5227. AUDITS AND REPORTS.

[(a) FINANCIAL RECORD MAINTENANCE AND AUDIT.—The financial records of each eligible entity receiving a grant under this subpart shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

[(b) REPORTS.—

[(1) GRANTEE ANNUAL REPORTS.—Each eligible entity receiving a grant under this subpart annually shall submit to the Secretary a report of its operations and activities under this subpart.

[(2) CONTENTS.—Each annual report submitted under paragraph (1) shall include—

[(A) a copy of the most recent financial statements, and any accompanying opinion on such statements, prepared by the independent public accountant reviewing the financial records of the eligible entity;

[(B) a copy of any report made on an audit of the financial records of the eligible entity that was conducted under subsection (a) during the reporting period;

[(C) an evaluation by the eligible entity of the effectiveness of its use of the Federal funds provided under this subpart in leveraging private funds;

[(D) a listing and description of the charter schools served during the reporting period;

[(E) a description of the activities carried out by the eligible entity to assist charter schools in meeting the objectives set forth in section 5224; and

[(F) a description of the characteristics of lenders and other financial institutions participating in the activities undertaken by the eligible entity under this subpart during the reporting period.

[(3) SECRETARIAL REPORT.—The Secretary shall review the reports submitted under paragraph (1) and shall provide a comprehensive annual report to Congress on the activities conducted under this subpart.

[SEC. 5228. NO FULL FAITH AND CREDIT FOR GRANTEE OBLIGATIONS.

[No financial obligation of an eligible entity entered into pursuant to this subpart (such as an obligation under a guarantee, bond, note, evidence of debt, or loan) shall be an obligation of, or guaranteed in any respect by, the United States. The full faith and credit of the United States is not pledged to the payment of funds which may be required to be paid under any obligation made by an eligible entity pursuant to any provision of this subpart.

[SEC. 5229. RECOVERY OF FUNDS.

[(a) IN GENERAL.—The Secretary, in accordance with chapter 37 of title 31, United States Code, shall collect—

[(1) all of the funds in a reserve account established by an eligible entity under section 5225(a) if the Secretary determines, not earlier than 2 years after the date on which the eligible entity first received funds under this subpart, that the eligible entity has failed to make substantial progress in carrying out the purposes described in section 5225(a); or

[(2) all or a portion of the funds in a reserve account established by an eligible entity under section 5225(a) if the Secretary determines that the eligible entity has permanently ceased to use all or a portion of the funds in such account to accomplish any purpose described in section 5225(a).

[(b) EXERCISE OF AUTHORITY.—The Secretary shall not exercise the authority provided in subsection (a) to collect from any eligible entity any funds that are being properly used to achieve one or more of the purposes described in section 5225(a).

[(c) PROCEDURES.—The provisions of sections 451, 452, and 458 of the General Education Provisions Act shall apply to the recovery of funds under subsection (a).

[(d) CONSTRUCTION.—This section shall not be construed to impair or affect the authority of the Secretary to recover funds under part D of the General Education Provisions Act.

[SEC. 5230. DEFINITIONS.

[In this subpart:

[(1) CHARTER SCHOOL.—The term “charter school” has the meaning given such term in section 5210.

[(2) ELIGIBLE ENTITY.—The term “eligible entity” means—

[(A) a public entity, such as a State or local governmental entity;

[(B) a private nonprofit entity; or

[(C) a consortium of entities described in subparagraphs (A) and (B).

[SEC. 5231. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this subpart, there are authorized to be appropriated \$150,000,000 for fiscal year 2002 and such sums as may be necessary for fiscal year 2003.

[Subpart 3—Voluntary Public School Choice Programs

[SEC. 5241. GRANTS.

[(a) AUTHORIZATION.—From funds made available under section 5248 to carry out this subpart, the Secretary shall award grants, on a competitive basis, to eligible entities to enable the entities to establish or expand a program of public school choice (referred to in this subpart as a “program”) in accordance with this subpart.

[(b) DURATION.—Grants awarded under subsection (a) may be awarded for a period of not more than 5 years.

[SEC. 5242. USES OF FUNDS.

[(a) REQUIRED USE OF FUNDS.—An eligible entity that receives a grant under this subpart shall use the grant funds to provide students selected to participate in the program with transportation services or the cost of transportation to and from the public elementary schools and secondary schools, including charter schools, that the students choose to attend under the program.

[(b) PERMISSIBLE USES OF FUNDS.—An eligible entity that receives a grant under this subpart may use the grant funds for—

[(1) planning or designing a program (for not more than 1 year);

[(2) the cost of making tuition transfer payments to public elementary schools or secondary schools to which students transfer under the program;

[(3) the cost of capacity-enhancing activities that enable high-demand public elementary schools or secondary schools to accommodate transfer requests under the program;

[(4) the cost of carrying out public education campaigns to inform students and parents about the program; and

[(5) other costs reasonably necessary to implement the program.

[(c) NONPERMISSIBLE USES OF FUNDS.—An eligible entity that receives a grant under this subpart may not use the grant funds for school construction.

[(d) ADMINISTRATIVE EXPENSES.—The eligible entity may use not more than 5 percent of the funds made available through the grant for any fiscal year for administrative expenses.

[SEC. 5243. APPLICATIONS.

[(a) SUBMISSION.—An eligible entity that desires a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

[(b) CONTENTS.—An application submitted under subsection (a) shall include—

[(1) a description of the program for which the eligible entity seeks funds and the goals for such program;

[(2) a description of how and when parents of students will be given the notice required under section 5245(a)(2);

[(3) a description of how students will be selected for the program;

[(4) a description of how the program will be coordinated with, and will complement and enhance, other related Federal and non-Federal projects;

[(5) if the program is to be carried out by a partnership, the name of each partner and a description of the partner's responsibilities; and

[(6) such other information as the Secretary may require.

[SEC. 5244. PRIORITIES.

[In awarding grants under this subpart, the Secretary shall give priority to an eligible entity—

[(1) whose program would provide the widest variety of choices to all students in participating schools;

[(2) whose program would, through various choice options, have the most impact in allowing students in low-performing schools to attend higher-performing schools; and

[(3) that is a partnership that seeks to implement an inter-district approach to carrying out a program.

[SEC. 5245. REQUIREMENTS AND VOLUNTARY PARTICIPATION.

[(a) PARENT AND COMMUNITY INVOLVEMENT AND NOTICE.—In carrying out a program under this subpart, an eligible entity shall—

[(1) develop the program with—

[(A) the involvement of parents and others in the community to be served; and

[(B) individuals who will carry out the program, including administrators, teachers, principals, and other staff; and

[(2) provide to parents of students in the area to be served by the program with prompt notice of—

[(A) the existence of the program;

[(B) the program's availability; and

[(C) a clear explanation of how the program will operate.

[(b) SELECTION OF STUDENTS.—An eligible entity that receives a grant under this subpart shall select students to participate in a program on the basis of a lottery, if more students apply for admission to the program than can be accommodated.

[(c) VOLUNTARY PARTICIPATION.—Student participation in a program funded under this subpart shall be voluntary.

[SEC. 5246. EVALUATIONS.

[(a) IN GENERAL.—From the amount made available to carry out this subpart for any fiscal year, the Secretary may reserve not more than 5 percent—

[(1) to carry out evaluations;

[(2) to provide technical assistance; and

[(3) to disseminate information.

[(b) EVALUATIONS.—In carrying out the evaluations under subsection (a), the Secretary shall, at a minimum, address—

[(1) how, and the extent to which, the programs promote educational equity and excellence;

[(2) the characteristics of the students participating in the programs; and

[(3) the effect of the programs on the academic achievement of students participating in the programs, particularly students who move from schools identified under section 1116 to schools not so identified, and on the overall quality of participating schools and districts.

[SEC. 5247. DEFINITIONS.

[In this subpart:

[(1) CHARTER SCHOOL.—The term “charter school” has the meaning given such term in section 5210.

[(2) ELIGIBLE ENTITY.—The term “eligible entity” means—

[(A) one or more State educational agencies;

[(B) one or more local educational agencies; or

[(C) a partnership of—

[(i) one or more—

[(I) State educational agencies; and

[(II) local educational agencies or other public, for-profit, or nonprofit entities; or

[(ii) one or more—

[(I) local educational agencies; and

[(II) public, for-profit, or nonprofit entities.

[(3) LOW-PERFORMING SCHOOL.—The term “low-performing school” means a public elementary school or secondary school that has failed to make adequate yearly progress, as described in section 1111(b), for two or more consecutive years.

[SEC. 5248. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated to carry out this subpart \$100,000,000 for fiscal year 2002 and each of the 5 succeeding fiscal years.

[PART C—MAGNET SCHOOLS ASSISTANCE

[SEC. 5301. FINDINGS AND PURPOSE.

[(a) FINDINGS.—Congress makes the following findings:

[(1) Magnet schools are a significant part of the Nation’s effort to achieve voluntary desegregation in our Nation’s schools.

[(2) The use of magnet schools has increased dramatically since the inception of the magnet schools assistance program under this Act, with approximately 2,000,000 students nationwide attending such schools, of whom more than 65 percent are non-white.

[(3) Magnet schools offer a wide range of distinctive programs that have served as models for school improvement efforts.

[(4) It is in the best interests of the United States—

[(A) to continue the Federal Government’s support of local educational agencies that are implementing court-ordered desegregation plans and local educational agencies that are voluntarily seeking to foster meaningful interaction among students of different racial and ethnic backgrounds, beginning at the earliest stage of such students’ education;

[(B) to ensure that all students have equitable access to a high quality education that will prepare all students to function well in a technologically oriented and a highly

competitive economy comprised of people from many different racial and ethnic backgrounds; and

[(C) to continue to desegregate and diversify schools by supporting magnet schools, recognizing that segregation exists between minority and nonminority students as well as among students of different minority groups.

[(5) Desegregation efforts through magnet school programs are a significant part of our Nation's effort to achieve voluntary desegregation in schools and help to ensure equal educational opportunities for all students.

[(b) PURPOSE.—The purpose of this part is to assist in the desegregation of schools served by local educational agencies by providing financial assistance to eligible local educational agencies for—

[(1) the elimination, reduction, or prevention of minority group isolation in elementary schools and secondary schools with substantial proportions of minority students, which shall include assisting in the efforts of the United States to achieve voluntary desegregation in public schools;

[(2) the development and implementation of magnet school programs that will assist local educational agencies in achieving systemic reforms and providing all students the opportunity to meet challenging State academic content standards and student academic achievement standards;

[(3) the development and design of innovative educational methods and practices that promote diversity and increase choices in public elementary schools and public secondary schools and public educational programs;

[(4) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the attainment of tangible and marketable vocational, technological, and professional skills of students attending such schools;

[(5) improving the capacity of local educational agencies, including through professional development, to continue operating magnet schools at a high performance level after Federal funding for the magnet schools is terminated; and

[(6) ensuring that all students enrolled in the magnet school programs have equitable access to high quality education that will enable the students to succeed academically and continue with postsecondary education or productive employment.

[SEC. 5302. DEFINITION.

[(For the purpose of this part, the term “magnet school” means a public elementary school, public secondary school, public elementary education center, or public secondary education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

[SEC. 5303. PROGRAM AUTHORIZED.

[(The Secretary, in accordance with this part, is authorized to award grants to eligible local educational agencies, and consortia of such agencies where appropriate, to carry out the purpose of this part for magnet schools that are—

[(1) part of an approved desegregation plan; and

[(2) designed to bring students from different social, economic, ethnic, and racial backgrounds together.

[SEC. 5304. ELIGIBILITY.

[A local educational agency, or consortium of such agencies where appropriate, is eligible to receive a grant under this part to carry out the purpose of this part if such agency or consortium—

[(1) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, that requires the desegregation of minority-group-segregated children or faculty in the elementary schools and secondary schools of such agency; or

[(2) without having been required to do so, has adopted and is implementing, or will, if a grant is awarded to such local educational agency, or consortium of such agencies, under this part, adopt and implement a plan that has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority-group-segregated children or faculty in such schools.

[SEC. 5305. APPLICATIONS AND REQUIREMENTS.

[(a) APPLICATIONS.—An eligible local educational agency, or consortium of such agencies, desiring to receive a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

[(b) INFORMATION AND ASSURANCES.—Each application submitted under subsection (a) shall include—

[(1) a description of—

[(A) how a grant awarded under this part will be used to promote desegregation, including how the proposed magnet school programs will increase interaction among students of different social, economic, ethnic, and racial backgrounds;

[(B) the manner and extent to which the magnet school program will increase student academic achievement in the instructional area or areas offered by the school;

[(C) how the applicant will continue the magnet school program after assistance under this part is no longer available, and, if applicable, an explanation of why magnet schools established or supported by the applicant with grant funds under this part cannot be continued without the use of grant funds under this part;

[(D) how grant funds under this part will be used—

[(i) to improve student academic achievement for all students attending the magnet school programs; and

[(ii) to implement services and activities that are consistent with other programs under this Act, and other Acts, as appropriate; and

[(E) the criteria to be used in selecting students to attend the proposed magnet school program; and

[(2) assurances that the applicant will—

[(A) use grant funds under this part for the purposes specified in section 5301(b);

[(B) employ highly qualified teachers in the courses of instruction assisted under this part;

[(C) not engage in discrimination based on race, religion, color, national origin, sex, or disability in—

[(i) the hiring, promotion, or assignment of employees of the applicant or other personnel for whom the applicant has any administrative responsibility;

[(ii) the assignment of students to schools, or to courses of instruction within the schools, of such applicant, except to carry out the approved plan; and

[(iii) designing or operating extracurricular activities for students;

[(D) carry out a high-quality education program that will encourage greater parental decisionmaking and involvement; and

[(E) give students residing in the local attendance area of the proposed magnet school program equitable consideration for placement in the program, consistent with desegregation guidelines and the capacity of the applicant to accommodate the students.

[(c) SPECIAL RULE.—No grant shall be awarded under this part unless the Assistant Secretary of Education for Civil Rights determines that the assurances described in subsection (b)(2)(C) will be met.

[SEC. 5306. PRIORITY.

[In awarding grants under this part, the Secretary shall give priority to applicants that—

[(1) demonstrate the greatest need for assistance, based on the expense or difficulty of effectively carrying out approved desegregation plans and the magnet school program for which the grant is sought;

[(2) propose to carry out new magnet school programs, or significantly revise existing magnet school programs; and

[(3) propose to select students to attend magnet school programs by methods such as lottery, rather than through academic examination.

[SEC. 5307. USE OF FUNDS.

[(a) IN GENERAL.—Grant funds made available under this part may be used by an eligible local educational agency, or consortium of such agencies—

[(1) for planning and promotional activities directly related to the development, expansion, continuation, or enhancement of academic programs and services offered at magnet schools;

[(2) for the acquisition of books, materials, and equipment, including computers and the maintenance and operation of materials, equipment, and computers, necessary to conduct programs in magnet schools;

[(3) for the compensation, or subsidization of the compensation, of elementary school and secondary school teachers who are highly qualified, and instructional staff where applicable, who are necessary to conduct programs in magnet schools;

[(4) with respect to a magnet school program offered to less than the entire student population of a school, for instructional activities that—

[(A) are designed to make available the special curriculum that is offered by the magnet school program to students who are enrolled in the school but who are not enrolled in the magnet school program; and

[(B) further the purpose of this part;

[(5) for activities, which may include professional development, that will build the recipient's capacity to operate magnet school programs once the grant period has ended;

[(6) to enable the local educational agency, or consortium of such agencies, to have more flexibility in the administration of a magnet school program in order to serve students attending a school who are not enrolled in a magnet school program; and

[(7) to enable the local educational agency, or consortium of such agencies, to have flexibility in designing magnet schools for students in all grades.

[(b) SPECIAL RULE.—Grant funds under this part may be used for activities described in paragraphs (2) and (3) of subsection (a) only if the activities are directly related to improving student academic achievement based on the State's challenging academic content standards and student academic achievement standards or directly related to improving student reading skills or knowledge of mathematics, science, history, geography, English, foreign languages, art, or music, or to improving vocational, technological, and professional skills.

[SEC. 5308. PROHIBITION.

[Grants under this part may not be used for transportation or any activity that does not augment academic improvement.

[SEC. 5309. LIMITATIONS.

[(a) DURATION OF AWARDS.—A grant under this part shall be awarded for a period that shall not exceed 3 fiscal years.

[(b) LIMITATION ON PLANNING FUNDS.—A local educational agency, or consortium of such agencies, may expend for planning (professional development shall not be considered to be planning for purposes of this subsection) not more than 50 percent of the grant funds received under this part for the first year of the program and not more than 15 percent of such funds for each of the second and third such years.

[(c) AMOUNT.—No local educational agency, or consortium of such agencies, awarded a grant under this part shall receive more than \$4,000,000 under this part for any 1 fiscal year.

[(d) TIMING.—To the extent practicable, the Secretary shall award grants for any fiscal year under this part not later than July 1 of the applicable fiscal year.

[SEC. 5310. EVALUATIONS.

[(a) RESERVATION.—The Secretary may reserve not more than 2 percent of the funds appropriated under section 5311(a) for any fiscal year to carry out evaluations, provide technical assistance, and carry out dissemination projects with respect to magnet school programs assisted under this part.

[(b) CONTENTS.—Each evaluation described in subsection (a), at a minimum, shall address—

[(1) how and the extent to which magnet school programs lead to educational quality and improvement;

[(2) the extent to which magnet school programs enhance student access to a high quality education;

[(3) the extent to which magnet school programs lead to the elimination, reduction, or prevention of minority group isolation in elementary schools and secondary schools with substantial proportions of minority students; and

[(4) the extent to which magnet school programs differ from other school programs in terms of the organizational characteristics and resource allocations of such magnet school programs.

[(c) DISSEMINATION.—The Secretary shall collect and disseminate to the general public information on successful magnet school programs.

[SEC. 5311. AUTHORIZATION OF APPROPRIATIONS; RESERVATION.

[(a) AUTHORIZATION.—For the purpose of carrying out this part, there are authorized to be appropriated \$125,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

[(b) AVAILABILITY OF FUNDS FOR GRANTS TO AGENCIES NOT PREVIOUSLY ASSISTED.—In any fiscal year for which the amount appropriated pursuant to subsection (a) exceeds \$75,000,000, the Secretary shall give priority in using such amounts in excess of \$75,000,000 to awarding grants to local educational agencies or consortia of such agencies that did not receive a grant under this part in the preceding fiscal year.

[PART D—FUND FOR THE IMPROVEMENT OF EDUCATION

[SEC. 5401. AUTHORIZATION OF APPROPRIATIONS.

[(There are authorized to be appropriated to carry out this part the following amounts:

[(1) \$550,000,000 for fiscal year 2002.

[(2) \$575,000,000 for fiscal year 2003.

[(3) \$600,000,000 for fiscal year 2004.

[(4) \$625,000,000 for fiscal year 2005.

[(5) \$650,000,000 for fiscal year 2006.

[(6) \$675,000,000 for fiscal year 2007.

[Subpart 1—Fund for the Improvement of Education

[SEC. 5411. PROGRAMS AUTHORIZED.

[(a) AUTHORIZATION.—The Secretary is authorized to support nationally significant programs to improve the quality of elementary and secondary education at the State and local levels and help all children meet challenging State academic content and student academic achievement standards. The Secretary may carry out such programs directly, or through grants to, or contracts with—

[(1) States or local educational agencies;

[(2) institutions of higher education; and

[(3) other public and private agencies, organizations, and institutions.

[(b) USES OF FUNDS.—Funds made available under section 5401 to carry out this subpart may be used for any of the following programs:

[(1) Activities to promote systemic education reform at the State and local levels, including scientifically based research, development, and evaluation designed to improve—

[(A) student academic achievement at the State and local level; and

[(B) strategies for effective parent and community involvement.

[(2) Programs at the State and local levels that are designed to yield significant results, including programs to explore approaches to public school choice and school-based decision-making.

[(3) Recognition programs, which may include financial awards to States, local educational agencies, and schools that have made the greatest progress, based on the Secretary's determination or on a nomination by the State in which the school is located (or in the case of a Bureau funded school, by the Secretary of the Interior) in—

[(A) improving the academic achievement of economically disadvantaged students and students from major racial and ethnic minority groups; and

[(B) closing the academic achievement gap for those groups of students farthest away from the proficient level on the academic assessments administered by the State under section 1111.

[(4) Scientifically based studies and evaluations of education reform strategies and innovations, and the dissemination of information on the effectiveness of such strategies and innovations.

[(5) Identification and recognition of exemplary schools and programs, such as Blue Ribbon Schools, including programs to evaluate the effectiveness of using the best practices of exemplary or Blue Ribbon Schools to improve academic achievement.

[(6) Activities to support Scholar-Athlete Games programs, including the World Scholar-Athlete Games and the U.S. Scholar-Athlete Games.

[(7) Programs to promote voter participation in American elections through programs, such as the National Student/Parent Mock Election and Kids Voting USA.

[(8) Demonstrations relating to the planning and evaluation of the effectiveness of programs under which local educational agencies or schools contract with private management organizations to reform a school or schools.

[(9) Other programs that meet the purposes of this Act.

[(c) BASIS OF AWARDS.—The Secretary is authorized to—

[(1) make awards under this subpart on the basis of competitions announced by the Secretary; and

[(2) support meritorious unsolicited proposals for awards under this subpart.

[(d) EFFECTIVENESS OF PROGRAMS.—The Secretary shall ensure that programs supported under this subpart are designed so that their effectiveness is readily ascertainable, and shall ensure that

such effectiveness is assessed using rigorous, scientifically based research and evaluations.

[SEC. 5412. APPLICATIONS.

[(a) SUBMISSION.—To be eligible for an award under this subpart, an entity shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require.

[(b) CONTENTS.—Each application submitted under subsection (a) shall—

[(1) establish clear objectives, which are based on scientifically based research, for the proposed program; and

[(2) describe the activities the applicant will carry out in order to meet the objectives described in paragraph (1).

[(c) PEER REVIEW.—The Secretary shall use a peer review process in reviewing applications for awards under this subpart and in recognizing States, local educational agencies, and schools under section 5411(b)(3), only if funds are used for such recognition programs. The Secretary may use funds appropriated under this subpart for the cost of such peer review.

[SEC. 5413. PROGRAM REQUIREMENTS.

[(a) EVALUATIONS.—A recipient of an award under this subpart shall—

[(1) evaluate the effectiveness of the program funded under the award in achieving the objectives stated in applications submitted under section 5412; and

[(2) report to the Secretary such information as may be required to determine the effectiveness of such program, including evidence of progress toward meeting such objectives.

[(b) DISSEMINATION OF EVALUATION RESULTS.—The Secretary shall provide for the dissemination of the evaluations of programs funded under this subpart by making the evaluations publicly available upon request, and shall provide public notice that the evaluations are so available.

[(c) MATCHING FUNDS.—The Secretary may require recipients of awards under this subpart to provide matching funds from non-Federal sources, and shall permit the recipients to match funds in whole or in part with in-kind contributions.

[(d) SPECIAL RULE FOR RECOGNITION PROGRAMS.—The application requirements of section 5412(b), and the evaluation requirements of subsections (a) and (b) of this section, do not apply to recognition programs under section 5411(b)(3).

[SEC. 5414. STUDIES OF NATIONAL SIGNIFICANCE.

[(a) STUDIES.—The Secretary shall conduct the following studies of national significance:

[(1) UNHEALTHY PUBLIC SCHOOL BUILDINGS.—A study regarding the health and learning impacts of environmentally unhealthy public school buildings on students and teachers. The study shall include the following information:

[(A) The characteristics of those public elementary school and secondary school buildings that contribute to unhealthy school environments.

[(B) The health and learning impacts of environmental unhealthy public school buildings on students that are attending or that have attended such schools.

[(C) Recommendations to Congress on how to assist schools that are out of compliance with Federal or State health and safety codes, and a cost estimate of bringing up environmentally unhealthy public school buildings to minimum Federal health and safety building standards.

[(2) EXPOSURE TO VIOLENT ENTERTAINMENT.—A study regarding how exposure to violent entertainment (such as in movies, music, television, Internet content, video games, and arcade games) affects children’s cognitive development and educational achievement.

[(3) SEXUAL ABUSE IN SCHOOLS.—A study regarding the prevalence of sexual abuse in schools, including recommendations and legislative remedies for addressing the problem of sexual abuse in schools.

[(b) COMPLETION DATE.—The studies under subsection (a) shall be completed not later than 18 months after the date of enactment of the No Child Left Behind Act of 2001.

[(c) PUBLIC DISSEMINATION.—The Secretary shall make the study conducted under subsection (a)(1) available to the public through the Educational Resources Information Center National Clearinghouse for Educational Facilities of the Department.

[Subpart 2—Elementary and Secondary School Counseling Programs

[SEC. 5421. ELEMENTARY AND SECONDARY SCHOOL COUNSELING PROGRAMS.

[(a) GRANTS AUTHORIZED.—

[(1) IN GENERAL.—The Secretary is authorized to award grants to local educational agencies to enable such agencies to establish or expand elementary school and secondary school counseling programs that comply with the requirements of subsection (c)(2).

[(2) SPECIAL CONSIDERATION.—In awarding grants under this section, the Secretary shall give special consideration to applications describing programs that—

[(A) demonstrate the greatest need for new or additional counseling services among children in the schools served by the local educational agency, in part by providing information on current ratios of students to school counselors, students to school social workers, and students to school psychologists;

[(B) propose the most promising and innovative approaches for initiating or expanding school counseling; and

[(C) show the greatest potential for replication and dissemination.

[(3) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall ensure an equitable geographic distribution among the regions of the United States and among local educational agencies located in urban, rural, and suburban areas.

[(4) DURATION.—A grant under this section shall be awarded for a period not to exceed 3 years.

[(5) MAXIMUM GRANT.—A grant awarded under this section shall not exceed \$400,000 for any fiscal year.

[(6) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section shall be used to supplement, and not supplant, other Federal, State, or local funds used for providing school-based counseling and mental health services to students.

[(b) APPLICATIONS.—

[(1) IN GENERAL.—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

[(2) CONTENTS.—Each application for a grant under this section shall—

[(A) describe the school population to be targeted by the program, the particular counseling needs of such population, and the current school counseling resources available for meeting such needs;

[(B) describe the activities, services, and training to be provided by the program and the specific approaches to be used to meet the needs described in subparagraph (A);

[(C) describe the methods to be used to evaluate the outcomes and effectiveness of the program;

[(D) describe how the local educational agency will involve community groups, social service agencies, and other public and private entities in collaborative efforts to enhance the program and promote school-linked services integration;

[(E) document that the local educational agency has the personnel qualified to develop, implement, and administer the program;

[(F) describe how diverse cultural populations, if applicable, will be served through the program;

[(G) assure that the funds made available under this subpart for any fiscal year will be used to supplement, and not supplant, any other Federal, State, or local funds used for providing school-based counseling and mental health services to students; and

[(H) assure that the applicant will appoint an advisory board composed of interested parties, including parents, teachers, school administrators, counseling services providers described in subsection (c)(2)(D), and community leaders, to advise the local educational agency on the design and implementation of the program.

[(c) USE OF FUNDS.—

[(1) IN GENERAL.—The Secretary is authorized to award grants to local educational agencies to enable the local educational agencies to initiate or expand elementary school or secondary school counseling programs that comply with the requirements of paragraph (2).

[(2) REQUIREMENTS.—Each program funded under this section shall—

[(A) be comprehensive in addressing the counseling and educational needs of all students;

[(B) use a developmental, preventive approach to counseling;

[(C) increase the range, availability, quantity, and quality of counseling services in the elementary schools and secondary schools of the local educational agency;

[(D) expand counseling services through qualified school counselors, school social workers, school psychologists, other qualified psychologists, or child and adolescent psychiatrists;

[(E) use innovative approaches to increase children's understanding of peer and family relationships, work and self, decisionmaking, or academic and career planning, or to improve peer interaction;

[(F) provide counseling services in settings that meet the range of student needs;

[(G) include in-service training appropriate to the activities funded under this Act for teachers, instructional staff, and appropriate school personnel, including in-service training in appropriate identification and early intervention techniques by school counselors, school social workers, school psychologists, other qualified psychologists, and child and adolescent psychiatrists;

[(H) involve parents of participating students in the design, implementation, and evaluation of the counseling program;

[(I) involve community groups, social service agencies, or other public or private entities in collaborative efforts to enhance the program and promote school-linked integration of services;

[(J) evaluate annually the effectiveness and outcomes of the counseling services and activities assisted under this section;

[(K) ensure a team approach to school counseling in the schools served by the local educational agency by working toward ratios recommended by the American School Health Association of one school counselor to 250 students, one school social worker to 800 students, and one school psychologist to 1,000 students; and

[(L) ensure that school counselors, school psychologists, other qualified psychologists, school social workers, or child and adolescent psychiatrists paid from funds made available under this section spend a majority of their time counseling students or in other activities directly related to the counseling process.

[(d) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 4 percent of the amounts made available under this section for any fiscal year may be used for administrative costs to carry out this section.

[(e) DEFINITIONS.—For the purpose of this section—

[(1) the term “child and adolescent psychiatrist” means an individual who—

[(A) possesses State medical licensure; and

[(B) has completed residency training programs in both general psychiatry and child and adolescent psychiatry;

[(2) the term “other qualified psychologist” means an individual who has demonstrated competence in counseling children in a school setting and who—

- [(A) is licensed in psychology by the State in which the individual works; and
- [(B) practices in the scope of the individual's education, training, and experience with children in school settings;
- [(3) the term "school counselor" means an individual who has documented competence in counseling children and adolescents in a school setting and who—
- [(A) is licensed by the State or certified by an independent professional regulatory authority;
- [(B) in the absence of such State licensure or certification, possesses national certification in school counseling or a specialty of counseling granted by an independent professional organization; or
- [(C) holds a minimum of a master's degree in school counseling from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs or the equivalent;
- [(4) the term "school psychologist" means an individual who—
- [(A) has completed a minimum of 60 graduate semester hours in school psychology from an institution of higher education and has completed 1,200 clock hours in a supervised school psychology internship, of which 600 hours are in the school setting;
- [(B) is licensed or certified in school psychology by the State in which the individual works; or
- [(C) in the absence of such State licensure or certification, possesses national certification by the National School Psychology Certification Board; and
- [(5) the term "school social worker" means an individual who—
- [(A) holds a master's degree in social work from a program accredited by the Council on Social Work Education; and
- [(B)(i) is licensed or certified by the State in which services are provided; or
- [(ii) in the absence of such State licensure or certification, possesses a national credential or certification as a school social work specialist granted by an independent professional organization.
- [(f) REPORT.—Not later than 2 years after assistance is made available to local educational agencies under subsection (c), the Secretary shall make publicly available a report—
- [(1) evaluating the programs assisted pursuant to each grant under this subpart; and
- [(2) outlining the information from local educational agencies regarding the ratios of students to—
- [(A) school counselors;
- [(B) school social workers; and
- [(C) school psychologists.
- [(g) SPECIAL RULE.—
- [(1) AMOUNT EQUALS OR EXCEEDS \$40,000,000.—If the amount of funds made available by the Secretary for this subpart equals or exceeds \$40,000,000, the Secretary shall award not less than \$40,000,000 in grants to local educational agencies to

enable the agencies to establish or expand counseling programs in elementary schools.

[(2) AMOUNT LESS THAN \$40,000,000.—If the amount of funds made available by the Secretary for this subpart is less than \$40,000,000, the Secretary shall award grants to local educational agencies only to establish or expand counseling programs in elementary schools.

[Subpart 3—Partnerships in Character Education

[SEC. 5431. PARTNERSHIPS IN CHARACTER EDUCATION PROGRAM.

[(a) PROGRAM AUTHORIZED.—

[(1) IN GENERAL.—The Secretary is authorized to award grants to eligible entities for the design and implementation of character education programs that—

[(A) are able to be integrated into classroom instruction and to be consistent with State academic content standards; and

[(B) are able to be carried out in conjunction with other educational reform efforts.

[(2) ELIGIBLE ENTITY.—In this section, the term “eligible entity” means—

[(A) a State educational agency in partnership with—

[(i) one or more local educational agencies; or

[(ii) one or more—

[(I) local educational agencies; and

[(II) nonprofit organizations or entities, including an institution of higher education;

[(B) a local educational agency or consortium of local educational agencies; or

[(C) a local educational agency in partnership with one or more nonprofit organizations or entities, including an institution of higher education.

[(3) DURATION.—Each grant under this section shall be awarded for a period not to exceed 5 years, of which the eligible entity may not use more than 1 year for planning and program design.

[(4) AMOUNT OF GRANTS FOR STATE EDUCATIONAL AGENCIES.—Subject to the availability of appropriations, the amount of a grant made by the Secretary to a State educational agency under this section shall not be less than \$500,000 if the State educational agency—

[(A) is in a partnership described in paragraph (2)(A); and

[(B) meets such requirements as the Secretary may establish under this section.

[(b) CONTRACTS UNDER PROGRAM.—

[(1) EVALUATION.—Each eligible entity awarded a grant under this section may contract with outside sources, including institutions of higher education and private and nonprofit organizations, for the purposes of—

[(A) evaluating the program for which the assistance is made available;

【(B) measuring the integration of such program into the curriculum and teaching methods of schools where the program is carried out; and

【(C) measuring the success of such program in fostering the elements of character selected by the recipient under subsection (c).

【(2) MATERIALS AND PROGRAM DEVELOPMENT.—Each eligible entity awarded a grant under this section may contract with outside sources, including institutions of higher education and private and nonprofit organizations, for assistance in—

【(A) developing secular curricula, materials, teacher training, and other activities related to character education; and

【(B) integrating secular character education into the curricula and teaching methods of schools where the program is carried out.

【(c) ELEMENTS OF CHARACTER.—

【(1) SELECTION.—

【(A) IN GENERAL.—Each eligible entity awarded a grant under this section may select the elements of character that will be taught under the program for which the grant was awarded.

【(B) CONSIDERATION OF VIEWS.—In selecting elements of character under subparagraph (A), the eligible entity shall consider the views of the parents of the students to be taught under the program and the views of the students.

【(2) EXAMPLE ELEMENTS.—Elements of character selected under this subsection may include any of the following:

【(A) Caring.

【(B) Civic virtue and citizenship.

【(C) Justice and fairness.

【(D) Respect.

【(E) Responsibility.

【(F) Trustworthiness.

【(G) Giving.

【(H) Any other elements deemed appropriate by the eligible entity.

【(d) USE OF FUNDS BY STATE EDUCATIONAL AGENCY RECIPIENTS.—Of the total funds received in any fiscal year under this section by an eligible entity that is a State educational agency—

【(1) not more than 3 percent of such funds may be used for administrative purposes; and

【(2) the remainder of such funds may be used for—

【(A) collaborative initiatives with and between local educational agencies and schools;

【(B) the preparation or purchase of materials, and teacher training;

【(C) providing assistance to local educational agencies, schools, or institutions of higher education; and

【(D) technical assistance and evaluation.

【(e) APPLICATION.—

【(1) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

[(2) REQUIRED INFORMATION.—Each application for a grant under this section shall include (together with any other information that the Secretary may require) information that—

[(A) demonstrates that the program for which the grant is sought has clear objectives that are based on scientifically based research;

[(B) describes any partnerships or collaborative efforts among the organizations and entities of the eligible entity;

[(C) describes the activities that will be carried out with the grant funds and how such activities will meet the objectives described in subparagraph (A), including—

[(i) how parents, students, students with disabilities (including those with mental or physical disabilities), and other members of the community, including members of private and nonprofit organizations, will be involved in the design and implementation of the program and how the eligible entity will work with the larger community to increase the reach and promise of the program;

[(ii) curriculum and instructional practices that will be used or developed; and

[(iii) methods of teacher training and parent education that will be used or developed;

[(D) describes how the program for which the grant is sought will be linked to other efforts to improve academic achievement, including—

[(i) broader educational reforms that are being instituted by the eligible entity or its partners; and

[(ii) State academic content standards;

[(E) in the case of an eligible entity that is a State educational agency, describes how the State educational agency—

[(i) will provide technical and professional assistance to its local educational agency partners in the development and implementation of character education programs; and

[(ii) will assist other interested local educational agencies that are not members of the original partnership in designing and establishing character education programs;

[(F) describes how the eligible entity will evaluate the success of its program—

[(i) based on the objectives described in subparagraph (A); and

[(ii) in cooperation with any national evaluation conducted pursuant to subsection (h)(2)(B)(iii); and

[(G) assures that the eligible entity annually will provide to the Secretary such information as may be required to determine the effectiveness of the program.

[(f) SELECTION OF RECIPIENTS.—

[(1) PEER REVIEW.—

[(A) IN GENERAL.—In selecting eligible entities to receive grants under this section from among the applicants for such grants, the Secretary shall use a peer review process

that includes the participation of experts in the field of character education and development.

[(B) USE OF FUNDS.—The Secretary may use funds appropriated under this section for the cost of carrying out peer reviews under this paragraph.

[(2) SELECTION CRITERIA.—Each selection under paragraph (1) shall be made on the basis of the quality of the application submitted, taking into consideration such factors as—

[(A) the extent to which the program fosters character in students and the potential for improved student academic achievement;

[(B) the extent and ongoing nature of parental, student, and community involvement;

[(C) the quality of the plan for measuring and assessing success; and

[(D) the likelihood that the objectives of the program will be achieved.

[(3) EQUITABLE DISTRIBUTION.—In making selections under this subsection, the Secretary shall ensure, to the extent practicable under paragraph (2), that the programs assisted under this section are equitably distributed among the geographic regions of the United States, and among urban, suburban, and rural areas.

[(g) PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.—Each eligible entity that receives a grant under this section shall provide, to the extent feasible and appropriate, for the participation in programs and activities under this section of students and teachers in private elementary schools and secondary schools.

[(h) EVALUATION AND PROGRAM DEVELOPMENT.—

[(1) STATE AND LOCAL REPORTING AND EVALUATION.—Each eligible entity receiving a grant under this section shall submit to the Secretary a comprehensive evaluation of the program assisted under this section, including its impact on students, students with disabilities (including those with mental or physical disabilities), teachers, administrators, parents, and others—

[(A) by the end of the second year of the program; and

[(B) not later than 1 year after completion of the grant period.

[(2) NATIONAL RESEARCH, DISSEMINATION, AND EVALUATION.—

[(A) IN GENERAL.—

[(i) AUTHORIZATION.—The Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with, State educational agencies or local educational agencies, institutions of higher education, tribal organizations, or other public or private agencies or organizations to carry out research, development, dissemination, technical assistance, and evaluation activities that support or inform State and local character education programs.

[(ii) RESERVATION OF FUNDS.—The Secretary shall reserve not more than 5 percent of the funds made available under this section to carry out this paragraph.

[(B) USES.—Funds made available under subparagraph (A) may be used for the following:

[(i) Conducting research and development activities that focus on matters such as—

[(I) the extent to which schools are undertaking character education initiatives;

[(II) the effectiveness of instructional models for all students, including students with disabilities (including those with mental or physical disabilities);

[(III) materials and curricula for use by programs in character education;

[(IV) models of professional development in character education;

[(V) the development of measures of effectiveness for character education programs (which may include the factors described in paragraph (3)); and

[(VI) the effectiveness of State and local programs receiving funds under this section.

[(ii) Providing technical assistance to State and local programs, particularly on matters of program evaluation.

[(iii) Conducting evaluations of State and local programs receiving funding under this section, that may be conducted through a national clearinghouse under clause (iv).

[(iv) Compiling and disseminating, through a national clearinghouse or other means—

[(I) information on model character education programs;

[(II) information about high quality character education materials and curricula;

[(III) research findings in the area of character education and character development; and

[(IV) any other information that will be useful to character education program participants nationwide, including educators, parents, and administrators.

[(C) PARTNERSHIPS.—In carrying out national activities under this paragraph, the Secretary may enter into partnerships with national nonprofit character education organizations and institutions of higher education with expertise and successful experience in implementing—

[(i) character education programs that had an effective impact on schools, students, students with disabilities (including those with mental or physical disabilities), and teachers; or

[(ii) character education program evaluation and research.

[(D) PARTNERSHIP FOR ACTIVITIES UNDER SUBPARAGRAPH (B)(iv).—In carrying out national activities under subparagraph (B)(iv), the Secretary may enter into a partnership with a national nonprofit character education organization that will disseminate information to educators, parents,

administrators, and others nationwide, including information about the range of model character education programs, materials, and curricula.

【(E) REPORT.—Each entity awarded a grant or entering into a contract or cooperative agreement under this paragraph shall submit an annual report to the Secretary that—

【(i) describes the entity’s progress in carrying out research, development, dissemination, evaluation, and technical assistance under this paragraph;

【(ii) identifies unmet and future information needs in the field of character education; and

【(iii) if applicable, describes the progress of the entity in carrying out the requirements of subparagraph (B)(iv), including a listing of—

【(I) the number of requests for information received by the entity in the course of carrying out such requirements;

【(II) the types of organizations making such requests; and

【(III) the types of information requested.

【(3) FACTORS.—Factors that may be considered in evaluating the success of programs funded under this section include the following:

【(A) Discipline issues.

【(B) Student academic achievement.

【(C) Participation in extracurricular activities.

【(D) Parental and community involvement.

【(E) Faculty and administration involvement.

【(F) Student and staff morale.

【(G) Overall improvements in school climate for all students, including students with disabilities (including those with mental or physical disabilities).

【(i) PERMISSIVE MATCH.—

【(1) IN GENERAL.—The Secretary may require eligible entities to match funds awarded under this section with non-Federal funds, except that the amount of the match may not exceed the amount of the grant award.

【(2) SLIDING SCALE.—The amount of a match under paragraph (1) shall be established based on a sliding scale that takes into account—

【(A) the poverty of the population to be targeted by the eligible entity; and

【(B) the ability of the eligible entity to obtain funding for the match.

【(3) IN-KIND CONTRIBUTIONS.—The Secretary shall permit eligible entities to match funds in whole or in part with in-kind contributions.

【(4) CONSIDERATION.—Notwithstanding this subsection, the Secretary in making awards under this section shall not consider the ability of an eligible entity to match funds.

[Subpart 4—Smaller Learning Communities

[SEC. 5441. SMALLER LEARNING COMMUNITIES.

[(a) GRANT AUTHORITY.—The Secretary is authorized to award grants to local educational agencies to enable the agencies to create a smaller learning community or communities.

[(b) APPLICATION.—Each local educational agency desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. The application shall include descriptions of the following:

[(1) Strategies and methods the local educational agency will use to create the smaller learning community or communities.

[(2) Curriculum and instructional practices, including any particular themes or emphases, to be used in the smaller learning environment.

[(3) The extent of involvement of teachers and other school personnel in investigating, designing, implementing, and sustaining the smaller learning community or communities.

[(4) The process to be used for involving students, parents, and other stakeholders in the development and implementation of the smaller learning community or communities.

[(5) Any cooperation or collaboration among community agencies, organizations, businesses, and others to develop or implement a plan to create the smaller learning community or communities.

[(6) The training and professional development activities that will be offered to teachers and others involved in the activities assisted under this subpart.

[(7) The objectives of the activities assisted under this subpart, including a description of how such activities will better enable all students to reach challenging State academic content standards and State student academic achievement standards.

[(8) The methods by which the local educational agency will assess progress in meeting the objectives described in paragraph (7).

[(9) If the smaller learning community or communities exist as a school-within-a-school, the relationship, including governance and administration, of the smaller learning community to the remainder of the school.

[(10) The administrative and managerial relationship between the local educational agency and the smaller learning community or communities, including how such agency will demonstrate a commitment to the continuity of the smaller learning community or communities (including the continuity of student and teacher assignment to a particular learning community).

[(11) How the local educational agency will coordinate or use funds provided under this subpart with other funds provided under this Act or other Federal laws.

[(12) The grade levels or ages of students who will participate in the smaller learning community or communities.

[(13) The method of placing students in the smaller learning community or communities, such that students are not placed

according to ability or any other measure, but are placed at random or by their own choice, and not pursuant to testing or other judgments.

[(c) AUTHORIZED ACTIVITIES.—Funds under this section may be used for one or more of the following:

[(1) To study—

[(A) the feasibility of creating the smaller learning community or communities; and

[(B) effective and innovative organizational and instructional strategies that will be used in the smaller learning community or communities.

[(2) To research, develop, and implement—

[(A) strategies for creating the smaller learning community or communities; and

[(B) strategies for effective and innovative changes in curriculum and instruction, geared to challenging State academic content standards and State student academic achievement standards.

[(3) To provide professional development for school staff in innovative teaching methods that—

[(A) challenge and engage students; and

[(B) will be used in the smaller learning community or communities.

[(4) To develop and implement strategies to include parents, business representatives, local institutions of higher education, community-based organizations, and other community members in the smaller learning communities as facilitators of activities that enable teachers to participate in professional development activities and provide links between students and their community.

Subpart 5—Reading Is Fundamental— Inexpensive Book Distribution Program

[SEC. 5451. INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION.

[(a) PURPOSE.—The purpose of this subpart is to establish and implement a model partnership between a governmental entity and a private entity, to help prepare young children for reading and to motivate older children to read, through the distribution of inexpensive books. Local reading motivation programs assisted under this section shall use such assistance to provide books, training for volunteers, motivational activities, and other essential literacy resources and shall assign the highest priority to serving the youngest and neediest children in the United States.

[(b) AUTHORIZATION.—The Secretary is authorized to enter into a contract with Reading Is Fundamental (RIF) (hereafter in this section referred to as the “contractor”) to support and promote programs, which include the distribution of inexpensive books to young and school-age children, that motivate children to read.

[(c) REQUIREMENTS OF CONTRACT.—Any contract entered into under subsection (b) shall contain each of the following:

[(1) A provision that the contractor will enter into subcontracts with local private nonprofit groups or organizations, or with public agencies, under which each subcontractor will

agree to establish, operate, and provide the non-Federal share of the cost of reading motivation programs that include the distribution of books, by gift (to the extent feasible) or by loan, to children from birth through secondary school age, including children in family literacy programs.

[(2) A provision that funds made available to subcontractors will be used only to pay the Federal share of the cost of such programs.

[(3) A provision that, in selecting subcontractors for initial funding, the contractor will give priority to programs that will serve a substantial number or percentage of children with special needs, such as the following:

[(A) Low-income children, particularly in high-poverty areas.

[(B) Children at risk of school failure.

[(C) Children with disabilities.

[(D) Foster children.

[(E) Homeless children.

[(F) Migrant children.ildren without access to libraries.

[(H) Institutionalized or incarcerated children.

[(I) Children whose parents are institutionalized or incarcerated.

[(4) A provision that the contractor will provide such training and technical assistance to subcontractors as may be necessary to carry out the purpose of this subpart.

[(5) A provision that the contractor will annually report to the Secretary the number, and a description, of programs funded under paragraph (3).

[(6) Such other terms and conditions as the Secretary determines to be appropriate to ensure the effectiveness of such programs.

[(d) RESTRICTION ON PAYMENTS.—The Secretary shall make no payment of the Federal share of the cost of acquiring and distributing books under any contract under this section unless the Secretary determines that the contractor or subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

[(e) SPECIAL RULES FOR CERTAIN SUBCONTRACTORS.—

[(1) FUNDS FROM OTHER FEDERAL SOURCES.—Subcontractors operating programs under this section in low-income communities with a substantial number or percentage of children with special needs, as described in subsection (c)(3), may use funds from other Federal sources to pay the non-Federal share of the cost of the program, if those funds do not comprise more than 50 percent of the non-Federal share of the funds used for the cost of acquiring and distributing books.

[(2) WAIVER AUTHORITY.—Notwithstanding subsection (c), the contractor may waive, in whole or in part, the requirement in subsection (c)(1) for a subcontractor, if the subcontractor demonstrates that it would otherwise not be able to participate in the program, and enters into an agreement with the contractor with respect to the amount of the non-Federal share to

which the waiver will apply. In a case in which such a waiver is granted, the requirement in subsection (c)(2) shall not apply.

[(f) MULTI-YEAR CONTRACTS.—The contractor may enter into a multi-year subcontract under this section, if—

[(1) the contractor believes that such subcontract will provide the subcontractor with additional leverage in seeking local commitments; and

[(2) the subcontract does not undermine the finances of the national program.

[(g) FEDERAL SHARE DEFINED.—In this section, the term “Federal share” means, with respect to the cost to a subcontractor of purchasing books to be paid for under this section, 75 percent of such costs to the subcontractor, except that the Federal share for programs serving children of migrant or seasonal farmworkers shall be 100 percent of such costs to the subcontractor.

[Subpart 6—Gifted and Talented Students

[SEC. 5461. SHORT TITLE.

[This subpart may be cited as the “Jacob K. Javits Gifted and Talented Students Education Act of 2001”.

[SEC. 5462. PURPOSE.

[The purpose of this subpart is to initiate a coordinated program of scientifically based research, demonstration projects, innovative strategies, and similar activities designed to build and enhance the ability of elementary schools and secondary schools nationwide to meet the special educational needs of gifted and talented students.

[SEC. 5463. RULE OF CONSTRUCTION.

[Nothing in this subpart shall be construed to prohibit a recipient of funds under this subpart from serving gifted and talented students simultaneously with students with similar educational needs, in the same educational settings, where appropriate.

[SEC. 5464. AUTHORIZED PROGRAMS.

[(a) ESTABLISHMENT OF PROGRAM.—

[(1) IN GENERAL.—The Secretary (after consultation with experts in the field of the education of gifted and talented students) is authorized to make grants to, or enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, other public agencies, and other private agencies and organizations (including Indian tribes and Indian organizations (as such terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) and Native Hawaiian organizations) to assist such agencies, institutions, and organizations in carrying out programs or projects authorized by this subpart that are designed to meet the educational needs of gifted and talented students, including the training of personnel in the education of gifted and talented students and in the use, where appropriate, of gifted and talented services, materials, and methods for all students.

[(2) APPLICATION.—Each entity seeking assistance under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as

the Secretary may reasonably require. Each such application shall describe how—

[(A) the proposed gifted and talented services, materials, and methods can be adapted, if appropriate, for use by all students; and

[(B) the proposed programs can be evaluated.

[(b) USE OF FUNDS.—Programs and projects assisted under this section may include each of the following:

[(1) Conducting—

[(A) scientifically based research on methods and techniques for identifying and teaching gifted and talented students and for using gifted and talented programs and methods to serve all students; and

[(B) program evaluations, surveys, and the collection, analysis, and development of information needed to accomplish the purpose of this subpart.

[(2) Carrying out professional development (including fellowships) for personnel (including leadership personnel) involved in the education of gifted and talented students.

[(3) Establishing and operating model projects and exemplary programs for serving gifted and talented students, including innovative methods for identifying and educating students who may not be served by traditional gifted and talented programs (such as summer programs, mentoring programs, service learning programs, and cooperative programs involving business, industry, and education).

[(4) Implementing innovative strategies, such as cooperative learning, peer tutoring, and service learning.

[(5) Carrying out programs of technical assistance and information dissemination, including assistance and information with respect to how gifted and talented programs and methods, where appropriate, may be adapted for use by all students.

[(6) Making materials and services available through State regional educational service centers, institutions of higher education, or other entities.

[(7) Providing funds for challenging, high-level course work, disseminated through technologies (including distance learning), for individual students or groups of students in schools and local educational agencies that would not otherwise have the resources to provide such course work.

[(c) SPECIAL RULE.—To the extent that funds appropriated to carry out this subpart for a fiscal year beginning with fiscal year 2002 exceed such funds appropriated for fiscal year 2001, the Secretary shall use such excess funds to award grants, on a competitive basis, to State educational agencies, local educational agencies, or both, to implement activities described in subsection (b).

[(d) CENTER FOR RESEARCH AND DEVELOPMENT.—

[(1) IN GENERAL.—The Secretary (after consultation with experts in the field of the education of gifted and talented students) shall establish a National Research Center for the Education of Gifted and Talented Children and Youth through grants to, or contracts with, one or more institutions of higher education or State educational agencies, or a combination or consortium of such institutions and agencies and other public

or private agencies and organizations, for the purpose of carrying out activities described in subsection (b).

[(2) DIRECTOR.—The National Center shall be headed by a Director. The Secretary may authorize the Director to carry out such functions of the National Center as may be agreed upon through arrangements with institutions of higher education, State educational agencies, local educational agencies, or other public or private agencies and organizations.

[(3) FUNDING.—The Secretary may use not more than 30 percent of the funds made available under this subpart for fiscal year 2001 to carry out this subsection.

[(e) COORDINATION.—Scientifically based research activities supported under this subpart—

[(1) shall be carried out in consultation with the Institute of Education Sciences to ensure that such activities are coordinated with and enhance the research and development activities supported by such Institute; and

[(2) may include collaborative scientifically based research activities which are jointly funded and carried out with such Institute.

[SEC. 5465. PROGRAM PRIORITIES.

[(a) GENERAL PRIORITY.—In carrying out this subpart, the Secretary shall give highest priority to programs and projects designed to develop new information that—

[(1) improves the capability of schools to plan, conduct, and improve programs to identify and serve gifted and talented students; and

[(2) assists schools in the identification of, and provision of services to, gifted and talented students (including economically disadvantaged individuals, individuals with limited English proficiency, and individuals with disabilities) who may not be identified and served through traditional assessment methods.

[(b) SERVICE PRIORITY.—The Secretary shall ensure that not less than 50 percent of the applications approved under section 5464(a)(2) in a fiscal year address the priority described in subsection (a)(2).

[SEC. 5466. GENERAL PROVISIONS.

[(a) PARTICIPATION OF PRIVATE SCHOOL CHILDREN AND TEACHERS.—In making grants and entering into contracts under this subpart, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary schools and secondary schools, including the participation of teachers and other personnel in professional development programs serving such students.

[(b) REVIEW, DISSEMINATION, AND EVALUATION.—The Secretary shall—

[(1) use a peer review process in reviewing applications under this subpart;

[(2) ensure that information on the activities and results of programs and projects funded under this subpart is disseminated to appropriate State educational agencies, local educational agencies, and other appropriate organizations, including nonprofit private organizations; and

[(3) evaluate the effectiveness of programs under this subpart in accordance with section 9601, in terms of the impact on students traditionally served in separate gifted and talented programs and on other students, and submit the results of such evaluation to Congress not later than 2 years after the date of enactment of the No Child Left Behind Act of 2001.

[(c) PROGRAM OPERATIONS.—The Secretary shall ensure that the programs under this subpart are administered within the Department by a person who has recognized professional qualifications and experience in the field of the education of gifted and talented students and who shall—

[(1) administer and coordinate the programs authorized under this subpart;

[(2) serve as a focal point of national leadership and information on the educational needs of gifted and talented students and the availability of educational services and programs designed to meet such needs;

[(3) assist the Assistant Secretary for Educational Research and Improvement in identifying research priorities that reflect the needs of gifted and talented students; and

[(4) shall disseminate, and consult on, the information developed under this subpart with other offices within the Department.

[Subpart 7—Star Schools Program

[SEC. 5471. SHORT TITLE.

[This subpart may be cited as the “Star Schools Act”.

[SEC. 5472. PURPOSES.

[The purposes of this subpart are the following:

[(1) To encourage improved instruction in mathematics, science, and foreign languages as well as other subjects (such as literacy skills and vocational education).

[(2) To serve underserved populations, including disadvantaged, illiterate, limited English proficient populations, and individuals with disabilities through a Star Schools program under which grants are made to eligible telecommunication partnerships to enable such partnerships—

[(A) to develop, construct, acquire, maintain, and operate telecommunications audio and visual facilities and equipment;

[(B) to develop and acquire educational and instructional programming; and

[(C) to obtain technical assistance for the use of such facilities and instructional programming.

[SEC. 5473. GRANT PROGRAM AUTHORIZED.

[(a) AUTHORIZATION.—The Secretary, in conjunction with the Office of Educational Technology, is authorized to make grants, in accordance with the provisions of this subpart, to eligible entities to pay the Federal share of the cost of the following:

[(1) Development, construction, acquisition, maintenance, and operation of telecommunications facilities and equipment.

[(2) Development and acquisition of live, interactive instructional programming.

[(3) Development and acquisition of preservice and inservice teacher training programs based on established research regarding teacher-to-teacher mentoring, and ongoing, in-class instruction.

[(4) Establishment of teleconferencing facilities and resources for making interactive training available to teachers.

[(5) Obtaining technical assistance.

[(6) Coordination of the design and connectivity of telecommunications networks to reach the greatest number of schools.

[(b) DURATION AND AMOUNT.—

[(1) IN GENERAL.—A grant under this section may not exceed—

[(A) 5 years in duration (subject to subsection (c)); and

[(B) \$10,000,000 in any single fiscal year.

[(c) RENEWAL.—

[(1) IN GENERAL.—Grants awarded under subsection (a) may be renewed for a single additional period of 3 years.

[(2) CONTINUING ELIGIBILITY.—In order to be eligible to receive a grant renewal under this subsection, a grant recipient shall demonstrate, to the satisfaction of the Secretary, in an addendum to its application submitted under section 5474, that the grant recipient will—

[(A) continue to provide services in the subject areas and geographic areas assisted with funds received under this subpart for the previous grant period; and

[(B) use all grant funds received under this subpart for the 3 year renewal period to provide expanded services by—

[(i) increasing the number of students, schools, or school districts served by the courses of instruction assisted under this part in the previous fiscal year;

[(ii) providing new courses of instruction; and

[(iii) serving new populations of underserved individuals, such as children or adults who are disadvantaged, have limited English proficiency, are individuals with disabilities, are illiterate, or lack secondary school diplomas or their recognized equivalent.

[(3) SUPPLEMENT, NOT SUPPLANT.—Grant funds received under this subsection shall be used to supplement, and not supplant, services provided by the grant recipient under this subpart in the previous fiscal year.

[(d) RESERVATIONS.—

[(1) INSTRUCTIONAL PROGRAMMING.—At least 25 percent of the funds made available to the Secretary for any fiscal year under this subpart shall be used for the cost of instructional programming.

[(2) LOCAL EDUCATIONAL AGENCY ASSISTANCE.—At least 50 percent of the funds available in any fiscal year under this subpart shall be used for the cost of facilities, equipment, teacher training or retraining, technical assistance, or programming, for local educational agencies that are eligible to receive assistance under part A of title I.

[(e) FEDERAL SHARE.—

[(1) AMOUNT.—The Federal share of the cost of projects funded under this section shall not exceed the following amounts:

[(A) 75 percent for the first and second years for which an eligible telecommunications partnership receives a grant under this subpart.

[(B) 60 percent for the third and fourth such years.

[(C) 50 percent for the fifth such year.

[(2) REDUCTION OR WAIVER.—The Secretary may reduce or waive the corresponding non-Federal share under paragraph (1) upon a showing of financial hardship.

[(f) REQUIRED LOCAL EDUCATIONAL AGENCY PARTICIPATION.—The Secretary is authorized to make a grant under this section to any eligible entity, if at least one local educational agency is participating in the proposed program.

[(g) ASSISTANCE OBTAINING SATELLITE TIME.—The Secretary may assist recipients of grants made under this section in acquiring satellite time, where appropriate, as economically as possible.

[SEC. 5474. APPLICATIONS.

[(a) SUBMISSION.—Each eligible entity that desires to receive a grant under section 5473 shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

[(b) CONTENTS.—An application submitted under subsection (a) shall include each of the following:

[(1) A description of how the proposed program will assist all students to have an opportunity to meet challenging State academic achievement standards, how such program will assist State and local educational reform efforts, and how such program will contribute to creating a high-quality system of educational development.

[(2) A description of the telecommunications facilities and equipment and technical assistance for which assistance is sought, which may include—

[(A) the design, development, construction, acquisition, maintenance, and operation of State or multistate educational telecommunications networks and technology resource centers;

[(B) microwave, fiber optics, cable, and satellite transmission equipment or any combination thereof;

[(C) reception facilities;

[(D) satellite time;

[(E) production facilities;

[(F) other telecommunications equipment capable of serving a wide geographic area;

[(G) the provision of training services to instructors who will be using the facilities and equipment for which assistance is sought, including training in using such facilities and equipment and training in integrating programs into the classroom curriculum; and

[(H) the development of educational and related programming for use on a telecommunications network.

[(3) In the case of an application for assistance for instructional programming, a description of the types of programming

that will be developed to enhance instruction and training and provide an assurance that such programming will be designed in consultation with professionals (including classroom teachers) who are experts in the applicable subject matter and grade level.

[(4) A description of how the eligible entity has engaged in sufficient survey and analysis of the area to be served to ensure that the services offered by the eligible entity will increase the availability of courses of instruction in English, mathematics, science, foreign languages, arts, history, geography, or other disciplines.

[(5) A description of the professional development policies for teachers and other school personnel to be implemented to ensure the effective use of the telecommunications facilities and equipment for which assistance is sought.

[(6) A description of the manner in which historically underserved students (such as students from low-income families, limited English proficient students, students with disabilities, or students who have low literacy skills) and their families, will participate in the benefits of the telecommunications facilities, equipment, technical assistance, and programming assisted under this subpart.

[(7) A description of how existing telecommunications equipment, facilities, and services, where available, will be used.

[(8) An assurance that the financial interest of the United States in the telecommunications facilities and equipment will be protected for the useful life of such facilities and equipment.

[(9) An assurance that a significant portion of any facilities and equipment, technical assistance, and programming for which assistance is sought for elementary schools and secondary schools will be made available to schools or local educational agencies that have a high number or percentage of children eligible to be counted under part A of title I.

[(10) An assurance that the applicant will use the funds provided under this subpart to supplement, and not supplant, funds available for the purposes of this subpart.

[(11) A description of how funds received under this subpart will be coordinated with funds received for educational technology in the classroom.

[(12) A description of the activities or services for which assistance is sought, such as—

[(A) providing facilities, equipment, training services, and technical assistance;

[(B) making programs accessible to students with disabilities through mechanisms such as closed captioning and descriptive video services;

[(C) linking networks around issues of national importance (such as elections) or to provide information about employment opportunities, job training, or student and other social service programs;

[(D) sharing curriculum resources between networks and development of program guides which demonstrate cooperative, cross-network listing of programs for specific curriculum areas;

- [(E) providing teacher and student support services, including classroom and training support materials which permit student and teacher involvement in the live interactive distance learning telecasts;
 - [(F) incorporating community resources, such as libraries and museums, into instructional programs;
 - [(G) providing professional development for teachers, including, as appropriate, training to early childhood development and Head Start teachers and staff and vocational education teachers and staff, and adult and family educators;
 - [(H) providing programs for adults to maximize the use of telecommunications facilities and equipment;
 - [(I) providing teacher training on proposed or established models of exemplary academic content standards in mathematics and science and other disciplines as such standards are developed; and
 - [(J) providing parent education programs during and after the regular school day which reinforce a student's course of study and actively involve parents in the learning process.
- [(13) A description of how the proposed program as a whole will be financed and how arrangements for future financing will be developed before the program expires.
- [(14) An assurance that a significant portion of any facilities, equipment, technical assistance, and programming for which assistance is sought for elementary schools and secondary schools will be made available to schools in local educational agencies that have a high percentage of children counted for the purpose of part A of title I.
- [(15) An assurance that the applicant will provide such information and cooperate in any evaluation that the Secretary may conduct under this subpart.
- [(16) Such additional assurances as the Secretary may reasonably require.
- [(c) APPROVAL.—In approving applications submitted under subsection (a) for grants under section 5473, the Secretary shall—
- [(1) to the extent feasible, ensure an equitable geographic distribution of services provided under this subpart.
 - [(2) give priority to applications describing programs that—
 - [(A) propose high-quality plans, will provide instruction consistent with State academic content standards, or will otherwise provide significant and specific assistance to States and local educational agencies undertaking systemic education reform;
 - [(B) will provide services to programs serving adults, especially parents, with low levels of literacy;
 - [(C) will serve schools with significant numbers of children counted for the purposes of part A of title I;
 - [(D) ensure that the eligible entity will—
 - [(i) serve the broadest range of institutions, programs providing instruction outside of the school setting, programs serving adults, especially parents, with low levels of literacy, institutions of higher education,

teacher training centers, research institutes, and private industry;

[(ii) have substantial academic and teaching capabilities, including the capability of training, retraining, and inservice upgrading of teaching skills and the capability to provide professional development;

[(iii) provide a comprehensive range of courses for educators to teach instructional strategies for students with different skill levels;

[(iv) provide training to participating educators in ways to integrate telecommunications courses into existing school curriculum;

[(v) provide instruction for students, teachers, and parents;

[(vi) serve a multistate area; and

[(vii) give priority to the provision of equipment and linkages to isolated areas; and

[(E) involve a telecommunications entity (such as a satellite, cable, telephone, computer, or public or private television stations) participating in the eligible entity and donating equipment or in-kind services for telecommunications linkages.

[SEC. 5475. OTHER GRANT ASSISTANCE.

[(a) SPECIAL STATEWIDE NETWORK.—

[(1) IN GENERAL.—The Secretary, in conjunction with the Office of Educational Technology, may provide assistance to a statewide telecommunications network if such network—

[(A) provides 2-way full-motion interactive video and audio communications;

[(B) links together public colleges and universities and secondary schools throughout the State; and

[(C) meets any other requirements determined appropriate by the Secretary.

[(2) MATCHING CONTRIBUTION.—A statewide telecommunications network assisted under paragraph (1) shall contribute, either directly or through private contributions, non-Federal funds equal to not less than 50 percent of the cost of such network.

[(b) SPECIAL LOCAL NETWORK.—

[(1) IN GENERAL.—The Secretary is authorized to provide assistance, on a competitive basis, to a local educational agency, or a consortium of such agencies, to enable such agency or consortium to establish a high-technology demonstration program.

[(2) PROGRAM REQUIREMENTS.—A high-technology demonstration program assisted under paragraph (1) shall—

[(A) include 2-way full-motion interactive video, audio, and text communications;

[(B) link together elementary schools and secondary schools, colleges, and universities;

[(C) provide parent participation and family programs;

[(D) include a staff development program; and

[(E) have a significant contribution and participation from business and industry.

[(3) MATCHING REQUIREMENT.—A local educational agency or consortium receiving a grant under paragraph (1) shall pro-

vide, either directly or through private contributions, non-Federal matching funds equal to not less than 50 percent of the amount of the grant.

[(c) TELECOMMUNICATIONS PROGRAMS FOR CONTINUING EDUCATION.—

[(1) AUTHORITY.—The Secretary is authorized to award grants, on a competitive basis, to eligible entities to develop and operate one or more programs that provide online access to educational resources in support of continuing education and curriculum requirements relevant to achieving a secondary school diploma or its recognized equivalent. The program authorized by this subsection shall be designed to advance adult literacy, secondary school completion, and the acquisition of specified competency by the end of the 12th grade.

[(2) APPLICATIONS.—Each eligible entity desiring a grant under this subsection shall submit an application to the Secretary. The application shall include each of the following:

[(A) A demonstration that the applicant will use publicly funded or free public telecommunications infrastructure to deliver video, voice, and data in an integrated service to support and assist in the acquisition of a secondary school diploma or its recognized equivalent.

[(B) An assurance that the content of the materials to be delivered is consistent with the accreditation requirements of the State for which such materials are used.

[(C) To the extent feasible, materials developed in the Federal departments and agencies and under appropriate federally funded programs.

[(D) An assurance that the applicant has the technological and substantive experience to carry out the program.

[(E) Such additional assurances as the Secretary may reasonably require.

[SEC. 5476. ADMINISTRATIVE PROVISIONS.

[(a) LEADERSHIP, EVALUATION, AND PEER REVIEW.—

[(1) RESERVATION OF FUNDS.—The Secretary may reserve not more than 5 percent of the amount made available to carry out this subpart for a fiscal year for national leadership, evaluation, and peer review activities, which the Secretary may carry out directly or through grants, contracts, and cooperative agreements.

[(2) LEADERSHIP.—Funds reserved for leadership activities under paragraph (1) may be used for—

[(A) disseminating information, including lists and descriptions of services available from grant recipients under this subpart; and

[(B) other activities designed to enhance the quality of distance learning activities nationwide.

[(3) EVALUATION.—Funds reserved for evaluation activities under paragraph (1) may be used to conduct independent evaluations of the activities assisted under this subpart and of distance learning in general, including—

[(A) analyses of distance learning efforts (including such efforts that are, or are not, assisted under this subpart); and

[(B) comparisons of the effects (including student outcomes) of different technologies in distance learning efforts.

[(4) PEER REVIEW.—Funds reserved for peer review activities under paragraph (1) may be used for peer review of—

[(A) applications for grants under this subpart; and

[(B) activities assisted under this subpart.

[(b) COORDINATION.—The Department, the National Science Foundation, the Department of Agriculture, the Department of Commerce, and any other Federal department or agency operating a telecommunications network for educational purposes, shall coordinate the activities assisted under this subpart with the activities of such department or agency relating to a telecommunications network for educational purposes.

[(c) FUNDS FROM OTHER AGENCIES.—The Secretary may accept funds from other Federal departments or agencies to carry out the purposes of this subpart, including funds for the purchase of equipment.

[(d) AVAILABILITY OF FUNDS.—Funds made available to carry out this subpart shall remain available until expended.

[(e) CLOSED CAPTIONING AND DESCRIPTIVE VIDEO.—The Secretary shall encourage each entity receiving funds under this subpart to provide—

[(1) closed captioning of the verbal content of the entity's programming, as appropriate; and

[(2) descriptive video of the visual content of the entity's programming, as appropriate.

[SEC. 5477. DEFINITIONS.

[In this subpart:

[(1) EDUCATIONAL INSTITUTION.—The term “educational institution” means an institution of higher education, a local educational agency, or a State educational agency.

[(2) ELIGIBLE ENTITY.—The term “eligible entity” includes any of the following that is organized on a Statewide or multistate basis:

[(A) A public agency or corporation established for the purpose of developing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training centers, and other entities, except that any such agency or corporation shall represent the interests of elementary schools and secondary schools that are eligible to participate in the program under part A of title I.

[(B) A partnership that will provide telecommunications services and that includes three or more of the following entities, at least one of which shall be an agency described in clause (i) or (ii):

[(i) A local educational agency that serves a significant number of elementary schools and secondary schools that are eligible for assistance under part A of title I, or elementary schools and secondary schools operated or funded for Indian children by the Department of the Interior eligible under section 1121(d)(1)(A).

[(ii) A State educational agency.

[(iii) An adult and family education program.

[(iv) An institution of higher education or a State higher education agency (as that term is defined in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003)).

[(v) A teacher training center or academy that—

[(I) provides teacher preservice and inservice training; and

[(II) receives Federal financial assistance or has been approved by a State agency;

[(vi)(I) A public or private entity with experience and expertise in the planning and operation of a telecommunications network, including entities involved in telecommunications through satellite, cable, telephone, or computer; or

[(II) a public broadcasting entity with such experience.

[(vii) A public or private elementary school or secondary school.

[(3) INSTRUCTIONAL PROGRAMMING.—The term “instructional programming” means courses of instruction and training courses for elementary and secondary students, teachers, and others, and materials for use in such instruction and training that have been prepared in audio and visual form on tape, disc, film, or live, and presented by means of telecommunications devices.

[(4) PUBLIC BROADCASTING ENTITY.—The term “public broadcasting entity” has the same meaning given such term in section 397 of the Communications Act of 1934 (47 U.S.C. 397).

[Subpart 8—Ready to Teach

[SEC. 5481. GRANTS.

[(a) IN GENERAL.—The Secretary is authorized to award grants to a nonprofit telecommunications entity, or partnership of such entities, for the purpose of carrying out a national telecommunications-based program to improve teaching in core curriculum areas. The program shall be designed to assist elementary school and secondary school teachers in preparing all students to achieve challenging State academic content and student academic achievement standards in core curriculum areas.

[(b) DIGITAL EDUCATIONAL PROGRAMMING.—The Secretary is authorized to award grants, as provided for in section 5484, to eligible entities described in subsection (b) of such section, to enable such entities to develop, produce, and distribute innovative educational and instructional video programming that is designed for use by elementary schools and secondary schools and based on challenging State academic content and student academic achievement standards. In awarding such grants, the Secretary shall ensure that eligible entities enter into multiyear content development collaborative arrangements with State educational agencies, local educational agencies, institutions of higher education, businesses, or other agencies or organizations.

[SEC. 5482. APPLICATION REQUIRED.**[(a) GENERAL APPLICATION.—**

[(1) IN GENERAL.—To be eligible to receive a grant under section 5481(a), a nonprofit telecommunications entity, or partnership of such entities shall submit an application to the Secretary. Each such application shall—

[(A) demonstrate that the applicant will use the public broadcasting infrastructure, the Internet, and school digital networks, where available, to deliver video and data in an integrated service to train teachers in the use of materials and learning technologies for achieving challenging State academic content and student academic achievement standards;

[(B) ensure that the project for which assistance is sought will be conducted in cooperation with appropriate State educational agencies, local educational agencies, and State or local nonprofit public telecommunications entities;

[(C) ensure that a significant portion of the benefits available for elementary schools and secondary schools from the project for which assistance is sought will be available to schools of local educational agencies that have a high percentage of children counted for the purpose of part A of title I; and

[(D) contain such additional assurances as the Secretary may reasonably require.

[(2) SITES.—In approving applications under paragraph (1), the Secretary shall ensure that the program authorized by section 5481(a) is conducted at elementary school and secondary school sites throughout the United States.

[(b) PROGRAMMING APPLICATION.—To be eligible to receive a grant under section 5481(b), an entity shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

[SEC. 5483. REPORTS AND EVALUATION.

[An entity receiving a grant under section 5481(a) shall prepare and submit to the Secretary an annual report that contains such information as the Secretary may require. At a minimum, such report shall describe the program activities undertaken with funds received under the grant, including—

[(1) the core curriculum areas for which program activities have been undertaken and the number of teachers using the program in each core curriculum area; and

[(2) the States in which teachers using the program are located.

[SEC. 5484. DIGITAL EDUCATIONAL PROGRAMMING GRANTS.

[(a) GRANTS.—The Secretary is authorized to award grants under section 5481(b) to eligible entities to facilitate the development of educational programming that shall—

[(1) include student assessment tools to provide feedback on student academic achievement;

[(2) include built-in teacher utilization and support components to ensure that teachers understand and can easily use the content of the programming with group instruction or for individual student use;

[(3) be created for, or adaptable to, challenging State academic content standards and student academic achievement standards; and

[(4) be capable of distribution through digital broadcasting and school digital networks.

[(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under section 5481(b), an entity shall be a local public telecommunications entity, as defined in section 397(12) of the Communications Act of 1934, that is able to demonstrate a capacity for the development and distribution of educational and instructional television programming of high quality.

[(c) COMPETITIVE BASIS.—Grants under section 5481(b) shall be awarded on a competitive basis as determined by the Secretary.

[(d) MATCHING REQUIREMENT.—To be eligible to receive a grant under section 5481(b), an entity shall contribute to the activities assisted under such grant non-Federal matching funds in an amount equal to not less than 100 percent of the amount of the grant. Such matching funds may include funds provided for the transition to digital broadcasting, as well as in-kind contributions.

[(e) DURATION.—A grant under section 5481(b) shall be awarded for a period of 3 years in order to provide a sufficient period of time for the creation of a substantial body of significant content.

[SEC. 5485. ADMINISTRATIVE COSTS.

[An entity that receives a grant under this subpart may not use more than 5 percent of the amount received under the grant for administrative costs.

[Subpart 9—Foreign Language Assistance Program

[SEC. 5491. SHORT TITLE.

[This subpart may be cited as the “Foreign Language Assistance Act of 2001”.

[SEC. 5492. PROGRAM AUTHORIZED.

[(a) PROGRAM AUTHORITY.—

[(1) IN GENERAL.—The Secretary is authorized to make grants, on a competitive basis, to State educational agencies or local educational agencies to pay the Federal share of the cost of innovative model programs providing for the establishment, improvement, or expansion of foreign language study for elementary school and secondary school students.

[(2) DURATION.—Each grant under paragraph (1) shall be awarded for a period of 3 years.

[(b) REQUIREMENTS.—

[(1) GRANTS TO STATE EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a State educational agency, the Secretary shall support programs that promote systemic approaches to improving foreign language learning in the State.

[(2) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a local educational agency, the Secretary shall support programs that—

[(A) show the promise of being continued beyond the grant period;

[(B) demonstrate approaches that can be disseminated and duplicated in other local educational agencies; and

[(C) may include a professional development component.

[(c) FEDERAL SHARE.—

[(1) IN GENERAL.—The Federal share for each fiscal year shall be 50 percent.

[(2) WAIVER.—Notwithstanding paragraph (1), the Secretary may determine the Federal share for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the activities assisted under this subpart.

[(d) SPECIAL RULE.—Not less than $\frac{3}{4}$ of the funds made available under section 5401 to carry out this subpart shall be used for the expansion of foreign language learning in the elementary grades.

[(e) RESERVATION.—The Secretary may reserve not more than 5 percent of funds made available under section 5401 to carry out this subpart for a fiscal year to evaluate the efficacy of programs assisted under this subpart.

[SEC. 5493. APPLICATIONS.

[(a) IN GENERAL.—Any State educational agency or local educational agency desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

[(b) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications describing programs that—

[(1) include intensive summer foreign language programs for professional development;

[(2) link nonnative English speakers in the community with the schools in order to promote two-way language learning;

[(3) promote the sequential study of a foreign language for students, beginning in elementary schools;

[(4) make effective use of technology, such as computer-assisted instruction, language laboratories, or distance learning, to promote foreign language study;

[(5) promote innovative activities, such as foreign language immersion, partial foreign language immersion, or content-based instruction; and

[(6) are carried out through a consortium comprised of the agency receiving the grant and an elementary school or secondary school.

[SEC. 5494. ELEMENTARY SCHOOL FOREIGN LANGUAGE INCENTIVE PROGRAM.

[(a) INCENTIVE PAYMENTS.—From amounts made available under section 5401 to carry out this subpart, the Secretary shall make an incentive payment for each fiscal year to each public elementary school that provides to students attending such school a program designed to lead to communicative competency in a foreign language.

[(b) AMOUNT.—The Secretary shall determine the amount of the incentive payment under subsection (a) for each public elementary school for each fiscal year on the basis of the number of students participating in a program described in such subsection at such

school for such year compared to the total number of such students at all such schools in the United States for such year.

[(c) REQUIREMENT.—The Secretary shall consider a program to be designed to lead to communicative competency in a foreign language if such program is comparable to a program that provides not less than 45 minutes of instruction in a foreign language for not fewer than 4 days per week throughout an academic year.

[Subpart 10—Physical Education

[SEC. 5501. SHORT TITLE.

[(This subpart may be cited as the “Carol M. White Physical Education Program”].

[SEC. 5502. PURPOSE.

[(The purpose of this subpart is to award grants and contracts to initiate, expand, and improve physical education programs for all kindergarten through 12th-grade students.

[SEC. 5503. PROGRAM AUTHORIZED.

[(a) AUTHORIZATION.—The Secretary is authorized to award grants to local educational agencies and community-based organizations (such as Boys and Girls Clubs, Boy Scouts and Girl Scouts, and the Young Men’s Christian Organization (YMCA) and Young Women’s Christian Organization (YWCA)) to pay the Federal share of the costs of initiating, expanding, and improving physical education programs (including after-school programs) for kindergarten through 12th-grade students by—

[(1) providing equipment and support to enable students to participate actively in physical education activities; and

[(2) providing funds for staff and teacher training and education.

[(b) PROGRAM ELEMENTS.—A physical education program funded under this subpart may provide for one or more of the following:

[(1) Fitness education and assessment to help students understand, improve, or maintain their physical well-being.

[(2) Instruction in a variety of motor skills and physical activities designed to enhance the physical, mental, and social or emotional development of every student.

[(3) Development of, and instruction in, cognitive concepts about motor skill and physical fitness that support a lifelong healthy lifestyle.

[(4) Opportunities to develop positive social and cooperative skills through physical activity participation.

[(5) Instruction in healthy eating habits and good nutrition.

[(6) Opportunities for professional development for teachers of physical education to stay abreast of the latest research, issues, and trends in the field of physical education.

[(c) SPECIAL RULE.—For the purpose of this subpart, extra-curricular activities, such as team sports and Reserve Officers’ Training Corps (ROTC) program activities, shall not be considered as part of the curriculum of a physical education program assisted under this subpart.

[SEC. 5504. APPLICATIONS.

[(a) SUBMISSION.—Each local educational agency or community-based organization desiring a grant or contract under this subpart

shall submit to the Secretary an application that contains a plan to initiate, expand, or improve physical education programs in order to make progress toward meeting State standards for physical education.

[(b) PRIVATE SCHOOL AND HOME-SCHOOLED STUDENTS.—An application for funds under this subpart may provide for the participation, in the activities funded under this subpart, of—

[(1) students enrolled in private nonprofit elementary schools or secondary schools, and their parents and teachers; or

[(2) home-schooled students, and their parents and teachers.

[SEC. 5505. REQUIREMENTS.

[(a) ANNUAL REPORT TO THE SECRETARY.—In order to continue receiving funding after the first year of a multiyear grant or contract under this subpart, the administrator of the grant or contract for the local educational agency or community-based organization shall submit to the Secretary an annual report that—

[(1) describes the activities conducted during the preceding year; and

[(2) demonstrates that progress has been made toward meeting State standards for physical education.

[(b) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the grant funds made available to a local educational agency or community-based organization under this subpart for any fiscal year may be used for administrative expenses.

[SEC. 5506. ADMINISTRATIVE PROVISIONS.

[(a) FEDERAL SHARE.—The Federal share under this subpart may not exceed—

[(1) 90 percent of the total cost of a program for the first year for which the program receives assistance under this subpart; and

[(2) 75 percent of such cost for the second and each subsequent such year.

[(b) PROPORTIONALITY.—To the extent practicable, the Secretary shall ensure that grants awarded under this subpart shall be equitably distributed among local educational agencies and community-based organizations serving urban and rural areas.

[(c) REPORT TO CONGRESS.—Not later than June 1, 2003, the Secretary shall submit a report to Congress that—

[(1) describes the programs assisted under this subpart;

[(2) documents the success of such programs in improving physical fitness; and

[(3) makes such recommendations as the Secretary determines appropriate for the continuation and improvement of the programs assisted under this subpart.

[(d) AVAILABILITY OF FUNDS.—Amounts made available to the Secretary to carry out this subpart shall remain available until expended.

[SEC. 5507. SUPPLEMENT, NOT SUPPLANT.

[Funds made available under this subpart shall be used to supplement, and not supplant, any other Federal, State, or local funds available for physical education activities.

[Subpart 11—Community Technology Centers

[SEC. 5511. PURPOSE AND PROGRAM AUTHORIZATION.

[(a) PURPOSE.—It is the purpose of this subpart to assist eligible applicants—

[(1) to create or expand community technology centers that will provide disadvantaged residents of economically distressed urban and rural communities with access to information technology and related training; and

[(2) to provide technical assistance and support to community technology centers.

[(b) PROGRAM AUTHORIZATION.—The Secretary is authorized, in conjunction with the Office of Educational Technology, to award grants, contracts, or cooperative agreements, on a competitive basis, for a period of not more than 3 years, to eligible applicants in order to assist such applicants in—

[(1) creating or expanding community technology centers; or

[(2) providing technical assistance and support to community technology centers.

[(3) SERVICE OF AMERICORPS PARTICIPANTS.—The Secretary may collaborate with the Chief Executive Officer of the Corporation for National and Community Service on the use in community technology centers of participants in National Service programs carried out under subtitle C of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.).

[SEC. 5512. ELIGIBILITY AND APPLICATION REQUIREMENTS.

[(a) ELIGIBLE APPLICANTS.—In order to be eligible to receive an award under this subpart, an applicant shall—

[(1) be an entity (such as a foundation, museum, library, for-profit business, public or private nonprofit organization, or community-based organization), an institution of higher education, a State educational agency, a local education agency, or a consortium of such entities, institutions, or agencies; and

[(2) have the capacity to significantly expand access to computers and related services for disadvantaged residents of economically distressed urban and rural communities (who would otherwise be denied such access).

[(b) APPLICATION REQUIREMENTS.—In order to receive an award under this subpart, an eligible applicant shall submit an application to the Secretary at such time, and containing such information, as the Secretary may require. The application shall include each of the following:

[(1) A description of the proposed project, including a description of the magnitude of the need for the services and how the project would expand access to information technology and related services to disadvantaged residents of an economically distressed urban or rural community.

[(2) A demonstration of—

[(A) the commitment, including the financial commitment, of entities (such as institutions, organizations, business and other groups in the community) that will provide support for the creation, expansion, and continuation of the proposed project; and

[(B) the extent to which the proposed project coordinates with other appropriate agencies, efforts, and organizations providing services to disadvantaged residents of an economically distressed urban or rural community.

[(3) A description of how the proposed project would be sustained once the Federal funds awarded under this subpart end.

[(4) A plan for the evaluation of the program, which shall include benchmarks to monitor progress toward specific project objectives.

[(c) MATCHING REQUIREMENTS.—The Federal share of the cost of any project funded under this subpart shall not exceed 50 percent. The non-Federal share of such project may be in cash or in kind, fairly evaluated, including services.

[SEC. 5513. USES OF FUNDS.

[(a) REQUIRED USES.—A recipient shall use funds under this subpart for—

[(1) creating or expanding community technology centers that expand access to information technology and related training for disadvantaged residents of distressed urban or rural communities; and

[(2) evaluating the effectiveness of the project.

[(b) PERMISSIBLE USES.—A recipient may use funds under this subpart for activities, described in its application, that carry out the purposes of this subpart, such as—

[(1) supporting a center coordinator, and staff, to supervise instruction and build community partnerships;

[(2) acquiring equipment, networking capabilities, and infrastructure to carry out the project; and

[(3) developing and providing services and activities for community residents that provide access to computers, information technology, and the use of such technology in support of preschool preparation, academic achievement, educational development, and workforce development, such as the following:

[(A) After-school activities in which children and youths use software that provides academic enrichment and assistance with homework, develop their technical skills, explore the Internet, and participate in multimedia activities, including web page design and creation.

[(B) Adult education and family literacy activities through technology and the Internet, including—

[(i) General Education Development, Language Instruction Educational Programs, and adult basic education classes or programs;

[(ii) introduction to computers;

[(iii) intergenerational activities; and

[(iv) educational development opportunities.

[(C) Career development and job preparation activities, such as—

[(i) training in basic and advanced computer skills;

[(ii) resume writing workshops; and

[(iii) access to databases of employment opportunities, career information, and other online materials.

[(D) Small business activities, such as—

[(i) computer-based training for basic entrepreneurial skills and electronic commerce; and

- [(ii) access to information on business start-up programs that is available online, or from other sources.
- [(E) Activities that provide home access to computers and technology, such as assistance and services to promote the acquisition, installation, and use of information technology in the home through low-cost solutions such as networked computers, web-based television devices, and other technology.

[Subpart 12—Educational, Cultural, Apprenticeship, and Exchange Programs for Alaska Natives, Native Hawaiians, and Their Historical Whaling and Trading Partners in Massachusetts

[SEC. 5521. SHORT TITLE.

[This subpart may be cited as the “Alaska Native and Native Hawaiian Education Through Cultural and Historical Organizations Act”.

[SEC. 5522. FINDINGS AND PURPOSES.

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

[(1) Alaska Natives and Native Hawaiians have been linked for over 200 years to the coastal towns of Salem, Massachusetts, and New Bedford, Massachusetts, through the China trade from Salem and whaling voyages from New Bedford.

[(2) Nineteenth-century trading ships sailed from Salem, Massachusetts, around Cape Horn of South America, and up the Northwest coast of the United States to Alaska, where their crews traded with Alaska Native people for furs, and then went on to Hawaii to trade for sandalwood with Native Hawaiians before going on to China.

[(3) During the 19th century, over 2,000 whaling voyages sailed out of New Bedford, Massachusetts to the Arctic region of Alaska, and joined Alaska Natives from Barrow, Alaska and other areas in the Arctic region in subsistence whaling activities.

[(4) Many New Bedford whaling voyages continued on to Hawaii, where they joined Native Hawaiians from the neighboring islands.

[(5) From those commercial and whaling voyages, a rich cultural exchange and strong trading relationships developed among the three peoples involved.

[(6) In the past decades, awareness of the historical trading, cultural, and whaling links has faded among Alaska Natives, Native Hawaiians, and the people of the continental United States.

[(7) In 2000, the Alaska Native Heritage Center in Alaska, the Bishop Museum in Hawaii, and the Peabody-Essex Museum in Massachusetts initiated the New Trade Winds project to use 21st-century technology, including the Internet, to educate students and their parents about historic and contemporary cultural and trading ties that continue to link the diverse cultures of the peoples involved.

[(8) The New Bedford Whaling Museum, in partnership with the New Bedford Whaling National Historical Park, has devel-

oped a cultural exchange and educational program with the Inupiat Heritage Center in Barrow, Alaska to bring together the children, parents, and elders from the Arctic region of Alaska with children and families of Massachusetts to learn about their historical ties and about each other's contemporary cultures.

[(9) Within the fast-growing cultural sector, meaningful educational and career opportunities based on traditional relationships exist for Alaska Natives, Native Hawaiians, and low-income youth in Massachusetts.

[(10) Cultural institutions can provide practical, culturally relevant, education-related internship and apprentice programs, such as the Museum Action Corps at the Peabody-Essex Museum and similar programs at the New Bedford Oceanarium and other institutions, to prepare youths and their families for careers in the cultural sector.

[(11) The resources of the institutions described in paragraphs (7) and (8) provide unique opportunities for illustrating and interpreting the contributions of Alaska Natives, Native Hawaiians, the whaling industry, and the China trade to the economic, social, and environmental history of the United States, for educating students and their parents, and for providing opportunities for internships and apprenticeships leading to careers with cultural institutions.

[(b) PURPOSES.—The purposes of this subpart are the following:

[(1) To authorize and develop innovative culturally-based educational programs and cultural exchanges to assist Alaska Natives, Native Hawaiians, and children and families of Massachusetts linked by history and tradition to Alaska and Hawaii to learn about shared culture and traditions.

[(2) To authorize and develop internship and apprentice programs to assist Alaska Natives, Native Hawaiians, and children and families of Massachusetts linked by history and tradition with Alaska and Hawaii to prepare for careers with cultural institutions.

[(3) To supplement programs and authorities in the area of education to further the objectives of this subpart.

[(4) To authorize and develop cultural and educational programs relating to any Federally recognized Indian tribe in Mississippi.

[SEC. 5523. PROGRAM AUTHORIZATION.

[(a) GRANTS AND CONTRACTS.—In order to carry out programs that fulfill the purposes of this subpart, the Secretary is authorized to make grants to, or enter into contracts with, the following:

[(1) The Alaska Native Heritage Center in Anchorage, Alaska.

[(2) The Inupiat Heritage Center in Barrow, Alaska.

[(3) The Bishop Museum in Hawaii.

[(4) The Peabody-Essex Museum in Salem, Massachusetts.

[(5) The New Bedford Whaling Museum and the New Bedford Oceanarium in New Bedford, Massachusetts.

[(6) The Mississippi Band of Choctaw Indians in Choctaw, Mississippi.

[(7) Other Alaska Native and Native Hawaiian cultural and educational organizations.

[(8) Cultural and educational organizations with experience in developing or operating programs that illustrate and interpret the contributions of Alaska Natives, Native Hawaiians, the whaling industry, and the China trade to the economic, social, and environmental history of the United States.

[(9) Consortia of the organizations and entities described in this subsection.

[(b) USES OF FUNDS.—Activities provided through programs carried out under this subpart may include one or more of the following:

[(1) Development and implementation of educational programs to increase understanding of cultural diversity and multicultural communication among Alaska Natives, Native Hawaiians, and the people of the continental United States, based on historic patterns of trading and commerce.

[(2) Development and implementation of programs using modern technology, including the Internet, to educate students, their parents, and teachers about historic and contemporary cultural and trading ties that continue to link the diverse cultures of Alaska Natives, Native Hawaiians, and the people of Massachusetts.

[(3) Cultural exchanges of elders, students, parents, and teachers among Alaska Natives, Native Hawaiians, and the people of Massachusetts to increase awareness of diverse cultures among each group.

[(4) Sharing of collections among cultural institutions designed to increase awareness of diverse cultures and links among them.

[(5) Development and implementation of internship and apprentice programs in cultural institutions to train Alaska Natives, Native Hawaiians, and low-income students in Massachusetts for careers with cultural institutions.

[(6) Other activities, consistent with the purposes of this subpart, to meet the educational needs of Alaska Natives, Native Hawaiians, and students and their parents in Massachusetts.

[(7) Cultural and educational programs relating to any Federally recognized Indian tribe in Mississippi.

[SEC. 5524. ADMINISTRATIVE PROVISIONS.

[(a) APPLICATION REQUIRED.—No grant may be made under this subpart, and no contract may be entered into under this subpart, unless the entity seeking the grant or contract submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may determine to be necessary to carry out the provisions of this subpart.

[(b) LOCAL EDUCATIONAL AGENCY COORDINATION.—Each applicant for a grant or contract under this subpart shall inform each local educational agency serving students who will participate in the program to be carried out under the grant or contract about the application.

[SEC. 5525. AVAILABILITY OF FUNDS.

[If sufficient funds are made available under section 5401 to carry out this subpart for a fiscal year, the Secretary shall make

available, to support activities described in section 5523(b), the following amounts:

[(1) Not less than \$2,000,000 each to—

[(A) the New Bedford Whaling Museum, in partnership with the New Bedford Oceanarium, in Massachusetts;

[(B) the Inupiat Heritage Center in Alaska; and

[(C) the Mississippi Band of Choctaw Indians in Choctaw, Mississippi.

[(2) For the New Trade Winds project, not less than \$1,000,000 each to—

[(A) the Alaska Native Heritage Center in Alaska;

[(B) the Bishop Museum in Hawaii; and

[(C) the Peabody-Essex Museum in Massachusetts.

[(3) For internship and apprenticeship programs (including the Museum Action Corps of the Peabody-Essex Museum), not less than \$1,000,000 each to—

[(A) the Alaska Native Heritage Center in Alaska;

[(B) the Bishop Museum in Hawaii; and

[(C) the Peabody-Essex Museum in Massachusetts.

[SEC. 5526. DEFINITIONS.

[In this subpart:

[(1) ALASKA NATIVE.—The term “Alaska Native” has the meaning given that term in section 7306.

[(2) NATIVE HAWAIIAN.—The term “Native Hawaiian” has the meaning given that term in section 7207.

[Subpart 13—Excellence in Economic Education

[SEC. 5531. SHORT TITLE.

[This subpart may be cited as the “Excellence in Economic Education Act of 2001”.

[SEC. 5532. PURPOSE AND GOALS.

[(a) PURPOSE.—The purpose of this subpart is to promote economic and financial literacy among all students in kindergarten through grade 12 by awarding a competitive grant to a national nonprofit educational organization that has as its primary purpose the improvement of the quality of student understanding of personal finance and economics.

[(b) OBJECTIVES.—The objectives of this subpart are the following:

[(1) To increase students’ knowledge of, and achievement in, economics to enable the students to become more productive and informed citizens.

[(2) To strengthen teachers’ understanding of, and competency in, economics to enable the teachers to increase student mastery of economic principles and the practical application of those principles.

[(3) To encourage economic education research and development, to disseminate effective instructional materials, and to promote replication of best practices and exemplary programs that foster economic literacy.

[(4) To assist States in measuring the impact of education in economics.

[(5) To leverage and expand private and public support for economic education partnerships at national, State, and local levels.

[SEC. 5533. GRANT PROGRAM AUTHORIZED.

[(a) AUTHORIZATION.—The Secretary is authorized to award a competitive grant to a national nonprofit educational organization that has as its primary purpose the improvement of the quality of student understanding of personal finance and economics through effective teaching of economics in the Nation’s classrooms (referred to in this subpart as the “grantee”).

[(b) USES OF FUNDS.—

[(1) DIRECT ACTIVITIES.—The grantee shall use 25 percent of the funds made available through the grant for a fiscal year—

[(A) to strengthen and expand the grantee’s relationships with State and local personal finance, entrepreneurial, and economic education organizations;

[(B) to support and promote training of teachers who teach a grade from kindergarten through grade 12 regarding economics, including the dissemination of information on effective practices and research findings regarding the teaching of economics;

[(C) to support research on effective teaching practices and the development of assessment instruments to document student understanding of personal finance and economics; and

[(D) to develop and disseminate appropriate materials to foster economic literacy.

[(2) SUBGRANTS.—The grantee shall use 75 percent of the funds made available through the grant for a fiscal year to award subgrants to State educational agencies or local educational agencies, and State or local economic, personal finance, or entrepreneurial education organizations (referred to in this section as the “recipient”). The grantee shall award such a subgrant to pay for the Federal share of the cost of enabling the recipient to work in partnership with one or more of the entities described in paragraph (3) for one or more of the following purposes:

[(A) Collaboratively establishing and conducting teacher training programs that use effective and innovative approaches to the teaching of economics, personal finance, and entrepreneurship.

[(B) Providing resources to school districts that desire to incorporate economics and personal finance into the curricula of the schools in the districts.

[(C) Conducting evaluations of the impact of economic and financial literacy education on students.

[(D) Conducting economic and financial literacy education research.

[(E) Creating and conducting school-based student activities to promote consumer, economic, and personal finance education (such as saving, investing, and entrepreneurial education) and to encourage awareness and student academic achievement in economics.

[(F) Encouraging replication of best practices to promote economic and financial literacy.

[(3) PARTNERSHIP ENTITIES.—The entities described in this paragraph are the following:

[(A) A private sector entity.

[(B) A State educational agency.

[(C) A local educational agency.

[(D) An institution of higher education.

[(E) An organization promoting economic development.

[(F) An organization promoting educational excellence.

[(G) An organization promoting personal finance or entrepreneurial education.

[SEC. 5534. APPLICATIONS.

[(a) GRANTEE APPLICATIONS.—To be eligible to receive a grant under this subpart, the grantee shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Secretary may require.

[(b) RECIPIENT APPLICATIONS.—

[(1) SUBMISSION.—To be eligible to receive a subgrant under this section, a recipient shall submit an application to the grantee at such time, in such manner, and accompanied by such information as the grantee may require.

[(2) REVIEW.—The grantee shall invite the individuals described in paragraph (3) to review all applications from recipients for a subgrant under this section and to make recommendations to the grantee regarding the approval of the applications.

[(3) REVIEWERS.—The individuals described in this paragraph are the following:

[(i) Leaders in the fields of economics and education.

[(ii) Such other individuals as the grantee determines to be necessary, especially members of the State and local business, banking, and finance communities.

[SEC. 5535. REQUIREMENTS.

[(a) ADMINISTRATIVE COSTS.—The grantee and each recipient receiving a subgrant under this subpart for a fiscal year may use not more than 5 percent of the funds made available through the grant or subgrant for administrative costs.

[(b) TEACHER TRAINING PROGRAMS.—In carrying out the teacher training programs described in section 5533(b)(2)(A), a recipient shall—

[(1) train teachers who teach a grade from kindergarten through grade 12; and

[(2) encourage teachers from disciplines other than economics and financial literacy to participate in such teacher training programs, if the training will promote the economic and financial literacy of those teachers' students.

[(c) INVOLVEMENT OF BUSINESS COMMUNITY.—In carrying out the activities assisted under this subpart, the grantee and recipients are strongly encouraged to—

[(1) include interactions with the local business community to the fullest extent possible to reinforce the connection between economic and financial literacy and economic development; and

[(2) work with private businesses to obtain matching contributions for Federal funds and assist recipients in working toward self-sufficiency.

[(d) ADDITIONAL REQUIREMENTS AND TECHNICAL ASSISTANCE.—The grantee shall—

[(1) meet such other requirements as the Secretary determines to be necessary to assure compliance with this section; and

[(2) receive from the Secretary such technical assistance as may be necessary to carry out this section.

[SEC. 5536. ADMINISTRATIVE PROVISIONS.

[(a) FEDERAL SHARE.—The Federal share of the cost described in section 5533(b)(2) shall be 50 percent.

[(b) PAYMENT OF NON-FEDERAL SHARE.—The non-Federal share may be paid in cash or in kind (fairly evaluated, including plant, equipment, or services).

[(c) REPORTS TO CONGRESS.—Not later than 2 years after the date funds are first made available to carry out this subpart, and every 2 years thereafter, the Secretary shall submit to the appropriate committees of Congress a report regarding activities assisted under this subpart.

[SEC. 5537. SUPPLEMENT, NOT SUPPLANT.

[Funds made available to carry out this subpart shall be used to supplement, and not supplant, other Federal, State, and local funds expended for the purpose described in section 5532(a).

[Subpart 14—Grants to Improve the Mental Health of Children

[SEC. 5541. GRANTS FOR THE INTEGRATION OF SCHOOLS AND MENTAL HEALTH SYSTEMS.

[(a) AUTHORIZATION.—The Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with, State educational agencies, local educational agencies, or Indian tribes, for the purpose of increasing student access to quality mental health care by developing innovative programs to link local school systems with the local mental health system.

[(b) DURATION.—With respect to a grant, contract, or cooperative agreement awarded or entered into under this section, the period during which payments under such grant, contract or agreement are made to the recipient may not exceed 5 years.

[(c) USE OF FUNDS.—A State educational agency, local educational agency, or Indian tribe that receives a grant, contract, or cooperative agreement under this section shall use amounts made available through such grant, contract, or cooperative agreement for the following:

[(1) To enhance, improve, or develop collaborative efforts between school-based service systems and mental health service systems to provide, enhance, or improve prevention, diagnosis, and treatment services to students.

[(2) To enhance the availability of crisis intervention services, appropriate referrals for students potentially in need of mental health services, and ongoing mental health services.

[(3) To provide training for the school personnel and mental health professionals who will participate in the program carried out under this section.

[(4) To provide technical assistance and consultation to school systems and mental health agencies and families participating in the program carried out under this section.

[(5) To provide linguistically appropriate and culturally competent services.

[(6) To evaluate the effectiveness of the program carried out under this section in increasing student access to quality mental health services, and make recommendations to the Secretary about sustainability of the program.

[(d) APPLICATIONS.—To be eligible to receive a grant, contract, or cooperative agreement under this section, a State educational agency, local educational agency, or Indian tribe shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. The application shall include each of the following:

[(1) A description of the program to be funded under the grant, contract, or cooperative agreement.

[(2) A description of how such program will increase access to quality mental health services for students.

[(3) A description of how the applicant will establish a crisis intervention program to provide immediate mental health services to the school community when necessary.

[(4) An assurance that—

[(A) persons providing services under the grant, contract, or cooperative agreement are adequately trained to provide such services;

[(B) the services will be provided in accordance with subsection (c);

[(C) teachers, principal administrators, and other school personnel are aware of the program; and

[(D) parents of students participating in services under this section will be involved in the design and implementation of the services.

[(5) An explanation of how the applicant will support and integrate existing school-based services with the program to provide appropriate mental health services for students.

[(6) An explanation of how the applicant will establish a program that will support students and the school in maintaining an environment conducive to learning.

[(e) INTERAGENCY AGREEMENTS.—

[(1) DESIGNATION OF LEAD AGENCY.—The recipient of each grant, contract, or cooperative agreement shall designate a lead agency to direct the establishment of an interagency agreement among local educational agencies, juvenile justice authorities, mental health agencies, and other relevant entities in the State, in collaboration with local entities and parents and guardians of students.

[(2) CONTENTS.—The interagency agreement shall ensure the provision of the services described in subsection (c), specifying with respect to each agency, authority, or entity—

[(A) the financial responsibility for the services;

[(B) the conditions and terms of responsibility for the services, including quality, accountability, and coordination of the services; and

[(C) the conditions and terms of reimbursement among the agencies, authorities, or entities that are parties to the interagency agreement, including procedures for dispute resolution.

[(f) EVALUATION.—The Secretary shall evaluate each program carried out by a State educational agency, local educational agency, or Indian tribe under this section and shall disseminate the findings with respect to each such evaluation to appropriate public and private entities.

[(g) DISTRIBUTION OF AWARDS.—The Secretary shall ensure that grants, contracts, and cooperative agreements awarded or entered into under this section are equitably distributed among the geographical regions of the United States and among urban, suburban, and rural populations.

[(h) RULE OF CONSTRUCTION.—Nothing in Federal law shall be construed—

[(1) to prohibit an entity involved with a program carried out under this section from reporting a crime that is committed by a student to appropriate authorities; or

[(2) to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a student.

[(i) SUPPLEMENT, NOT SUPPLANT.—Any services provided through programs carried out under this section must supplement, and not supplant, existing mental health services, including any services required to be provided under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

[SEC. 5542. PROMOTION OF SCHOOL READINESS THROUGH EARLY CHILDHOOD EMOTIONAL AND SOCIAL DEVELOPMENT.

[(a) AUTHORIZATION.—The Secretary, in consultation with the Secretary of Health and Human Services, may award grants (to be known as “Foundations for Learning Grants”) to local educational agencies, local councils, community-based organizations, and other public or nonprofit private entities to assist eligible children to become ready for school.

[(b) APPLICATIONS.—To be eligible to receive a grant under this section, a local educational agency, local council, community-based organization, or other public or nonprofit private entity, or a combination of such entities, shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. The application shall include each of the following:

[(1) A description of the population that the applicant intends to serve and the types of services to be provided under the grant.

[(2) A description of the manner in which services under the grant will be coordinated with existing similar services provided by public and nonprofit private entities within the State.

[(3) An assurance that—

[(A) services under the grant shall be provided by or under the supervision of qualified professionals with expertise in early childhood development;

[(B) such services shall be culturally competent;

[(C) such services shall be provided in accordance with subsection (c);

[(D) funds received under this section shall be used to supplement, and not supplant, non-Federal funds; and

[(E) parents of students participating in services under this section will be involved in the design and implementation of the services.

[(c) USES OF FUNDS.—A local educational agency, local council, community-based organization, or other public or nonprofit private entity that receives funds under this section may use such funds to benefit eligible children, for one or more of the following:

[(1) To deliver services to eligible children and their families that foster eligible children's emotional, behavioral, and social development and take into consideration the characteristics described in subsection (f)(1).

[(2) To coordinate and facilitate access by eligible children and their families to the services available through community resources, including mental health, physical health, substance abuse, educational, domestic violence prevention, child welfare, and social services.

[(3) To provide ancillary services such as transportation or child care in order to facilitate the delivery of any other services or activities authorized by this section.

[(4) To develop or enhance early childhood community partnerships and build toward a community system of care that brings together child-serving agencies or organizations to provide individualized supports for eligible children and their families.

[(5) To evaluate the success of strategies and services provided pursuant to this section in promoting young children's successful entry to school and to maintain data systems required for effective evaluations.

[(6) To pay for the expenses of administering the activities authorized under this section, including assessment of children's eligibility for services.

[(d) LIMITATIONS.—

[(1) SERVICES NOT OTHERWISE FUNDED.—A local educational agency, local council, community-based organization, or other public or nonprofit private entity may use funds under this section only to pay for services that cannot be paid for using other Federal, State, or local public resources or through private insurance.

[(2) ADMINISTRATIVE EXPENSES.—A grantee may not use more than 3 percent of the amount of the grant to pay the administrative expenses described in subsection (c)(6).

[(e) EVALUATIONS.—The Secretary shall directly evaluate, or enter into a contract for an outside evaluation of, each program carried out under this section and shall disseminate the findings with respect to such evaluation to appropriate public and private entities.

[(f) DEFINITIONS.—In this section:

[(1) ELIGIBLE CHILD.—The term “eligible child” means a child who has not attained the age of 7 years, and to whom two or more of the following characteristics apply:

[(A) The child has been abused, maltreated, or neglected.

[(B) The child has been exposed to violence.

[(C) The child has been homeless.

[(D) The child has been removed from child care, Head Start, or preschool for behavioral reasons or is at risk of being so removed.

[(E) The child has been exposed to parental depression or other mental illness.

[(F) The family income with respect to the child is below 200 percent of the poverty line.

[(G) The child has been exposed to parental substance abuse.

[(H) The child has had early behavioral and peer relationship problems.

[(I) The child had a low birth weight.

[(J) The child has a cognitive deficit or developmental disability.

[(2) LOCAL COUNCIL.—The term “local council” means a council that is established or designated by a local government entity, Indian tribe, regional corporation, or native Hawaiian entity, as appropriate, which is composed of representatives of local agencies directly affected by early learning programs, parents, key community leaders, and other individuals concerned with early learning issues in the locality, such as elementary education, child care resource and referral services, early learning opportunities, child care, and health services.

[(3) PROVIDER OF EARLY CHILDHOOD SERVICES.—The term “provider of early childhood services” means a public or private entity that has regular contact with young children, including child welfare agencies, child care providers, Head Start and Early Head Start providers, preschools, kindergartens, libraries, mental health professionals, family courts, homeless shelters, and primary care providers.

[Subpart 15—Arts in Education

[SEC. 5551. ASSISTANCE FOR ARTS EDUCATION.

[(a) PURPOSES.—The purposes of this subpart are the following:

[(1) To support systemic education reform by strengthening arts education as an integral part of the elementary school and secondary school curriculum.

[(2) To help ensure that all students meet challenging State academic content standards and challenging State student academic achievement standards in the arts.

[(3) To support the national effort to enable all students to demonstrate competence in the arts.

[(b) AUTHORITY.—The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, eligible entities described in subsection (c).

[(c) ELIGIBLE ENTITIES.—The Secretary may make assistance available under subsection (b) to each of the following eligible entities:

- [(1) State educational agencies.
- [(2) Local educational agencies.
- [(3) Institutions of higher education.
- [(4) Museums or other cultural institutions.
- [(5) Any other public or private agencies, institutions, or organizations.

[(d) USE OF FUNDS.—Assistance made available under this subpart may be used for any of the following:

- [(1) Research on arts education.
- [(2) Planning, developing, acquiring, expanding, improving, or disseminating information about model school-based arts education programs.
- [(3) The development of model State arts education assessments based on State academic achievement standards.
- [(4) The development and implementation of curriculum frameworks for arts education.
- [(5) The development of model inservice professional development programs for arts educators and other instructional staff.
- [(6) Supporting collaborative activities with Federal agencies or institutions involved in arts education, arts educators, and organizations representing the arts, including State and local arts agencies involved in arts education.
- [(7) Supporting model projects and programs in the performing arts for children and youth through arrangements made with the John F. Kennedy Center for the Performing Arts.
- [(8) Supporting model projects and programs by Very Special Arts which assure the participation in mainstream settings in arts and education programs of individuals with disabilities.
- [(9) Supporting model projects and programs to integrate arts education into the regular elementary school and secondary school curriculum.
- [(10) Other activities that further the purposes of this subpart.

[(e) SPECIAL RULE.—If the amount made available to the Secretary to carry out this subpart for any fiscal year is \$15,000,000 or less, then such amount shall only be available to carry out the activities described in paragraphs (7) and (8) of subsection (d).

[(f) CONDITIONS.—As conditions of receiving assistance made available under this subpart, the Secretary shall require each entity receiving such assistance—

- [(1) to coordinate, to the extent practicable, each project or program carried out with such assistance with appropriate activities of public or private cultural agencies, institutions, and organizations, including museums, arts education associations, libraries, and theaters; and
- [(2) to use such assistance only to supplement, and not to supplant, any other assistance or funds made available from non-Federal sources for the activities assisted under this subpart.

[(g) CONSULTATION.—In carrying out this subpart, the Secretary shall consult with Federal agencies or institutions, arts educators (including professional arts education associations), and organizations representing the arts (including State and local arts agencies involved in arts education).

[Subpart 16—Parental Assistance and Local Family Information Centers

[SEC. 5561. PURPOSES.

[(The purposes of this subpart are the following:

[(1) To provide leadership, technical assistance, and financial support to nonprofit organizations (including statewide nonprofit organizations) and local educational agencies to help the organizations and agencies implement successful and effective parental involvement policies, programs, and activities that lead to improvements in student academic achievement.

[(2) To strengthen partnerships among parents (including parents of children from birth through age 5), teachers, principals, administrators, and other school personnel in meeting the educational needs of children.

[(3) To develop and strengthen the relationship between parents and their children's school.

[(4) To further the developmental progress of children assisted under this subpart.

[(5) To coordinate activities funded under this subpart with parental involvement initiatives funded under section 1118 and other provisions of this Act.

[(6) To provide a comprehensive approach to improving student learning, through coordination and integration of Federal, State, and local services and programs.

[SEC. 5562. GRANTS AUTHORIZED.

[(a) PARENTAL INFORMATION AND RESOURCE CENTERS.—The Secretary is authorized to award grants in each fiscal year to nonprofit organizations (including statewide nonprofit organizations), and consortia of such organizations and local educational agencies, to establish school-linked or school-based parental information and resource centers that provide comprehensive training, information, and support to—

[(1) parents of children enrolled in elementary schools and secondary schools;

[(2) individuals who work with the parents of children enrolled in elementary schools and secondary schools;

[(3) State educational agencies, local educational agencies, schools, organizations that support family-school partnerships (such as parent-teacher associations and Parents as Teachers organizations), and other organizations that carry out parent education and family involvement programs; and

[(4) parents of children from birth through age 5.

[(b) GEOGRAPHIC DISTRIBUTION.—In awarding grants under this subpart, the Secretary shall, to the extent practicable, ensure that such grants are distributed in all geographic regions of the United States.

[SEC. 5563. APPLICATIONS.

[(a) SUBMISSION.—Each nonprofit organization (including a statewide nonprofit organization), or a consortia of such an organization and a local educational agency, that desires a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

[(b) CONTENTS.—Each application submitted under subsection (a), at a minimum, shall include assurances that the organization or consortium will—

[(1)(A) be governed by a board of directors the membership of which includes parents; or

[(B) be an organization or consortium that represents the interests of parents;

[(2) establish a special advisory committee the membership of which includes—

[(A) parents of children enrolled in elementary schools and secondary schools, who shall constitute a majority of the members of the special advisory committee;

[(B) representatives of education professionals with expertise in improving services for disadvantaged children; and

[(C) representatives of local elementary schools and secondary schools, including students and representatives from local youth organizations;

[(3) use at least 50 percent of the funds received under this subpart in each fiscal year to serve areas with high concentrations of low-income families, in order to serve parents who are severely educationally or economically disadvantaged;

[(4) operate a center of sufficient size, scope, and quality to ensure that the center is adequate to serve the parents in the area;

[(5) serve both urban and rural areas;

[(6) design a center that meets the unique training, information, and support needs of parents of children enrolled in elementary schools and secondary schools, particularly such parents who are educationally or economically disadvantaged;

[(7) demonstrate the capacity and expertise to conduct the effective training, information, and support activities for which assistance is sought;

[(8) network with—

[(A) local educational agencies and schools;

[(B) parents of children enrolled in elementary schools and secondary schools;

[(C) parent training and information centers assisted under section 671 of the Individuals with Disabilities Education Act;

[(D) clearinghouses; and

[(E) other organizations and agencies;

[(9) focus on serving parents of children enrolled in elementary schools and secondary schools who are parents of low-income, minority, and limited English proficient children;

[(10) use at least 30 percent of the funds received under this subpart in each fiscal year to establish, expand, or operate Parents as Teachers programs, Home Instruction for Preschool

Youngsters programs, or other early childhood parent education programs;

[(11) provide assistance to parents in areas such as understanding State and local standards and measures of student and school academic achievement;

[(12) work with State educational agencies and local educational agencies to determine parental needs and the best means for delivery of services;

[(13) identify and coordinate Federal, State, and local services and programs that support improved student learning, including programs supported under this Act, violence prevention programs, nutrition programs, housing programs, Head Start programs, adult education, and job training; and

[(14) work with and foster partnerships with other agencies that provide programs and deliver services described in paragraph (13) to make such programs and services more accessible to children and families.

[SEC. 5564. USES OF FUNDS.

[(a) IN GENERAL.—Grant funds received under this subpart shall be used for one or more of the following:

[(1) To assist parents in participating effectively in their children's education and to help their children meet State and local standards, such as assisting parents—

[(A) to engage in activities that will improve student academic achievement, including understanding the accountability systems in place within their State educational agency and local educational agency and understanding their children's educational academic achievement in comparison to State and local standards;

[(B) to provide follow-up support for their children's educational achievement;

[(C) to communicate effectively with teachers, principals, counselors, administrators, and other school personnel;

[(D) to become active participants in the development, implementation, and review of school-parent compacts, parent involvement policies, and school planning and improvement;

[(E) to participate in the design and provision of assistance to students who are not making adequate academic progress;

[(F) to participate in State and local decisionmaking; and

[(G) to train other parents (such as training related to Parents as Teachers activities).

[(2) To obtain information about the range of options, programs, services, and resources available at the national, State, and local levels to assist parents and school personnel who work with parents.

[(3) To help the parents learn and use the technology applied in their children's education.

[(4) To plan, implement, and fund activities for parents that coordinate the education of their children with other Federal, State, and local services and programs that serve their children or their families.

[(5) To provide support for State or local educational personnel, if the participation of such personnel will further the activities assisted under the grant.

[(6) To coordinate and integrate early childhood programs with school-age programs.

[(b) PERMISSIVE ACTIVITIES.—Grant funds received under this subpart may be used to assist schools with activities including one or more of the following:

[(1) Developing and implementing the schools' plans or activities under sections 1118 and 1119.

[(2) Developing and implementing school improvement plans, including addressing problems that develop in the implementation of the schools' plans or activities under sections 1118 and 1119.

[(3) Providing information about assessment and individual results to parents in a manner and a language the family can understand.

[(4) Coordinating the efforts of Federal, State, and local parent education and family involvement initiatives.

[(5) Providing training, information, and support to—

[(A) State educational agencies;

[(B) local educational agencies and schools, especially low-performing local educational agencies and schools; and

[(C) organizations that support family-school partnerships.

[SEC. 5565. ADMINISTRATIVE PROVISIONS.]

[(a) MATCHING FUNDS FOR GRANT RENEWAL.—For each fiscal year after the first fiscal year in which an organization or consortium receives assistance under this subpart, the organization or consortium shall demonstrate in the application submitted for such fiscal year, that a portion of the services provided by the organization or consortium is supported through non-Federal contributions, which contributions may be in cash or in kind.

[(b) SUBMISSION OF INFORMATION.—

[(1) IN GENERAL.—Each organization or consortium receiving assistance under this subpart shall submit to the Secretary, on an annual basis, information concerning the parental information and resource centers assisted under this subpart, including the following information:

[(A) The number of parents (including the number of minority and limited English proficient parents) who receive information and training.

[(B) The types and modes of training, information, and support provided under this subpart.

[(C) The strategies used to reach and serve parents of minority and limited English proficient children, parents with limited literacy skills, and other parents in need of the services provided under this subpart.

[(D) The parental involvement policies and practices used by the center and an evaluation of whether such policies and practices are effective in improving home-school communication, student academic achievement, student and school academic achievement, and parental involvement in school planning, review, and improvement.

[(E) The effectiveness of the activities that local educational agencies and schools are carrying out, with regard to parental involvement and other activities assisted under this Act, that lead to improved student academic achievement and improved student and school academic achievement.

[(2) DISSEMINATION.—The Secretary shall disseminate annually to Congress and the public the information that each organization or consortium submits under paragraph (1).

[(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance, by grant or contract, for the establishment, development, and coordination of parent training, information, and support programs and parental information and resource centers.

[(d) RULE OF CONSTRUCTION.—Nothing in this subpart shall be construed to prohibit a parental information and resource center from—

[(1) having its employees or agents meet with a parent at a site that is not on school grounds; or

[(2) working with another agency that serves children.

[(e) PARENTAL RIGHTS.—Notwithstanding any other provision of this subpart—

[(1) no person (including a parent who educates a child at home, a public school parent, or a private school parent) shall be required to participate in any program of parent education or developmental screening under this subpart; and

[(2) no program or center assisted under this subpart shall take any action that infringes in any manner on the right of a parent to direct the education of their children.

[(f) CONTINUATION OF AWARDS.—The Secretary shall use funds made available under this subpart to continue to make grant or contract payments to each entity that was awarded a multiyear grant or contract under title IV of the Goals 2000: Educate America Act (as such title was in effect on the day before the date of enactment of the No Child Left Behind Act of 2001) for the duration of the grant or contract award.

[(SEC. 5566. LOCAL FAMILY INFORMATION CENTERS.

[(a) IN GENERAL.—If the amount made available to carry out this subpart for a fiscal year is more than \$50,000,000, the Secretary is authorized to award 50 percent of the amount that exceeds \$50,000,000 as grants to, and enter into contracts and cooperative agreements with, local nonprofit parent organizations to enable the organizations to support local family information centers that help ensure that parents of students in elementary schools and secondary schools assisted under this subpart have the training, information, and support the parents need to enable the parents to participate effectively in their children's early childhood education, in their children's elementary and secondary education, and in helping their children to meet challenging State academic content and student academic achievement standards.

[(b) LOCAL NONPROFIT PARENT ORGANIZATION DEFINED.—In this section, the term "local nonprofit parent organization" means a private nonprofit organization (other than an institution of higher education) that—

[(1) has a demonstrated record of working with low-income individuals and parents;

[(2)(A) has a board of directors, the majority of whom are parents of students in elementary schools and secondary schools assisted under part A of title I and located in the geographic area to be served by a local family information center; or

[(B) has a special governing committee to direct and implement a local family information center, a majority of the members of whom are parents of students in schools assisted under part A of title I; and

[(3) is located in a community with elementary schools and secondary schools that receive funds under part A of title I, and is accessible to the families of students in those schools.

[Subpart 17—Combatting Domestic Violence

[SEC. 5571. GRANTS TO COMBAT THE IMPACT OF EXPERIENCING OR WITNESSING DOMESTIC VIOLENCE ON ELEMENTARY AND SECONDARY SCHOOL CHILDREN.

[(a) DEFINITIONS.—In this section:

[(1) DOMESTIC VIOLENCE.—The term “domestic violence” has the meaning given that term in section 2003 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–2).

[(2) EXPERT.—The term “expert” means—

[(A) an expert on domestic violence, sexual assault, and child abuse from the educational, legal, youth, mental health, substance abuse, or victim advocacy field; and

[(B) a State or local domestic violence coalition or community-based youth organization.

[(3) WITNESS DOMESTIC VIOLENCE.—

[(A) IN GENERAL.—The term “witness domestic violence” means to witness—

[(i) an act of domestic violence that constitutes actual or attempted physical assault; or

[(ii) a threat or other action that places the victim in fear of domestic violence.

[(B) WITNESS.—In subparagraph (A), the term “witness” means—

[(i) to directly observe an act, threat, or action described in subparagraph (A), or the aftermath of that act, threat, or action; or

[(ii) to be within earshot of an act, threat, or action described in subparagraph (A), or the aftermath of that act, threat, or action.

[(b) GRANTS AUTHORIZED.—

[(1) AUTHORITY.—The Secretary is authorized to award grants to local educational agencies that work with experts to enable the elementary schools and secondary schools served by the local educational agency—

[(A) to provide training to school administrators, faculty, and staff, with respect to issues concerning children who experience domestic violence in dating relationships or who witness domestic violence, and the impact of the violence on the children;

【(B) to provide educational programming for students regarding domestic violence and the impact of experiencing or witnessing domestic violence on children;

【(C) to provide support services for students and school personnel to develop and strengthen effective prevention and intervention strategies with respect to issues concerning children who experience domestic violence in dating relationships or who witness domestic violence, and the impact of the violence on the children; and

【(D) to develop and implement school system policies regarding appropriate and safe responses to, identification of, and referral procedures for, students who are experiencing or witnessing domestic violence.

【(2) AWARD BASIS.—The Secretary is authorized to award grants under this section—

【(A) on a competitive basis; and

【(B) in a manner that ensures that such grants are equitably distributed among local educational agencies located in rural, urban, and suburban areas.

【(3) POLICY DISSEMINATION.—The Secretary shall disseminate to local educational agencies any Department policy guidance regarding the prevention of domestic violence and the impact on children of experiencing or witnessing domestic violence.

【(c) USES OF FUNDS.—Funds made available to carry out this subpart may be used for one or more of the following purposes:

【(1) To provide training for elementary school and secondary school administrators, faculty, and staff that addresses issues concerning elementary school and secondary school students who experience domestic violence in dating relationships or who witness domestic violence, and the impact of such violence on those students.

【(2) To provide education programs for elementary school and secondary school students that are developmentally appropriate for the students' grade levels and are designed to meet any unique cultural and language needs of the particular student populations.

【(3) To develop and implement elementary school and secondary school system policies regarding—

【(A) appropriate and safe responses to, identification of, and referral procedures for, students who are experiencing or witnessing domestic violence; and

【(B) to develop and implement policies on reporting and referral procedures for those students.

【(4) To provide the necessary human resources to respond to the needs of elementary school and secondary school students and personnel who are faced with the issue of domestic violence, such as a resource person who is either on-site or on-call and who is an expert.

【(5) To provide media center materials and educational materials to elementary schools and secondary schools that address issues concerning children who experience domestic violence in dating relationships or who witness domestic violence, and the impact of the violence on those children.

[(6) To conduct evaluations to assess the impact of programs and policies assisted under this subpart in order to enhance the development of the programs.

[(d) CONFIDENTIALITY.—Policies, programs, training materials, and evaluations developed and implemented under subsection (c) shall address issues of safety and confidentiality for the victim and the victim’s family in a manner consistent with applicable Federal and State laws.

[(e) APPLICATION.—To be eligible for a grant under this section for a fiscal year, a local educational agency, in consultation with an expert, shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. The application shall include each of the following:

[(1) A description of the need for funds provided under the grant and the plan for implementation of any of the activities described in subsection (c).

[(2) A description of how the experts will work in consultation and collaboration with the local educational agency.

[(3) Measurable objectives for, and expected results from, the use of the funds provided under the grant.

[(4) Provisions for appropriate remuneration for collaborating partners.

[Subpart 18—Healthy, High-Performance Schools

[SEC. 5581. GRANT PROGRAM AUTHORIZED.

[The Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, is authorized to award grants to State educational agencies to permit such State educational agencies to carry out section 5582.

[SEC. 5582. STATE USES OF FUNDS.

[(a) SUBGRANTS.—

[(1) IN GENERAL.—A State educational agency receiving a grant under this subpart shall use funds made available under the grant to award subgrants to local educational agencies to permit such local educational agencies to carry out the activities described in section 5583.

[(2) LIMITATION.—A State educational agency shall award subgrants under this subsection to local educational agencies that are the neediest, as determined by the State, and that have made a commitment to develop healthy, high-performance school buildings in accordance with the plan developed and approved under paragraph (3)(A).

[(3) IMPLEMENTATION.—

[(A) PLANS.—A State educational agency shall award subgrants under this subsection only to local educational agencies that, in consultation with the State educational agency and State agencies with responsibilities relating to energy and health, have developed plans that the State educational agency determines to be feasible and appropriate in order to achieve the purposes for which the subgrants are made.

[(B) SUPPLEMENTING GRANT FUNDS.—The State educational agency shall encourage local educational agencies

that receive subgrants under this subsection to supplement their subgrant funds with funds from other sources in order to implement their plans.

[(b) ADMINISTRATION.—A State educational agency receiving a grant under this subpart shall use the grant funds made available under this subpart for one or more of the following:

[(1) To evaluate compliance by local educational agencies with the requirements of this subpart.

[(2) To distribute information and materials on healthy, high-performance school buildings for both new and existing facilities.

[(3) To organize and conduct programs for school board members, school district personnel, and others to disseminate information on healthy, high-performance school buildings.

[(4) To provide technical services and assistance in planning and designing healthy, high-performance school buildings.

[(5) To collect and monitor information pertaining to healthy, high-performance school building projects.

[SEC. 5583. LOCAL USES OF FUNDS.

[(a) IN GENERAL.—A local educational agency that receives a subgrant under section 5582(a) shall use the subgrant funds to plan and prepare for healthy, high-performance school building projects that—

[(1) reduce energy use to at least 30 percent below that of a school constructed in compliance with standards prescribed in chapter 8 of the 2000 International Energy Conservation Code, or a similar State code intended to achieve substantially equivalent results;

[(2) meet Federal and State health and safety codes; and

[(3) support healthful, energy efficient, and environmentally sound practices.

[(b) USE OF FUNDS.—A local educational agency that receives a subgrant under section 5582(a) shall use funds for one or more of the following:

[(1) To develop a comprehensive energy audit of the energy consumption characteristics of a building and the need for additional energy conservation measures necessary to allow schools to meet the guidelines set out in subsection (a).

[(2) To produce a comprehensive analysis of building strategies, designs, materials, and equipment that—

[(A) are cost effective, produce greater energy efficiency, and enhance indoor air quality; and

[(B) can be used when conducting school construction and renovation or purchasing materials and equipment.

[(3) To obtain research and provide technical services and assistance in planning and designing healthy, high-performance school buildings, including developing a timeline for implementation of such plans.

[SEC. 5584. REPORT TO CONGRESS.

[The Secretary shall conduct a biennial review of State actions implementing this subpart and carrying out the plans developed under this subpart through State and local funding, and shall submit a report to Congress on the results of such reviews.

[SEC. 5585. LIMITATIONS.

[No funds received under this subpart may be used for any of the following:

[(1) Payment of maintenance of costs in connection with any projects constructed in whole or in part with Federal funds provided under this subpart.

[(2) Construction, renovation, or repair of school facilities.

[(3) Construction, renovation, repair, or acquisition of a stadium or other facility primarily used for athletic contests or exhibitions, or other events for which admission is charged to the general public.

[SEC. 5586. HEALTHY, HIGH-PERFORMANCE SCHOOL BUILDING DEFINED.

[In this subpart, the term “healthy, high-performance school building” means a school building in which the design, construction, operation, and maintenance—

[(1) use energy-efficient and affordable practices and materials;

[(2) are cost-effective;

[(3) enhance indoor air quality; and

[(4) protect and conserve water.

[Subpart 19—Grants for Capital Expenses of Providing Equitable Services for Private School Students

[SEC. 5591. GRANT PROGRAM AUTHORIZED.

[The Secretary is authorized to award grants to State educational agencies, from allotments made under section 5593, to enable the State educational agencies to award subgrants to local educational agencies to pay for capital expenses in accordance with this subpart.

[SEC. 5592. USES OF FUNDS.

[A local educational agency that receives a subgrant under this subpart shall use the subgrant funds only to pay for capital expenses incurred in providing equitable services for private school students under section 1120.

[SEC. 5593. ALLOTMENTS TO STATES.

[From the funds made available to carry out this subpart for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the funds made available as the number of private school students who received services under part A of title I in the State in the most recent year for which data, satisfactory to the Secretary, are available bears to the number of such students in all States in such year.

[SEC. 5594. SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.

[(a) APPLICATIONS.—A local educational agency that desires to receive a subgrant under this subpart shall submit an application to the State educational agency involved at such time, in such manner, and containing such information as the State educational agency may require.

[(b) DISTRIBUTION.—A State educational agency shall award subgrants to local educational agencies within the State based on the

degree of need set forth in their respective applications submitted under subsection (a).

[SEC. 5595. CAPITAL EXPENSES DEFINED.

[In this subpart, the term “capital expenses” means—

- [**(1) expenditures for noninstructional goods and services, such as the purchase, lease, or renovation of real and personal property, including mobile educational units and leasing of neutral sites or spaces;
- [**(2) insurance and maintenance costs;
- [**(3) transportation; and
- [**(4) other comparable goods and services.

[SEC. 5596. TERMINATION.

[The authority provided by this subpart terminates effective October 1, 2003.

[Subpart 20—Additional Assistance for Certain Local Educational Agencies Impacted by Federal Property Acquisition

[SEC. 5601. RESERVATION.

[The Secretary is authorized to provide additional assistance to meet special circumstances relating to the provision of education in local educational agencies eligible to receive assistance under section 8002.

[SEC. 5602. ELIGIBILITY.

[A local educational agency is eligible to receive additional assistance under this subpart only if such agency—

- [**(1) received a payment under both section 8002 and section 8003(b) for fiscal year 1996 and is eligible to receive payments under those sections for the year of application;
- [**(2) provided a free public education to children described under subparagraph (A), (B), or (D) of section 8003(a)(1);
- [**(3) had a military installation located within the geographic boundaries of the local educational agency that was closed as a result of base closure or realignment and, at the time at which the agency is applying for a payment under this subpart, the agency does not have a military installation located within its geographic boundaries;
- [**(4) remains responsible for the free public education of children residing in housing located on Federal property within the boundaries of the closed military installation but whose parents are on active duty in the uniformed services and assigned to a military activity located within the boundaries of an adjoining local educational agency; and
- [**(5) demonstrates to the satisfaction of the Secretary that such agency’s per-pupil revenue derived from local sources for current expenditures is not less than that revenue for the preceding fiscal year.

[SEC. 5603. MAXIMUM AMOUNT.

[(a) **MAXIMUM AMOUNT.**—The maximum amount that a local educational agency is eligible to receive under this subpart for any fiscal year, when combined with its payment under section 8002(b),

shall not be more than 50 percent of the maximum amount determined under section 8002(b).

[(b) INSUFFICIENT FUNDS.—If funds appropriated under section 5401 are insufficient to pay the amount determined under subsection (a), the Secretary shall ratably reduce the payment to each local educational agency eligible under this subpart.

[(c) EXCESS FUNDS.—If funds appropriated under section 5401 are in excess of the amount determined under subsection (a), the Secretary shall ratably distribute any excess funds to all local educational agencies eligible for payment under section 8002(b).

[Subpart 21—Women’s Educational Equity Act

[SEC. 5611. SHORT TITLE AND FINDINGS.

[(a) SHORT TITLE.—This subpart may be cited as the “Women’s Educational Equity Act of 2001”.

[(b) FINDINGS.—Congress finds that—

[(1) since the enactment of title IX of the Education Amendments of 1972, women and girls have made strides in educational achievement and in their ability to avail themselves of educational opportunities;

[(2) because of funding provided under the Women’s Educational Equity Act of 2001, more curricula, training, and other educational materials concerning educational equity for women and girls are available for national dissemination;

[(3) teaching and learning practices in the United States are frequently inequitable as such practices relate to women and girls, for example—

[(A) sexual harassment, particularly that experienced by girls, undermines the ability of schools to provide a safe and equitable learning or workplace environment;

[(B) classroom textbooks and other educational materials do not sufficiently reflect the experiences, achievements, or concerns of women and, in most cases, are not written by women or persons of color;

[(C) girls do not take as many mathematics and science courses as boys, girls lose confidence in their mathematics and science ability as girls move through adolescence, and there are few women role models in the sciences; and

[(D) pregnant and parenting teenagers are at high risk for dropping out of school and existing dropout prevention programs do not adequately address the needs of such teenagers;

[(4) efforts to improve the quality of public education also must include efforts to ensure equal access to quality education programs for all women and girls;

[(5) Federal support should address not only research and development of innovative model curricula and teaching and learning strategies to promote gender equity, but should also assist schools and local communities implement gender equitable practices;

[(6) Federal assistance for gender equity must be tied to systemic reform, involve collaborative efforts to implement effective gender practices at the local level, and encourage parental participation; and

[(7) excellence in education, high educational achievements and standards, and the full participation of women and girls in American society, cannot be achieved without educational equity for women and girls.

[SEC. 5612. STATEMENT OF PURPOSE.

[It is the purpose of this subpart—

[(1) to promote gender equity in education in the United States;

[(2) to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Educational Amendments of 1972; and

[(3) to promote equity in education for women and girls who suffer from multiple forms of discrimination based on sex, race, ethnic origin, limited English proficiency, disability, or age.

[SEC. 5613. PROGRAMS AUTHORIZED.

[(a) IN GENERAL.—The Secretary is authorized—

[(1) to promote, coordinate, and evaluate gender equity policies, programs, activities, and initiatives in all Federal education programs and offices;

[(2) to develop, maintain, and disseminate materials, resources, analyses, and research relating to education equity for women and girls;

[(3) to provide information and technical assistance to assure the effective implementation of gender equity programs;

[(4) to coordinate gender equity programs and activities with other Federal agencies with jurisdiction over education and related programs;

[(5) to assist the Director of the Institute of Education Sciences in identifying research priorities related to education equity for women and girls; and

[(6) to perform any other activities consistent with achieving the purposes of this subpart.

[(b) GRANTS AUTHORIZED.—

[(1) IN GENERAL.—The Secretary is authorized to award grants to, and enter into contracts and cooperative agreements with, public agencies, private nonprofit agencies, organizations, institutions, student groups, community groups, and individuals, for a period not to exceed 4 years, to—

[(A) provide grants to develop model equity programs; and

[(B) provide funds for the implementation of equity programs in schools throughout the Nation.

[(2) SUPPORT AND TECHNICAL ASSISTANCE.—To achieve the purposes of this subpart, the Secretary is authorized to provide support and technical assistance—

[(A) to implement effective gender-equity policies and programs at all educational levels, including—

[(i) assisting educational agencies and institutions to implement policies and practices to comply with title IX of the Education Amendments of 1972;

[(ii) training for teachers, counselors, administrators, and other school personnel, especially preschool and elementary school personnel, in gender equitable teaching and learning practices;

[(iii) leadership training for women and girls to develop professional and marketable skills to compete in the global marketplace, improve self-esteem, and benefit from exposure to positive role models;

[(iv) school-to-work transition programs, guidance and counseling activities, and other programs to increase opportunities for women and girls to enter a technologically demanding workplace and, in particular, to enter highly skilled, high paying careers in which women and girls have been underrepresented;

[(v) enhancing educational and career opportunities for those women and girls who suffer multiple forms of discrimination, based on sex, and on race, ethnic origin, limited English proficiency, disability, socioeconomic status, or age;

[(vi) assisting pregnant students and students rearing children to remain in or to return to secondary school, graduate, and prepare their preschool children to start school;

[(vii) evaluating exemplary model programs to assess the ability of such programs to advance educational equity for women and girls;

[(viii) introduction into the classroom of textbooks, curricula, and other materials designed to achieve equity for women and girls;

[(ix) programs and policies to address sexual harassment and violence against women and girls and to ensure that educational institutions are free from threats to the safety of students and personnel;

[(x) nondiscriminatory tests of aptitude and achievement and of alternative assessments that eliminate biased assessment instruments from use;

[(xi) programs to increase educational opportunities, including higher education, vocational training, and other educational programs for low-income women, including underemployed and unemployed women, and women receiving assistance under a State program funded under part A of title IV of the Social Security Act;

[(xii) programs to improve representation of women in educational administration at all levels; and

[(xiii) planning, development, and initial implementation of—

[(I) comprehensive institutionwide or districtwide evaluation to assess the presence or absence of gender equity in educational settings;

[(II) comprehensive plans for implementation of equity programs in State educational agencies and local educational agencies and institutions of higher education, including community colleges; and

[(III) innovative approaches to school-community partnerships for educational equity; and

[(B) for research and development, which shall be coordinated with each of the National Education Centers of the Institute of Education Sciences to avoid duplication of

research efforts, designed to advance gender equity nationwide and to help make policies and practices in educational agencies and institutions, and local communities, gender equitable, including—

[(i) research and development of innovative strategies and model training programs for teachers and other education personnel;

[(ii) the development of high-quality and challenging assessment instruments that are nondiscriminatory;

[(iii) the development and evaluation of model curricula, textbooks, software, and other educational materials to ensure the absence of gender stereotyping and bias;

[(iv) the development of instruments and procedures that employ new and innovative strategies to assess whether diverse educational settings are gender equitable;

[(v) the development of instruments and strategies for evaluation, dissemination, and replication of promising or exemplary programs designed to assist local educational agencies in integrating gender equity in their educational policies and practices;

[(vi) updating high-quality educational materials previously developed through awards made under this subpart;

[(vii) the development of policies and programs to address and prevent sexual harassment and violence to ensure that educational institutions are free from threats to safety of students and personnel;

[(viii) the development and improvement of programs and activities to increase opportunity for women, including continuing educational activities, vocational education, and programs for low-income women, including underemployed and unemployed women, and women receiving assistance under the State program funded under part A of title IV of the Social Security Act; and

[(ix) the development of guidance and counseling activities, including career education programs, designed to ensure gender equity.

[SEC. 5614. APPLICATIONS.

[An application under this subpart shall—

[(1) set forth policies and procedures that will ensure a comprehensive evaluation of the activities assisted under this subpart, including an evaluation of the practices, policies, and materials used by the applicant and an evaluation or estimate of the continued significance of the work of the project following completion of the award period;

[(2) demonstrate how the applicant will address perceptions of gender roles based on cultural differences or stereotypes;

[(3) for applications for assistance under section 5613(b)(1), demonstrate how the applicant will foster partnerships and, where applicable, share resources with State educational agencies, local educational agencies, institutions of higher edu-

cation, community-based organizations (including organizations serving women), parent, teacher, and student groups, businesses, or other recipients of Federal educational funding which may include State literacy resource centers;

[(4) for applications for assistance under section 5613(b)(1), demonstrate how parental involvement in the project will be encouraged; and

[(5) for applications for assistance under section 5613(b)(1), describe plans for continuation of the activities assisted under this subpart with local support following completion of the grant period and termination of Federal support under this subpart.

[SEC. 5615. CRITERIA AND PRIORITIES.

[(a) CRITERIA AND PRIORITIES.—

[(1) IN GENERAL.—The Secretary shall establish separate criteria and priorities for awards under paragraphs (1) and (2) of section 5613(b) to ensure that funds under this subpart are used for programs that most effectively will achieve the purposes of this subpart.

[(2) CRITERIA.—The criteria described in paragraph (1) may include the extent to which the activities assisted under this subpart—

[(A) address the needs of women and girls of color and women and girls with disabilities;

[(B) meet locally defined and documented educational equity needs and priorities, including compliance with title IX of the Education Amendments of 1972;

[(C) are a significant component of a comprehensive plan for educational equity and compliance with title IX of the Education Amendments of 1972 in the particular school district, institution of higher education, vocational-technical institution, or other educational agency or institution; and

[(D) implement an institutional change strategy with long-term impact that will continue as a central activity of the applicant after the grant under this subpart has terminated.

[(b) PRIORITIES.—In awarding grants under this subpart, the Secretary may give special consideration to applications—

[(1) submitted by applicants that have not received assistance under this subpart or this subpart's predecessor authorities;

[(2) for projects that will contribute significantly to directly improving teaching and learning practices in the local community; and

[(3) for projects that will—

[(A) provide for a comprehensive approach to enhancing gender equity in educational institutions and agencies;

[(B) draw on a variety of resources, including the resources of local educational agencies, community-based organizations, institutions of higher education, and private organizations;

[(C) implement a strategy with long-term impact that will continue as a central activity of the applicant after the grant under this subpart has terminated;

[(D) address issues of national significance that can be duplicated; and

[(E) address the educational needs of women and girls who suffer multiple or compound discrimination based on sex and on race, ethnic origin, disability, or age.

[(c) SPECIAL RULE.—To the extent feasible, the Secretary shall ensure that grants awarded under this subpart for each fiscal year address—

[(1) all levels of education, including preschool, elementary and secondary education, higher education, vocational education, and adult education;

[(2) all regions of the United States; and

[(3) urban, rural, and suburban educational institutions.

[(d) COORDINATION.—Research activities supported under this subpart—

[(1) shall be carried out in consultation with the Institute of Education Sciences to ensure that such activities are coordinated with and enhance the research and development activities supported by the Institute; and

[(2) may include collaborative research activities which are jointly funded and carried out with the Institute of Education Sciences.

[(e) LIMITATION.—Nothing in this subpart shall be construed as prohibiting men and boys from participating in any programs or activities assisted with funds under this subpart.

[SEC. 5616. REPORT.

[Not later than January 1, 2006, the Secretary shall submit to the President and Congress a report on the status of educational equity for girls and women in the Nation.

[SEC. 5617. ADMINISTRATION.

[(a) EVALUATION AND DISSEMINATION.—Not later than January 1, 2005, the Secretary shall evaluate and disseminate materials and programs developed under this subpart and shall report to Congress regarding such evaluation materials and programs.

[(b) PROGRAM OPERATIONS.—The Secretary shall ensure that the activities assisted under this subpart are administered within the Department by a person who has recognized professional qualifications and experience in the field of gender equity education.

[SEC. 5618. AMOUNT.

[From amounts made available to carry out this subpart for a fiscal year, not less than two-thirds of such amount shall be used to carry out the activities described in section 5613(b)(1).]

TITLE V—GENERAL PROVISIONS

PART A—DEFINITIONS

SEC. 5101. DEFINITIONS.

Except as otherwise provided, in this Act:

(1) ***AVERAGE DAILY ATTENDANCE.***—

(A) ***IN GENERAL.***—*Except as provided otherwise by State law or this paragraph, the term “average daily attendance” means—*

(i) the aggregate number of days of attendance of all students during a school year; divided by

(ii) the number of days school is in session during that year.

(B) *CONVERSION.*—The Secretary shall permit the conversion of average daily membership (or other similar data) to average daily attendance for local educational agencies in States that provide State aid to local educational agencies on the basis of average daily membership (or other similar data).

(C) *SPECIAL RULE.*—If the local educational agency in which a child resides makes a tuition or other payment for the free public education of the child in a school located in another school district, the Secretary shall, for the purpose of this Act—

(i) consider the child to be in attendance at a school of the agency making the payment; and

(ii) not consider the child to be in attendance at a school of the agency receiving the payment.

(D) *CHILDREN WITH DISABILITIES.*—If a local educational agency makes a tuition payment to a private school or to a public school of another local educational agency for a child with a disability, as defined in section 602 of the Individuals with Disabilities Education Act, the Secretary shall, for the purpose of this Act, consider the child to be in attendance at a school of the agency making the payment.

(2) *AVERAGE PER-PUPIL EXPENDITURE.*—The term “average per-pupil expenditure” means, in the case of a State or of the United States—

(A) without regard to the source of funds—

(i) the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State or, in the case of the United States, for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

(ii) any direct current expenditures by the State for the operation of those agencies; divided by

(B) the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year.

(3) *CHARTER SCHOOL.*—The term “charter school” means a public school that—

(A) in accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

(C) operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

(D) provides a program of elementary or secondary education, or both;

(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations;

(F) does not charge tuition;

(G) complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and part B of the Individuals with Disabilities Education Act;

(H) is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

(I) agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

(J) meets all applicable Federal, State, and local health and safety requirements;

(K) operates in accordance with State law;

(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school; and

(M) may serve pre-kindergarten or postsecondary school students.

(4) *CHILD*.—The term “child” means any person within the age limits for which the State provides free public education.

(5) *CHILD WITH A DISABILITY*.—The term “child with a disability” has the same meaning given that term in section 602 of the Individuals with Disabilities Education Act.

(6) *COMMUNITY-BASED ORGANIZATION*.—The term “community-based organization” means a public or private nonprofit organization of demonstrated effectiveness that—

(A) is representative of a community or significant segments of a community; and

(B) provides educational or related services to individuals in the community.

(7) *CONSOLIDATED LOCAL APPLICATION*.—The term “consolidated local application” means an application submitted by a local educational agency pursuant to section 5305.

(8) *CONSOLIDATED LOCAL PLAN*.—The term “consolidated local plan” means a plan submitted by a local educational agency pursuant to section 5305.

(9) *CONSOLIDATED STATE APPLICATION*.—The term “consolidated State application” means an application submitted by a State educational agency pursuant to section 5302.

(10) *CONSOLIDATED STATE PLAN.*—The term “consolidated State plan” means a plan submitted by a State educational agency pursuant to section 5302.

(11) *CORE ACADEMIC SUBJECTS.*—The term “core academic subjects” means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

(12) *COUNTY.*—The term “county” means one of the divisions of a State used by the Secretary of Commerce in compiling and reporting data regarding counties.

(13) *COVERED PROGRAM.*—The term “covered program” means each of the programs authorized by—

- (A) part A of title I;
- (B) title II; and
- (C) title III.

(14) *CURRENT EXPENDITURES.*—The term “current expenditures” means expenditures for free public education—

(A) including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities; but

(B) not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds received under title I.

(15) *DEPARTMENT.*—The term “Department” means the Department of Education.

(16) *DIRECT STUDENT SERVICES.*—The term “direct student services” means public school choice or high-quality academic tutoring that are designed to help increase academic achievement for students.

(17) *DISTANCE EDUCATION.*—The term “distance education” means the use of one or more technologies to deliver instruction to students who are separated from the instructor and to support regular and substantive interaction between the students and the instructor synchronously or nonsynchronously.

(18) *EDUCATIONAL SERVICE AGENCY.*—The term “educational service agency” means a regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local educational agencies.

(19) *ELEMENTARY SCHOOL.*—The term “elementary school” means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

(20) *ENGLISH LEARNER.*—The term “English learner”, when used with respect to an individual, means an individual—

- (A) who is aged 3 through 21;
- (B) who is enrolled or preparing to enroll in an elementary school or secondary school;
- (C)(i) who was not born in the United States or whose native language is a language other than English;
- (ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and

- (II) who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or
- (iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and
- (D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—
- (i) the ability to meet the State's academic standards described in section 1111;
 - (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or
 - (iii) the opportunity to participate fully in society.
- (21) EXTENDED-YEAR ADJUSTED COHORT GRADUATION RATE.—
- (A) IN GENERAL.—The term “extended-year adjusted cohort graduation rate” means the ratio where—
- (i) the denominator consists of the number of students who form the original cohort of students who entered the entry grade together in the entry year of high school, adjusted by—
 - (I) adding the students who joined that cohort, after the time of the determination of the original cohort; and
 - (II) subtracting only those students who left that cohort, after the time of the determination of the original cohort; and
 - (ii) the numerator consists of the number of students in the cohort, as adjusted under clause (i), who earned a regular high school diploma before, during, or at the conclusion of—
 - (I) one or more additional years beyond the fourth year of high school; or
 - (II) a summer session immediately following the additional year of high school.
- (B) COHORT REMOVAL.—To remove a student from a cohort, a school or local educational agency shall require documentation to confirm that the student has transferred out, emigrated to another country, transferred to a prison or juvenile facility, or is deceased.
- (C) TRANSFERRED OUT.—
- (i) IN GENERAL.—For purposes of this paragraph, the term “transferred out” means a student who the high school or local educational agency has confirmed, according to clause (ii), has transferred—
 - (I) to another school from which the student is expected to receive a regular high school diploma; or
 - (II) to another educational program from which the student is expected to receive a regular high school diploma.
 - (ii) CONFIRMATION REQUIREMENTS.—
 - (I) DOCUMENTATION REQUIRED.—The confirmation of a student's transfer to another school or

educational program described in clause (i) requires documentation from the receiving school or program that the student enrolled in the receiving school or program.

(II) *LACK OF CONFIRMATION.*—A student who was enrolled, but for whom there is no confirmation of the student having transferred out, shall remain in the extended-year adjusted cohort.

(iii) *PROGRAMS NOT PROVIDING CREDIT.*—A student who is retained in grade or who is enrolled in a GED or other alternative educational program that does not issue or provide credit toward the issuance of a regular high school diploma shall not be considered transferred out and shall remain in the extended-year adjusted cohort.

(D) *SPECIAL RULE.*—For those high schools that start after grade 9, the original cohort shall be calculated for the earliest high school grade students attend no later than the effective date for student membership data submitted annually by State educational agencies to the National Center for Education Statistics pursuant to section 153 of the Education Sciences Reform Act.

(22) *FAMILY LITERACY SERVICES.*—The term “family literacy services” means services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

(A) Interactive literacy activities between parents and their children.

(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

(C) Parent literacy training that leads to economic self-sufficiency.

(D) An age-appropriate education to prepare children for success in school and life experiences.

(23) *FOUR-YEAR ADJUSTED COHORT GRADUATION RATE.*—

(A) *IN GENERAL.*—The term “four-year adjusted cohort graduation rate” means the ratio where—

(i) the denominator consists of the number of students who form the original cohort of entering first-time 9th grade students enrolled in the high school no later than the effective date for student membership data submitted annually by State educational agencies to the National Center for Education Statistics pursuant to section 153 of the Education Sciences Reform Act, adjusted by—

(I) adding the students who joined that cohort, after the time of the determination of the original cohort; and

(II) subtracting only those students who left that cohort, after the time of the determination of the original cohort, as described in subparagraph (B); and

(ii) *the numerator consists of the number of students in the cohort, as adjusted under clause (i), who earned a regular high school diploma before, during, or at the conclusion of—*

(I) *the fourth year of high school; or*

(II) *a summer session immediately following the fourth year of high school.*

(B) *COHORT REMOVAL.—To remove a student from a cohort, a school or local educational agency shall require documentation to confirm that the student has transferred out, emigrated to another country, transferred to a prison or juvenile facility, or is deceased.*

(C) *TRANSFERRED OUT.—*

(i) *IN GENERAL.—For purposes of this paragraph, the term “transferred out” means a student who the high school or local educational agency has confirmed, according to clause (ii), has transferred—*

(I) *to another school from which the student is expected to receive a regular high school diploma;*
or

(II) *to another educational program from which the student is expected to receive a regular high school diploma.*

(ii) *CONFIRMATION REQUIREMENTS.—*

(I) *DOCUMENTATION REQUIRED.—The confirmation of a student’s transfer to another school or educational program described in clause (i) requires documentation from the receiving school or program that the student enrolled in the receiving school or program.*

(II) *LACK OF CONFIRMATION.—A student who was enrolled, but for whom there is no confirmation of the student having transferred out, shall remain in the adjusted cohort.*

(iii) *PROGRAMS NOT PROVIDING CREDIT.—A student who is retained in grade or who is enrolled in a GED or other alternative educational program that does not issue or provide credit toward the issuance of a regular high school diploma shall not be considered transferred out and shall remain in the adjusted cohort.*

(D) *SPECIAL RULE.—For those high schools that start after grade 9, the original cohort shall be calculated for the earliest high school grade students attend no later than the effective date for student membership data submitted annually by State educational agencies to the National Center for Education Statistics pursuant to section 153 of the Education Sciences Reform Act.*

(24) *FREE PUBLIC EDUCATION.—The term “free public education” means education that is provided—*

(A) *at public expense, under public supervision and direction, and without tuition charge; and*

(B) *as elementary school or secondary school education as determined under applicable State law, except that the term does not include any education provided beyond grade 12.*

(25) *GRADUATION RATE.*—The term “graduation rate” means the adjusted cohort graduation rate.

(26) *HIGH-QUALITY ACADEMIC TUTORING.*—The term “high-quality academic tutoring” means supplemental academic services that—

(A) are in addition to instruction provided during the school day;

(B) are provided by a non-governmental entity or local educational agency that—

(i) is included on a State educational agency approved provider list after demonstrating to the State educational agency that its program consistently improves the academic achievement of students; and

(ii) agrees to provide parents of children receiving high-quality academic tutoring, the appropriate local educational agency, and school with information on participating students increases in academic achievement, in a format, and to the extent practicable, a language that such parent can understand, and in a manner that protects the privacy of individuals consistent with section 444 of the General Education Provisions Act (20 U.S.C. 1232g);

(C) are selected by the parents of students who are identified by the local educational agency as being eligible for such services from among providers on the approved provider list described in subparagraph (B)(i);

(D) meet all applicable Federal, State, and local health, safety, and civil rights laws; and

(E) ensure that all instruction and content are secular, neutral, and non-ideological.

(27) *HIGH SCHOOL.*—The term “high school” means a secondary school that—

(A) grants a diploma, as defined by the State; and

(B) includes, at least, grade 12.

(28) *INSTITUTION OF HIGHER EDUCATION.*—The term “institution of higher education” has the meaning given that term in section 101(a) of the Higher Education Act of 1965.

(29) *LOCAL EDUCATIONAL AGENCY.*—

(A) *IN GENERAL.*—The term “local educational agency” means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

(B) *ADMINISTRATIVE CONTROL AND DIRECTION.*—The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

(C) *BIE SCHOOLS.*—The term includes an elementary school or secondary school funded by the Bureau of Indian Education but only to the extent that including the school

makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Education.

(D) *EDUCATIONAL SERVICE AGENCIES.*—*The term includes educational service agencies and consortia of those agencies.*

(E) *STATE EDUCATIONAL AGENCY.*—*The term includes the State educational agency in a State in which the State educational agency is the sole educational agency for all public schools.*

(30) *NATIVE AMERICAN AND NATIVE AMERICAN LANGUAGE.*—*The terms “Native American” and “Native American language” have the same meaning given those terms in section 103 of the Native American Languages Act of 1990.*

(31) *OTHER STAFF.*—*The term “other staff” means specialized instructional support personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.*

(32) *OUTLYING AREA.*—*The term “outlying area”—*

(A) means American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands;

(B) means the Republic of Palau, to the extent permitted under section 105(f)(1)(B)(ix) of the Compact of Free Association Amendments Act of 2003 (Public Law 99–658; 117 Stat. 2751) and until an agreement for the extension of United States education assistance under the Compact of Free Association becomes effective for the Republic of Palau; and

(C) for the purpose of any discretionary grant program under this Act, includes the Republic of the Marshall Islands and the Federated States of Micronesia, to the extent permitted under section 105(f)(1)(B)(viii) of the Compact of Free Association Amendments Act of 2003 (Public Law 108–188; 117 Stat. 2751).

(33) *PARENT.*—*The term “parent” includes a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child’s welfare).*

(34) *PARENTAL INVOLVEMENT.*—*The term “parental involvement” means the participation of parents in regular, two-way, and meaningful communication involving student academic learning and other school activities, including ensuring—*

(A) that parents play an integral role in assisting in their child’s learning;

(B) that parents are encouraged to be actively involved in their child’s education at school;

(C) that parents are full partners in their child’s education and are included, as appropriate, in decisionmaking

and on advisory committees to assist in the education of their child; and

(D) the carrying out of other activities, such as those described in section 1118.

(35) *POVERTY LINE.*—The term “poverty line” means the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of the size involved.

(36) *PROFESSIONAL DEVELOPMENT.*—The term “professional development”—

(A) includes activities that—

(i) improve and increase teachers’ knowledge of the academic subjects the teachers teach, and enable teachers to become effective educators;

(ii) are an integral part of broad schoolwide and districtwide educational improvement plans;

(iii) give teachers, school leaders, other staff, and administrators the knowledge and skills to provide students with the opportunity to meet State academic standards;

(iv) improve classroom management skills;

(v)(I) are high quality, job-embedded, and continuous in order to have a positive and lasting impact on classroom instruction and the teacher’s performance in the classroom; and

(II) are not 1-day or short-term workshops or conferences;

(vi) support the recruiting, hiring, and training of effective teachers, including teachers who became certified or licensed through State and local alternative routes to certification;

(vii) advance teacher understanding of effective instructional strategies that are—

(I) evidence-based; and

(II) strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers, including through addressing the social and emotional development needs of students; and

(viii) are aligned with and directly related to—

(I) State academic standards and assessments; and

(II) the curricula and programs tied to the standards described in subclause (I);

(ix) are developed with extensive participation of teachers, school leaders, parents, and administrators of schools to be served under this Act;

(x) are designed to give teachers of English learners and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to those children, including the appropriate use of curricula and assessments;

(xi) to the extent appropriate, provide training for teachers, other staff, and school leaders in the use of technology so that technology and technology applications are effectively used to improve teaching and learning in the curricula and core academic subjects in which the students receive instruction;

(xii) as a whole, are regularly evaluated for their impact on increased teacher effectiveness and improved student academic achievement, with the findings of the evaluations used to improve the quality of the professional development;

(xiii) provide instruction in methods of teaching children with special needs;

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

(xv) include instruction in ways that teachers, school leaders, specialized instructional support personnel, other staff, and school administrators may work more effectively with parents; and

(B) may include activities that—

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

(ii) create programs to enable paraprofessionals (assisting teachers employed by a local educational agency receiving assistance under subpart 1 of part A of title I) to obtain the education necessary for those paraprofessionals to become certified and licensed teachers; and

(iii) provide follow-up training to individuals who have participated in activities described in subparagraph (A) or another clause of this subparagraph that are designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom.

(37) **REGULAR HIGH SCHOOL DIPLOMA.**—

(A) **IN GENERAL.**—The term “regular high school diploma” means the standard high school diploma awarded to the preponderance of students in the State that is fully aligned with State standards, or a higher diploma. Such term shall not include a GED or other recognized equivalent of a diploma, a certificate of attendance, or any lesser diploma award.

(B) **EXCEPTION FOR STUDENTS WITH SIGNIFICANT COGNITIVE DISABILITIES.**—For a student who is assessed using an alternate assessment aligned to alternate academic standards under section 1111(b)(1)(D), receipt of a regular high school diploma as defined under subparagraph (A) or a State-defined alternate diploma obtained within the time period for which the State ensures the availability of a free appropriate public education and in accordance with sec-

tion 612(a)(1) of the Individuals with Disabilities Education Act shall be counted as graduating with a regular high school diploma for the purposes of this Act.

(38) **SCHOOL LEADER.**—The term “school leader” means a principal, assistant principal, or other individual who is—

(A) an employee or officer of a school, local educational agency, or other entity operating the school; and

(B) responsible for—

(i) the daily instructional leadership and managerial operations of the school; and

(ii) creating the optimum conditions for student learning.

(39) **SECONDARY SCHOOL.**—The term “secondary school” means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that the term does not include any education beyond grade 12.

(40) **SECRETARY.**—The term “Secretary” means the Secretary of Education.

(41) **SPECIALIZED INSTRUCTIONAL SUPPORT PERSONNEL; SPECIALIZED INSTRUCTIONAL SUPPORT SERVICES.**—

(A) **SPECIALIZED INSTRUCTIONAL SUPPORT PERSONNEL.**—The term “specialized instructional support personnel” means school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services (including related services as that term is defined in section 602 of the Individuals with Disabilities Education Act) as part of a comprehensive program to meet student needs.

(B) **SPECIALIZED INSTRUCTIONAL SUPPORT SERVICES.**—The term “specialized instructional support services” means the services provided by specialized instructional support personnel.

(42) **STATE.**—The term “State” means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

(43) **STATE EDUCATIONAL AGENCY.**—The term “State educational agency” means the agency primarily responsible for the State supervision of public elementary schools and secondary schools.

(44) **TECHNOLOGY.**—The term “technology” means modern information, computer and communication technology products, services, or tools, including, but not limited to, the Internet and other communications networks, computer devices and other computer and communications hardware, software applications, data systems, and other electronic content and data storage.

SEC. 5102. APPLICABILITY OF TITLE.

Parts B, C, D, and E of this title do not apply to title IV of this Act.

SEC. 5103. APPLICABILITY TO BUREAU OF INDIAN EDUCATION OPERATED SCHOOLS.

For the purpose of any competitive program under this Act—

- (1) a consortium of schools operated by the Bureau of Indian Education;
- (2) a school operated under a contract or grant with the Bureau of Indian Education in consortium with another contract or grant school or a tribal or community organization; or
- (3) a Bureau of Indian Education school in consortium with an institution of higher education, a contract or grant school, or a tribal or community organization,
- shall be given the same consideration as a local educational agency.

PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

SEC. 5201. CONSOLIDATION OF STATE ADMINISTRATIVE FUNDS FOR ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

(a) **CONSOLIDATION OF ADMINISTRATIVE FUNDS.**—

(1) **IN GENERAL.**—A State educational agency may consolidate the amounts specifically made available to it for State administration under one or more of the programs under paragraph (2).

(2) **APPLICABILITY.**—This section applies to any program under this Act under which funds are authorized to be used for administration, and such other programs as the Secretary may designate.

(b) **USE OF FUNDS.**—

(1) **IN GENERAL.**—A State educational agency shall use the amount available under this section for the administration of the programs included in the consolidation under subsection (a).

(2) **ADDITIONAL USES.**—A State educational agency may also use funds available under this section for administrative activities designed to enhance the effective and coordinated use of funds under programs included in the consolidation under subsection (a), such as—

(A) the coordination of those programs with other Federal and non-Federal programs;

(B) the establishment and operation of peer-review mechanisms under this Act;

(C) the administration of this title;

(D) the dissemination of information regarding model programs and practices;

(E) technical assistance under any program under this Act;

(F) State-level activities designed to carry out this title;

(G) training personnel engaged in audit and other monitoring activities; and

(H) implementation of the Cooperative Audit Resolution and Oversight Initiative of the Department.

(c) **RECORDS.**—A State educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of programs included in the consolidation under subsection (a).

(d) **REVIEW.**—To determine the effectiveness of State administration under this section, the Secretary may periodically review the performance of State educational agencies in using consolidated ad-

ministrative funds under this section and take such steps as the Secretary finds appropriate to ensure the effectiveness of that administration.

(e) **UNUSED ADMINISTRATIVE FUNDS.**—If a State educational agency does not use all of the funds available to the agency under this section for administration, the agency may use those funds during the applicable period of availability as funds available under one or more programs included in the consolidation under subsection (a).

(f) **CONSOLIDATION OF FUNDS FOR STANDARDS AND ASSESSMENT DEVELOPMENT.**—In order to develop State academic standards and assessments, a State educational agency may consolidate the amounts described in subsection (a) for those purposes under title I.

SEC. 5202. SINGLE LOCAL EDUCATIONAL AGENCY STATES.

A State educational agency that also serves as a local educational agency shall, in its applications or plans under this Act, describe how the agency will eliminate duplication in conducting administrative functions.

SEC. 5203. CONSOLIDATED SET-ASIDE FOR DEPARTMENT OF THE INTERIOR FUNDS.

(a) **GENERAL AUTHORITY.**—

(1) **TRANSFER.**—The Secretary shall transfer to the Department of the Interior, as a consolidated amount for covered programs, the Indian education programs under subpart 6 of part A of title I, and the education for homeless children and youth program under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act, the amounts allotted to the Department of the Interior under those programs.

(2) **AGREEMENT.**—

(A) **IN GENERAL.**—The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of the programs specified in paragraph (1), for the distribution and use of those program funds under terms that the Secretary determines best meet the purposes of those programs.

(B) **CONTENTS.**—The agreement shall—

(i) set forth the plans of the Secretary of the Interior for the use of the amount transferred and the achievement measures to assess program effectiveness; and

(ii) be developed in consultation with Indian tribes.

(b) **ADMINISTRATION.**—The Department of the Interior may use not more than 1.5 percent of the funds consolidated under this section for its costs related to the administration of the funds transferred under this section.

PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

SEC. 5301. PURPOSES.

The purposes of this part are—

(1) to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery;

- (2) to provide greater flexibility to State and local authorities through consolidated plans, applications, and reporting; and
- (3) to enhance the integration of programs under this Act with State and local programs.

SEC. 5302. OPTIONAL CONSOLIDATED STATE PLANS OR APPLICATIONS.

(a) **GENERAL AUTHORITY.**—

(1) **SIMPLIFICATION.**—In order to simplify application requirements and reduce the burden for State educational agencies under this Act, the Secretary, in accordance with subsection (b), shall establish procedures and criteria under which, after consultation with the Governor, a State educational agency may submit a consolidated State plan or a consolidated State application meeting the requirements of this section for—

(A) each of the covered programs in which the State participates; and

(B) such other programs as the Secretary may designate.

(2) **CONSOLIDATED APPLICATIONS AND PLANS.**—After consultation with the Governor, a State educational agency that submits a consolidated State plan or a consolidated State application under this section shall not be required to submit separate State plans or applications under any of the programs to which the consolidated State plan or consolidated State application under this section applies.

(b) **COLLABORATION.**—

(1) **IN GENERAL.**—In establishing criteria and procedures under this section, the Secretary shall collaborate with State educational agencies and, as appropriate, with other State agencies, local educational agencies, public and private agencies, organizations, and institutions, private schools, and parents, students, and teachers.

(2) **CONTENTS.**—Through the collaborative process described in paragraph (1), the Secretary shall establish, for each program under this Act to which this section applies, the descriptions, information, assurances, and other material required to be included in a consolidated State plan or consolidated State application.

(3) **NECESSARY MATERIALS.**—The Secretary shall require only descriptions, information, assurances (including assurances of compliance with applicable provisions regarding participation by private school children and teachers), and other materials that are absolutely necessary for the consideration of the consolidated State plan or consolidated State application.

SEC. 5303. CONSOLIDATED REPORTING.

(a) **IN GENERAL.**—In order to simplify reporting requirements and reduce reporting burdens, the Secretary shall establish procedures and criteria under which a State educational agency, in consultation with the Governor of the State, may submit a consolidated State annual report.

(b) **CONTENTS.**—The report shall contain information about the programs included in the report, including the performance of the State under those programs, and other matters as the Secretary determines are necessary, such as monitoring activities.

(c) *REPLACEMENT.*—The report shall replace separate individual annual reports for the programs included in the consolidated State annual report.

SEC. 5304. GENERAL APPLICABILITY OF STATE EDUCATIONAL AGENCY ASSURANCES.

(a) *ASSURANCES.*—A State educational agency, in consultation with the Governor of the State, that submits a consolidated State plan or consolidated State application under this Act, whether separately or under section 5302, shall have on file with the Secretary a single set of assurances, applicable to each program for which the plan or application is submitted, that provides that—

(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency, an eligible private agency, institution, or organization, or an Indian tribe, if the law authorizing the program provides for assistance to those entities; and

(B) the public agency, eligible private agency, institution, or organization, or Indian tribe will administer those funds and property to the extent required by the authorizing law;

(3) the State will adopt and use proper methods of administering each such program, including—

(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program;

(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation; and

(C) the adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of the programs;

(4) the State will cooperate in carrying out any evaluation of each such program conducted by or for the Secretary or other Federal officials;

(5) the State will use such fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each such program;

(6) the State will—

(A) make reports to the Secretary as may be necessary to enable the Secretary to perform the Secretary's duties under each such program; and

(B) maintain such records, provide such information to the Secretary, and afford such access to the records as the Secretary may find necessary to carry out the Secretary's duties; and

(7) before the plan or application was submitted to the Secretary, the State afforded a reasonable opportunity for public comment on the plan or application and considered such comment.

(b) *GEPA PROVISION.*—Section 441 of the General Education Provisions Act shall not apply to programs under this Act.

SEC. 5305. CONSOLIDATED LOCAL PLANS OR APPLICATIONS.**(a) GENERAL AUTHORITY.—**

(1) **CONSOLIDATED PLAN.**—A local educational agency receiving funds under more than one covered program may submit plans or applications to the State educational agency under those programs on a consolidated basis.

(2) **AVAILABILITY TO GOVERNOR.**—The State educational agency shall make any consolidated local plans and applications available to the Governor.

(b) REQUIRED CONSOLIDATED PLANS OR APPLICATIONS.—A State educational agency that has an approved consolidated State plan or application under section 5302 may require local educational agencies in the State receiving funds under more than one program included in the consolidated State plan or consolidated State application to submit consolidated local plans or applications under those programs, but may not require those agencies to submit separate plans.

(c) COLLABORATION.—A State educational agency, in consultation with the Governor, shall collaborate with local educational agencies in the State in establishing procedures for the submission of the consolidated State plans or consolidated State applications under this section.

(d) NECESSARY MATERIALS.—The State educational agency shall require only descriptions, information, assurances, and other material that are absolutely necessary for the consideration of the local educational agency plan or application.

SEC. 5306. OTHER GENERAL ASSURANCES.

(a) ASSURANCES.—Any applicant, other than a State educational agency that submits a plan or application under this Act, shall have on file with the State educational agency a single set of assurances, applicable to each program for which a plan or application is submitted, that provides that—

(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in an eligible private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to those entities; and

(B) the public agency, eligible private agency, institution, or organization, or Indian tribe will administer the funds and property to the extent required by the authorizing statutes;

(3) the applicant will adopt and use proper methods of administering each such program, including—

(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and

(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation;

(4) the applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary, or other Federal officials;

(5) the applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the applicant under each such program;

(6) the applicant will—

(A) submit such reports to the State educational agency (which shall make the reports available to the Governor) and the Secretary as the State educational agency and Secretary may require to enable the State educational agency and the Secretary to perform their duties under each such program; and

(B) maintain such records, provide such information, and afford such access to the records as the State educational agency (after consultation with the Governor) or the Secretary may reasonably require to carry out the State educational agency's or the Secretary's duties; and

(7) before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and considered such comment.

(b) **GEPA PROVISION.**—Section 442 of the General Education Provisions Act shall not apply to programs under this Act.

PART D—WAIVERS

SEC. 5401. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

(a) **IN GENERAL.**—

(1) **REQUEST FOR WAIVER.**—A State educational agency, local educational agency, or Indian tribe that receives funds under a program authorized under this Act may submit a request to the Secretary to waive any statutory or regulatory requirement of this Act.

(2) **RECEIPT OF WAIVER.**—Except as provided in subsection (c) and subject to the limits in subsection (b)(5)(A), the Secretary shall waive any statutory or regulatory requirement of this Act for a State educational agency, local educational agency, Indian tribe, or school (through a local educational agency), that submits a waiver request pursuant to this subsection.

(b) **PLAN.**—

(1) **IN GENERAL.**—A State educational agency, local educational agency, or Indian tribe that desires a waiver under this section shall submit a waiver request to the Secretary, which shall include a plan that—

(A) identifies the Federal programs affected by the requested waiver;

(B) describes which Federal statutory or regulatory requirements are to be waived;

(C) reasonably demonstrates that the waiver will improve instruction for students and advance student academic achievement;

(D) describes the methods the State educational agency, local educational agency, or Indian tribe will use to monitor the effectiveness of the implementation of the plan;

(E) describes the State educational agency, local educational agency, or Indian tribe's process for holding public

schools accountable for student academic achievement and intervening in low performing schools; and

(F) describes how schools will continue to provide assistance to the same populations served by programs for which the waiver is requested.

(2) *ADDITIONAL INFORMATION.—A waiver request under this section—*

(A) may provide for waivers of requirements applicable to State educational agencies, local educational agencies, Indian tribes, and schools; and

(B) shall be developed and submitted—

(i)(I) by local educational agencies (on behalf of those agencies and schools) to State educational agencies; and

(II) by State educational agencies (on their own behalf, or on behalf of, and based on the requests of, local educational agencies in the State) to the Secretary; or

(ii) by Indian tribes (on behalf of schools operated by the tribes) to the Secretary.

(3) *GENERAL REQUIREMENTS.—*

(A) STATE EDUCATIONAL AGENCIES.—In the case of a waiver request submitted by a State educational agency acting on its own behalf, or on behalf of local educational agencies in the State, the State educational agency shall—

(i) provide the public and local educational agencies in the State with notice and a reasonable opportunity to comment and provide input on the request;

(ii) submit the comments and input to the Secretary, with a description of how the State addressed the comments and input; and

(iii) provide notice and a reasonable time to comment to the public and local educational agencies in the manner in which the applying agency customarily provides similar notice and opportunity to comment to the public.

(B) LOCAL EDUCATIONAL AGENCIES.—In the case of a waiver request submitted by a local educational agency that receives funds under this Act—

(i) the request shall be reviewed by the State educational agency and be accompanied by the comments, if any, of the State educational agency and the public; and

(ii) notice and a reasonable opportunity to comment regarding the waiver request shall be provided to the State educational agency and the public by the agency requesting the waiver in the manner in which that agency customarily provides similar notice and opportunity to comment to the public.

(4) *PEER REVIEW.—*

(A) ESTABLISHMENT.—The Secretary shall establish a multi-disciplinary peer review team to review waiver requests under this section.

(B) APPLICABILITY.—The Secretary may approve a waiver request under this section without conducting a peer review

of the request, but shall use the peer review process under this paragraph before disapproving such a request.

(C) *STANDARD AND NATURE OF REVIEW.*—Peer reviewers shall conduct a good faith review of waiver requests submitted to them under this section. Peer reviewers shall review such waiver requests—

- (i) in their totality;
- (ii) in deference to State and local judgment; and
- (iii) with the goal of promoting State- and local-led innovation.

(5) *WAIVER DETERMINATION, DEMONSTRATION, AND REVISION.*—

(A) *IN GENERAL.*—The Secretary shall approve a waiver request not more than 60 days after the date on which such request is submitted, unless the Secretary determines and demonstrates that—

- (i) the waiver request does not meet the requirements of this section;
- (ii) the waiver is not permitted under subsection (c);
- (iii) the plan that is required under paragraph (1)(C), and reviewed with deference to State and local judgment, provides no reasonable evidence to determine that a waiver will enhance student academic achievement; or
- (iv) the waiver request does not provide for adequate evaluation to ensure review and continuous improvement of the plan.

(B) *WAIVER DETERMINATION AND REVISION.*—If the Secretary determines and demonstrates that the waiver request does not meet the requirements of this section, the Secretary shall—

- (i) immediately—
 - (I) notify the State educational agency, local educational agency, or Indian tribe of such determination; and
 - (II) at the request of the State educational agency, local educational agency, or Indian tribe, provide detailed reasons for such determination in writing;
- (ii) offer the State educational agency, local educational agency, or Indian tribe an opportunity to revise and resubmit the waiver request not more than 60 days after the date of such determination; and
- (iii) if the Secretary determines that the resubmission does not meet the requirements of this section, at the request of the State educational agency, local educational agency, or Indian tribe, conduct a public hearing not more than 30 days after the date of such resubmission.

(C) *WAIVER DISAPPROVAL.*—The Secretary may disapprove a waiver request if—

- (i) the State educational agency, local educational agency, or Indian tribe has been notified and offered an opportunity to revise and resubmit the waiver re-

quest, as described under clauses (i) and (ii) of subparagraph (B); and

(ii) the State educational agency, local educational agency, or Indian tribe—

(I) does not revise and resubmit the waiver request; or

(II) revises and resubmits the waiver request, and the Secretary determines that such waiver request does not meet the requirements of this section after a hearing conducted under subparagraph (B)(iii), if requested.

(D) *EXTERNAL CONDITIONS.*—The Secretary shall not require or impose new or additional requirements in exchange for receipt of a waiver if such requirements are not specified in this Act.

(c) *RESTRICTIONS.*—The Secretary shall not waive under this section any statutory or regulatory requirements relating to—

(1) the allocation or distribution of funds to States, local educational agencies, Indian tribes, or other recipients of funds under this Act;

(2) comparability of services;

(3) use of Federal funds to supplement, not supplant, non-Federal funds;

(4) equitable participation of private school students and teachers;

(5) parental participation and involvement;

(6) applicable civil rights requirements;

(7) the prohibitions—

(A) in subpart 2 of part E;

(B) regarding use of funds for religious worship or instruction in section 5505; and

(C) regarding activities in section 5524; or

(8) the selection of a school attendance area or school under subsections (a) and (b) of section 1113, except that the Secretary may grant a waiver to allow a school attendance area or school to participate in activities under subpart 1 of part A of title I if the percentage of children from low-income families in the school attendance area or who attend the school is not more than 10 percentage points below the lowest percentage of those children for any school attendance area or school of the local educational agency that meets the requirements of subsections (a) and (b) of section 1113.

(d) *DURATION AND EXTENSION OF WAIVER; LIMITATIONS.*—

(1) *IN GENERAL.*—Except as provided in paragraph (2), a waiver approved by the Secretary under this section may be for a period not to exceed 3 years.

(2) *EXTENSION.*—The Secretary may extend the period described in paragraph (1) if the State demonstrates that—

(A) the waiver has been effective in enabling the State or affected recipient to carry out the activities for which the waiver was requested and the waiver has contributed to improved student achievement; and

(B) the extension is in the public interest.

(3) *SPECIFIC LIMITATIONS.*—*The Secretary shall not require a State educational agency, local educational agency, or Indian tribe, as a condition of approval of a waiver request, to—*

(A) *include in, or delete from, such request, specific academic standards;*

(B) *use specific academic assessment instruments or items; or*

(C) *include in, or delete from, such waiver request any criterion that specifies, defines, or prescribes the standards or measures that a State or local educational agency or Indian tribe uses to establish, implement, or improve—*

(i) *State academic standards;*

(ii) *academic assessments;*

(iii) *State accountability systems; or*

(iv) *teacher and school leader evaluation systems.*

(e) *REPORTS.*—

(1) *WAIVER REPORTS.*—*A State educational agency, local educational agency, or Indian tribe that receives a waiver under this section shall, at the end of the second year for which a waiver is received under this section and each subsequent year, submit a report to the Secretary that—*

(A) *describes the uses of the waiver by the agency or by schools;*

(B) *describes how schools continued to provide assistance to the same populations served by the programs for which waivers were granted; and*

(C) *evaluates the progress of the agency and schools, or Indian tribe, in improving the quality of instruction or the academic achievement of students.*

(2) *REPORT TO CONGRESS.*—*The Secretary shall annually submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report—*

(A) *summarizing the uses of waivers by State educational agencies, local educational agencies, Indian tribes, and schools; and*

(B) *describing the status of the waivers in improving academic achievement.*

(f) *TERMINATION OF WAIVERS.*—*The Secretary shall terminate a waiver under this section if the Secretary determines, after notice and an opportunity for a hearing, that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver and the recipient of the waiver has failed to make revisions needed to carry out the purpose of the waiver, or if the waiver is no longer necessary to achieve its original purpose.*

(g) *PUBLICATION.*—*A notice of the Secretary's decision to grant each waiver under subsection (a) shall be published in the Federal Register and the Secretary shall provide for the dissemination of the notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, and the public.*

PART E—UNIFORM PROVISIONS

Subpart 1—Private Schools

SEC. 5501. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.

(a) **PRIVATE SCHOOL PARTICIPATION.**—

(1) **IN GENERAL.**—*Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in areas served by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or another entity receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary schools and secondary schools in areas served by such agency, consortium, or entity, the agency, consortium, or entity shall, after timely and meaningful consultation with appropriate private school officials or their representatives, provide to those children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits that address their needs under the program.*

(2) **SECULAR, NEUTRAL, AND NONIDEOLOGICAL SERVICES OR BENEFITS.**—*Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.*

(3) **SPECIAL RULE.**—*Educational services and other benefits provided under this section for private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in the program and shall be provided in a timely manner.*

(4) **EXPENDITURES.**—

(A) **IN GENERAL.**—*Expenditures for educational services and other benefits to eligible private school children, teachers, and other service personnel shall be equal to the expenditures for participating public school children, taking into account the number and educational needs, of the children to be served.*

(B) **OBLIGATION OF FUNDS.**—*Funds allocated to a local educational agency for educational services and other benefits to eligible private school children shall—*

(i) be obligated in the fiscal year for which the funds are received by the agency; and

(ii) with respect to any such funds that cannot be so obligated, be used to serve such children in the following fiscal year.

(C) **NOTICE OF ALLOCATION.**—*Each State educational agency shall—*

(i) determine, in a timely manner, the proportion of funds to be allocated to each local educational agency in the State for educational services and other benefits under this subpart to eligible private school children; and

(ii) provide notice, simultaneously, to each such local educational agency and the appropriate private school

officials or their representatives in the State of such allocation of funds.

(5) *PROVISION OF SERVICES.*—An agency, consortium, or entity described in subsection (a)(1) of this section may provide those services directly or through contracts with public and private agencies, organizations, and institutions.

(b) *APPLICABILITY.*—

(1) *IN GENERAL.*—This section applies to programs under—

- (A) subpart 2 of part A of title I;
- (B) subpart 4 of part A of title I;
- (C) part A of title II;
- (D) part B of title II; and
- (E) part B of title III.

(2) *DEFINITION.*—For the purpose of this section, the term “eligible children” means children eligible for services under a program described in paragraph (1).

(c) *CONSULTATION.*—

(1) *IN GENERAL.*—To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity shall consult, in order to reach an agreement, with appropriate private school officials or their representatives during the design and development of the programs under this Act, on issues such as—

- (A) how the children’s needs will be identified;
- (B) what services will be offered;
- (C) how, where, and by whom the services will be provided;
- (D) how the services will be assessed and how the results of the assessment will be used to improve those services;
- (E) the size and scope of the equitable services to be provided to the eligible private school children, teachers, and other educational personnel and the amount of funds available for those services;
- (F) how and when the agency, consortium, or entity will make decisions about the delivery of services, including a thorough consideration and analysis of the views of the private school officials or their representatives on the provision of services through potential third-party providers or contractors; and

(G) how, if the agency disagrees with the views of the private school officials or their representatives on the provision of services through a contract, the local educational agency will provide in writing to such private school officials or their representatives an analysis of the reasons why the local educational agency has chosen not to use a contractor.

(2) *DISAGREEMENT.*—If the agency, consortium, or entity disagrees with the views of the private school officials or their representatives with respect to an issue described in paragraph (1), the agency, consortium, or entity shall provide to the private school officials or their representatives a written explanation of the reasons why the local educational agency has chosen not to adopt the course of action requested by such officials or their representatives.

(3) *TIMING.*—The consultation required by paragraph (1) shall occur before the agency, consortium, or entity makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act, and shall continue throughout the implementation and assessment of activities under this section.

(4) *DISCUSSION REQUIRED.*—The consultation required by paragraph (1) shall include a discussion of service delivery mechanisms that the agency, consortium, or entity could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.

(5) *DOCUMENTATION.*—Each local educational agency shall maintain in the agency's records and provide to the State educational agency involved a written affirmation signed by officials or their representatives of each participating private school that the meaningful consultation required by this section has occurred. The written affirmation shall provide the option for private school officials or their representatives to indicate that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to eligible private school children. If such officials or their representatives do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation that such consultation has, or attempts at such consultation have, taken place to the State educational agency.

(6) *COMPLIANCE.*—

(A) *IN GENERAL.*—If the consultation required under this section is with a local educational agency or educational service agency, a private school official or representative shall have the right to file a complaint with the State educational agency that the consultation required under this section was not meaningful and timely, did not give due consideration to the views of the private school official or representative, or did not treat the private school or its students equitably as required by this section.

(B) *PROCEDURE.*—If the private school official or representative wishes to file a complaint, the private school official or representative shall provide the basis of the non-compliance with this section and all parties shall provide the appropriate documentation to the appropriate officials or representatives.

(C) *SERVICES.*—A State educational agency shall provide services under this section directly or through contracts with public and private agencies, organizations, and institutions, if—

(i) the appropriate private school officials or their representatives have—

(I) requested that the State educational agency provide such services directly; and

(II) demonstrated that the local educational agency or Education Service Agency involved has not met the requirements of this section; or

(ii) in a case in which—

(I) a local educational agency has more than 10,000 children from low-income families who attend private elementary schools or secondary schools in such agency's school attendance areas, as defined in section 1113(a)(2)(A), that are not being served by the agency's program under this section; or

(II) 90 percent of the eligible private school students in a school attendance area, as defined in section 1113(a)(2)(A), are not being served by the agency's program under this section.

(d) **PUBLIC CONTROL OF FUNDS.**—

(1) **IN GENERAL.**—The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer the funds and property.

(2) **PROVISION OF SERVICES.**—

(A) **IN GENERAL.**—The provision of services under this section shall be provided—

(i) by employees of a public agency; or

(ii) through contract by the public agency with an individual, association, agency, organization, or other entity.

(B) **INDEPENDENCE; PUBLIC AGENCY.**—In the provision of those services, the employee, person, association, agency, organization, or other entity shall be independent of the private school and of any religious organization, and the employment or contract shall be under the control and supervision of the public agency.

(C) **COMMINGLING OF FUNDS PROHIBITED.**—Funds used to provide services under this section shall not be commingled with non-Federal funds.

SEC. 5502. STANDARDS FOR BY-PASS.

(a) **IN GENERAL.**—If, by reason of any provision of law, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or other entity is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary schools and secondary schools, on an equitable basis, or if the Secretary determines that the agency, consortium, or entity has substantially failed or is unwilling to provide for that participation, as required by section 5501, the Secretary shall—

(1) waive the requirements of that section for the agency, consortium, or entity; and

(2) arrange for the provision of equitable services to those children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 5501, 5503, and 5504.

(b) **DETERMINATION.**—In making the determination under subsection (a), the Secretary shall consider one or more factors, including the quality, size, scope, and location of the program, and the opportunity of private school children, teachers, and other educational personnel to participate in the program.

SEC. 5503. COMPLAINT PROCESS FOR PARTICIPATION OF PRIVATE SCHOOL CHILDREN.

(a) *PROCEDURES FOR COMPLAINTS.*—The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations of section 5501 by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity. The individual or organization shall submit the complaint to the State educational agency for a written resolution by the State educational agency within 45 days.

(b) *APPEALS TO SECRETARY.*—The resolution may be appealed by an interested party to the Secretary not later than 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within the 45-day time limit. The appeal shall be accompanied by a copy of the State educational agency's resolution, and, if there is one, a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve the appeal not later than 90 days after receipt of the appeal.

SEC. [9504] 5504. BY-PASS DETERMINATION PROCESS.

(a) *REVIEW.*—

(1) *IN GENERAL.*—

(A) *WRITTEN OBJECTIONS.*—The Secretary shall not take any final action under [section 9502] *section 5502* until the State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity affected by the action has had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary to show cause why that action should not be taken.

* * * * *

(b) *DETERMINATION.*—Any determination by the Secretary under this section shall continue in effect until the Secretary determines, in consultation with that agency, consortium, or entity and representatives of the affected private school children, teachers, or other educational personnel, that there will no longer be any failure or inability on the part of the agency, consortium, or entity to meet the applicable requirements of [section 9501] *section 5501* or any other provision of this Act.

* * * * *

(d) *PRIOR DETERMINATION.*—Any by-pass determination by the Secretary under this Act as in effect on the day preceding the date of enactment of the [No Child Left Behind Act of 2001] *Student Success Act* shall remain in effect to the extent the Secretary determines that that determination is consistent with the purpose of this section.

SEC. [9505] 5505. PROHIBITION AGAINST FUNDS FOR RELIGIOUS WORSHIP OR INSTRUCTION.

Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction.

SEC. [9506] 5506. PRIVATE, RELIGIOUS, AND HOME SCHOOLS.

(a) * * *

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Subpart 2—Prohibitions**SEC. 5521. PROHIBITION AGAINST FEDERAL MANDATES, DIRECTION, OR CONTROL.**

(a) *IN GENERAL.*—No officer or employee of the Federal Government shall, directly or indirectly—through grants, contracts, or other cooperative agreements—mandate, direct, or control a State, local educational agency, or school’s specific instructional content, academic standards and assessments, curricula, or program of instruction, nor shall anything in this Act be construed to authorize such officer or employee to do so.

(b) *FINANCIAL SUPPORT.*—No officer or employee of the Federal Government shall, directly or indirectly—through grants, contracts, or other cooperative agreements—make financial support available in a manner that is conditioned upon a State, local educational agency, or school’s adoption of specific instructional content, academic standards and assessments, curriculum, or program of instruction even if such requirements are specified in an Act other than this Act, nor shall anything in this Act be construed to authorize such officer or employee to do so.

SEC. 5522. PROHIBITIONS ON FEDERAL GOVERNMENT AND USE OF FEDERAL FUNDS.

(a) *GENERAL PROHIBITION.*—Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government directly or indirectly—whether through a grant, contract, or cooperative agreement—to mandate, direct, or control a State, local educational agency, or school’s curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

(b) *PROHIBITION ON ENDORSEMENT OF CURRICULUM.*—Notwithstanding any other prohibition of Federal law, no funds provided to the Department under this Act may be used by the Department directly or indirectly—whether through a grant, contract, or cooperative agreement—to endorse, approve, develop, require, or sanction any curriculum designed to be used in an elementary school or secondary school.

(c) *LOCAL CONTROL.*—Nothing in this Act shall be construed to—

(1) authorize an officer or employee of the Federal Government directly or indirectly—whether through a grant, contract, or cooperative agreement—to mandate, direct, review, or control a State, local educational agency, or school’s instructional content, curriculum, and related activities;

(2) limit the application of the General Education Provisions Act;

(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

(4) create any legally enforceable right.

(d) *PROHIBITION ON REQUIRING FEDERAL APPROVAL OR CERTIFICATION OF STANDARDS.*—Notwithstanding any other provision of Federal law, no State shall be required to have academic standards approved or certified by the Federal Government, in order to receive assistance under this Act.

(e) *RULE OF CONSTRUCTION ON BUILDING STANDARDS.*—Nothing in this Act shall be construed to mandate national school building standards for a State, local educational agency, or school.

SEC. 5523. PROHIBITION ON FEDERALLY SPONSORED TESTING.

(a) *GENERAL PROHIBITION.*—Notwithstanding any other provision of Federal law and except as provided in subsection (b), no funds provided under this Act to the Secretary or to the recipient of any award may be used to develop, pilot test, field test, implement, administer, or distribute any federally sponsored national test or testing materials in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

(b) *EXCEPTIONS.*—Subsection (a) shall not apply to international comparative assessments developed under the authority of section 153(a)(5) of the Education Sciences Reform Act of 2002 and administered to only a representative sample of pupils in the United States and in foreign nations.

SEC. 5524. LIMITATIONS ON NATIONAL TESTING OR CERTIFICATION FOR TEACHERS.

(a) *MANDATORY NATIONAL TESTING OR CERTIFICATION OF TEACHERS.*—Notwithstanding any other provision of this Act or any other provision of law, no funds available to the Department or otherwise available under this Act may be used for any purpose relating to a mandatory nationwide test or certification of teachers or education paraprofessionals, including any planning, development, implementation, or administration of such test or certification.

(b) *PROHIBITION ON WITHHOLDING FUNDS.*—The Secretary is prohibited from withholding funds from any State educational agency or local educational agency if the State educational agency or local educational agency fails to adopt a specific method of teacher or paraprofessional certification.

SEC. 5525. PROHIBITED USES OF FUNDS.

No funds under this Act may be used—

(1) for construction, renovation, or repair of any school facility, except as authorized under title IV or otherwise authorized under this Act;

(2) for medical services, drug treatment or rehabilitation, except for specialized instructional support services or referral to treatment for students who are victims of, or witnesses to, crime or who illegally use drugs;

(3) for transportation unless otherwise authorized under this Act;

(4) to develop or distribute materials, or operate programs or courses of instruction directed at youth, that are designed to promote or encourage sexual activity, whether homosexual or heterosexual;

(5) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;

(6) to provide sex education or HIV-prevention education in schools unless that instruction is age appropriate and includes the health benefits of abstinence; or

(7) to operate a program of contraceptive distribution in schools.

SEC. [9531] 5526. PROHIBITION ON NATIONWIDE DATABASE.

Nothing in this Act (other than section 1308(b)) shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under this Act.

SEC. [9533] 5527. PROHIBITION ON DISCRIMINATION.

Nothing in this Act shall be construed to require, authorize, or permit, the Secretary, or a State educational agency, local educational agency, or school to grant to a student, or deny or impose upon a student, any financial or educational benefit or burden, in violation of the fifth or 14th amendments to the Constitution or other law relating to discrimination in the provision of federally funded programs or activities.

SEC. [9534] 5528. CIVIL RIGHTS.

[(a) IN GENERAL.—Nothing] *Nothing* in this Act shall be construed to permit discrimination on the basis of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972), national origin, or disability in any program funded under this Act.

[(b) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to require the disruption of services to a child or the displacement of a child enrolled in or participating in a program administered by an eligible entity, as defined in section 1116 of title I and part B of title V, at the commencement of the entity's participation in a grant under section 1116 of title I or part B of title V.]

Subpart 3—Other Provisions

SEC. 5541. ARMED FORCES RECRUITER ACCESS TO STUDENTS AND STUDENT RECRUITING INFORMATION.

(a) *POLICY.*—

(1) *ACCESS TO STUDENT RECRUITING INFORMATION.*—*Notwithstanding section 444(a)(5)(B) of the General Education Provisions Act, each local educational agency receiving assistance under this Act shall provide, upon a request made by a military recruiter or an institution of higher education, access to the name, address, and telephone listing of each secondary school student served by the local educational agency, unless the parent of such student has submitted the prior consent request under paragraph (2).*

(2) *CONSENT.*—

(A) *OPT-OUT PROCESS.*—*A parent of a secondary school student may submit a written request, to the local educational agency, that the student's name, address, and telephone listing not be released for purposes of paragraph (1) without prior written consent of the parent. Upon receiving such request, the local educational agency may not release the student's name, address, and telephone listing for such purposes without the prior written consent of the parent.*

(B) *NOTIFICATION OF OPT-OUT PROCESS.*—Each local educational agency shall notify the parents of the students served by the agency of the option to make a request described in subparagraph (A).

(3) *SAME ACCESS TO STUDENTS.*—Each local educational agency receiving assistance under this Act shall provide military recruiters the same access to secondary school students as is provided generally to institutions of higher education or to prospective employers of those students.

(4) *RULE OF CONSTRUCTION PROHIBITING OPT-IN PROCESSES.*—Nothing in this subsection shall be construed to allow a local educational agency to withhold access to a student's name, address, and telephone listing from a military recruiter or institution of higher education by implementing an opt-in process or any other process other than the written consent request process under paragraph (2)(A).

(5) *PARENTAL CONSENT.*—For purposes of this subsection, whenever a student has attained 18 years of age, the permission or consent required of and the rights accorded to the parents of the student shall only be required of and accorded to the student.

(b) *NOTIFICATION.*—The Secretary, in consultation with the Secretary of Defense, shall, not later than 120 days after the date of enactment of the Student Success Act, notify school leaders, school administrators, and other educators about the requirements of this section.

(c) *EXCEPTION.*—The requirements of this section do not apply to a private secondary school that maintains a religious objection to service in the Armed Forces if the objection is verifiable through the corporate or other organizational documents or materials of that school.

SEC. 5542. RULEMAKING.

The Secretary shall issue regulations under this Act as prescribed under section 1401 only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this Act.

SEC. 5543. PEER REVIEW.

(a) *IN GENERAL.*—If the Secretary uses a peer review panel to evaluate an application for any program required under this Act, the Secretary shall conduct it in accordance with this section.

(b) *MAKEUP.*—The Secretary shall—

(1) solicit nominations for peers to serve on the panel from States that are—

- (A) practitioners in the subject matter; or
- (B) experts in the subject matter; and

(2) select the peers from such nominees, except that there shall be at least 75 percent practitioners on each panel and in each group formed from the panel.

(c) *GUIDANCE.*—The Secretary shall issue the peer review guidance concurrently with the notice of the grant.

(d) *REPORTING.*—The Secretary shall—

(1) make the names of the peer reviewers available to the public before the final deadline for the application of the grant;

(2) make the peer review notes publically available once the review has concluded; and

(3) make any deviations from the peer reviewers' recommendations available to the public with an explanation of the deviation.

(e) **APPLICANT REVIEWS.**—An applicant shall have an opportunity within 30 days to review the peer review notes and appeal the score to the Secretary prior to the Secretary making any final determination.

(f) **PROHIBITION.**—The Secretary, and the Secretary's staff, may not attempt to participate in, or influence, the peer review process. No Federal employee may participate in, or attempt to influence the peer review process, except to respond to questions of a technical nature, which shall be publicly reported.

SEC. 5544. PARENTAL CONSENT

Upon receipt of written notification from the parents or legal guardians of a student, the local educational agency shall withdraw such student from any program funded under part B of title III. The local educational agency shall make reasonable efforts to inform parents or legal guardians of the content of such programs or activities funded under this Act, other than classroom instruction.

SEC. [9522] 5545. PROHIBITION REGARDING STATE AID.

A State shall not take into consideration payments under this Act (other than under title VIII) in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

SEC. [9523] 5546. PRIVACY OF ASSESSMENT RESULTS.

Any results from an individual assessment referred to in this Act of a student that become part of the education records of the student shall have the protections provided in section 444 of the General Education Provisions Act.

SEC. [9524] 5547. SCHOOL PRAYER.

(a) * * *

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SEC. [9525] 5548. EQUAL ACCESS TO PUBLIC SCHOOL FACILITIES.

(a) * * *

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SEC. [4141] 5549. GUN-FREE REQUIREMENTS.

(a) * * *

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SEC. [4155] 5550. TRANSFER OF SCHOOL DISCIPLINARY RECORDS.

(a) * * *

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SEC. 5551. SEVERABILITY

If any provision of this Act is held invalid, the remainder of this Act shall be unaffected thereby.

SEC. 5552. DEPARTMENT STAFF

The Secretary shall—

(1) not later than 60 days after the date of the enactment of the Student Success Act, identify the number of Department employees who worked on or administered each education program and project authorized under this Act, as such program or project was in effect on the day before such enactment date, and publish such information on the Department's website;

(2) not later than 60 days after such enactment date, identify the number of full-time equivalent employees who work on or administer programs or projects authorized under this Act, as in effect on the day before such enactment date, that have been eliminated or consolidated since such date;

(3) not later than 1 year after such enactment date, reduce the workforce of the Department by the number of full-time equivalent employees the Department calculated under paragraph (2); and

(4) not later than 1 year after such enactment date, report to the Congress on—

(A) the number of employees associated with each program or project authorized under this Act administered by the Department;

(B) the number of full-time equivalent employees who were determined to be associated with eliminated or consolidated programs or projects under paragraph (2); and

(C) how the Secretary reduced the number of employees at the Department under paragraph (3).

PART F—EVALUATIONS

SEC. 5601. EVALUATIONS

(a) **RESERVATION OF FUNDS.**—Except as provided in subsections (b) and (c), the Secretary may reserve not more than 0.5 percent of the amount appropriated to carry out each categorical program and demonstration project authorized under this Act—

(1) to conduct—

(A) comprehensive evaluations of the program or project; and

(B) studies of the effectiveness of the program or project and its administrative impact on schools and local educational agencies;

(2) to evaluate the aggregate short- and long-term effects and cost efficiencies across Federal programs assisted or authorized under this Act and related Federal preschool, elementary, and secondary programs under any other Federal law; and

(3) to increase the usefulness of evaluations of grant recipients in order to ensure the continuous progress of the program or project by improving the quality, timeliness, efficiency, and use of information relating to performance under the program or project.

(b) **TITLE I EXCLUDED.**—The Secretary may not reserve under subsection (a) funds appropriated to carry out any program authorized under title I.

(c) **EVALUATION ACTIVITIES AUTHORIZED ELSEWHERE.**—If, under any other provision of this Act (other than title I), funds are authorized to be reserved or used for evaluation activities with respect to a program or project, the Secretary may not reserve additional

funds under this section for the evaluation of that program or project.

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[TITLE VII—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

[PART A—INDIAN EDUCATION

[SEC. 7101. STATEMENT OF POLICY.

It is the policy of the United States to fulfill the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children. The Federal Government will continue to work with local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities toward the goal of ensuring that programs that serve Indian children are of the highest quality and provide for not only the basic elementary and secondary educational needs, but also the unique educational and culturally related academic needs of these children.

[SEC. 7102. PURPOSE.

(a) PURPOSE.—It is the purpose of this part to support the efforts of local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities to meet the unique educational and culturally related academic needs of American Indian and Alaska Native students, so that such students can meet the same challenging State student academic achievement standards as all other students are expected to meet.

(b) PROGRAMS.—This part carries out the purpose described in subsection (a) by authorizing programs of direct assistance for—

- (1) meeting the unique educational and culturally related academic needs of American Indians and Alaska Natives;
- (2) the education of Indian children and adults;
- (3) the training of Indian persons as educators and counselors, and in other professions serving Indian people; and
- (4) research, evaluation, data collection, and technical assistance.

[Subpart 1—Formula Grants to Local Educational Agencies

[SEC. 7111. PURPOSE.

It is the purpose of this subpart to support local educational agencies in their efforts to reform elementary school and secondary school programs that serve Indian students in order to ensure that such programs—

- (1) are based on challenging State academic content and student academic achievement standards that are used for all students; and
- (2) are designed to assist Indian students in meeting those standards.

[SEC. 7112. GRANTS TO LOCAL EDUCATIONAL AGENCIES AND TRIBES.

[(a) IN GENERAL.—The Secretary may make grants, from allocations made under section 7113, to local educational agencies and Indian tribes, in accordance with this section and section 7113.

[(b) LOCAL EDUCATIONAL AGENCIES.—

[(1) ENROLLMENT REQUIREMENTS.—A local educational agency shall be eligible for a grant under this subpart for any fiscal year if the number of Indian children eligible under section 7117 who were enrolled in the schools of the agency, and to whom the agency provided free public education, during the preceding fiscal year—

[(A) was at least 10; or

[(B) constituted not less than 25 percent of the total number of individuals enrolled in the schools of such agency.

[(2) EXCLUSION.—The requirement of paragraph (1) shall not apply in Alaska, California, or Oklahoma, or with respect to any local educational agency located on, or in proximity to, a reservation.

[(c) INDIAN TRIBES.—

[(1) IN GENERAL.—If a local educational agency that is otherwise eligible for a grant under this subpart does not establish a committee under section 7114(c)(4) for such grant, an Indian tribe that represents not less than $\frac{1}{2}$ of the eligible Indian children who are served by such local educational agency may apply for such grant.

[(2) SPECIAL RULE.—The Secretary shall treat each Indian tribe applying for a grant pursuant to paragraph (1) as if such Indian tribe were a local educational agency for purposes of this subpart, except that any such tribe is not subject to section 7114(c)(4), section 7118(c), or section 7119.

[SEC. 7113. AMOUNT OF GRANTS.**[(a) AMOUNT OF GRANT AWARDS.—**

[(1) IN GENERAL.—Except as provided in subsection (b) and paragraph (2), the Secretary shall allocate to each local educational agency that has an approved application under this subpart an amount equal to the product of—

[(A) the number of Indian children who are eligible under section 7117 and served by such agency; and

[(B) the greater of—

[(i) the average per pupil expenditure of the State in which such agency is located; or

[(ii) 80 percent of the average per pupil expenditure of all the States.

[(2) REDUCTION.—The Secretary shall reduce the amount of each allocation otherwise determined under this section in accordance with subsection (e).

[(b) MINIMUM GRANT.—

[(1) IN GENERAL.—Notwithstanding subsection (e), an entity that is eligible for a grant under section 7112, and a school that is operated or supported by the Bureau of Indian Affairs that is eligible for a grant under subsection (d), that submits an application that is approved by the Secretary, shall, subject to appropriations, receive a grant under this subpart in an amount that is not less than \$3,000.

[(2) CONSORTIA.—Local educational agencies may form a consortium for the purpose of obtaining grants under this subpart.

[(3) INCREASE.—The Secretary may increase the minimum grant under paragraph (1) to not more than \$4,000 for all grantees if the Secretary determines such increase is necessary to ensure the quality of the programs provided.

[(c) DEFINITION.—For the purpose of this section, the term “average per pupil expenditure”, used with respect to a State, means an amount equal to—

[(1) the sum of the aggregate current expenditures of all the local educational agencies in the State, plus any direct current expenditures by the State for the operation of such agencies, without regard to the sources of funds from which such local or State expenditures were made, during the second fiscal year preceding the fiscal year for which the computation is made; divided by

[(2) the aggregate number of children who were included in average daily attendance for whom such agencies provided free public education during such preceding fiscal year.

[(d) SCHOOLS OPERATED OR SUPPORTED BY THE BUREAU OF INDIAN AFFAIRS.—

[(1) IN GENERAL.—Subject to subsection (e), in addition to the grants awarded under subsection (a), the Secretary shall allocate to the Secretary of the Interior an amount equal to the product of—

[(A) the total number of Indian children enrolled in schools that are operated by—

[(i) the Bureau of Indian Affairs; or

[(ii) an Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, for the children of that tribe under a contract with, or grant from, the Department of the Interior under the Indian Self-Determination Act or the Tribally Controlled Schools Act of 1988; and

[(B) the greater of—

[(i) the average per pupil expenditure of the State in which the school is located; or

[(ii) 80 percent of the average per pupil expenditure of all the States.

[(2) SPECIAL RULE.—Any school described in paragraph (1)(A) that wishes to receive an allocation under this subpart shall submit an application in accordance with section 7114, and shall otherwise be treated as a local educational agency for the purpose of this subpart, except that such school shall not be subject to section 7114(c)(4), section 7118(c), or section 7119.

[(e) RATABLE REDUCTIONS.—If the sums appropriated for any fiscal year under section 7152(a) are insufficient to pay in full the amounts determined for local educational agencies under subsection (a)(1) and for the Secretary of the Interior under subsection (d), each of those amounts shall be ratably reduced.

[SEC. 7114. APPLICATIONS.

[(a) APPLICATION REQUIRED.—Each local educational agency that desires to receive a grant under this subpart shall submit an appli-

cation to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

[(b) COMPREHENSIVE PROGRAM REQUIRED.—Each application submitted under subsection (a) shall include a description of a comprehensive program for meeting the needs of Indian children served by the local educational agency, including the language and cultural needs of the children, that—

[(1) describes how the comprehensive program will offer programs and activities to meet the culturally related academic needs of American Indian and Alaska Native students;

[(2)(A) is consistent with the State and local plans submitted under other provisions of this Act; and

[(B) includes academic content and student academic achievement goals for such children, and benchmarks for attaining such goals, that are based on the challenging State academic content and student academic achievement standards adopted under title I for all children;

[(3) explains how Federal, State, and local programs, especially programs carried out under title I, will meet the needs of such students;

[(4) demonstrates how funds made available under this subpart will be used for activities described in section 7115;

[(5) describes the professional development opportunities that will be provided, as needed, to ensure that—

[(A) teachers and other school professionals who are new to the Indian community are prepared to work with Indian children; and

[(B) all teachers who will be involved in programs assisted under this subpart have been properly trained to carry out such programs; and

[(6) describes how the local educational agency—

[(A) will periodically assess the progress of all Indian children enrolled in the schools of the local educational agency, including Indian children who do not participate in programs assisted under this subpart, in meeting the goals described in paragraph (2);

[(B) will provide the results of each assessment referred to in subparagraph (A) to—

[(i) the committee described in subsection (c)(4); and

[(ii) the community served by the local educational agency; and

[(C) is responding to findings of any previous assessments that are similar to the assessments described in subparagraph (A).

[(c) ASSURANCES.—Each application submitted under subsection (a) shall include assurances that—

[(1) the local educational agency will use funds received under this subpart only to supplement the funds that, in the absence of the Federal funds made available under this subpart, such agency would make available for the education of Indian children, and not to supplant such funds;

[(2) the local educational agency will prepare and submit to the Secretary such reports, in such form and containing such information, as the Secretary may require to—

- [(A) carry out the functions of the Secretary under this subpart; and
- [(B) determine the extent to which activities carried out with funds provided to the local educational agency under this subpart are effective in improving the educational achievement of Indian students served by such agency;
- [(3) the program for which assistance is sought—
 - [(A) is based on a comprehensive local assessment and prioritization of the unique educational and culturally related academic needs of the American Indian and Alaska Native students for whom the local educational agency is providing an education;
 - [(B) will use the best available talents and resources, including individuals from the Indian community; and
 - [(C) was developed by such agency in open consultation with parents of Indian children and teachers, and, if appropriate, Indian students from secondary schools, including through public hearings held by such agency to provide to the individuals described in this subparagraph a full opportunity to understand the program and to offer recommendations regarding the program; and
- [(4) the local educational agency developed the program with the participation and written approval of a committee—
 - [(A) that is composed of, and selected by—
 - [(i) parents of Indian children in the local educational agency's schools;
 - [(ii) teachers in the schools; and
 - [(iii) if appropriate, Indian students attending secondary schools of the area;
 - [(B) a majority of whose members are parents of Indian children;
 - [(C) that has set forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children, and representatives of the area, to be served;
 - [(D) with respect to an application describing a schoolwide program in accordance with section 7115(c), that has—
 - [(i) reviewed in a timely fashion the program; and
 - [(ii) determined that the program will not diminish the availability of culturally related activities for American Indian and Alaska Native students; and
 - [(E) that has adopted reasonable bylaws for the conduct of the activities of the committee and abides by such bylaws.

[SEC. 7115. AUTHORIZED SERVICES AND ACTIVITIES.

[(a) GENERAL REQUIREMENTS.—Each local educational agency that receives a grant under this subpart shall use the grant funds, in a manner consistent with the purpose specified in section 7111, for services and activities that—

- [(1) are designed to carry out the comprehensive program of the local educational agency for Indian students, and described

in the application of the local educational agency submitted to the Secretary under section 7114(a);

[(2) are designed with special regard for the language and cultural needs of the Indian students; and

[(3) supplement and enrich the regular school program of such agency.

[(b) PARTICULAR ACTIVITIES.—The services and activities referred to in subsection (a) may include—

[(1) culturally related activities that support the program described in the application submitted by the local educational agency;

[(2) early childhood and family programs that emphasize school readiness;

[(3) enrichment programs that focus on problem solving and cognitive skills development and directly support the attainment of challenging State academic content and student academic achievement standards;

[(4) integrated educational services in combination with other programs that meet the needs of Indian children and their families;

[(5) career preparation activities to enable Indian students to participate in programs such as the programs supported by the Carl D. Perkins Career and Technical Education Act of 2006, including programs for tech-prep education, mentoring, and apprenticeship;

[(6) activities to educate individuals concerning substance abuse and to prevent substance abuse;

[(7) the acquisition of equipment, but only if the acquisition of the equipment is essential to achieve the purpose described in section 7111;

[(8) activities that promote the incorporation of culturally responsive teaching and learning strategies into the educational program of the local educational agency;

[(9) activities that incorporate American Indian and Alaska Native specific curriculum content, consistent with State standards, into the curriculum used by the local educational agency;

[(10) family literacy services; and

[(11) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors.

[(c) SCHOOLWIDE PROGRAMS.—Notwithstanding any other provision of law, a local educational agency may use funds made available to such agency under this subpart to support a schoolwide program under section 1114 if—

[(1) the committee established pursuant to section 7114(c)(4) approves the use of the funds for the schoolwide program; and

[(2) the schoolwide program is consistent with the purpose described in section 7111.

[(d) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds provided to a grantee under this subpart for any fiscal year may be used for administrative purposes.

[SEC. 7116. INTEGRATION OF SERVICES AUTHORIZED.]

[(a) PLAN.—An entity receiving funds under this subpart may submit a plan to the Secretary for the integration of education and related services provided to Indian students.

[(b) CONSOLIDATION OF PROGRAMS.—Upon the receipt of an acceptable plan under subsection (a), the Secretary, in cooperation with each Federal agency providing grants for the provision of education and related services to the entity, shall authorize the entity to consolidate, in accordance with such plan, the federally funded education and related services programs of the entity and the Federal programs, or portions of the programs, serving Indian students in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

[(c) PROGRAMS AFFECTED.—The funds that may be consolidated in a demonstration project under any such plan referred to in subsection (a) shall include funds for any Federal program exclusively serving Indian children, or the funds reserved under any Federal program to exclusively serve Indian children, under which the entity is eligible for receipt of funds under a statutory or administrative formula for the purposes of providing education and related services that would be used to serve Indian students.

[(d) PLAN REQUIREMENTS.—For a plan to be acceptable pursuant to subsection (b), the plan shall—

[(1) identify the programs or funding sources to be consolidated;

[(2) be consistent with the objectives of this section concerning authorizing the services to be integrated in a demonstration project;

[(3) describe a comprehensive strategy that identifies the full range of potential educational opportunities and related services to be provided to assist Indian students to achieve the objectives set forth in this subpart;

[(4) describe the way in which services are to be integrated and delivered and the results expected from the plan;

[(5) identify the projected expenditures under the plan in a single budget;

[(6) identify the State, tribal, or local agency or agencies to be involved in the delivery of the services integrated under the plan;

[(7) identify any statutory provisions, regulations, policies, or procedures that the entity believes need to be waived in order to implement the plan;

[(8) set forth measures for academic content and student academic achievement goals designed to be met within a specific period of time; and

[(9) be approved by a committee formed in accordance with section 7114(c)(4), if such a committee exists.

[(e) PLAN REVIEW.—Upon receipt of the plan from an eligible entity, the Secretary shall consult with the Secretary of each Federal department providing funds to be used to implement the plan, and with the entity submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal departmental regulations, policies, or procedures necessary to enable the entity to implement the plan. Notwithstanding any other provi-

sion of law, the Secretary of the affected department shall have the authority to waive any regulation, policy, or procedure promulgated by that department that has been so identified by the entity or department, unless the Secretary of the affected department determines that such a waiver is inconsistent with the objectives of this subpart or those provisions of the statute from which the program involved derives authority that are specifically applicable to Indian students.

[(f) PLAN APPROVAL.—Within 90 days after the receipt of an entity's plan by the Secretary, the Secretary shall inform the entity, in writing, of the Secretary's approval or disapproval of the plan. If the plan is disapproved, the entity shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend the plan or to petition the Secretary to reconsider such disapproval.

[(g) RESPONSIBILITIES OF DEPARTMENT OF EDUCATION.—Not later than 180 days after the date of enactment of the No Child Left Behind Act of 2001, the Secretary of Education, the Secretary of the Interior, and the head of any other Federal department or agency identified by the Secretary of Education, shall enter into an interdepartmental memorandum of agreement providing for the implementation of the demonstration projects authorized under this section. The lead agency head for a demonstration project under this section shall be—

[(1) the Secretary of the Interior, in the case of an entity meeting the definition of a contract or grant school under title XI of the Education Amendments of 1978; or

[(2) the Secretary of Education, in the case of any other entity.

[(h) RESPONSIBILITIES OF LEAD AGENCY.—The responsibilities of the lead agency shall include—

[(1) the use of a single report format related to the plan for the individual project, which shall be used by an eligible entity to report on the activities undertaken under the project;

[(2) the use of a single report format related to the projected expenditures for the individual project which shall be used by an eligible entity to report on all project expenditures;

[(3) the development of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

[(4) the provision of technical assistance to an eligible entity appropriate to the project, except that an eligible entity shall have the authority to accept or reject the plan for providing such technical assistance and the technical assistance provider.

[(i) REPORT REQUIREMENTS.—A single report format shall be developed by the Secretary, consistent with the requirements of this section. Such report format shall require that reports described in subsection (h), together with records maintained on the consolidated program at the local level, shall contain such information as will allow a determination that the eligible entity has complied with the requirements incorporated in its approved plan, including making a demonstration of student academic achievement, and will provide assurances to each Secretary that the eligible entity has complied with all directly applicable statutory requirements and

with those directly applicable regulatory requirements that have not been waived.

[(j) NO REDUCTION IN AMOUNTS.—In no case shall the amount of Federal funds available to an eligible entity involved in any demonstration project be reduced as a result of the enactment of this section.

[(k) INTERAGENCY FUND TRANSFERS AUTHORIZED.—The Secretary is authorized to take such action as may be necessary to provide for an interagency transfer of funds otherwise available to an eligible entity in order to further the objectives of this section.

[(l) ADMINISTRATION OF FUNDS.—

[(1) IN GENERAL.—Program funds for the consolidated programs shall be administered in such a manner as to allow for a determination that funds from a specific program are spent on allowable activities authorized under such program, except that the eligible entity shall determine the proportion of the funds granted that shall be allocated to such program.

[(2) SEPARATE RECORDS NOT REQUIRED.—Nothing in this section shall be construed as requiring the eligible entity to maintain separate records tracing any services or activities conducted under the approved plan to the individual programs under which funds were authorized for the services or activities, nor shall the eligible entity be required to allocate expenditures among such individual programs.

[(m) OVERAGE.—The eligible entity may commingle all administrative funds from the consolidated programs and shall be entitled to the full amount of such funds (under each program's or agency's regulations). The overage (defined as the difference between the amount of the commingled funds and the actual administrative cost of the programs) shall be considered to be properly spent for Federal audit purposes, if the overage is used for the purposes provided for under this section.

[(n) FISCAL ACCOUNTABILITY.—Nothing in this part shall be construed so as to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to chapter 75 of title 31, United States Code.

[(o) REPORT ON STATUTORY OBSTACLES TO PROGRAM INTEGRATION.—

[(1) PRELIMINARY REPORT.—Not later than 2 years after the date of enactment of the No Child Left Behind Act of 2001, the Secretary of Education shall submit a preliminary report to the Committee on Education and the Workforce and the Committee on Resources of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Indian Affairs of the Senate on the status of the implementation of the demonstration projects authorized under this section.

[(2) FINAL REPORT.—Not later than 5 years after the date of enactment of the No Child Left Behind Act of 2001, the Secretary of Education shall submit a report to the Committee on Education and the Workforce and the Committee on Resources of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Indian Affairs of the Senate on the results of the implementation of

the demonstration projects authorized under this section. Such report shall identify statutory barriers to the ability of participants to integrate more effectively their education and related services to Indian students in a manner consistent with the objectives of this section.

[(p) DEFINITIONS.—For the purposes of this section, the term “Secretary” means—

[(1) the Secretary of the Interior, in the case of an entity meeting the definition of a contract or grant school under title XI of the Education Amendments of 1978; or

[(2) the Secretary of Education, in the case of any other entity.

[(SEC. 7117. STUDENT ELIGIBILITY FORMS.

[(a) IN GENERAL.—The Secretary shall require that, as part of an application for a grant under this subpart, each applicant shall maintain a file, with respect to each Indian child for whom the local educational agency provides a free public education, that contains a form that sets forth information establishing the status of the child as an Indian child eligible for assistance under this subpart, and that otherwise meets the requirements of subsection (b).

[(b) FORMS.—The form described in subsection (a) shall include—

[(1) either—

[(A)(i) the name of the tribe or band of Indians (as defined in section 7151) with respect to which the child claims membership;

[(ii) the enrollment number establishing the membership of the child (if readily available); and

[(iii) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians; or

[(B) the name, the enrollment number (if readily available), and the name and address of the organization responsible for maintaining updated and accurate membership data, of any parent or grandparent of the child from whom the child claims eligibility under this subpart, if the child is not a member of the tribe or band of Indians (as so defined);

[(2) a statement of whether the tribe or band of Indians (as so defined), with respect to which the child, or parent or grandparent of the child, claims membership, is federally recognized;

[(3) the name and address of the parent or legal guardian of the child;

[(4) a signature of the parent or legal guardian of the child that verifies the accuracy of the information supplied; and

[(5) any other information that the Secretary considers necessary to provide an accurate program profile.

[(c) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect a definition contained in section 7151.

[(d) FORMS AND STANDARDS OF PROOF.—The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985–86 academic year to establish the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the forms and standards of proof used—

[(1) to establish eligibility under this subpart; and

[(2) to meet the requirements of subsection (a).

[(e) DOCUMENTATION.—For purposes of determining whether a child is eligible to be counted for the purpose of computing the amount of a grant award under section 7113, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians (as so defined) may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number for a member of such tribe or band. Nothing in subsection (b) shall be construed to require the furnishing of an enrollment number.

[(f) MONITORING AND EVALUATION REVIEW.—

[(1) IN GENERAL.—

[(A) REVIEW.—For each fiscal year, in order to provide such information as is necessary to carry out the responsibility of the Secretary to provide technical assistance under this subpart, the Secretary shall conduct a monitoring and evaluation review of a sampling of the recipients of grants under this subpart. The sampling conducted under this subparagraph shall take into account the size of and the geographic location of each local educational agency.

[(B) EXCEPTION.—A local educational agency may not be held liable to the United States or be subject to any penalty, by reason of the findings of an audit that relates to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, the eligibility of a child for an entitlement under the Indian Elementary and Secondary School Assistance Act.

[(2) FALSE INFORMATION.—Any local educational agency that provides false information in an application for a grant under this subpart shall—

[(A) be ineligible to apply for any other grant under this subpart; and

[(B) be liable to the United States for any funds from the grant that have not been expended.

[(3) EXCLUDED CHILDREN.—A student who provides false information for the form required under subsection (a) shall not be counted for the purpose of computing the amount of a grant under section 7113.

[(g) TRIBAL GRANT AND CONTRACT SCHOOLS.—Notwithstanding any other provision of this section, in calculating the amount of a grant under this subpart to a tribal school that receives a grant or contract from the Bureau of Indian Affairs, the Secretary shall use only one of the following, as selected by the school:

[(1) A count of the number of students in the schools certified by the Bureau.

[(2) A count of the number of students for whom the school has eligibility forms that comply with this section.

[(h) TIMING OF CHILD COUNTS.—For purposes of determining the number of children to be counted in calculating the amount of a local educational agency's grant under this subpart (other than in the case described in subsection (g)(1)), the local educational agency shall—

[(1) establish a date on, or a period not longer than 31 consecutive days during, which the agency counts those children,

if that date or period occurs before the deadline established by the Secretary for submitting an application under section 7114; and

[(2) determine that each such child was enrolled, and receiving a free public education, in a school of the agency on that date or during that period, as the case may be.

[SEC. 7118. PAYMENTS.

[(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary shall pay to each local educational agency that submits an application that is approved by the Secretary under this subpart the amount determined under section 7113. The Secretary shall notify the local educational agency of the amount of the payment not later than June 1 of the year for which the Secretary makes the payment.

[(b) PAYMENTS TAKEN INTO ACCOUNT BY THE STATE.—The Secretary may not make a grant under this subpart to a local educational agency for a fiscal year if, for such fiscal year, the State in which the local educational agency is located takes into consideration payments made under this chapter in determining the eligibility of the local educational agency for State aid, or the amount of the State aid, with respect to the free public education of children during such fiscal year or the preceding fiscal year.

[(c) REDUCTION OF PAYMENT FOR FAILURE TO MAINTAIN FISCAL EFFORT.—

[(1) IN GENERAL.—The Secretary may not pay a local educational agency the full amount of a grant award determined under section 7113 for any fiscal year unless the State educational agency notifies the Secretary, and the Secretary determines, that with respect to the provision of free public education by the local educational agency for the preceding fiscal year, the combined fiscal effort of the local educational agency and the State, computed on either a per student or aggregate expenditure basis, was not less than 90 percent of the amount of the combined fiscal effort, computed on the same basis, for the second preceding fiscal year.

[(2) FAILURE TO MAINTAIN EFFORT.—If, for the preceding fiscal year, the Secretary determines that a local educational agency and State failed to maintain the combined fiscal effort for such agency at the level specified in paragraph (1), the Secretary shall—

[(A) reduce the amount of the grant that would otherwise be made to such agency under this subpart in the exact proportion of the failure to maintain the fiscal effort at such level; and

[(B) not use the reduced amount of the agency and State expenditures for the preceding year to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1).

[(3) WAIVER.—

[(A) IN GENERAL.—The Secretary may waive the requirement of paragraph (1) for a local educational agency, for not more than 1 year at a time, if the Secretary determines that the failure to comply with such requirement is due to exceptional or uncontrollable circumstances, such as

a natural disaster or a precipitous and unforeseen decline in the agency's financial resources.

[(B) FUTURE DETERMINATIONS.—The Secretary shall not use the reduced amount of the agency's expenditures for the fiscal year preceding the fiscal year for which a waiver is granted to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1) in the absence of the waiver.

[(d) REALLOCATIONS.—The Secretary may reallocate, in a manner that the Secretary determines will best carry out the purpose of this subpart, any amounts that—

[(1) based on estimates made by local educational agencies or other information, the Secretary determines will not be needed by such agencies to carry out approved programs under this subpart; or

[(2) otherwise become available for reallocation under this subpart.

[SEC. 7119. STATE EDUCATIONAL AGENCY REVIEW.

[(Before submitting an application to the Secretary under section 7114, a local educational agency shall submit the application to the State educational agency, which may comment on such application. If the State educational agency comments on the application, the agency shall comment on all applications submitted by local educational agencies in the State and shall provide those comments to the respective local educational agencies, with an opportunity to respond.

[Subpart 2—Special Programs and Projects To Improve Educational Opportunities for Indian Children

[SEC. 7121. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

[(a) PURPOSE.—

[(1) IN GENERAL.—It is the purpose of this section to support projects to develop, test, and demonstrate the effectiveness of services and programs to improve educational opportunities and achievement of Indian children.

[(2) COORDINATION.—The Secretary shall take the necessary actions to achieve the coordination of activities assisted under this subpart with—

[(A) other programs funded under this Act; and

[(B) other Federal programs operated for the benefit of American Indian and Alaska Native children.

[(b) ELIGIBLE ENTITIES.—In this section, the term “eligible entity” means a State educational agency, local educational agency, Indian tribe, Indian organization, federally supported elementary school or secondary school for Indian students, Indian institution (including an Indian institution of higher education), or a consortium of such entities.

[(c) GRANTS AUTHORIZED.—

[(1) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to carry out activities that meet the purpose of this section, including—

[(A) innovative programs related to the educational needs of educationally disadvantaged children;

[(B) educational services that are not available to such children in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in one or more of the core academic subjects of English, mathematics, science, foreign languages, art, history, and geography;

[(C) bilingual and bicultural programs and projects;

[(D) special health and nutrition services, and other related activities, that address the special health, social, and psychological problems of Indian children;

[(E) special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or reenter school, and to increase the rate of high school graduation for Indian children;

[(F) comprehensive guidance, counseling, and testing services;

[(G) early childhood and kindergarten programs, including family-based preschool programs that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

[(H) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to aid such students in the transition from secondary to postsecondary education;

[(I) partnership projects between schools and local businesses for career preparation programs designed to provide Indian youth with the knowledge and skills such youth need to make an effective transition from school to a high-skill, high-wage career;

[(J) programs designed to encourage and assist Indian students to work toward, and gain entrance into, an institution of higher education;

[(K) family literacy services;

[(L) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors; or

[(M) other services that meet the purpose described in this section.

[(2) PROFESSIONAL DEVELOPMENT.—Professional development of teaching professionals and paraprofessionals may be a part of any program assisted under this section.

[(d) GRANT REQUIREMENTS AND APPLICATIONS.—

[(1) GRANT REQUIREMENTS.—

[(A) IN GENERAL.—The Secretary may make multiyear grants under subsection (c) for the planning, development, pilot operation, or demonstration of any activity described in subsection (c) for a period not to exceed 5 years.

[(B) PRIORITY.—In making multiyear grants described in this paragraph, the Secretary shall give priority to entities

submitting applications that present a plan for combining two or more of the activities described in subsection (c) over a period of more than 1 year.

[(C) PROGRESS.—The Secretary shall make a grant payment for a grant described in this paragraph to an eligible entity after the initial year of the multiyear grant only if the Secretary determines that the eligible entity has made substantial progress in carrying out the activities assisted under the grant in accordance with the application submitted under paragraph (3) and any subsequent modifications to such application.

[(2) DISSEMINATION GRANTS.—

[(A) IN GENERAL.—In addition to awarding the multiyear grants described in paragraph (1), the Secretary may award grants under subsection (c) to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

[(B) DETERMINATION.—The Secretary may award a dissemination grant described in this paragraph if, prior to awarding the grant, the Secretary determines that the material or program to be disseminated—

- [(i) has been adequately reviewed;
- [(ii) has demonstrated educational merit; and
- [(iii) can be replicated.

[(3) APPLICATION.—

[(A) IN GENERAL.—Any eligible entity that desires to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

[(B) CONTENTS.—Each application submitted to the Secretary under subparagraph (A), other than an application for a dissemination grant under paragraph (2), shall contain—

[(i) a description of how parents of Indian children and representatives of Indian tribes have been, and will be, involved in developing and implementing the activities for which assistance is sought;

[(ii) assurances that the applicant will participate, at the request of the Secretary, in any national evaluation of activities assisted under this section;

[(iii) information demonstrating that the proposed program for the activities is a scientifically based research program, where applicable, which may include a program that has been modified to be culturally appropriate for students who will be served;

[(iv) a description of how the applicant will incorporate the proposed activities into the ongoing school program involved once the grant period is over; and

[(v) such other assurances and information as the Secretary may reasonably require.

[(e) ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds provided to a grantee under this subpart for any fiscal year may be used for administrative purposes.

[SEC. 7122. PROFESSIONAL DEVELOPMENT FOR TEACHERS AND EDUCATION PROFESSIONALS.

[(a) PURPOSES.—The purposes of this section are—

[(1) to increase the number of qualified Indian individuals in teaching or other education professions that serve Indian people;

[(2) to provide training to qualified Indian individuals to enable such individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

[(3) to improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (2).

[(b) ELIGIBLE ENTITIES.—For the purpose of this section, the term “eligible entity” means—

[(1) an institution of higher education, including an Indian institution of higher education;

[(2) a State educational agency or local educational agency, in consortium with an institution of higher education;

[(3) an Indian tribe or organization, in consortium with an institution of higher education; and

[(4) a Bureau-funded school (as defined in section 1146 of the Education Amendments of 1978).

[(c) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants to eligible entities having applications approved under this section to enable those entities to carry out the activities described in subsection (d).

[(d) AUTHORIZED ACTIVITIES.—

[(1) IN GENERAL.—Grant funds under this section shall be used for activities to provide support and training for Indian individuals in a manner consistent with the purposes of this section. Such activities may include continuing programs, symposia, workshops, conferences, and direct financial support, and may include programs designed to train tribal elders and seniors.

[(2) SPECIAL RULES.—

[(A) TYPE OF TRAINING.—For education personnel, the training received pursuant to a grant under this section may be inservice or preservice training.

[(B) PROGRAM.—For individuals who are being trained to enter any field other than teaching, the training received pursuant to a grant under this section shall be in a program that results in a graduate degree.

[(e) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require.

[(f) SPECIAL RULE.—In awarding grants under this section, the Secretary—

[(1) shall consider the prior performance of the eligible entity; and

[(2) may not limit eligibility to receive a grant under this section on the basis of—

[(A) the number of previous grants the Secretary has awarded such entity; or

- [(B) the length of any period during which such entity received such grants.
- [(g) GRANT PERIOD.—Each grant under this section shall be awarded for a period of not more than 5 years.
- [(h) SERVICE OBLIGATION.—
- [(1) IN GENERAL.—The Secretary shall require, by regulation, that an individual who receives training pursuant to a grant made under this section—
- [(A) perform work—
- [(i) related to the training received under this section; and
- [(ii) that benefits Indian people; or
- [(B) repay all or a prorated part of the assistance received.
- [(2) REPORTING.—The Secretary shall establish, by regulation, a reporting procedure under which a grant recipient under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning compliance with the work requirement under paragraph (1).

[Subpart 3—National Activities

[SEC. 7131. NATIONAL RESEARCH ACTIVITIES.

- [(a) AUTHORIZED ACTIVITIES.—The Secretary may use funds made available under section 7152(b) for each fiscal year to—
- [(1) conduct research related to effective approaches for the education of Indian children and adults;
- [(2) evaluate federally assisted education programs from which Indian children and adults may benefit;
- [(3) collect and analyze data on the educational status and needs of Indians; and
- [(4) carry out other activities that are consistent with the purpose of this part.
- [(b) ELIGIBILITY.—The Secretary may carry out any of the activities described in subsection (a) directly or through grants to, or contracts or cooperative agreements with, Indian tribes, Indian organizations, State educational agencies, local educational agencies, institutions of higher education, including Indian institutions of higher education, and other public and private agencies and institutions.
- [(c) COORDINATION.—Research activities supported under this section—
- [(1) shall be carried out in consultation with the Institute of Education Sciences to ensure that such activities are coordinated with and enhance the research and development activities supported by the Institute; and
- [(2) may include collaborative research activities that are jointly funded and carried out by the Office of Indian Education Programs and the Institute of Education Sciences.

[SEC. 7132. IN-SERVICE TRAINING FOR TEACHERS OF INDIAN CHILDREN.

- [(a) GRANTS AUTHORIZED.—In addition to the grants authorized by section 7122(c), the Secretary may make grants to eligible con-

sortia for the provision of high quality in-service training. The Secretary may make such a grant to—

[(1) a consortium of a tribal college and an institution of higher education that awards a degree in education; or

[(2) a consortium of—

[(A) a tribal college;

[(B) an institution of higher education that awards a degree in education; and

[(C) one or more elementary schools or secondary schools operated by the Bureau of Indian Affairs, local educational agencies serving Indian children, or tribal educational agencies.

[(b) USE OF FUNDS.—

[(1) IN-SERVICE TRAINING.—A consortium that receives a grant under subsection (a) shall use the grant funds only to provide high quality in-service training to teachers, including teachers who are not Indians, in schools of local educational agencies with substantial numbers of Indian children enrolled in their schools, in order to better meet the needs of those children.

[(2) COMPONENTS.—The training described in paragraph (1) shall include such activities as preparing teachers to use the best available scientifically based research practices and learning strategies, and to make the most effective use of curricula and materials, to respond to the unique needs of Indian children in their classrooms.

[(c) PREFERENCE FOR INDIAN APPLICANTS.—In applying section 7143 to this section, the Secretary shall give a preference to any consortium that includes one or more of the entities described in section 7143.

[SEC. 7133. FELLOWSHIPS FOR INDIAN STUDENTS.

[(a) FELLOWSHIPS.—

[(1) AUTHORITY.—The Secretary is authorized to award fellowships to Indian students to enable such students to study in graduate and professional programs at institutions of higher education.

[(2) REQUIREMENTS.—The fellowships described in paragraph (1) shall be awarded to Indian students to enable such students to pursue a course of study—

[(A) of not more than 4 academic years; and

[(B) that leads—

[(i) toward a postbaccalaureate degree in medicine, clinical psychology, psychology, law, education, or a related field; or

[(ii) to an undergraduate or graduate degree in engineering, business administration, natural resources, or a related field.

[(b) STIPENDS.—The Secretary shall pay to Indian students awarded fellowships under subsection (a) such stipends (including allowances for subsistence of such students and dependents of such students) as the Secretary determines to be consistent with prevailing practices under comparable federally supported programs.

[(c) PAYMENTS TO INSTITUTIONS IN LIEU OF TUITION.—The Secretary shall pay to the institution of higher education at which such a fellowship recipient is pursuing a course of study, in lieu of

tuition charged to such recipient, such amounts as the Secretary may determine to be necessary to cover the cost of education provided to such recipient.

[(d) SPECIAL RULES.—

[(1) IN GENERAL.—If a fellowship awarded under subsection (a) is vacated prior to the end of the period for which the fellowship is awarded, the Secretary may award an additional fellowship for the unexpired portion of the period of the first fellowship.

[(2) WRITTEN NOTICE.—Not later than 45 days before the commencement of an academic term, the Secretary shall provide to each individual who is awarded a fellowship under subsection (a) for such academic term written notice of—

[(A) the amount of the funding for the fellowship; and

[(B) any stipends or other payments that will be made under this section to, or for the benefit of, the individual for the academic term.

[(3) PRIORITY.—Not more than 10 percent of the fellowships awarded under subsection (a) shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education.

[(e) SERVICE OBLIGATION.—

[(1) IN GENERAL.—The Secretary shall require, by regulation, that an individual who receives financial assistance under this section—

[(A) perform work—

[(i) related to the training for which the individual receives the assistance under this section; and

[(ii) that benefits Indian people; or

[(B) repay all or a prorated portion of such assistance.

[(2) REPORTING.—The Secretary shall establish, by regulation, a reporting procedure under which a recipient of assistance under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning the compliance of such recipient with the work requirement described in paragraph (1).

[(f) ADMINISTRATION OF FELLOWSHIPS.—The Secretary may administer the fellowships authorized under this section through a grant to, or contract or cooperative agreement with, an Indian organization with demonstrated qualifications to administer all facets of the program assisted under this section.

[SEC. 7134. GIFTED AND TALENTED INDIAN STUDENTS.

[(a) PROGRAM AUTHORIZED.—The Secretary is authorized to—

[(1) establish two centers for gifted and talented Indian students at tribally controlled community colleges in accordance with this section; and

[(2) support demonstration projects described in subsection (c).

[(b) ELIGIBLE ENTITIES.—The Secretary shall make grants, or enter into contracts, for the activities described in subsection (a), to or with—

[(1) two tribally controlled community colleges that—

disseminating information derived from the demonstration projects conducted under subsection (a); and

[(F) appropriate research, evaluation, and related activities pertaining to the needs of such children and to the provision of such support services to the families of such children as are needed to enable such children to benefit from the projects.

[(4) APPLICATION.—Each eligible entity desiring a grant or contract under subsection (b) shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require.

[(d) ADDITIONAL GRANTS.—

[(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall award 5 grants to schools funded by the Bureau of Indian Affairs (hereafter referred to individually in this section as a “Bureau school”) for program research and development and the development and dissemination of curriculum and teacher training material, regarding—

[(A) gifted and talented students;

[(B) college preparatory studies (including programs for Indian students with an interest in pursuing teaching careers);

[(C) students with special culturally related academic needs, including students with social, lingual, and cultural needs; or

[(D) mathematics and science education.

[(2) APPLICATIONS.—Each Bureau school desiring a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require.

[(3) SPECIAL RULE.—Each application described in paragraph (2) shall be developed, and each grant under this subsection shall be administered, jointly by the supervisor of the Bureau school and the local educational agency serving such school.

[(4) REQUIREMENTS.—In awarding grants under paragraph (1), the Secretary shall achieve a mixture of the programs described in paragraph (1) that ensures that Indian students at all grade levels and in all geographic areas of the United States are able to participate in a program assisted under this subsection.

[(5) GRANT PERIOD.—Subject to the availability of appropriations, a grant awarded under paragraph (1) shall be awarded for a 3-year period and may be renewed by the Secretary for additional 3-year periods if the Secretary determines that the performance of the grant recipient has been satisfactory.

[(6) DISSEMINATION.—

[(A) COOPERATIVE EFFORTS.—The dissemination of any materials developed from activities assisted under paragraph (1) shall be carried out in cooperation with entities that receive funds pursuant to subsection (b).

[(B) REPORT.—The Secretary shall prepare and submit to the Secretary of the Interior and to Congress a report concerning any results from activities described in this subsection.

[(7) EVALUATION COSTS.—

[(A) DIVISION.—The costs of evaluating any activities assisted under paragraph (1) shall be divided between the Bureau schools conducting such activities and the recipients of grants or contracts under subsection (b) who conduct demonstration projects under subsection (a).

[(B) GRANTS AND CONTRACTS.—If no funds are provided under subsection (b) for—

[(i) the evaluation of activities assisted under paragraph (1);

[(ii) technical assistance and coordination with respect to such activities; or

[(iii) the dissemination of the evaluations referred to in clause (i),

the Secretary shall make such grants, or enter into such contracts, as are necessary to provide for the evaluations, technical assistance, and coordination of such activities, and the dissemination of the evaluations.

[(e) INFORMATION NETWORK.—The Secretary shall encourage each recipient of a grant or contract under this section to work cooperatively as part of a national network to ensure that the information developed by the grant or contract recipient is readily available to the entire educational community.

[SEC. 7135. GRANTS TO TRIBES FOR EDUCATION ADMINISTRATIVE PLANNING AND DEVELOPMENT.

[(a) IN GENERAL.—The Secretary may make grants to Indian tribes, and tribal organizations approved by Indian tribes, to plan and develop a centralized tribal administrative entity to—

[(1) coordinate all education programs operated by the tribe or within the territorial jurisdiction of the tribe;

[(2) develop education codes for schools within the territorial jurisdiction of the tribe;

[(3) provide support services and technical assistance to schools serving children of the tribe; and

[(4) perform child-find screening services for the preschool-aged children of the tribe to—

[(A) ensure placement in appropriate educational facilities; and

[(B) coordinate the provision of any needed special services for conditions such as disabilities and English language skill deficiencies.

[(b) PERIOD OF GRANT.—Each grant awarded under this section may be awarded for a period of not more than 3 years. Such grant may be renewed upon the termination of the initial period of the grant if the grant recipient demonstrates to the satisfaction of the Secretary that renewing the grant for an additional 3-year period is necessary to carry out the objectives of the grant described in subsection (c)(2)(A).

[(c) APPLICATION FOR GRANT.—

[(1) IN GENERAL.—Each Indian tribe and tribal organization desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

[(2) CONTENTS.—Each application described in paragraph (1) shall contain—

[(A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant; and

[(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and for determining whether such objectives are achieved.

[(3) APPROVAL.—The Secretary may approve an application submitted by a tribe or tribal organization pursuant to this section only if the Secretary is satisfied that such application, including any documentation submitted with the application—

[(A) demonstrates that the applicant has consulted with other education entities, if any, within the territorial jurisdiction of the applicant who will be affected by the activities to be conducted under the grant;

[(B) provides for consultation with such other education entities in the operation and evaluation of the activities conducted under the grant; and

[(C) demonstrates that there will be adequate resources provided under this section or from other sources to complete the activities for which assistance is sought, except that the availability of such other resources shall not be a basis for disapproval of such application.

[(d) RESTRICTION.—A tribe may not receive funds under this section if such tribe receives funds under section 1144 of the Education Amendments of 1978.

[SEC. 7136. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS.

[(a) IN GENERAL.—The Secretary shall make grants to State educational agencies, local educational agencies, and Indian tribes, institutions, and organizations—

[(1) to support planning, pilot, and demonstration projects that are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

[(2) to assist in the establishment and operation of programs that are designed to stimulate—

[(A) the provision of basic literacy opportunities for all nonliterate Indian adults; and

[(B) the provision of opportunities to all Indian adults to qualify for a secondary school diploma, or its recognized equivalent, in the shortest period of time feasible;

[(3) to support a major research and development program to develop more innovative and effective techniques for achieving literacy and secondary school equivalency for Indians;

[(4) to provide for basic surveys and evaluations to define accurately the extent of the problems of illiteracy and lack of secondary school completion among Indians; and

[(5) to encourage the dissemination of information and materials relating to, and the evaluation of, the effectiveness of education programs that may offer educational opportunities to Indian adults.

[(b) EDUCATIONAL SERVICES.—The Secretary may make grants to Indian tribes, institutions, and organizations to develop and estab-

lish educational services and programs specifically designed to improve educational opportunities for Indian adults.

[(c) INFORMATION AND EVALUATION.—The Secretary may make grants to, and enter into contracts with, public agencies and institutions and Indian tribes, institutions, and organizations, for—

[(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations of the programs, services, and resources; and

[(2) the evaluation of federally assisted programs in which Indian adults may participate to determine the effectiveness of the programs in achieving the purposes of the programs with respect to Indian adults.

[(d) APPLICATIONS.—

[(1) IN GENERAL.—Each entity desiring a grant or contract under this section shall submit to the Secretary an application at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

[(2) CONTENTS.—Each application described in paragraph (1) shall contain—

[(A) a statement describing the activities to be conducted and the objectives to be achieved under the grant or contract; and

[(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and determining whether the objectives of the grant or contract are achieved.

[(3) APPROVAL.—The Secretary shall not approve an application described in paragraph (1) unless the Secretary determines that such application, including any documentation submitted with the application, indicates that—

[(A) there has been adequate participation, by the individuals to be served and the appropriate tribal communities, in the planning and development of the activities to be assisted; and

[(B) the individuals and tribal communities referred to in subparagraph (A) will participate in the operation and evaluation of the activities to be assisted.

[(4) PRIORITY.—In approving applications under paragraph (1), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

[(e) ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds made available to an entity through a grant or contract made or entered into under this section for a fiscal year may be used to pay for administrative costs.

[Subpart 4—Federal Administration

[SEC. 7141. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.

[(a) MEMBERSHIP.—There is established a National Advisory Council on Indian Education (hereafter in this section referred to as the “Council”), which shall—

[(1) consist of 15 Indian members, who shall be appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations; and

[(2) represent different geographic areas of the United States.

[(b) DUTIES.—The Council shall—

[(1) advise the Secretary concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under this part—

[(A) with respect to which the Secretary has jurisdiction; and

[(B)(i) that includes Indian children or adults as participants; or

[(ii) that may benefit Indian children or adults;

[(2) make recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs; and

[(3) submit to Congress, not later than June 30 of each year, a report on the activities of the Council, including—

[(A) any recommendations that the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants, or that may benefit Indian children or adults; and

[(B) recommendations concerning the funding of any program described in subparagraph (A).

[SEC. 7142. PEER REVIEW.

[(The Secretary may use a peer review process to review applications submitted to the Secretary under subpart 2 or subpart 3.

[SEC. 7143. PREFERENCE FOR INDIAN APPLICANTS.

[(In making grants and entering into contracts or cooperative agreements under subpart 2 or subpart 3, the Secretary shall give a preference to Indian tribes, organizations, and institutions of higher education under any program with respect to which Indian tribes, organizations, and institutions are eligible to apply for grants, contracts, or cooperative agreements.

[SEC. 7144. MINIMUM GRANT CRITERIA.

[(The Secretary may not approve an application for a grant, contract, or cooperative agreement under subpart 2 or subpart 3 unless the application is for a grant, contract, or cooperative agreement that is—

[(1) of sufficient size, scope, and quality to achieve the purpose or objectives of such grant, contract, or cooperative agreement; and

[(2) based on relevant research findings.

[Subpart 5—Definitions; Authorizations of Appropriations

[SEC. 7151. DEFINITIONS.

[(For the purposes of this part:

[(1) ADULT.—The term “adult” means an individual who—

[(A) has attained the age of 16 years; or

[(B) has attained an age that is greater than the age of compulsory school attendance under an applicable State law.

[(2) FREE PUBLIC EDUCATION.—The term “free public education” means education that is—

[(A) provided at public expense, under public supervision and direction, and without tuition charge; and

[(B) provided as elementary or secondary education in the applicable State or to preschool children.

[(3) INDIAN.—The term “Indian” means an individual who is—

[(A) a member of an Indian tribe or band, as membership is defined by the tribe or band, including—

[(i) any tribe or band terminated since 1940; and

[(ii) any tribe or band recognized by the State in which the tribe or band resides;

[(B) a descendant, in the first or second degree, of an individual described in subparagraph (A);

[(C) considered by the Secretary of the Interior to be an Indian for any purpose;

[(D) an Eskimo, Aleut, or other Alaska Native; or

[(E) a member of an organized Indian group that received a grant under the Indian Education Act of 1988 as in effect the day preceding the date of enactment of the Improving America’s Schools Act of 1994.

[SEC. 7152. AUTHORIZATIONS OF APPROPRIATIONS.

[(a) SUBPART 1.—For the purpose of carrying out subpart 1, there are authorized to be appropriated \$96,400,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

[(b) SUBPARTS 2 AND 3.—For the purpose of carrying out subparts 2 and 3, there are authorized to be appropriated \$24,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

[PART B—NATIVE HAWAIIAN EDUCATION

[SEC. 7201. SHORT TITLE.

[This part may be cited as the “Native Hawaiian Education Act”.

[SEC. 7202. FINDINGS.

[Congress finds the following:

[(1) Native Hawaiians are a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago, whose society was organized as a nation and internationally recognized as a nation by the United States, Britain, France, and Japan, as evidenced by treaties governing friendship, commerce, and navigation.

[(2) At the time of the arrival of the first nonindigenous people in Hawaii in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient subsistence social system based on a communal land tenure system with a sophisticated language, culture, and religion.

【(3) A unified monarchical government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawaii.

【(4) From 1826 until 1893, the United States recognized the sovereignty and independence of the Kingdom of Hawaii, which was established in 1810 under Kamehameha I, extended full and complete diplomatic recognition to the Kingdom of Hawaii, and entered into treaties and conventions with the Kingdom of Hawaii to govern friendship, commerce and navigation in 1826, 1842, 1849, 1875, and 1887.

【(5) In 1893, the sovereign, independent, internationally recognized, and indigenous government of Hawaii, the Kingdom of Hawaii, was overthrown by a small group of non-Hawaiians, including United States citizens, who were assisted in their efforts by the United States Minister, a United States naval representative, and armed naval forces of the United States. Because of the participation of United States agents and citizens in the overthrow of the Kingdom of Hawaii, in 1993 the United States apologized to Native Hawaiians for the overthrow and the deprivation of the rights of Native Hawaiians to self-determination through Public Law 103–150 (107 Stat. 1510).

【(6) In 1898, the joint resolution entitled “Joint Resolution to provide for annexing the Hawaiian Islands to the United States”, approved July 7, 1898 (30 Stat. 750), ceded absolute title of all lands held by the Republic of Hawaii, including the government and crown lands of the former Kingdom of Hawaii, to the United States, but mandated that revenue generated from the lands be used “solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes”.

【(7) By 1919, the Native Hawaiian population had declined from an estimated 1,000,000 in 1778 to an alarming 22,600, and in recognition of this severe decline, Congress enacted the Hawaiian Homes Commission Act, 1920 (42 Stat. 108), which designated approximately 200,000 acres of ceded public lands for homesteading by Native Hawaiians.

【(8) Through the enactment of the Hawaiian Homes Commission Act, 1920, Congress affirmed the special relationship between the United States and the Native Hawaiians, which was described by then Secretary of the Interior Franklin K. Lane, who said: “One thing that impressed me... was the fact that the natives of the island who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty.”.

【(9) In 1938, Congress again acknowledged the unique status of the Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781, chapter 530; 16 U.S.C. 391b, 391b–1, 392b, 392c, 396, 396a), a provision to lease lands within the National Parks extension to Native Hawaiians and to permit fishing in the area “only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance.”.

【(10) Under the Act entitled “An Act to provide for the admission of the State of Hawaii into the Union”, approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for the administration of the Hawaiian Home

Lands to the State of Hawaii but reaffirmed the trust relationship between the United States and the Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges and amendments to such Act affecting the rights of beneficiaries under such Act.

[(11) In 1959, under the Act entitled “An Act to provide for the admission of the State of Hawaii into the Union”, the United States also ceded to the State of Hawaii title to the public lands formerly held by the United States, but mandated that such lands be held by the State “in public trust” and reaffirmed the special relationship that existed between the United States and the Hawaiian people by retaining the legal responsibility to enforce the public trust responsibility of the State of Hawaii for the betterment of the conditions of Native Hawaiians, as defined in section 201(a) of the Hawaiian Homes Commission Act, 1920.

[(12) The United States has recognized and reaffirmed that—

[(A) Native Hawaiians have a cultural, historic, and land-based link to the indigenous people who exercised sovereignty over the Hawaiian Islands, and that group has never relinquished its claims to sovereignty or its sovereign lands;

[(B) Congress does not extend services to Native Hawaiians because of their race, but because of their unique status as the indigenous people of a once sovereign nation as to whom the United States has established a trust relationship;

[(C) Congress has also delegated broad authority to administer a portion of the Federal trust responsibility to the State of Hawaii;

[(D) the political status of Native Hawaiians is comparable to that of American Indians and Alaska Natives; and

[(E) the aboriginal, indigenous people of the United States have—

[(i) a continuing right to autonomy in their internal affairs; and

[(ii) an ongoing right of self-determination and self-governance that has never been extinguished.

[(13) The political relationship between the United States and the Native Hawaiian people has been recognized and reaffirmed by the United States, as evidenced by the inclusion of Native Hawaiians in—

[(A) the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.);

[(B) the American Indian Religious Freedom Act (42 U.S.C. 1996);

[(C) the National Museum of the American Indian Act (20 U.S.C. 80q et seq.);

[(D) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

[(E) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

[(F) the Native American Languages Act (25 U.S.C. 2901 et seq.);

[(G) the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4401 et seq.);

[(H) the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.); and

[(I) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

[(14) In 1981, Congress instructed the Office of Education to submit to Congress a comprehensive report on Native Hawaiian education. The report, entitled the “Native Hawaiian Educational Assessment Project”, was released in 1983 and documented that Native Hawaiians scored below parity with regard to national norms on standardized achievement tests, were disproportionately represented in many negative social and physical statistics indicative of special educational needs, and had educational needs that were related to their unique cultural situation, such as different learning styles and low self-image.

[(15) In recognition of the educational needs of Native Hawaiians, in 1988, Congress enacted title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (102 Stat. 130) to authorize and develop supplemental educational programs to address the unique conditions of Native Hawaiians.

[(16) In 1993, the Kamehameha Schools Bishop Estate released a 10-year update of findings of the Native Hawaiian Educational Assessment Project, which found that despite the successes of the programs established under title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, many of the same educational needs still existed for Native Hawaiians. Subsequent reports by the Kamehameha Schools Bishop Estate and other organizations have generally confirmed those findings. For example—

[(A) educational risk factors continue to start even before birth for many Native Hawaiian children, including—

[(i) late or no prenatal care;

[(ii) high rates of births by Native Hawaiian women who are unmarried; and

[(iii) high rates of births to teenage parents;

[(B) Native Hawaiian students continue to begin their school experience lagging behind other students in terms of readiness factors such as vocabulary test scores;

[(C) Native Hawaiian students continue to score below national norms on standardized education achievement tests at all grade levels;

[(D) both public and private schools continue to show a pattern of lower percentages of Native Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

[(E) Native Hawaiian students continue to be overrepresented among students qualifying for special education programs provided to students with learning disabilities,

mild intellectual disabilities, emotional impairment, and other such disabilities;

【(F) Native Hawaiians continue to be underrepresented in institutions of higher education and among adults who have completed four or more years of college;

【(G) Native Hawaiians continue to be disproportionately represented in many negative social and physical statistics indicative of special educational needs, as demonstrated by the fact that—

【(i) Native Hawaiian students are more likely to be retained in grade level and to be excessively absent in secondary school;

【(ii) Native Hawaiian students have the highest rates of drug and alcohol use in the State of Hawaii; and

【(iii) Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect; and

【(H) Native Hawaiians now comprise over 23 percent of the students served by the State of Hawaii Department of Education, and there are and will continue to be geographically rural, isolated areas with a high Native Hawaiian population density.

【(17) In the 1998 National Assessment of Educational Progress, Hawaiian fourth-graders ranked 39th among groups of students from 39 States in reading. Given that Hawaiian students rank among the lowest groups of students nationally in reading, and that Native Hawaiian students rank the lowest among Hawaiian students in reading, it is imperative that greater focus be placed on beginning reading and early education and literacy in Hawaii.

【(18) The findings described in paragraphs (16) and (17) are inconsistent with the high rates of literacy and integration of traditional culture and Western education historically achieved by Native Hawaiians through a Hawaiian language-based public school system established in 1840 by Kamehameha III.

【(19) Following the overthrow of the Kingdom of Hawaii in 1893, Hawaiian medium schools were banned. After annexation, throughout the territorial and statehood period of Hawaii, and until 1986, use of the Hawaiian language as an instructional medium in education in public schools was declared unlawful. The declaration caused incalculable harm to a culture that placed a very high value on the power of language, as exemplified in the traditional saying: “I ka ”olelo noN ola; I ka ”olelo no ka make. In the language rests life; In the language rests death.”.

【(20) Despite the consequences of over 100 years of non-indigenous influence, the Native Hawaiian people are determined to preserve, develop, and transmit to future generations their ancestral territory and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.

【(21) The State of Hawaii, in the constitution and statutes of the State of Hawaii—

[(A) reaffirms and protects the unique right of the Native Hawaiian people to practice and perpetuate their culture and religious customs, beliefs, practices, and language;

[(B) recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawaii, which may be used as the language of instruction for all subjects and grades in the public school system; and

[(C) promotes the study of the Hawaiian culture, language, and history by providing a Hawaiian education program and using community expertise as a suitable and essential means to further the program.

[SEC. 7203. PURPOSES.

[(The purposes of this part are to—

[(1) authorize and develop innovative educational programs to assist Native Hawaiians;

[(2) provide direction and guidance to appropriate Federal, State, and local agencies to focus resources, including resources made available under this part, on Native Hawaiian education, and to provide periodic assessment and data collection;

[(3) supplement and expand programs and authorities in the area of education to further the purposes of this title; and

[(4) encourage the maximum participation of Native Hawaiians in planning and management of Native Hawaiian education programs.

[SEC. 7204. NATIVE HAWAIIAN EDUCATION COUNCIL AND ISLAND COUNCILS.

[(a) ESTABLISHMENT OF NATIVE HAWAIIAN EDUCATION COUNCIL.—In order to better effectuate the purposes of this part through the coordination of educational and related services and programs available to Native Hawaiians, including those programs receiving funding under this part, the Secretary is authorized to establish a Native Hawaiian Education Council (hereafter in this part referred to as the “Education Council”).

[(b) COMPOSITION OF EDUCATION COUNCIL.—The Education Council shall consist of not more than 21 members, unless otherwise determined by a majority of the council.

[(c) CONDITIONS AND TERMS.—

[(1) CONDITIONS.—At least 10 members of the Education Council shall be Native Hawaiian education service providers and 10 members of the Education Council shall be Native Hawaiians or Native Hawaiian education consumers. In addition, a representative of the State of Hawaii Office of Hawaiian Affairs shall serve as a member of the Education Council.

[(2) APPOINTMENTS.—The members of the Education Council shall be appointed by the Secretary based on recommendations received from the Native Hawaiian community.

[(3) TERMS.—Members of the Education Council shall serve for staggered terms of 3 years, except as provided in paragraph (4).

[(4) COUNCIL DETERMINATIONS.—Additional conditions and terms relating to membership on the Education Council, including term lengths and term renewals, shall be determined by a majority of the Education Council.

[(d) NATIVE HAWAIIAN EDUCATION COUNCIL GRANT.—The Secretary shall make a direct grant to the Education Council to carry out the following activities:

[(1) Coordinate the educational and related services and programs available to Native Hawaiians, including the programs assisted under this part.

[(2) Assess the extent to which such services and programs meet the needs of Native Hawaiians, and collect data on the status of Native Hawaiian education.

[(3) Provide direction and guidance, through the issuance of reports and recommendations, to appropriate Federal, State, and local agencies in order to focus and improve the use of resources, including resources made available under this part, relating to Native Hawaiian education, and serve, where appropriate, in an advisory capacity.

[(4) Make direct grants, if such grants enable the Education Council to carry out the duties of the Education Council, as described in paragraphs (1) through (3).

[(e) ADDITIONAL DUTIES OF THE EDUCATION COUNCIL.—

[(1) IN GENERAL.—The Education Council shall provide copies of any reports and recommendations issued by the Education Council, including any information that the Education Council provides to the Secretary pursuant to subsection (i), to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Indian Affairs of the Senate.

[(2) ANNUAL REPORT.—The Education Council shall prepare and submit to the Secretary an annual report on the Education Council's activities.

[(3) ISLAND COUNCIL SUPPORT AND ASSISTANCE.—The Education Council shall provide such administrative support and financial assistance to the island councils established pursuant to subsection (f) as the Secretary determines to be appropriate, in a manner that supports the distinct needs of each island council.

[(f) ESTABLISHMENT OF ISLAND COUNCILS.—

[(1) IN GENERAL.—In order to better effectuate the purposes of this part and to ensure the adequate representation of island and community interests within the Education Council, the Secretary is authorized to facilitate the establishment of Native Hawaiian education island councils (hereafter in this part referred to as an “island council”) for the following islands:

- [(A) Hawaii.
- [(B) Maui.
- [(C) Molokai.
- [(D) Lanai.
- [(E) Oahu.
- [(F) Kauai.
- [(G) Niihau.

[(2) COMPOSITION OF ISLAND COUNCILS.—Each island council shall consist of parents, students, and other community members who have an interest in the education of Native Hawaiians, and shall be representative of individuals concerned with the educational needs of all age groups, from children in pre-

school through adults. At least three-fourths of the members of each island council shall be Native Hawaiians.

[(g) ADMINISTRATIVE PROVISIONS RELATING TO EDUCATION COUNCIL AND ISLAND COUNCILS.—The Education Council and each island council shall meet at the call of the chairperson of the appropriate council, or upon the request of the majority of the members of the appropriate council, but in any event not less often than four times during each calendar year. The provisions of the Federal Advisory Committee Act shall not apply to the Education Council and each island council.

[(h) COMPENSATION.—Members of the Education Council and each island council shall not receive any compensation for service on the Education Council and each island council, respectively.

[(i) REPORT.—Not later than 4 years after the date of enactment of the No Child Left Behind Act of 2001, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Indian Affairs of the Senate a report that summarizes the annual reports of the Education Council, describes the allocation and use of funds under this part, and contains recommendations for changes in Federal, State, and local policy to advance the purposes of this part.

[SEC. 7205. PROGRAM AUTHORIZED.

[(a) GENERAL AUTHORITY.—

[(1) GRANTS AND CONTRACTS.—The Secretary is authorized to make direct grants to, or enter into contracts with—

[(A) Native Hawaiian educational organizations;

[(B) Native Hawaiian community-based organizations;

[(C) public and private nonprofit organizations, agencies, and institutions with experience in developing or operating Native Hawaiian programs or programs of instruction in the Native Hawaiian language; and

[(D) consortia of the organizations, agencies, and institutions described in subparagraphs (A) through (C), to carry out programs that meet the purposes of this part.

[(2) PRIORITIES.—In awarding grants or contracts to carry out activities described in paragraph (3), the Secretary shall give priority to entities proposing projects that are designed to address—

[(A) beginning reading and literacy among students in kindergarten through third grade;

[(B) the needs of at-risk children and youth;

[(C) needs in fields or disciplines in which Native Hawaiians are underemployed; and

[(D) the use of the Hawaiian language in instruction.

[(3) AUTHORIZED ACTIVITIES.—Activities provided through programs carried out under this part may include—

[(A) the development and maintenance of a statewide Native Hawaiian early education and care system to provide a continuum of services for Native Hawaiian children from the prenatal period of the children through age 5;

[(B) the operation of family-based education centers that provide such services as—

[(i) programs for Native Hawaiian parents and their infants from the prenatal period of the infants through age 3;

[(iv) programs that recognize and support the unique cultural and educational needs of Native Hawaiian children, and incorporate appropriately qualified Native Hawaiian elders and seniors;

[(I) activities, including program co-location, to enable Native Hawaiians to enter and complete programs of post-secondary education, including—

[(i) provision of full or partial scholarships for undergraduate or graduate study that are awarded to students based on their academic promise and financial need, with a priority, at the graduate level, given to students entering professions in which Native Hawaiians are underrepresented;

[(ii) family literacy services;

[(iii) counseling and support services for students receiving scholarship assistance;

[(iv) counseling and guidance for Native Hawaiian secondary students who have the potential to receive scholarships; and

[(v) faculty development activities designed to promote the matriculation of Native Hawaiian students;

[(J) research and data collection activities to determine the educational status and needs of Native Hawaiian children and adults;

[(K) other research and evaluation activities related to programs carried out under this part; and

[(L) other activities, consistent with the purposes of this part, to meet the educational needs of Native Hawaiian children and adults.

[(4) SPECIAL RULE AND CONDITIONS.—

[(A) INSTITUTIONS OUTSIDE HAWAII.—The Secretary shall not establish a policy under this section that prevents a Native Hawaiian student enrolled at a 2- or 4-year degree granting institution of higher education outside of the State of Hawaii from receiving a scholarship pursuant to paragraph (3)(I).

[(B) SCHOLARSHIP CONDITIONS.—The Secretary shall establish conditions for receipt of a scholarship awarded under paragraph (3)(I). The conditions shall require that an individual seeking such a scholarship enter into a contract to provide professional services, either during the scholarship period or upon completion of a program of postsecondary education, to the Native Hawaiian community.

[(b) ADMINISTRATIVE COSTS.—Not more than 5 percent of funds provided to a recipient of a grant or contract under subsection (a) for any fiscal year may be used for administrative purposes.

[(c) AUTHORIZATION OF APPROPRIATIONS.—

[(1) IN GENERAL.—There are authorized to be appropriated to carry out this section and section 7204 such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

[(2) RESERVATION.—Of the funds appropriated under this subsection, the Secretary shall reserve \$500,000 for fiscal year

2002 and each of the 5 succeeding fiscal years to make a direct grant to the Education Council to carry out section 7204.

[(3) AVAILABILITY.—Funds appropriated under this subsection shall remain available until expended.

[SEC. 7206. ADMINISTRATIVE PROVISIONS.

[(a) APPLICATION REQUIRED.—No grant may be made under this part, and no contract may be entered into under this part, unless the entity seeking the grant or contract submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may determine to be necessary to carry out the provisions of this part.

[(b) SPECIAL RULE.—Each applicant for a grant or contract under this part shall submit the application for comment to the local educational agency serving students who will participate in the program to be carried out under the grant or contract, and include those comments, if any, with the application to the Secretary.

[SEC. 7207. DEFINITIONS.

[In this part:

[(1) NATIVE HAWAIIAN.—The term “Native Hawaiian” means any individual who is—

[(A) a citizen of the United States; and

[(B) a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii, as evidenced by—

[(i) genealogical records;

[(ii) Kupuna (elders) or Kamaaina (long-term community residents) verification; or

[(iii) certified birth records.

[(2) NATIVE HAWAIIAN COMMUNITY-BASED ORGANIZATION.—The term “Native Hawaiian community-based organization” means any organization that is composed primarily of Native Hawaiians from a specific community and that assists in the social, cultural, and educational development of Native Hawaiians in that community.

[(3) NATIVE HAWAIIAN EDUCATIONAL ORGANIZATION.—The term “Native Hawaiian educational organization” means a private nonprofit organization that—

[(A) serves the interests of Native Hawaiians;

[(B) has Native Hawaiians in substantive and policy-making positions within the organization;

[(C) incorporates Native Hawaiian perspective, values, language, culture, and traditions into the core function of the organization;

[(D) has demonstrated expertise in the education of Native Hawaiian youth; and

[(E) has demonstrated expertise in research and program development.

[(4) NATIVE HAWAIIAN LANGUAGE.—The term “Native Hawaiian language” means the single Native American language indigenous to the original inhabitants of the State of Hawaii.

[(5) NATIVE HAWAIIAN ORGANIZATION.—The term “Native Hawaiian organization” means a private nonprofit organization that—

[(A) serves the interests of Native Hawaiians;

[(B) has Native Hawaiians in substantive and policy-making positions within the organization; and

[(C) is recognized by the Governor of Hawaii for the purpose of planning, conducting, or administering programs (or portions of programs) for the benefit of Native Hawaiians.

[(6) OFFICE OF HAWAIIAN AFFAIRS.—The term “Office of Hawaiian Affairs” means the Office of Hawaiian Affairs established by the Constitution of the State of Hawaii.

[PART C—ALASKA NATIVE EDUCATION

[SEC. 7301. SHORT TITLE.

[This part may be cited as the “Alaska Native Educational Equity, Support, and Assistance Act”.

[SEC. 7302. FINDINGS.

[Congress finds and declares the following:

[(1) The attainment of educational success is critical to the betterment of the conditions, long-term well-being, and preservation of the culture of Alaska Natives.

[(2) It is the policy of the Federal Government to encourage the maximum participation by Alaska Natives in the planning and the management of Alaska Native education programs.

[(3) Alaska Native children enter and exit school with serious educational handicaps.

[(4) The educational achievement of Alaska Native children is far below national norms. Native performance on standardized tests is low, Native student dropout rates are high, and Natives are significantly underrepresented among holders of baccalaureate degrees in the State of Alaska. As a result, Native students are being denied their opportunity to become full participants in society by grade school and high school educations that are condemning an entire generation to an underclass status and a life of limited choices.

[(5) The programs authorized in this part, combined with expanded Head Start, infant learning, and early childhood education programs, and parent education programs, are essential if educational handicaps are to be overcome.

[(6) The sheer magnitude of the geographic barriers to be overcome in delivering educational services in rural Alaska and Alaska villages should be addressed through the development and implementation of innovative, model programs in a variety of areas.

[(7) Native children should be afforded the opportunity to begin their formal education on a par with their non-Native peers. The Federal Government should lend support to efforts developed by and undertaken within the Alaska Native community to improve educational opportunity for all students.

[SEC. 7303. PURPOSES.

[The purposes of this part are as follows:

[(1) To recognize the unique educational needs of Alaska Natives.

[(2) To authorize the development of supplemental educational programs to benefit Alaska Natives.

[(3) To supplement existing programs and authorities in the area of education to further the purposes of this part.

[(4) To provide direction and guidance to appropriate Federal, State and local agencies to focus resources, including resources made available under this part, on meeting the educational needs of Alaska Natives.

[SEC. 7304. PROGRAM AUTHORIZED.

[(a) GENERAL AUTHORITY.—

[(1) GRANTS AND CONTRACTS.—The Secretary is authorized to make grants to, or enter into contracts with, Alaska Native organizations, educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, cultural and community-based organizations with experience in developing or operating programs to benefit Alaska Natives, and consortia of organizations and entities described in this paragraph to carry out programs that meet the purposes of this part.

[(2) PERMISSIBLE ACTIVITIES.—Activities provided through programs carried out under this part may include the following:

[(A) The development and implementation of plans, methods, and strategies to improve the education of Alaska Natives.

[(B) The development of curricula and educational programs that address the educational needs of Alaska Native students, including the following:

[(i) Curriculum materials that reflect the cultural diversity or the contributions of Alaska Natives.

[(ii) Instructional programs that make use of Native Alaskan languages.

[(iii) Networks that introduce successful programs, materials, and techniques to urban and rural schools.

[(C) Professional development activities for educators, including the following:

[(i) Programs to prepare teachers to address the cultural diversity and unique needs of Alaska Native students.

[(ii) In-service programs to improve the ability of teachers to meet the unique needs of Alaska Native students.

[(iii) Recruitment and preparation of teachers who are Alaska Native, reside in communities with high concentrations of Alaska Native students, or are likely to succeed as teachers in isolated, rural communities and engage in cross-cultural instruction in Alaska.

[(D) The development and operation of home instruction programs for Alaska Native preschool children, to ensure the active involvement of parents in their children's education from the earliest ages.

[(E) Family literacy services.

[(F) The development and operation of student enrichment programs in science and mathematics that—

[(i) are designed to prepare Alaska Native students from rural areas, who are preparing to enter secondary school, to excel in science and math;

【(ii) provide appropriate support services to the families of such students that are needed to enable such students to benefit from the programs; and

【(iii) may include activities that recognize and support the unique cultural and educational needs of Alaska Native children, and incorporate appropriately qualified Alaska Native elders and seniors.

【(G) Research and data collection activities to determine the educational status and needs of Alaska Native children and adults.

【(H) Other research and evaluation activities related to programs carried out under this part.

【(I) Remedial and enrichment programs to assist Alaska Native students in performing at a high level on standardized tests.

【(J) Education and training of Alaska Native students enrolled in a degree program that will lead to certification or licensing as teachers.

【(K) Parenting education for parents and caregivers of Alaska Native children to improve parenting and caregiving skills (including skills relating to discipline and cognitive development), including parenting education provided through in-home visitation of new mothers.

【(L) Cultural education programs operated by the Alaska Native Heritage Center and designed to share the Alaska Native culture with students.

【(M) A cultural exchange program operated by the Alaska Humanities Forum and designed to share Alaska Native culture with urban students in a rural setting, which shall be known as the Rose Cultural Exchange Program.

【(N) Activities carried out through Even Start programs carried out under subpart 3 of part B of title I and Head Start programs carried out under the Head Start Act, including the training of teachers for programs described in this subparagraph.

【(O) Other early learning and preschool programs.

【(P) Dropout prevention programs operated by the Cook Inlet Tribal Council's Partners for Success program.

【(Q) An Alaska Initiative for Community Engagement program.

【(R) Career preparation activities to enable Alaska Native children and adults to prepare for meaningful employment, including programs providing tech-prep, mentoring, training, and apprenticeship activities.

【(S) Provision of operational support and purchasing of equipment, to develop regional vocational schools in rural areas of Alaska, including boarding schools, for Alaska Native students in grades 9 through 12, or at higher levels of education, to provide the students with necessary resources to prepare for skilled employment opportunities.

【(T) Other activities, consistent with the purposes of this part, to meet the educational needs of Alaska Native children and adults.

[(3) HOME INSTRUCTION PROGRAMS.—Home instruction programs for Alaska Native preschool children carried out under paragraph (2)(D) may include the following:

[(A) Programs for parents and their infants, from the prenatal period of the infant through age 3.

[(B) Preschool programs.

[(C) Training, education, and support for parents in such areas as reading readiness, observation, story telling, and critical thinking.

[(b) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 5 percent of funds provided to a grantee under this section for any fiscal year may be used for administrative purposes.

[(c) PRIORITIES.—In awarding grants or contracts to carry out activities described in subsection (a)(2), except for activities listed in subsection (d)(2), the Secretary shall give priority to applications from Alaska Native regional nonprofit organizations, or consortia that include at least one Alaska Native regional nonprofit organization.

[(d) AUTHORIZATION OF APPROPRIATIONS.—

[(1) IN GENERAL.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

[(2) AVAILABILITY OF FUNDS.—Of the funds appropriated and made available under this section for a fiscal year, the Secretary shall make available—

[(A) not less than \$1,000,000 to support activities described in subsection (a)(2)(K);

[(B) not less than \$1,000,000 to support activities described in subsection (a)(2)(L);

[(C) not less than \$1,000,000 to support activities described in subsection (a)(2)(M);

[(D) not less than \$2,000,000 to support activities described in subsection (a)(2)(P); and

[(E) not less than \$2,000,000 to support activities described in subsection (a)(2)(Q).

[SEC. 7305. ADMINISTRATIVE PROVISIONS.]

[(a) APPLICATION REQUIRED.—No grant may be made under this part, and no contract may be entered into under this part, unless the entity seeking the grant or contract submits an application to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this part.

[(b) APPLICATIONS.—A State educational agency or local educational agency may apply for an award under this part only as part of a consortium involving an Alaska Native organization. The consortium may include other eligible applicants.

[(c) CONSULTATION REQUIRED.—Each applicant for an award under this part shall provide for ongoing advice from and consultation with representatives of the Alaska Native community.

[(d) LOCAL EDUCATIONAL AGENCY COORDINATION.—Each applicant for an award under this part shall inform each local educational agency serving students who would participate in the program to be carried out under the grant or contract about the application.

[SEC. 7306. DEFINITIONS.

[In this part:

[(1) ALASKA NATIVE.—The term “Alaska Native” has the same meaning as the term “Native” has in section 3(b) of the Alaska Native Claims Settlement Act.

[(2) ALASKA NATIVE ORGANIZATION.—The term “Alaska Native organization” means a federally recognized tribe, consortium of tribes, regional nonprofit Native association, and another organization that—

[(A) has or commits to acquire expertise in the education of Alaska Natives; and

[(B) has Alaska Natives in substantive and policy-making positions within the organization.]

* * * * *

[TITLE IX—GENERAL PROVISIONS**[PART A—DEFINITIONS****[SEC. 9101. DEFINITIONS.**

[Except as otherwise provided, in this Act:

[(1) AVERAGE DAILY ATTENDANCE.—

[(A) IN GENERAL.—Except as provided otherwise by State law or this paragraph, the term “average daily attendance” means—

[(i) the aggregate number of days of attendance of all students during a school year; divided by

[(ii) the number of days school is in session during that year.

[(B) CONVERSION.—The Secretary shall permit the conversion of average daily membership (or other similar data) to average daily attendance for local educational agencies in States that provide State aid to local educational agencies on the basis of average daily membership (or other similar data).

[(C) SPECIAL RULE.—If the local educational agency in which a child resides makes a tuition or other payment for the free public education of the child in a school located in another school district, the Secretary shall, for the purpose of this Act—

[(i) consider the child to be in attendance at a school of the agency making the payment; and

[(ii) not consider the child to be in attendance at a school of the agency receiving the payment.

[(D) CHILDREN WITH DISABILITIES.—If a local educational agency makes a tuition payment to a private school or to a public school of another local educational agency for a child with a disability, as defined in section 602 of the Individuals with Disabilities Education Act, the Secretary shall, for the purpose of this Act, consider the child to be in attendance at a school of the agency making the payment.

[(2) AVERAGE PER-PUPIL EXPENDITURE.—The term “average per-pupil expenditure” means, in the case of a State or of the United States—

[(A) without regard to the source of funds—

[(i) the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State or, in the case of the United States, for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

[(ii) any direct current expenditures by the State for the operation of those agencies; divided by

[(B) the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year.

[(3) BEGINNING TEACHER.—The term “beginning teacher” means a teacher in a public school who has been teaching less than a total of three complete school years.

[(4) CHILD.—The term “child” means any person within the age limits for which the State provides free public education.

[(5) CHILD WITH A DISABILITY.—The term “child with a disability” has the same meaning given that term in section 602 of the Individuals with Disabilities Education Act.

[(6) COMMUNITY-BASED ORGANIZATION.—The term “community-based organization” means a public or private nonprofit organization of demonstrated effectiveness that—

[(A) is representative of a community or significant segments of a community; and

[(B) provides educational or related services to individuals in the community.

[(7) CONSOLIDATED LOCAL APPLICATION.—The term “consolidated local application” means an application submitted by a local educational agency pursuant to section 9305.

[(8) CONSOLIDATED LOCAL PLAN.—The term “consolidated local plan” means a plan submitted by a local educational agency pursuant to section 9305.

[(9) CONSOLIDATED STATE APPLICATION.—The term “consolidated State application” means an application submitted by a State educational agency pursuant to section 9302.

[(10) CONSOLIDATED STATE PLAN.—The term “consolidated State plan” means a plan submitted by a State educational agency pursuant to section 9302.

[(11) CORE ACADEMIC SUBJECTS.—The term “core academic subjects” means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

[(12) COUNTY.—The term “county” means one of the divisions of a State used by the Secretary of Commerce in compiling and reporting data regarding counties.

[(13) COVERED PROGRAM.—The term “covered program” means each of the programs authorized by—

[(A) part A of title I;

[(B) subpart 3 of part B of title I;

[(C) part C of title I;

[(D) part D of title I;

[(E) part F of title I;

[(F) part A of title II;

[(G) part D of title II;

[(H) part A of title III;

[(I) part A of title IV;

[(J) part B of title IV;

[(K) part A of title V; and

[(L) subpart 2 of part B of title VI.

[(14) CURRENT EXPENDITURES.—The term “current expenditures” means expenditures for free public education—

[(A) including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities; but

[(B) not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds received under title I and part A of title V.

[(15) DEPARTMENT.—The term “Department” means the Department of Education.

[(16) DISTANCE LEARNING.—The term “distance learning” means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications.

[(17) EDUCATIONAL SERVICE AGENCY.—The term “educational service agency” means a regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local educational agencies.

[(18) ELEMENTARY SCHOOL.—The term “elementary school” means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

[(19) EXEMPLARY TEACHER.—The term “exemplary teacher” means a teacher who—

[(A) is a highly qualified teacher such as a master teacher;

[(B) has been teaching for at least 5 years in a public or private school or institution of higher education;

[(C) is recommended to be an exemplary teacher by administrators and other teachers who are knowledgeable about the individual’s performance;

[(D) is currently teaching and based in a public school; and

[(E) assists other teachers in improving instructional strategies, improves the skills of other teachers, performs teacher mentoring, develops curricula, and offers other professional development.

[(20) FAMILY LITERACY SERVICES.—The term “family literacy services” means services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

[(A) Interactive literacy activities between parents and their children.

[(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

[(C) Parent literacy training that leads to economic self-sufficiency.

[(D) An age-appropriate education to prepare children for success in school and life experiences.

[(21) FREE PUBLIC EDUCATION.—The term “free public education” means education that is provided—

[(A) at public expense, under public supervision and direction, and without tuition charge; and

[(B) as elementary school or secondary school education as determined under applicable State law, except that the term does not include any education provided beyond grade 12.

[(22) GIFTED AND TALENTED.—The term “gifted and talented”, when used with respect to students, children, or youth, means students, children, or youth who give evidence of high achievement capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who need services or activities not ordinarily provided by the school in order to fully develop those capabilities.

[(23) HIGHLY QUALIFIED.—The term “highly qualified”—

[(A) when used with respect to any public elementary school or secondary school teacher teaching in a State, means that—

[(i) the teacher has obtained full State certification as a teacher (including certification obtained through alternative routes to certification) or passed the State teacher licensing examination, and holds a license to teach in such State, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State’s public charter school law; and

[(ii) the teacher has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis;

[(B) when used with respect to—

[(i) an elementary school teacher who is new to the profession, means that the teacher—

[(I) holds at least a bachelor’s degree; and

[(II) has demonstrated, by passing a rigorous State test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum (which may consist of passing a State-required certification or licensing test or tests in reading, writing, mathematics, and other areas of the basic elementary school curriculum); or

[(ii) a middle or secondary school teacher who is new to the profession, means that the teacher holds at least a bachelor’s degree and has demonstrated a high

level of competency in each of the academic subjects in which the teacher teaches by—

【(I) passing a rigorous State academic subject test in each of the academic subjects in which the teacher teaches (which may consist of a passing level of performance on a State-required certification or licensing test or tests in each of the academic subjects in which the teacher teaches); or

【(II) successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing; and

【(C) when used with respect to an elementary, middle, or secondary school teacher who is not new to the profession, means that the teacher holds at least a bachelor's degree and—

【(i) has met the applicable standard in clause (i) or (ii) of subparagraph (B), which includes an option for a test; or

【(ii) demonstrates competence in all the academic subjects in which the teacher teaches based on a high objective uniform State standard of evaluation that—

【(I) is set by the State for both grade appropriate academic subject matter knowledge and teaching skills;

【(II) is aligned with challenging State academic content and student academic achievement standards and developed in consultation with core content specialists, teachers, principals, and school administrators;

【(III) provides objective, coherent information about the teacher's attainment of core content knowledge in the academic subjects in which a teacher teaches;

【(IV) is applied uniformly to all teachers in the same academic subject and the same grade level throughout the State;

【(V) takes into consideration, but not be based primarily on, the time the teacher has been teaching in the academic subject;

【(VI) is made available to the public upon request; and

【(VII) may involve multiple, objective measures of teacher competency.

【(24) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given that term in section 101(a) of the Higher Education Act of 1965.

【(25) LIMITED ENGLISH PROFICIENT.—The term “limited English proficient”, when used with respect to an individual, means an individual—

【(A) who is aged 3 through 21;

【(B) who is enrolled or preparing to enroll in an elementary school or secondary school;

[(C)(i) who was not born in the United States or whose native language is a language other than English;

[(ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and

[(II) who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

[(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

[(D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

[(i) the ability to meet the State's proficient level of achievement on State assessments described in section 1111(b)(3);

[(ii) the ability to successfully achieve in classrooms where the language of instruction is English; or

[(iii) the opportunity to participate fully in society.

[(26) LOCAL EDUCATIONAL AGENCY.—

[(A) IN GENERAL.—The term “local educational agency” means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

[(B) ADMINISTRATIVE CONTROL AND DIRECTION.—The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

[(C) BIA SCHOOLS.—The term includes an elementary school or secondary school funded by the Bureau of Indian Affairs but only to the extent that including the school makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

[(D) EDUCATIONAL SERVICE AGENCIES.—The term includes educational service agencies and consortia of those agencies.

[(E) STATE EDUCATIONAL AGENCY.—The term includes the State educational agency in a State in which the State educational agency is the sole educational agency for all public schools.

[(27) MENTORING.—The term “mentoring”, except when used to refer to teacher mentoring, means a process by which a responsible adult, postsecondary student, or secondary school student works with a child to provide a positive role model for the child, to establish a supportive relationship with the child, and to provide the child with academic assistance and exposure to new experiences and examples of opportunity that enhance the ability of the child to become a responsible adult.

[(28) NATIVE AMERICAN AND NATIVE AMERICAN LANGUAGE.—The terms “Native American” and “Native American language” have the same meaning given those terms in section 103 of the Native American Languages Act of 1990.

[(29) OTHER STAFF.—The term “other staff” means pupil services personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

[(30) OUTLYING AREA.—The term “outlying area” means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and for the purpose of section 1121(b) and any other discretionary grant program under this Act, includes the freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau until an agreement for the extension of United States education assistance under the Compact of Free Association for each of the freely associated states becomes effective after the date of enactment of the No Child Left Behind Act of 2001.

[(31) PARENT.—The term “parent” includes a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child’s welfare).

[(32) PARENTAL INVOLVEMENT.—The term “parental involvement” means the participation of parents in regular, two-way, and meaningful communication involving student academic learning and other school activities, including ensuring—

[(A) that parents play an integral role in assisting their child’s learning;

[(B) that parents are encouraged to be actively involved in their child’s education at school;

[(C) that parents are full partners in their child’s education and are included, as appropriate, in decisionmaking and on advisory committees to assist in the education of their child;

[(D) the carrying out of other activities, such as those described in section 1118.

[(33) POVERTY LINE.—The term “poverty line” means the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of the size involved.

[(34) PROFESSIONAL DEVELOPMENT.—The term “professional development”—

[(A) includes activities that—

[(i) improve and increase teachers' knowledge of the academic subjects the teachers teach, and enable teachers to become highly qualified;

[(ii) are an integral part of broad schoolwide and districtwide educational improvement plans;

[(iii) give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State academic content standards and student academic achievement standards;

[(iv) improve classroom management skills;

[(v)(I) are high quality, sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction and the teacher's performance in the classroom; and

[(II) are not 1-day or short-term workshops or conferences;

[(vi) support the recruiting, hiring, and training of highly qualified teachers, including teachers who became highly qualified through State and local alternative routes to certification;

[(vii) advance teacher understanding of effective instructional strategies that are—

[(I) based on scientifically based research (except that this subclause shall not apply to activities carried out under part D of title II); and

[(II) strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers; and

[(viii) are aligned with and directly related to—

[(I) State academic content standards, student academic achievement standards, and assessments; and

[(II) the curricula and programs tied to the standards described in subclause (I) except that this subclause shall not apply to activities described in clauses (ii) and (iii) of section 2123(3)(B);

[(ix) are developed with extensive participation of teachers, principals, parents, and administrators of schools to be served under this Act;

[(x) are designed to give teachers of limited English proficient children, and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to those children, including the appropriate use of curricula and assessments;

[(xi) to the extent appropriate, provide training for teachers and principals in the use of technology so that technology and technology applications are effectively used in the classroom to improve teaching and learning in the curricula and core academic subjects in which the teachers teach;

[(xii) as a whole, are regularly evaluated for their impact on increased teacher effectiveness and im-

proved student academic achievement, with the findings of the evaluations used to improve the quality of professional development;

[(xiii) provide instruction in methods of teaching children with special needs;

[(xiv) include instruction in the use of data and assessments to inform and instruct classroom practice; and

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

[(B) may include activities that—

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

[(ii) create programs to enable paraprofessionals (assisting teachers employed by a local educational agency receiving assistance under part A of title I) to obtain the education necessary for those paraprofessionals to become certified and licensed teachers; and

[(iii) provide follow-up training to teachers who have participated in activities described in subparagraph (A) or another clause of this subparagraph that are designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom.

[(35) PUBLIC TELECOMMUNICATIONS ENTITY.—The term “public telecommunications entity” has the meaning given that term in section 397(12) of the Communications Act of 1934.

[(36) PUPIL SERVICES PERSONNEL; PUPIL SERVICES.—

[(A) PUPIL SERVICES PERSONNEL.—The term “pupil services personnel” means school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services (including related services as that term is defined in section 602 of the Individuals with Disabilities Education Act) as part of a comprehensive program to meet student needs.

[(B) PUPIL SERVICES.—The term “pupil services” means the services provided by pupil services personnel.

[(37) SCIENTIFICALLY BASED RESEARCH.—The term “scientifically based research”—

[(A) means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and

[(B) includes research that—

[(i) employs systematic, empirical methods that draw on observation or experiment;

[(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

[(iii) relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;

[(iv) is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;

[(v) ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and

[(vi) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

[(38) SECONDARY SCHOOL.—The term “secondary school” means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that the term does not include any education beyond grade 12.

[(39) SECRETARY.—The term “Secretary” means the Secretary of Education.

[STATE.—The term “State” means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

[(41) STATE EDUCATIONAL AGENCY.—The term “State educational agency” means the agency primarily responsible for the State supervision of public elementary schools and secondary schools.

[(42) TEACHER MENTORING.—The term “teacher mentoring” means activities that—

[(A) consist of structured guidance and regular and ongoing support for teachers, especially beginning teachers, that—

[(i) are designed to help the teachers continue to improve their practice of teaching and to develop their instructional skills; and

[(part of an ongoing developmental induction process—

[(I) involve the assistance of an exemplary teacher and other appropriate individuals from a school, local educational agency, or institution of higher education; and

[(II) may include coaching, classroom observation, team teaching, and reduced teaching loads; and

[(B) may include the establishment of a partnership by a local educational agency with an institution of higher education, another local educational agency, a teacher organization, or another organization.

[(43) TECHNOLOGY.—The term “technology” means state-of-the-art technology products and services.

[SEC. 9102. APPLICABILITY OF TITLE.

[Parts B, C, D, and E of this title do not apply to title VIII of this Act.

[SEC. 9103. APPLICABILITY TO BUREAU OF INDIAN AFFAIRS OPERATED SCHOOLS.

[For the purpose of any competitive program under this Act—

[(1) a consortium of schools operated by the Bureau of Indian Affairs;

[(2) a school operated under a contract or grant with the Bureau of Indian Affairs in consortium with another contract or grant school or a tribal or community organization; or

[(3) a Bureau of Indian Affairs school in consortium with an institution of higher education, a contract or grant school, or a tribal or community organization,

shall be given the same consideration as a local educational agency.

[PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

[SEC. 9201. CONSOLIDATION OF STATE ADMINISTRATIVE FUNDS FOR ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

[(a) CONSOLIDATION OF ADMINISTRATIVE FUNDS.—

[(1) IN GENERAL.—A State educational agency may consolidate the amounts specifically made available to it for State administration under one or more of the programs under paragraph (2) if the State educational agency can demonstrate that the majority of its resources are derived from non-Federal sources.

[(2) APPLICABILITY.—This section applies to any program under this Act under which funds are authorized to be used for administration, and such other programs as the Secretary may designate.

[(b) USE OF FUNDS.—

[(1) IN GENERAL.—A State educational agency shall use the amount available under this section for the administration of the programs included in the consolidation under subsection (a).

[(2) ADDITIONAL USES.—A State educational agency may also use funds available under this section for administrative activities designed to enhance the effective and coordinated use of funds under programs included in the consolidation under subsection (a), such as—

[(A) the coordination of those programs with other Federal and non-Federal programs;

[(B) the establishment and operation of peer-review mechanisms under this Act;

[(C) the administration of this title;

[(D) the dissemination of information regarding model programs and practices;

[(E) technical assistance under any program under this Act;

[(F) State-level activities designed to carry out this title;

[(G) training personnel engaged in audit and other monitoring activities; and

[(H) implementation of the Cooperative Audit Resolution and Oversight Initiative of the Department.

[(c) RECORDS.—A State educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of programs included in the consolidation under subsection (a).

[(d) REVIEW.—To determine the effectiveness of State administration under this section, the Secretary may periodically review the performance of State educational agencies in using consolidated administrative funds under this section and take such steps as the Secretary finds appropriate to ensure the effectiveness of that administration.

[(e) UNUSED ADMINISTRATIVE FUNDS.—If a State educational agency does not use all of the funds available to the agency under this section for administration, the agency may use those funds during the applicable period of availability as funds available under one or more programs included in the consolidation under subsection (a).

[(f) CONSOLIDATION OF FUNDS FOR STANDARDS AND ASSESSMENT DEVELOPMENT.—In order to develop challenging State academic standards and assessments, a State educational agency may consolidate the amounts described in subsection (a) for those purposes under title I.

[SEC. 9202. SINGLE LOCAL EDUCATIONAL AGENCY STATES.

[A State educational agency that also serves as a local educational agency shall, in its applications or plans under this Act, describe how the agency will eliminate duplication in conducting administrative functions.

[SEC. 9203. CONSOLIDATION OF FUNDS FOR LOCAL ADMINISTRATION.

[(a) GENERAL AUTHORITY.—In accordance with regulations of the Secretary and for any fiscal year, a local educational agency, with the approval of its State educational agency, may consolidate and use for the administration of one or more programs under this Act (or such other programs as the Secretary shall designate) not more than the percentage, established in each program, of the total available for the local educational agency under those programs.

[(b) STATE PROCEDURES.—Within 1 year after the date of enactment of the No Child Left Behind Act of 2001, a State educational agency shall, in collaboration with local educational agencies in the State, establish procedures for responding to requests from local educational agencies to consolidate administrative funds under subsection (a) and for establishing limitations on the amount of funds under those programs that may be used for administration on a consolidated basis.

[(c) CONDITIONS.—A local educational agency that consolidates administrative funds under this section for any fiscal year shall not

use any other funds under the programs included in the consolidation for administration for that fiscal year.

[(d) USES OF ADMINISTRATIVE FUNDS.—A local educational agency that consolidates administrative funds under this section may use the consolidated funds for the administration of the programs and for uses, at the school district and school levels, comparable to those described in section 9201(b)(2).

[(e) RECORDS.—A local educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of the programs included in the consolidation.

[SEC. 9204. CONSOLIDATED SET-ASIDE FOR DEPARTMENT OF THE INTERIOR FUNDS.

[(a) GENERAL AUTHORITY.—

[(1) TRANSFER.—The Secretary shall transfer to the Department of the Interior, as a consolidated amount for covered programs, the Indian education programs under part A of title VII, and the education for homeless children and youth program under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act, the amounts allotted to the Department of the Interior under those programs.

[(2) AGREEMENT.—

[(A) IN GENERAL.—The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of the programs specified in paragraph (1), for the distribution and use of those program funds under terms that the Secretary determines best meet the purposes of those programs.

[(B) CONTENTS.—The agreement shall—

[(i) set forth the plans of the Secretary of the Interior for the use of the amount transferred and the achievement measures to assess program effectiveness, including measurable goals and objectives; and

[(ii) be developed in consultation with Indian tribes.

[(b) ADMINISTRATION.—The Department of the Interior may use not more than 1.5 percent of the funds consolidated under this section for its costs related to the administration of the funds transferred under this section.

[PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

[SEC. 9301. PURPOSES.

[(The purposes of this part are—

[(1) to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery;

[(2) to provide greater flexibility to State and local authorities through consolidated plans, applications, and reporting; and

[(3) to enhance the integration of programs under this Act with State and local programs.

[SEC. 9302. OPTIONAL CONSOLIDATED STATE PLANS OR APPLICATIONS.**[(a) GENERAL AUTHORITY.—**

[(1) SIMPLIFICATION.—In order to simplify application requirements and reduce the burden for State educational agencies under this Act, the Secretary, in accordance with subsection (b), shall establish procedures and criteria under which, after consultation with the Governor, a State educational agency may submit a consolidated State plan or a consolidated State application meeting the requirements of this section for—

[(A) each of the covered programs in which the State participates; and

[(B) such other programs as the Secretary may designate.

[(2) CONSOLIDATED APPLICATIONS AND PLANS.—After consultation with the Governor, a State educational agency that submits a consolidated State plan or a consolidated State application under this section shall not be required to submit separate State plans or applications under any of the programs to which the consolidated State plan or consolidated State application under this section applies.

[(b) COLLABORATION.—

[(1) IN GENERAL.—In establishing criteria and procedures under this section, the Secretary shall collaborate with State educational agencies and, as appropriate, with other State agencies, local educational agencies, public and private nonprofit agencies, organizations, and institutions, private schools, and representatives of parents, students, and teachers.

[(2) CONTENTS.—Through the collaborative process described in paragraph (1), the Secretary shall establish, for each program under this Act to which this section applies, the descriptions, information, assurances, and other material required to be included in a consolidated State plan or consolidated State application.

[(3) NECESSARY MATERIALS.—The Secretary shall require only descriptions, information, assurances (including assurances of compliance with applicable provisions regarding participation by private school children and teachers), and other materials that are absolutely necessary for the consideration of the consolidated State plan or consolidated State application.

[SEC. 9303. CONSOLIDATED REPORTING.

[(a) IN GENERAL.—In order to simplify reporting requirements and reduce reporting burdens, the Secretary shall establish procedures and criteria under which a State educational agency, in consultation with the Governor of the State, may submit a consolidated State annual report.

[(b) CONTENTS.—The report shall contain information about the programs included in the report, including the performance of the State under those programs, and other matters as the Secretary determines are necessary, such as monitoring activities.

[(c) REPLACEMENT.—The report shall replace separate individual annual reports for the programs included in the consolidated State annual report.

[SEC. 9304. GENERAL APPLICABILITY OF STATE EDUCATIONAL AGENCY ASSURANCES.

[(a) ASSURANCES.—A State educational agency, in consultation with the Governor of the State, that submits a consolidated State plan or consolidated State application under this Act, whether separately or under section 9302, shall have on file with the Secretary a single set of assurances, applicable to each program for which the plan or application is submitted, that provides that—

[(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

[(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency, a nonprofit private agency, institution, or organization, or an Indian tribe, if the law authorizing the program provides for assistance to those entities; and

[(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer those funds and property to the extent required by the authorizing law;

[(3) the State will adopt and use proper methods of administering each such program, including—

[(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program;

[(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation; and

[(C) the adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of the programs;

[(4) the State will cooperate in carrying out any evaluation of each such program conducted by or for the Secretary or other Federal officials;

[(5) the State will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each such program;

[(6) the State will—

[(A) make reports to the Secretary as may be necessary to enable the Secretary to perform the Secretary's duties under each such program; and

[(B) maintain such records, provide such information to the Secretary, and afford such access to the records as the Secretary may find necessary to carry out the Secretary's duties; and

[(7) before the plan or application was submitted to the Secretary, the State afforded a reasonable opportunity for public comment on the plan or application and considered such comment.

[(b) GEPA PROVISION.—Section 441 of the General Education Provisions Act shall not apply to programs under this Act.

[SEC. 9305. CONSOLIDATED LOCAL PLANS OR APPLICATIONS.

[(a) GENERAL AUTHORITY.—

[(1) CONSOLIDATED PLAN.—A local educational agency receiving funds under more than one covered program may submit

plans or applications to the State educational agency under those programs on a consolidated basis.

[(2) AVAILABILITY TO GOVERNOR.—The State educational agency shall make any consolidated local plans and applications available to the Governor.

[(b) REQUIRED CONSOLIDATED PLANS OR APPLICATIONS.—A State educational agency that has an approved consolidated State plan or application under section 9302 may require local educational agencies in the State receiving funds under more than one program included in the consolidated State plan or consolidated State application to submit consolidated local plans or applications under those programs, but may not require those agencies to submit separate plans.

[(c) COLLABORATION.—A State educational agency, in consultation with the Governor, shall collaborate with local educational agencies in the State in establishing procedures for the submission of the consolidated State plans or consolidated State applications under this section.

[(d) NECESSARY MATERIALS.—The State educational agency shall require only descriptions, information, assurances, and other material that are absolutely necessary for the consideration of the local educational agency plan or application.

[SEC. 9306. OTHER GENERAL ASSURANCES.

[(a) ASSURANCES.—Any applicant, other than a State educational agency that submits a plan or application under this Act, whether separately or pursuant to section 9305, shall have on file with the State educational agency a single set of assurances, applicable to each program for which a plan or application is submitted, that provides that—

[(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

[(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to those entities; and

[(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer the funds and property to the extent required by the authorizing statutes;

[(3) the applicant will adopt and use proper methods of administering each such program, including—

[(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and

[(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation;

[(4) the applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary, or other Federal officials;

[(5) the applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the applicant under each such program;

[(6) the applicant will—

[(A) submit such reports to the State educational agency (which shall make the reports available to the Governor) and the Secretary as the State educational agency and Secretary may require to enable the State educational agency and the Secretary to perform their duties under each such program; and

[(B) maintain such records, provide such information, and afford such access to the records as the State educational agency (after consultation with the Governor) or the Secretary may reasonably require to carry out the State educational agency's or the Secretary's duties; and

[(7) before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and considered such comment.

[(b) GEPA PROVISION.—Section 442 of the General Education Provisions Act shall not apply to programs under this Act.

[PART D—WAIVERS

[SEC. 9401. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

[(a) IN GENERAL.—Except as provided in subsection (c), the Secretary may waive any statutory or regulatory requirement of this Act for a State educational agency, local educational agency, Indian tribe, or school through a local educational agency, that—

[(1) receives funds under a program authorized by this Act; and

[(2) requests a waiver under subsection (b).

[(b) REQUEST FOR WAIVER.—

[(1) IN GENERAL.—A State educational agency, local educational agency, or Indian tribe that desires a waiver shall submit a waiver request to the Secretary that—

[(A) identifies the Federal programs affected by the requested waiver;

[(B) describes which Federal statutory or regulatory requirements are to be waived and how the waiving of those requirements will—

[(i) increase the quality of instruction for students; and

[(ii) improve the academic achievement of students;

[(C) describes, for each school year, specific, measurable educational goals, in accordance with section 1111(b), for the State educational agency and for each local educational agency, Indian tribe, or school that would be affected by the waiver and the methods to be used to measure annually such progress for meeting such goals and outcomes;

[(D) explains how the waiver will assist the State educational agency and each affected local educational agency, Indian tribe, or school in reaching those goals; and

[(E) describes how schools will continue to provide assistance to the same populations served by programs for which waivers are requested.

[(2) ADDITIONAL INFORMATION.—Such requests—

[(A) may provide for waivers of requirements applicable to State educational agencies, local educational agencies, Indian tribes, and schools; and

[(B) shall be developed and submitted—

[(i)(I) by local educational agencies (on behalf of those agencies and schools) to State educational agencies; and

[(II) by State educational agencies (on behalf of, and based on the requests of, local educational agencies) to the Secretary; or

[(ii) by Indian tribes (on behalf of schools operated by the tribes) to the Secretary.

[(3) GENERAL REQUIREMENTS.—

[(A) STATE EDUCATIONAL AGENCIES.—In the case of a waiver request submitted by a State educational agency acting on its own behalf, the State educational agency shall—

[(i) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

[(ii) submit the comments to the Secretary; and

[(iii) provide notice and information to the public regarding the waiver request in the manner in which the applying agency customarily provides similar notices and information to the public.

[(B) LOCAL EDUCATIONAL AGENCIES.—In the case of a waiver request submitted by a local educational agency that receives funds under this Act—

[(i) the request shall be reviewed by the State educational agency and be accompanied by the comments, if any, of the State educational agency; and

[(ii) notice and information regarding the waiver request shall be provided to the public by the agency requesting the waiver in the manner in which that agency customarily provides similar notices and information to the public.

[(c) RESTRICTIONS.—The Secretary shall not waive under this section any statutory or regulatory requirements relating to—

[(1) the allocation or distribution of funds to States, local educational agencies, or other recipients of funds under this Act;

[(2) maintenance of effort;

[(3) comparability of services;

[(4) use of Federal funds to supplement, not supplant, non-Federal funds;

[(5) equitable participation of private school students and teachers;

[(6) parental participation and involvement;

[(7) applicable civil rights requirements;

[(8) the requirement for a charter school under subpart 1 of part B of title V;

[(9) the prohibitions regarding—

[(A) State aid in section 9522;

[(B) use of funds for religious worship or instruction in section 9505; and

[(C) activities in section 9526; or

[(10) the selection of a school attendance area or school under subsections (a) and (b) of section 1113, except that the Secretary may grant a waiver to allow a school attendance area or school to participate in activities under part A of title I if the percentage of children from low-income families in the school attendance area or who attend the school is not more than 10 percentage points below the lowest percentage of those children for any school attendance area or school of the local educational agency that meets the requirements of subsections (a) and (b) of section 1113.

[(d) DURATION AND EXTENSION OF WAIVER.—

[(1) IN GENERAL.—Except as provided in paragraph (2), a waiver approved by the Secretary under this section may be for a period not to exceed 4 years.

[(2) EXTENSION.—The Secretary may extend the period described in paragraph (1) if the Secretary determines that—

[(A) the waiver has been effective in enabling the State or affected recipient to carry out the activities for which the waiver was requested and the waiver has contributed to improved student achievement; and

[(B) the extension is in the public interest.

[(e) REPORTS.—

[(1) LOCAL WAIVER.—A local educational agency that receives a waiver under this section shall, at the end of the second year for which a waiver is received under this section and each subsequent year, submit a report to the State educational agency that—

[(A) describes the uses of the waiver by the agency or by schools;

[(B) describes how schools continued to provide assistance to the same populations served by the programs for which waivers were granted; and

[(C) evaluates the progress of the agency and of schools in improving the quality of instruction or the academic achievement of students.

[(2) STATE WAIVER.—A State educational agency that receives reports required under paragraph (1) shall annually submit a report to the Secretary that is based on those reports and contains such information as the Secretary may require.

[(3) INDIAN TRIBE WAIVER.—An Indian tribe that receives a waiver under this section shall annually submit a report to the Secretary that—

[(A) describes the uses of the waiver by schools operated by the tribe; and

[(B) evaluates the progress of those schools in improving the quality of instruction or the academic achievement of students.

[(4) REPORT TO CONGRESS.—Beginning in fiscal year 2002 and for each subsequent year, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report—

[(A) summarizing the uses of waivers by State educational agencies, local educational agencies, Indian tribes, and schools; and

[(B) describing whether the waivers—

[(i) increased the quality of instruction to students;

or

[(ii) improved the academic achievement of students.

[(f) TERMINATION OF WAIVERS.—The Secretary shall terminate a waiver under this section if the Secretary determines, after notice and an opportunity for a hearing, that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver or if the waiver is no longer necessary to achieve its original purposes.

[(g) PUBLICATION.—A notice of the Secretary's decision to grant each waiver under subsection (a) shall be published in the Federal Register and the Secretary shall provide for the dissemination of the notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, and the public.

[PART E—UNIFORM PROVISIONS

[Subpart 1—Private Schools

[SEC. 9501. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.

[(a) PRIVATE SCHOOL PARTICIPATION.—

[(1) IN GENERAL.—Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in areas served by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or another entity receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary schools and secondary schools in areas served by such agency, consortium, or entity, the agency, consortium, or entity shall, after timely and meaningful consultation with appropriate private school officials provide to those children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits that address their needs under the program.

[(2) SECULAR, NEUTRAL, AND NONIDEOLOGICAL SERVICES OR BENEFITS.—Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.

[(3) SPECIAL RULE.—Educational services and other benefits provided under this section for private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in the program and shall be provided in a timely manner.

[(4) EXPENDITURES.—Expenditures for educational services and other benefits provided under this section for eligible private school children, their teachers, and other educational personnel serving those children shall be equal, taking into ac-

count the number and educational needs of the children to be served, to the expenditures for participating public school children.

[(5) PROVISION OF SERVICES.—An agency, consortium, or entity described in subsection (a)(1) of this section may provide those services directly or through contracts with public and private agencies, organizations, and institutions.

[(b) APPLICABILITY.—

[(1) IN GENERAL.—This section applies to programs under—

[(A) subparts 1 and 3 of part B of title I;

[(B) part C of title I;

[(C) part A of title II, to the extent provided in paragraph (3);

[(D) part B of title II;

[(E) part D of title II;

[(F) part A of title III;

[(G) part A of title IV; and

[(H) part B of title IV.

[(2) DEFINITION.—For the purpose of this section, the term “eligible children” means children eligible for services under a program described in paragraph (1).

[(3) APPLICATION.—(A) Except as provided in subparagraph (B), this subpart, including subsection (a)(4), applies to funds awarded to a local educational agency under part A of title II only to the extent that the local educational agency uses funds under that part to provide professional development to teachers and others.

[(B) Subject to subparagraph (A), the share of the local educational agency’s subgrant under part A of title II that is used for professional development and subject to a determination of equitable expenditures under subsection (a)(4) shall not be less than the aggregate share of that agency’s awards that were used for professional development for fiscal year 2001 under section 2203(1)(B) (as such section was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001) and section 306 of the Department of Education Appropriations Act, 2001.

[(c) CONSULTATION.—

[(1) IN GENERAL.—To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity shall consult with appropriate private school officials during the design and development of the programs under this Act, on issues such as—

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

[(B) what services will be offered;

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

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

[(E) the size and scope of the equitable services to be provided to the eligible private school children, teachers, and other educational personnel and the amount of funds available for those services; and

[(F) how and when the agency, consortium, or entity will make decisions about the delivery of services, including a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third-party providers.

[(2) DISAGREEMENT.—If the agency, consortium, or entity disagrees with the views of the private school officials on the provision of services through a contract, the agency, consortium, or entity shall provide to the private school officials a written explanation of the reasons why the local educational agency has chosen not to use a contractor.

[(3) TIMING.—The consultation required by paragraph (1) shall occur before the agency, consortium, or entity makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act, and shall continue throughout the implementation and assessment of activities under this section.

[(4) DISCUSSION REQUIRED.—The consultation required by paragraph (1) shall include a discussion of service delivery mechanisms that the agency, consortium, or entity could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.

[(d) PUBLIC CONTROL OF FUNDS.—

[(1) IN GENERAL.—The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer the funds and property.

[(2) PROVISION OF SERVICES.—

[(A) IN GENERAL.—The provision of services under this section shall be provided—

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

[(ii) through contract by the public agency with an individual, association, agency, organization, or other entity.

[(B) INDEPENDENCE; PUBLIC AGENCY.—In the provision of those services, the employee, person, association, agency, organization, or other entity shall be independent of the private school and of any religious organization, and the employment or contract shall be under the control and supervision of the public agency.

[(C) COMMINGLING OF FUNDS PROHIBITED.—Funds used to provide services under this section shall not be commingled with non-Federal funds.

[SEC. 9502. STANDARDS FOR BY-PASS.

[(a) IN GENERAL.—If, by reason of any provision of law, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or other entity is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary schools and secondary schools, on an equitable basis, or if the Secretary determines that the agency, consortium, or entity has substantially failed or is unwilling to provide for that participation, as required by section 9501, the Secretary shall—

[(1) waive the requirements of that section for the agency, consortium, or entity; and

[(2) arrange for the provision of equitable services to those children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 9501, 9503, and 9504.

[(b) DETERMINATION.—In making the determination under subsection (a), the Secretary shall consider one or more factors, including the quality, size, scope, and location of the program, and the opportunity of private school children, teachers, and other educational personnel to participate in the program.

[SEC. 9503. COMPLAINT PROCESS FOR PARTICIPATION OF PRIVATE SCHOOL CHILDREN.

[(a) PROCEDURES FOR COMPLAINTS.—The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations of section 9501 by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity. The individual or organization shall submit the complaint to the State educational agency for a written resolution by the State educational agency within a reasonable period of time.

[(b) APPEALS TO SECRETARY.—The resolution may be appealed by an interested party to the Secretary not later than 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within a reasonable period of time. The appeal shall be accompanied by a copy of the State educational agency's resolution, and a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve the appeal not later than 120 days after receipt of the appeal.

[Subpart 2—Other Provisions

[SEC. 9521. MAINTENANCE OF EFFORT.

[(a) IN GENERAL.—A local educational agency may receive funds under a covered program for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of the agency and the State with respect to the provision of free public education by the agency for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

[(b) REDUCTION IN CASE OF FAILURE TO MEET.—

[(1) IN GENERAL.—The State educational agency shall reduce the amount of the allocation of funds under a covered program in any fiscal year in the exact proportion by which a local educational agency fails to meet the requirement of subsection (a) of this section by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to the local agency).

[(2) SPECIAL RULE.—No such lesser amount shall be used for computing the effort required under subsection (a) of this section for subsequent years.

[(c) WAIVER.—The Secretary may waive the requirements of this section if the Secretary determines that a waiver would be equitable due to—

[(1) exceptional or uncontrollable circumstances, such as a natural disaster; or

[(2) a precipitous decline in the financial resources of the local educational agency.

[SEC. 9526. GENERAL PROHIBITIONS.

[(a) PROHIBITION.—None of the funds authorized under this Act shall be used—

[(1) to develop or distribute materials, or operate programs or courses of instruction directed at youth, that are designed to promote or encourage sexual activity, whether homosexual or heterosexual;

[(2) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;

[(3) to provide sex education or HIV-prevention education in schools unless that instruction is age appropriate and includes the health benefits of abstinence; or

[(4) to operate a program of contraceptive distribution in schools.

[(b) LOCAL CONTROL.—Nothing in this section shall be construed to—

[(1) authorize an officer or employee of the Federal Government to mandate, direct, review, or control a State, local educational agency, or school's instructional content, curriculum, and related activities;

[(2) limit the application of the General Education Provisions Act;

[(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

[(4) create any legally enforceable right.

[SEC. 9527. PROHIBITIONS ON FEDERAL GOVERNMENT AND USE OF FEDERAL FUNDS.

[(a) GENERAL PROHIBITION.—Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

[(b) PROHIBITION ON ENDORSEMENT OF CURRICULUM.—Notwithstanding any other prohibition of Federal law, no funds provided to the Department under this Act may be used by the Department to endorse, approve, or sanction any curriculum designed to be used in an elementary school or secondary school.

[(c) PROHIBITION ON REQUIRING FEDERAL APPROVAL OR CERTIFICATION OF STANDARDS.—

[(1) IN GENERAL.—Notwithstanding any other provision of Federal law, no State shall be required to have academic content or student academic achievement standards approved or certified by the Federal Government, in order to receive assistance under this Act.

[(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to affect requirements under title I or part A of title VI.

[(d) RULE OF CONSTRUCTION ON BUILDING STANDARDS.—Nothing in this Act shall be construed to mandate national school building standards for a State, local educational agency, or school.

[SEC. 9528. ARMED FORCES RECRUITER ACCESS TO STUDENTS AND STUDENT RECRUITING INFORMATION.

[(a) POLICY.—

[(1) ACCESS TO STUDENT RECRUITING INFORMATION.—Notwithstanding section 444(a)(5)(B) of the General Education Provisions Act and except as provided in paragraph (2), each local educational agency receiving assistance under this Act shall provide, on a request made by military recruiters or an institution of higher education, access to secondary school students names, addresses, and telephone listings.

[(2) CONSENT.—A secondary school student or the parent of the student may request that the student's name, address, and telephone listing described in paragraph (1) not be released without prior written parental consent, and the local educational agency or private school shall notify parents of the option to make a request and shall comply with any request.

[(3) SAME ACCESS TO STUDENTS.—Each local educational agency receiving assistance under this Act shall provide military recruiters the same access to secondary school students as is provided generally to post secondary educational institutions or to prospective employers of those students.

[(b) NOTIFICATION.—The Secretary, in consultation with the Secretary of Defense, shall, not later than 120 days after the date of enactment of the No Child Left Behind Act of 2001, notify principals, school administrators, and other educators about the requirements of this section.

[(c) EXCEPTION.—The requirements of this section do not apply to a private secondary school that maintains a religious objection to service in the Armed Forces if the objection is verifiable through the corporate or other organizational documents or materials of that school.

[(d) SPECIAL RULE.—A local educational agency prohibited by Connecticut State law (either explicitly by statute or through statutory interpretation by the State Supreme Court or State Attorney General) from providing military recruiters with information or access as required by this section shall have until May 31, 2002, to comply with that requirement.

[SEC. 9529. PROHIBITION ON FEDERALLY SPONSORED TESTING.

[(a) GENERAL PROHIBITION.—Notwithstanding any other provision of Federal law and except as provided in subsection (b), no funds provided under this Act to the Secretary or to the recipient of any award may be used to develop, pilot test, field test, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

[(b) EXCEPTIONS.—Subsection (a) shall not apply to international comparative assessments developed under the authority of section 153(a)(5) of the Education Sciences Reform Act of 2002 and admin-

istered to only a representative sample of pupils in the United States and in foreign nations.

[SEC. 9530. LIMITATIONS ON NATIONAL TESTING OR CERTIFICATION FOR TEACHERS.

[(a) MANDATORY NATIONAL TESTING OR CERTIFICATION OF TEACHERS.—Notwithstanding any other provision of this Act or any other provision of law, no funds available to the Department or otherwise available under this Act may be used for any purpose relating to a mandatory nationwide test or certification of teachers or education paraprofessionals, including any planning, development, implementation, or administration of such test or certification.

[(b) PROHIBITION ON WITHHOLDING FUNDS.—The Secretary is prohibited from withholding funds from any State educational agency or local educational agency if the State educational agency or local educational agency fails to adopt a specific method of teacher or paraprofessional certification.

[SEC. 9532. UNSAFE SCHOOL CHOICE OPTION.

[(a) UNSAFE SCHOOL CHOICE POLICY.—Each State receiving funds under this Act shall establish and implement a statewide policy requiring that a student attending a persistently dangerous public elementary school or secondary school, as determined by the State in consultation with a representative sample of local educational agencies, or who becomes a victim of a violent criminal offense, as determined by State law, while in or on the grounds of a public elementary school or secondary school that the student attends, be allowed to attend a safe public elementary school or secondary school within the local educational agency, including a public charter school.

[(b) CERTIFICATION.—As a condition of receiving funds under this Act, a State shall certify in writing to the Secretary that the State is in compliance with this section.

[SEC. 9535. RULEMAKING.

[The Secretary shall issue regulations under this Act only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this Act.

[SEC. 9536. SEVERABILITY.

[If any provision of this Act is held invalid, the remainder of this Act shall be unaffected thereby.

[PART F—EVALUATIONS

[SEC. 9601. EVALUATIONS.

[(a) RESERVATION OF FUNDS.—Except as provided in subsections (b) and (c), the Secretary may reserve not more than 0.5 percent of the amount appropriated to carry out each categorical program and demonstration project authorized under this Act—

[(1) to conduct—

[(A) comprehensive evaluations of the program or project; and

[(B) studies of the effectiveness of the program or project and its administrative impact on schools and local educational agencies;

[(2) to evaluate the aggregate short- and long-term effects and cost efficiencies across Federal programs assisted or authorized under this Act and related Federal preschool, elementary, and secondary programs under any other Federal law; and

[(3) to increase the usefulness of evaluations of grant recipients in order to ensure the continuous progress of the program or project by improving the quality, timeliness, efficiency, and use of information relating to performance under the program or project.

[(b) TITLES I AND III EXCLUDED.—The Secretary may not reserve under subsection (a) funds appropriated to carry out any program authorized under title I or title III.

[(c) EVALUATION ACTIVITIES AUTHORIZED ELSEWHERE.—If, under any other provision of this Act (other than title I), funds are authorized to be reserved or used for evaluation activities with respect to a program or project, the Secretary may not reserve additional funds under this section for the evaluation of that program or project.]

SECTION 602 OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

SEC. 602. DEFINITIONS.

Except as otherwise provided, in this title:

(1) * * *

* * * * *

[(10) HIGHLY QUALIFIED.—

[(A) IN GENERAL.—For any special education teacher, the term “highly qualified” has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965, except that such term also—

[(i) includes the requirements described in subparagraph (B); and

[(ii) includes the option for teachers to meet the requirements of section 9101 of such Act by meeting the requirements of subparagraph (C) or (D).

[(B) REQUIREMENTS FOR SPECIAL EDUCATION TEACHERS.—When used with respect to any public elementary school or secondary school special education teacher teaching in a State, such term means that—

[(i) the teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State’s public charter school law;

[(ii) the teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

[(iii) the teacher holds at least a bachelor's degree.

[(C) SPECIAL EDUCATION TEACHERS TEACHING TO ALTERNATE ACHIEVEMENT STANDARDS.—When used with respect to a special education teacher who teaches core academic subjects exclusively to children who are assessed against alternate achievement standards established under the regulations promulgated under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965, such term means the teacher, whether new or not new to the profession, may either—

[(i) meet the applicable requirements of section 9101 of such Act for any elementary, middle, or secondary school teacher who is new or not new to the profession; or

[(ii) meet the requirements of subparagraph (B) or (C) of section 9101(23) of such Act as applied to an elementary school teacher, or, in the case of instruction above the elementary level, has subject matter knowledge appropriate to the level of instruction being provided, as determined by the State, needed to effectively teach to those standards.

[(D) SPECIAL EDUCATION TEACHERS TEACHING MULTIPLE SUBJECTS.—When used with respect to a special education teacher who teaches 2 or more core academic subjects exclusively to children with disabilities, such term means that the teacher may either—

[(i) meet the applicable requirements of section 9101 of the Elementary and Secondary Education Act of 1965 for any elementary, middle, or secondary school teacher who is new or not new to the profession;

[(ii) in the case of a teacher who is not new to the profession, demonstrate competence in all the core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher who is not new to the profession under section 9101(23)(C)(ii) of such Act, which may include a single, high objective uniform State standard of evaluation covering multiple subjects; or

[(iii) in the case of a new special education teacher who teaches multiple subjects and who is highly qualified in mathematics, language arts, or science, demonstrate competence in the other core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher under section 9101(23)(C)(ii) of such Act, which may include a single, high objective uniform State standard of evaluation covering multiple subjects, not later than 2 years after the date of employment.

[(E) RULE OF CONSTRUCTION.—Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this section or part shall be construed to create a right of action on behalf

of an individual student or class of students for the failure of a particular State educational agency or local educational agency employee to be highly qualified.

[(F) DEFINITION FOR PURPOSES OF THE ESEA.—A teacher who is highly qualified under this paragraph shall be considered highly qualified for purposes of the Elementary and Secondary Education Act of 1965.]

* * * * *

MINORITY VIEWS

OVERVIEW

Committee Democrats adamantly and unanimously oppose H.R. 3989, the Student Success Act. All present Democratic members voted in opposition to the legislation during its consideration in Committee on February 28, 2012. While we believe the No Child Left Behind Act (NCLB) is long-overdue for reauthorization, H.R. 3989 does not set forth a reauthorization that would improve student education, but instead would turn the clock back decades on equity and accountability in American public education. Additionally, the partisan path the Committee Republicans chose to take with this legislation lacks the consensus and bipartisanship necessary to complete a reauthorization of this important law this Congress.

The Committee Democrats oppose H.R. 3989 because it short-changes students, weakens accountability in education, and fails to update current law to take the public education system into the 21st century. This opposition is shared by the majority of the education, civil rights and business community. The bill dismantles equity in education for all students regardless of poverty, disability, or other challenges. The Republican bill eliminates critical supports and accountability to provide a balanced and effective education to every child. Unfortunately, the legislation sends an unambiguous signal that college and career readiness is not a national priority.

Given the urgent need to fix current law and to address the fatal flaws of H.R. 3989, Democrats offered at mark-up a comprehensive substitute to the Republican bill that demonstrates a positive vision for the reauthorization and a path forward. The Democrats' proposal garnered support from the civil rights, education, and business communities. Additionally, Democrats opposed Republican amendments to H.R. 3989 because the proposed small changes would not have fixed the fundamental flaws in the underlying bill.

Committee Democrats believe that the reauthorization of NCLB must build upon what we have learned over the last 10 years and take advantage of and support the advancements that have been made in that time. We also believe the reauthorization should not dismantle the equity and civil rights aspects of current law. Democrats believe the reauthorization should support college and career ready standards and a modern assessment system. Federal policy should support an accountability system that includes meaningful goals and targets for improving student achievement and a school improvement system that gives schools and districts flexibility in how they achieve those goals.

By taking this partisan approach, Committee Republicans effectively ensure that NCLB will remain the law of the land, denying

the nation's students and schools the reforms they need to move forward.

H.R. 3989 UNDERMINES THE FEDERAL ROLE IN EDUCATION TO
PROMOTE EQUAL OPPORTUNITY

With the passage of the first Elementary and Secondary Education Act (ESEA) in 1965, in response to the *Brown vs. Board of Education* decision, the federal role in education has been focused on ensuring equal opportunity in education. It has been about ensuring that our nation's public schools are giving students a fair chance at a future of their choice and not locking them into their station in life. Economic mobility is a hallmark and measure of equal opportunity in our nation—access to a high quality education is the only sure path to achieve this security.

The federal interest in a strong public education system is grounded in civil rights, economic, and national security concerns. All three areas are threatened by an elementary and secondary educational system that is not held accountable for supporting the potential of all our nation's students. Unfortunately, H.R. 3989 both undermines the promise of the Brown decision, and the federal role in supporting a strong public education system that promotes civil rights, that feeds a strong economy, and that builds our national security.

STANDARDS AND ASSESSMENTS

H.R. 3989 does not support the national consensus for college and career ready standards to ensure students graduate ready to succeed and, despite the advances in technology, it fails to modernize assessments to measure progress towards those standards. The bill does not contain requirements that States set high standards to graduate students who are college and career-ready. Current law requires states to establish standards, but does not assess the rigor of those standards. NCLB did not have a check on the rigor of assessments, and since it was enacted, some States chose to lower their standards. In fact, according to a 2009 NAEP State Mapping Analysis, 15 states lowered their proficiency standards in fourth- or eighth-grade reading or math from 2005 to 2007. As a result, stakeholders from civil rights groups, business groups, and educators believe that reauthorization must ensure that academic standards help students graduate prepared for college and careers.

However, instead of modernizing the law, H.R. 3989 weakens current law by not establishing parameters on quality standards, and it even goes as far as to eliminate use of the word "challenging" with regard to standards. The bill also removes the requirement in current law that requires States to establish science standards and assessments. As currently required by NCLB, all States have science standards and assessments which are administered once per grade span. The elimination of this requirement clearly demonstrates the legislation's lack of attention to the workforce needs of American business in a global economy.

High-quality assessments are essential to measure our progress as a nation and to ensure we have reliable data to improve student achievement, instruction, and schools. H.R. 3989 does not support the development of high-quality assessments. The bill, similar to

current law, requires annual English and math assessments in grades 3–8 and once in high schools. It also requires assessments to measure growth. Unfortunately, the legislation does not ensure assessments are high-quality, reflect the advancements in assessments over the past decade, or even require that states differentiate achievement levels of students. Additionally, H.R. 3989 eliminates the Grants for State Assessments program which supports State development of high-quality assessments. High-quality assessment systems are expensive to develop but critical to effectively measuring student achievement and to supporting improvements in teaching and learning. This assessment program provides critical support to States to develop the next generation of assessments.

H.R. 3989 also fails to ensure all children are held to high expectations by permitting States to develop alternate achievement standards for students with the most significant cognitive disabilities but does not establish any parameters to determine which students should be assessed in this category. Additionally, the bill would eliminate the current regulation that caps at one percent the number of students assessed alternatively. This regulation ensures schools are still held accountable for the achievement of students with disabilities.

By eliminating the cap, H.R. 3989 permits all students with disabilities to be held to lower standards and given different assessments, effectively allowing those students to be educated in a parallel but lesser system. As a result, large numbers of students with disabilities could be prevented from receiving a regular high school diploma. Additionally, this bill would create a perverse incentive to over-identify children for special education to include them in the lower standard. Low-income and minority students are already over-represented in special education, and this legislation could exacerbate that problem.

ACCOUNTABILITY AND SCHOOL IMPROVEMENT

One of the most critical aspects of NCLB was that, for the first time, schools were held accountable for the performance of all students, including student subgroups, and they were required to take action when student achievement failed to improve. Over the last ten years, NCLB's accountability system has received both more praise and criticism than any other aspect of the law. Accordingly, Democrats firmly believe that the accountability and school improvement system must be updated to reflect what we have learned over the last ten years, but without abandoning a focus on accountability.

Unfortunately, H.R. 3989 would allow States to establish weak accountability systems that would not require performance targets for student achievement, would not require schools take action to improve low performance, and would not ensure all students have access to high-quality schools. H.R. 3989 provides no federal guardrails on accountability for student achievement and does not support the expectation that all students should graduate high school. The lack of quality and consistency in the state systems combined with weak standards and low-quality assessments would provide little transparency for how schools are evaluated and little consist-

ency from district to district or state to state. Therefore, student performance, specifically for subgroups, could again be masked and go unaddressed, as they did prior to NCLB.

H.R. 3989 does not require states to establish overall goals for student achievement or to establish performance targets to measure progress toward that goal. In addition, despite clear consensus on the need for graduation rate accountability to be paired with accountability for student achievement to ensure low-performing students do not get pushed out of school, H.R. 3989 does not include graduation rates. Further, the bill dismantles current regulations requiring states have and utilize meaningful graduation rate accountability.

Additionally, while H.R. 3989 requires school improvement systems be established, it does not establish any parameters for identifying schools for improvement. Therefore, there is no assurance that schools that are failing to improve student achievement will be required to take action to improve. Worse, the students in those schools will not be provided with an assurance that they have the right to a better education. Specifically, H.R. 3989 does not define low-performing schools or establish any parameters on interventions in such schools. The bill does not establish timelines for improvement or consequences if schools do not improve, thereby leaving students to languish in low-performing schools.

H.R. 3989 also fails to recognize the critical role of the Department of Education in implementing the law by prohibiting the Secretary of Education from providing guidance on any of the bill's standards, assessments, or accountability provisions. This shortsighted and highly partisan legislative approach assumes a perfect bill in need of no future clarification or guidance and a stagnant education system. Under the bill, the Secretary would be prohibited from simply assisting states with guidance when implementation on the ground may be unclear or challenging. Additionally, this provision would ensure that regulations, including those establishing requirements on graduation rates or the one percent cap on the number of students taking alternate assessments, could not be upheld.

H.R. 3989 also removes current law protections on collective bargaining rights. Current law ensures that teachers are included in the school improvement process and are not sidelined. The removal of this provision ignores both the rights of teachers to collectively bargain and their important role in improving student achievement.

FISCAL RESPONSIBILITY AND "FLEXIBILITY"

H.R. 3989 undermines fiscal responsibility for special populations of students, reduces fiscal transparency, and cuts education funding.

Special populations

Under the guise of flexibility, H.R. 3989 attacks the rights of special populations of students. H.R. 3989 consolidates the following programs as percentage set-asides under Title I, Part A: English Language Learners (currently Title III); Education of Migratory Children (currently Title I-C); Indian, Native American and Alaska

Native Education (currently Title VII); Neglected and Delinquent Students (currently Title I–D); and Rural Education Initiative (currently Title VI–B). The bill also allows for funds to be shared across what would be the new Title I, Part A, permitting states and districts to siphon funds away from the very populations that drive certain ESEA funding allocations and that the law intended to serve.

The Republicans claim these current law funding streams are inflexible, but the reality is states and districts have few, if any, restrictions on how the funding can be used. The only restriction is on whom the funding be used in order to support the populations for which they are intended. The Republicans additionally claim that they maintain the funding streams for these populations, but they merely make them a percentage set-aside of Title I and then allow complete flexibility in how districts utilize those funds.

Current law establishes separate funding streams to help ensure the needs of English language learners, migrant students, neglected and delinquent students, and Indian students are being met. Title III, part A of the Elementary and Secondary Education Act was created, after the *Lau vs Nichols* Supreme Court ruling, to help ensure that English learners attain English proficiency, develop high levels of academic attainment in English, and meet the same state academic content and student academic achievement standards that all students are expected to meet. This program supports 4.5 million English learners in the United States. The educational needs of migrant children go well beyond those traditionally supported by state and local budgets, and, due to their high mobility, no single state or district is responsible for their education. In turn, the schools that serve high concentrations of migrant students are among the Nation's highest-need schools. Title I, Part C was created to provide additional funding to support migrant students. This program currently serves about 500,000 students. Authorized over 40 years ago, Title I, part D creates both a state and local program intended to improve educational services for students who are neglected, delinquent, or at risk of dropping out of school. This program currently serves over 100,000 students. Indian children are subject to significant risk factors that threaten their academic success and overall well-being. To help schools address their unique needs, Congress established Title VII, part A of ESEA. This program currently serves about 500,000 students.

Democrats believe funding allocated based on the number of children in need of services from the number of migrant students, the number of neglected or delinquent students, the number of English Language Learners, or the number of American Indian students should be used for services for those students to improve educational outcomes for those students. Increasing flexibility is needed in this reauthorization, but it must be grounded in increasing equity and improving student achievement. This flexibility can be accomplished by aligning data and allowing flexibility in school improvement. Arbitrary flexibility policies, as put forth by H.R. 3989, undermine equality of opportunity and hinder our economic competitiveness.

Fiscal accountability

H.R. 3989 also eliminates fiscal accountability by striking the current law “maintenance of effort” provisions (MOE). Under the Republican bill, states and districts will be able to reduce their nonfederal education spending without any penalty. This provision will allow states and districts to use education funds for tax relief or other initiatives unrelated to education, rather than efforts to support students.

Under current law, MOE requires districts receiving Title I funds to spend at least 90 percent of what they spent in the previous year from nonfederal sources. This helps to prevent big decreases in education investment, whether driven by tough budget times or genuine desire to reduce education funding. The Republicans claim the MOE provision is a “federal overreach,” but maintenance of effort makes requirements about the levels of state and local spending, not about how money should be spent.

Committee Republicans claim that because they maintain the “supplement, not supplant” provision they maintain fiscal accountability. However, eliminating the maintenance of effort requirement and providing complete flexibility in how districts spend their federal dollars, means there is no way under H.R. 3989 to actually measure whether districts are using federal money to supplement not supplant local money. “Supplement, not supplant” will become meaningless, and education spending across the country will decrease. Democrats believe the maintenance of effort provision must be maintained to ensure tax dollars are being spent responsibly.

Funding

H.R. 3989 caps funding at FY 11 appropriations levels and caps annual increases based on the inflation rate. Democrats believe education funding should not be held to arbitrary caps and that funding should reflect national need and priority if our nation is to remain globally competitive.

WAIVER AUTHORITY

H.R. 3989 limits the waiver authority of the Secretary of Education, apparently in response to the voluntary flexibility offered by the Department of Education to certain provisions of current law. In February of 2012, 11 states were approved to receive waivers and an additional 28 had signaled their intention to voluntarily apply for this flexibility.

While Committee Republicans have questioned the legal authority of the Department of Education to grant conditional waivers, Sec. 9401 of current law clearly provides the Secretary of Education broad waiver authority. The waiver authority currently used by the Secretary of Education mirrors authority used by Secretary Margaret Spellings to administer the Differentiated Accountability Pilot and for the Growth Model Pilot.

Additionally, the nonpartisan Congressional Research Service (CRS) in their February 2012 report entitled *Educational Accountability and Secretarial Waiver Authority Under the ESEA* and in a June 2011 memo to the Committee on Education and the Workforce Majority Committee Staff has explained the legal authority of

the Department of Education to provide this flexibility. In the February report, CRS states:

Based on the plain language of the statute, the scope of ED's waiver authority appears to be quite broad, suggesting that ED may indeed have the authority to waive the various requirements of the ESEA specified in its flexibility proposal. This interpretation is bolstered by the fact that, although the ESEA previously contained similar waiver authority, Congress expressly enacted the current waiver provisions as part of the No Child Left Behind Act amendments to the ESEA, signaling that Congress clearly understood and intended for ED to waive the requirements of that act when appropriate.

The report further states:

. . . the courts will generally uphold an agency's exercise of its statutory waiver authority so long as the agency develops an adequate record regarding its decision to grant a waiver and ensures that the waiver is granted consistent with the statutory purposes and procedures set forth in the section authorizing such waivers. As a result, it appears that ED does have the authority to waive ESEA statutory requirements related to issues such as academic standards and assessments; accountability requirements, including the timeline by which all students are to be proficient in reading/language arts and mathematics; school improvement, corrective action, and restructuring requirements; and public school choice and supplemental educational services, as long as ED develops the aforementioned adequate record and ensures that the waiver is granted consistent with the statutory purposes and procedures set forth in Section 9401.

CRS also highlights the voluntary nature of the waivers currently offered by the Department of Education.

BROAD OPPOSITION TO H.R. 3989

H.R. 3989 was opposed by a broad array of education, civil rights and business organizations. Over 200 groups, representing students, teachers, school leaders, parents, and business wrote letters in opposition to H.R. 3989. Some of the groups in opposition include: the U.S. Chamber of Commerce, the Education Trust, the Leadership Conference on Civil and Human Rights, the Consortium for Citizens with Disabilities, the National PTA, the Business Coalition for Student Achievement, the National Center for Learning Disabilities, the Lawyers' Committee for Civil Rights Under Law, MALDEF, NAACP, National Council of La Raza, the Council for Exceptional Children, the National Education Association, the National Association of Elementary School Principals, the National Association of Secondary School Principals, the American Federation of Teachers, the Children's Defense Fund, National Disability Rights Network, Council of Chief State School Officers, and the Council of the Great City Schools.

Additionally, the Congressional Black Caucus, the Congressional Hispanic Caucus, and the Congressional Asian Pacific American

Caucus wrote a letter in opposition to H.R. 3989 citing “the potentially grave consequences” of this bill on students and communities.

DEMOCRATIC VISION FOR ESEA REAUTHORIZATION—SUBSTITUTE
AMENDMENT

Given the significant concerns across H.R. 3989, Democrats offered a full substitute to the Republican bill and did not support any small fixes through other amendments.

The Democratic substitute would support a 21st century education system and ensure all students have access to a world-class education. Democrats offered a full substitute amendment for H.R. 3989 that struck all of H.R. 3989 and amended Title I, part A of ESEA by eliminating the inflexible and outdated provisions of NCLB and requiring states and LEA’s to adopt strong but flexible and achievable standards, assessments, and accountability reforms that ensure all students graduate high school prepared for college and the workforce.

Standards and assessments

In order to ensure students graduate high school prepared to enter the workforce or college without the need for remediation, the Democratic substitute required States to establish college and career ready standards for English language arts, math, and science for kindergarten through grade 12 and high-quality assessments aligned to those standards. It also included a program to support the development of high-quality assessments.

Unlike H.R. 3989, the substitute improved current law by requiring that standards be validated to ensure that proficiency in the standards signals that students are on-track to enter the workforce or postsecondary education without need for remediation. The substitute updates the assessment quality requirements to align with the Race to the Top Assessment Competition, which has over 40 States participating, to create the next generation of assessments. It also ensures that new high-quality assessments are accessible for all students by incorporating universal design for learning and providing for accommodations for students with disabilities and English learners. Additionally, the Democratic substitute restores the requirement that States have standards and assessments for science, which had been eliminated in H.R. 3989. Including science standards and assessments is essential to ensure we adequately prepare students for the 21st Century workforce and high-demand STEM careers.

Accountability and school improvement

The Democratic substitute includes the appropriate balance between accountability and flexibility to ensure schools are held accountable for the achievement of all students but have the opportunity to address their specific student needs.

The Democratic substitute requires States to establish accountability systems that set performance, growth, and graduation targets to achieve the goal of all students, including subgroups of students (low-income, racial and ethnic groups, English learners, and students with disabilities) graduate college and career ready. Unlike H.R. 3989, this substitute improves current law by effectively including student growth while maintaining accountability; elimi-

nating the restrictive AYP system while still ensuring States establish performance targets for all students and subgroups that are ambitious but achievable; and establishing parameters to ensure fair accountability, including requiring States to have an 'n-size' that is 25 or less.

Additionally, this substitute restores accountability with guardrails on schools to ensure all students, including subgroups of students, are prepared for college and careers, and restores graduation rate accountability tied to the targets established by States under the graduation rate regulation. These protections which help ensure students are taught to high standards and graduate high school were eliminated in H.R. 3989.

The Democratic substitute puts forth a strong but flexible model for school improvement that provides a differentiated approach to help schools target their students' needs. The substitute requires States, along with LEAs, to identify schools in need of improvement that have missed performance targets and persistently low-achieving schools that have the lowest achievement in the State. If identified as a school in need of improvement, that school would use their data and develop a targeted plan to improve achievement. Persistently low-achieving schools would be required to develop an improvement plan addressing schoolwide factors, school organization, teacher and leader effectiveness, curriculum and instruction, student academic and social support services, family engagement, and governance policies.

Unlike H.R. 3989, this substitute improves current law by eliminating the one-size-fits-all approach to school improvement and the prescriptive timelines and including a flexible, targeted, and differentiated approach to improvement that is tied to the specific needs of the school. It also supports districts in using improvement indicators (including indicators of student engagement, student advancement, educator quality, and academic learning) rather than just test scores to measure the progress of schools in improvement.

Additionally, this substitute restores provisions eliminated by H.R. 3989 to ensure that schools not making performance targets are expected to improve the achievement of their students. The substitute contains additional requirements that the lowest performing schools take significant steps to improve their achievement by addressing schoolwide factors, school organization, teacher and leader effectiveness, curriculum and instruction, student academic and social support services, family engagement, and governance policies.

Students with disabilities

The Democratic substitute ensures students with disabilities are held to high standards and are included in accountability systems. It permits states to establish alternate assessments aligned with alternate achievement standards for students with the most significant cognitive disabilities. When including these students in calculations for accountability, LEAs and States may include their scores for up to one percent of all students. The Substitute also requires States to establish guidelines for Individualized Education Program (IEP) teams in determining whether students should be assessed on alternate achievement standards. The amendment

eliminates the use of alternate assessments aligned to modified achievement standards aligned with the implementation of new high-quality assessments.

Unlike H.R. 3989, this substitute improves current law by requiring that alternate assessments meet the high-quality criteria of the regular assessments. It requires that the alternate achievement standards be vertically aligned to ensure students achieving proficiency can access college and careers. It improves the guidelines for IEP teams by ensuring students have access to the general education curriculum and that placement in alternate assessments do not influence placement in the least restrictive environment.

Additionally, this substitute codifies the one percent cap for accountability to ensure all students with disabilities are included in accountability systems and that there is not an incentive to increase referrals to special education. This cap was eliminated by H.R. 3989.

English learners

The Democratic substitute requires States establish English language proficiency standards, assessments, and targets to ensure all students are achieving English language proficiency. It also requires States establish native language assessments when State have at least 10,000 students or 25 percent of students who speak the same native language.

Unlike H.R. 3989, this improves current law by moving English language proficiency targets into Title I, part A to increase the coordination in accountability systems and establishing parameters for native language assessments so that students are fairly assessed in a manner that helps them best demonstrate their knowledge. This substitute also restores English language proficiency targets which were eliminated by H.R. 3989.

Reporting

Quality and transparent reporting is essential to ensure parents, schools, and districts have access to critical information to help improve student achievement. The Democratic substitute meets this important need by requiring States and LEAs have district report cards that present information in the aggregate, disaggregated, and cross-tabulated on student achievement, student growth, graduation rates, and improvement indicators (including indicators of student engagement, student advancement, educator quality, and academic learning). The report cards also include information on alternate assessments, information on English language proficiency, teacher qualifications, teacher effectiveness, and per-pupil expenditures (that are determined using actual teacher salaries).

Unlike H.R. 3989, these provisions improve current law by including cross-tabulation, student growth, and information performance on alternate assessments, appropriately defining the 4-year adjusted cohort graduation rate and the cumulative rate, and using actual teacher salaries to determine per-pupil expenditures. Additionally, the substitute restores reporting by gender and migrant status, which had been eliminated by H.R. 3989.

Fiscal responsibility and “flexibility”

The Democratic substitute reinstates support for special populations of students by restoring separate dedicated funding streams for migrant students, neglected and delinquent students, English learners, rural students, and Indian students. It eliminates the Republican funding “flexibility” provisions that do more to undermine accountability and student achievement than they do to provide needed flexibility, allowing funding from these programs to be spent in other areas rather than on services to the population of students for which it is intended.

The Democratic Substitute also restores fiscal responsibility, which was eliminated by H.R. 3989. The Democratic Substitute restores maintenance of effort provisions in Title I to ensure continued State and local funding for education. It also eliminates the new burdensome provisions on equitable participation of private school students added by H.R. 3989.

SUPPORT FOR DEMOCRATIC PRINCIPLES

The Democratic Substitute received broad support from the education, civil rights, disability, and business communities. The following organizations submitted a letter in support of the approach of the Democratic Substitute: U.S. Chamber of Commerce, the Education Trust, the Leadership Conference on Civil and Human Rights, the National PTA, the Business Coalition for Student Achievement, the National Center for Learning Disabilities, National Council of La Raza, the Children’s Defense Fund, National Disability Rights Network, the Alliance for Excellent Education, 50 CAN: the 50-State Campaign for Achievement Now, the Advocacy Institute, the American Association of University Women, the Autism National Committee, the Bazelon Center for Mental Health Law, the Center for American Progress Action Fund, the Center for Law and Education, the Council of Parent Attorneys and Advocates, Inc, Democrats for Education Reform, the Disability Rights Education and Defense Fund, the League of United Latin American Citizens, the National Council on Independent Living, the National Down Syndrome Congress, the National Down Syndrome Society, the National Urban League, the National Women’s Law Center, the New Teacher Project, the Poverty & Race Research Action Council, the Southeast Asia Resource Action Center, Stand for Children, Students for Education Reform, the TESOL International Association, the Thurgood Marshall College Fund, and the STEM Education Coalition.

CONCLUSION

Currently, only about 70 percent of students will graduate from high school. Only about half of those students who graduate are academically prepared for college, and one-third of students who enter college need remediation. This remediation costs the country over \$3 billion per year.¹ To be competitive as individuals and as a nation, students must be prepared for the workforce of the 21st century. Today’s students will not only be competing with their neighbors for jobs; they will be competing with workers and entre-

¹Amos, J. (August 2008). Dropouts, Diplomas, and Dollars: U.S. High Schools and the Nation’s Economy. Alliance for Excellent Education.

preneurs from all over the world. It is time for federal policy to support state efforts to meet that growing challenge.

H.R. 3989 fails to help our students meet this challenge. First and foremost, the Republican bill abandons the civil rights and equity gains made for children over the last 10 years under NCLB. H.R. 3989 also ignores the broad national consensus that our schools must prepare students to graduate college-ready and career-ready. H.R. 3989 eliminates federal guardrails that ensure that schools are held accountable for the achievement of all students. Under the Republican bill, there would be no accountability for the number of students that graduate from high school, no transparency in how schools are evaluated, and no expectation for them to improve student achievement. The bill removes students with disabilities from the accountability system by allowing all students with disabilities to be taught to different and lower standards than the rest of the student body. H.R. 3989 undermines support and accountability for low-income students, English Learners, migrant students, Indian students, or neglected and delinquent students by creating a block-grant under Title I and removing requirements to improve achievement for English Learners. It additionally undermines accountability to taxpayers by removing Maintenance of Effort requirements that ensure states and districts maintain their share of funding in order to receive federal funds.

During consideration of H.R. 3989 on February 28, 2012, Committee Democrats proposed to move the country's education system forward by offering a substitute amendment aimed at helping every student, regardless of their background, graduate from high school prepared to succeed in college or the workforce. The Democratic Substitute offers real flexibility for States, districts, and schools while maintaining critical accountability to ensure that all students can achieve at high levels.

GEORGE MILLER.
 JASON ALTMIRE.
 TIMOTHY H. BISHOP.
 RUSH D. HOLT.
 SUSAN A. DAVIS.
 RAÚL M. GRIJALVA.
 DAVE LOEBSACK.
 MARCIA L. FUDGE.
 DENNIS J. KUCINICH.
 LYNN C. WOOLSEY.
 JOHN F. TIERNEY.
 DALE E. KILDEE.
 RUBÉN HINOJOSA.
 ROBERT E. ANDREWS.
 CAROLYN MCCARTHY.
 ROBERT C. SCOTT.
 MAZIE K. HIRONO.