The SPEAKER pro tempore (Mr. Ryan of Wisconsin). The question is on the motion offered by the gentleman from Arizona (Mr. Stump) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 1996.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

PERMISSION TO OFFER AMENDMENT OUT OF ORDER DURING FURTHER CONSIDERATION OF H.R. 1, NO CHILD LEFT BEHIND ACT OF 2001

Mr. Boehner. Mr. Speaker, I ask unanimous consent that, during further consideration of the bill, H.R. 1, pursuant to House Resolution 143, amendment numbered 3 in House Report 107–1696, be offered out of the specified order and immediately following amendment numbered 5.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

NO CHILD LEFT BEHIND ACT OF 2001

The SPEAKER pro tempore. Pursuant to House Resolution 143 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1.

The CHAIRMAN. Without objection, the gentleman from Michigan (Mr. Kildee) will control the time on the Democratic side.

There was no objection.

Mr. Kildee. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today’s consideration of H.R. 1 marks the end of many busy and work-filled nights and weekends over the past 4 months, and I strongly believe that this bill enacts meaningful bipartisan education reform by striking the right balance. Clearly from the final resolution of issues in the reported bill, we all gave some, and some probably feel they gave too much. But the result is a bipartisan bill.

Several provisions in the bill are especially worthy of mention. With regard to title I, I am pleased that the amendment preserves and preserves many of the core advances that the last reauthorization of ESEA in 1994 instituted, and maintains our existing requirements to develop challenging standards and aligned assessments.

Preserved are title I’s targeting of resources to high-poverty school districts and schools. Also maintained are vital national priorities such as the 21st Century Community Learning Centers and the Civic and International Education Programs which are key priorities of mine.

Most importantly, I believe the strong accountability requirements we have added to ESEA greatly improve the bill. These include a requirement to ensure that all children reach a proficient level of performance. Increased teacher quality requirements and a focus on turning around failing schools through the investment of additional help and resources are indeed critical.

In a time when we are in an increasingly competitive world, we can no longer tolerate low-performing schools that place the education of our children at risk. Very simply, this means providing additional resources and intervention to help students in those low-performing schools reach high standards. If schools are still failing after substantive intervention, then consequences must indeed exist.

Fortunately, this bill does not include divisive issues that would distract us from our efforts to gain a bipartisan consensus. H.R. 1, as introduced, did contain many of these provisions including private school vouchers, Straight A’s, and cessation of educational services. The inclusion of these provisions could undo the careful
bipartisan compromise that this bill represents.

I do not question the motivation of Members who have sought or will seek to offer and support these issues, but I am positive that the passage of such amendments will jeopardize bipartisan support of this bill. I want to thank the gentleman from California (Mr. George Miller), my ranking member, for his leadership and many hours of hard work on what is a major piece of legislation. I also want to thank the gentleman from Ohio (Chairman Boehner), he did yeoman's service; and the gentlewoman from Hawaii (Mrs. Mink); the gentleman from Indiana (Mr. Roemer); the gentleman from Delaware (Mr. Castle); the gentleman from Georgia (Mr. Isakson); and the gentleman from California (Mr. McKeon) for their hard work on this bill. They and their staffs, along with Sandy Kress from the White House, deserve a tremendous amount of credit for this truly bipartisan bill.

I am proud of this bill. I am pleased with having worked with those on both sides of the aisle. I think all of us share that the children of this country will be better for it.

Mr. Chairman, I reserve the balance of my time.

Mr. Boehner. Mr. Chairman, I am happy to yield 4 minutes to the gentleman from California (Mr. McKeon), the chairman of the Subcommittee on 21st Century Competitiveness of the Committee on Education and the Workforce.

Mr. McKeon. Mr. Chairman, I rise in strong support of H.R. 1, the President's number one priority, the Leave No Child Behind Act, because we cannot let this opportunity pass us by.

This bill was a long time coming. We started the reauthorization of the Elementary and Secondary Education Act in the last Congress under the previous administration. After 2 years of debate and several pieces of legislation, we were unable to put a package together.

So today, under the leadership of President Bush, the gentleman from Ohio (Chairman Boehner); the gentleman from California (Mr. George Miller), ranking member; the gentleman from Delaware (Mr. Castle), the subcommittee chairman; the gentleman from Michigan (Mr. Kildee), the ranking member; and several other members of the Committee on Education and the Workforce, we bring H.R. 1 to the floor to begin the process of instituting historic changes to our education and the Workforce, we bring to offer and support these issues, but I am positive that the passage of such amendments will jeopardize bipartisan support of this bill. I want to thank the gentleman from California (Mr. George Miller), my ranking member, for his leadership and many hours of hard work on what is a major piece of legislation. I also want to thank the gentleman from Ohio (Chairman Boehner), he did yeoman's service; and the gentlewoman from Hawaii (Mrs. Mink); the gentleman from Indiana (Mr. Roemer); the gentleman from Delaware (Mr. Castle); the gentleman from Georgia (Mr. Isakson); and the gentleman from California (Mr. McKeon), for their hard work on this bill. They and their staffs, along with Sandy Kress from the White House, deserve a tremendous amount of credit for this truly bipartisan bill.

I am proud of this bill. I am pleased with having worked with those on both sides of the aisle. I think all of us share that the children of this country will be better for it.

Mr. Chairman, I reserve the balance of my time.

Mr. Boehner. Mr. Chairman, I am happy to yield 4 minutes to the gentleman from California (Mr. McKeon), the chairman of the Subcommittee on 21st Century Competitiveness of the Committee on Education and the Workforce.

Mr. McKeon. Mr. Chairman, I rise in strong support of H.R. 1, the President's number one priority, the Leave No Child Behind Act, because we cannot let this opportunity pass us by.

This bill was a long time coming. We started the reauthorization of the Elementary and Secondary Education Act in the last Congress under the previous administration. After 2 years of debate and several pieces of legislation, we were unable to put a package together.

So today, under the leadership of President Bush, the gentleman from Ohio (Chairman Boehner); the gentleman from California (Mr. George Miller), ranking member; the gentleman from Delaware (Mr. Castle), the subcommittee chairman; the gentleman from Michigan (Mr. Kildee), the ranking member; and several other members of the Committee on Education and the Workforce, we bring H.R. 1 to the floor to begin the process of instituting historic changes to our schools and new opportunities for our Nation's children.

Throughout the legislation, H.R. 1 maintains the four pillars of President Bush's education reform plan: accountability, flexibility and local control, research-based reform, and expanded parental options.

Specifically, I would like to talk about two issues which fall under my jurisdiction as chairman of the Subcommittee on 21st Century Competitiveness, teacher training and education technology.

First, the teacher title builds upon legislation that I, along with the gentleman from California (Mr. George Miller), current ranking member, authored in the last Congress, the Teacher Empowerment Act. This title provides the flexibility to decide whether to spend funds on hiring new teachers or improving the skills of the teachers already in the classroom.

In my home State of California, they have already reduced class sizes in the early grades, which is good news. The bad news is that, as a result, there are over 35,000 uncertified teachers now serving in the classroom.

Under H.R. 1, we leave it up to the local school districts to decide what their needs are, while at the same time, calling on them to work towards ensuring that there is a fully qualified teaching force in our classrooms.

Second, in regards to technology, the bill consolidates a number of technology programs into a single stream of funding for school districts. This is another important element of expanded local control and flexibility.

Further, we call on recipients to work to fully integrate technology into the curriculum by increasing access to the highest quality teachers and courses possible, regardless of where in the State the students live.

One of my local school districts is already doing this. The Los Angeles County Office of Education has instituted the NCITE program, which stands for National Center for the Improvement of Tools for Educators, California. NCITE is a Web-based learning environment which helps children meet or exceed grade level standards in reading and mathematics. It also assists teachers in the use of research-based assessments, media resources and technology tools. We need to encourage other communities to use these type of tools to educate their children. I believe H.R. 1 goes that far.

I wish I had more time to talk about the many other provisions in this bill that will make a real difference in our education system and the work that has gone into making this happen.

But in closing, I would like to say to all of my colleagues that this bill gives us an opportunity; an opportunity to support our President, an opportunity to show bipartisanship, and, most importantly, an opportunity to improve the lives of our Nation's schoolchildren.

Mr. Kildee. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana (Mr. Roemer), a member of the core group that helped put together this bill.

(Mr. Roemer asked and was given permission to revise and extend his remarks.)

Mr. Roemer. Mr. Chairman, I thank my good friend, the gentleman from Michigan, for yielding me this time.

I want to start off by saying that there are many slogans, many mantras, many shibboleths that many people use to try to describe their concern for our children and trying to improve our public schools in this Nation. A number of us on both sides of the aisle have come together in a bipartisan way to put a bill together; that the gentleman from Ohio (Mr. Boehner), the gentleman from California (Mr. George Miller), the gentleman from Michigan (Mr. Isakson), and the gentlewoman from Hawaii (Mrs. Mink), myself, the gentleman from Georgia (Mr. Isakson), the gentleman from Delaware (Mr. Castle), the gentleman from California (Mr. McKeon), and others have fragilely put together a delicate balance that puts together new ideas, new reforms, new vision to help our children get a better education.

Those core ideas revolve around three concepts: One is accountability; that we cannot continue to do things the same old way in this country and expect different results from our teachers and our children and in their performances together. We must attach these requirements to new ideas and new accountability, and that means, yes, some standards and some tests.

Now, those tests should be devised by our local schools and our States, but making sure we do not socially promote; making sure that children are learning from one grade to the next and that a degree means something when they get it when they get out of high school. These are important standards.

Second, flexibility, that local schools get the dollars and they decide how the dollars are spent. In this bill, H.R. 1, the base bill, we send the dollars directly to the classroom, not to a governor, not to a bureaucracy, not to administration, but to the classroom.

Now, we are going to have a straight A's proposal that wants to divert the dollars to the governors. We will argue adamantly that those dollars should go to the teachers and the classrooms and the kids.

The third component of this is resources. We have doubled the funding for title I, for the poorest children in this Nation to get good access to a good solid education. These resources and investments are important because some of these children will not pass tests, so we need to remediate those children with after-school programs, summer-school programs and, yes, with tutoring.

Accountability, flexibility, resources for remediation, all good ideas coming together to support a bill that the President of the United States has encouraged bipartisanship on; that he has encouraged that we work together in a civil manner, where Democrats and Republicans can reach across the aisle, as we have done with this core group, to bring this bill to the floor.
floor to truly bring ideas together, to give our children a better chance, to get a top-notch, first-rate education in our public schools in this country.

I encourage this body to look at these amendments on testing and not support the Hoekstra-Frank amendment. The amendment by DeMint amendment on straight A's, that would take money to the governors and bureaucracy at the State level, and let us keep the way we deliver the money to the kids and the classrooms. I urge bipartisan support for this bill.

The CHAIRMAN. Without objection, the gentleman from Georgia (Mr. ISAKSON) will control time on the majority side.

There was no objection.

Mr. ISAKSON. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from North Carolina (Mr. BALLenger), a distinguished member of this House Committee on Education and the Workforce.

Mr. BALLenger. Mr. Chairman, I thank the gentleman for yielding me this time, and I would also like to thank the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER) for their outstanding leadership in crafting a bipartisan committee bill. I also commend the Members who worked on the committee negotiating groups for their efforts. We have accomplished much with our committee, but much more work needs to be done.

While I am in agreement with the core bill approach, I have grave policy concerns and I continue to believe that our children and the teachers deserve more fiscal resources than are authorized in H.R. 1. High stakes testing is going to hurt limited English proficient children the most. NAEP, or the National Assessment for Education Progress, does not include migrant students in their national sample, and the administration intends to use NAEP as a barometer to show how students are doing. Limited English proficient children should be assessed in a language they understand.

We should not provide positive alternatives for the students in the gifted and talented programs as well as advanced placement for the college bound. Let us increase our investment in our country's K-16 students.

Our Nation needs 50,000 bilingual teachers to keep up with the demand, and this bill does not provide anywhere near the resources to meet this crisis. Look at the 2000 Census results and you will see the Latino population growth of 60 percent or more during the last decade. We need more funds to get the job done.

Title III consolidates bilingual education, immigrant education, and foreign language assistance programs and delegates these functions and funds to the States. The bill changes from a well-respected competitive grant to a poorly-funded formula grant program that at present does not count all the eligible population. The elimination of the National Bilingual Clearinghouse makes the same basically or policy-wise. H.R. 1 does not provide adequate funds nor strong policy support for dropout prevention. I remind my colleagues that already Hispanics suffer from the Nation's highest dropout rate. These students will certainly be neglected and left behind.

Education Committee conferences are urged to protect and save the clearinghouse for all States to utilize the wealth of information such as exemplary programs to serve all eligible students.

Even if title 3 were funded at the maximum level authorized by the committee, we would only reach one-fourth of the children.

We hope that our colleagues in the other Chamber can help us reach the 5 million children seeking our support.

The most egregious provision found both within title 1 and title 3 singles out the parents of limited-English-proficient children and treats them differently from all other parents.

Even if a child is deemed to need special language services under the act, the school may put them in English-only programs without bothering to inform the parents. However, if a parent wants their child in a bilingual program the school must receive parental permission, which will surely put them in English-only programs with their child.

Let us fix this bill so that only those who mistreat our children are left behind.

I am urging my colleagues to vote for H.R. 1 because the core bill is there and because I think we can improve it with the help of our colleagues in the other body. As President as well as the Secretary of Education to support us as we try to improve the bill so that children all over this country may truly benefit. This is the time for leadership and substance over rhetoric.

I have tried to be bipartisan in my approach; however, if vouchers and block grants are added to our core bill on the floor, then I would be forced to urge my colleagues to reject this bill.

Finally, Mr. Chairman, I am including for the RECORD a copy of a letter from the National Education Association in support of my remarks.

DEAR REPRESENTATIVE HINOJOSA: On behalf of the National Education Association's (NEA) 2.6 million members, we would like to thank you for your efforts to address the issue of parental consent for participation in bilingual education programs. Specifically, NEA agrees with your opposition to requirements for written parental consent for the provision of non-English educational services to limited-English-proficient students.

NEA strongly supports the provision of information to parents and efforts to increase parental involvement in their children's education. However, we oppose parental opt-in requirements, such as those contained in the No Child Left Behind Act (H.R. 1). We believe the proposed opt-in requirements will create unnecessary roadblocks to providing students with needed instructional services. Such requirements would result in increased bureaucracy, while intruding on local school districts' ability to tailor educational programs to serve the needs of their limited-English-proficient students. In addition, students could be placed in Spanish classes while schools seek the necessary consent.

Thank you again for your leadership in addressing this important issue.

Sincerely,

MARY ELIZABETH TRUSLEY, Director of Government Relations.
Mr. ISAKSON. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. HOEKSTRA), the chairman of the Subcommittee on Select Education.

Mr. HOEKSTRA. Mr. Chairman, I thank the gentleman from Georgia for yielding me this time.

Regrettably, today, I come to the floor to voice my opposition to H.R. 1. At the beginning of his presidency, President Bush outlined a bold vision for education that would move power and control back to parents and local schools and States; and a vision that included flexibility in how States and local schools would spend their money; a vision that would empower parents to make more educational decisions for their kids; and a change in process in how we would measure the results that Federal investments resulted in; a change in process in where today we measure how we spend our dollars to a reform that said we are going to measure whether our children are learning or not.

The flexibility for States has been eliminated. The parental empowerment has been weakened. The results accountability has been added to the bill, but the red tape, where local school districts and States have to report back to Washington on how they spend their money, has been maintained. We are now going to tell States and local school districts how to spend their money as well as the results they are going to get. What we are left with is Goals 2001, after we fought Goals 2000; and accountability putting us on the road to national testing and spending that only President Clinton could have dreamed of.

It is time to rework parts of H.R. 1. I agree with Sandy Kress, the President’s education adviser, in his comments yesterday. H.R. 1 is likely “going to require further weeks of thought and deliberation to fix.” It is time to move back to the President’s vision for education, not the bill that is working its way through the House today. It is time to send this bill back to committee and let the further weeks of thought and deliberation happen in committee and not in a conference committee.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Mr. WOOLSEY. Mr. Chairman, let me add my compliments to the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER), the ranking member, and the staffs on both sides who have worked so hard on this bill.

Mr. Chairman, as it stands now, H.R. 1 is good enough. It is not great, mainly for what it leaves out. It would be a better bill if it included my amendment to keep coordinated services as part of the act. That way, children and their families would have a safe place, at or near their school site, in order to have access to services, the services that they need when their lives are so very, very busy.

It is also important to add that my “Go Girl!” amendment to bring more females into the math, science, engineering, and technology workforce was not included. When women, who are one-half of our population make up only 19 percent of our science, engineering, and technology workforce, we must encourage more girls to study these subjects. “Go Girl!” would have done that.

On the other hand, H.R. 1 includes testing provisions, provisions that must be removed from this bill. Two good things about H.R. 1 are what have been excluded in the bill; that are not in the bill. These good things are no private school vouchers and no block grants. Block grants would take education funds from students and schools which need them the most. But if these amendments pass, adding vouchers or block grants, then I would suggest that we defeat H.R. 1.

Mr. Chairman, I encourage my colleagues, keep H.R. 1 clean so we can access local dollars, which is good enough to vote for. It would be better, however, with coordinated services, “Go Girl!” programs, school construction, and smaller class size.

Ms. WOOLSEY. Mr. Chairman, I yield 3½ minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA).

(Mrs. ROUKEMA asked and was given permission to revise and extend her remarks and include extraneous material.)

Mrs. ROUKEMA. Mr. Chairman, I rise in strong support of this legislation. It is truly an example of bipartisan, and it is an example of the way that the system is supposed to work.

This process has not been about politics, it has been about children and their educational standards. Yes, I have heard what others have said, and I am pleased to assert that without question this bill is reflective of President Bush’s vision for education reform; and the President has indicated his support. So let there be no mistake about that for the people on my side of the aisle.

I also want to point out some of the good parts of this bill. It gives flexibility and local control and maintains it; and that was very important to me and very important on a bipartisan basis. I think the flexibility allows school districts in this bill the ability to target Federal resources where they are needed the most, and that will ensure that State and local officials can meet the unique needs of their students.

It also enhances accountability and demands results through high standards and annual testing. Grades three through eight will have student testing. This is a provision that has not been clearly understood; and as a member of the Committee on Education and the Workforce, I want to explain this to everyone here.

It is important to emphasize that the States will develop their own standards and assessment. This bill does not dictate national test standards. The bill does say, if you are going to accept Federal education funding, then you are going to be held accountable for the results. State test results will be confirmed through the National Assessment of Educational Progress or a similar test. If a State improves on the NAEP, and their State assessments each year show a forward movement, they will be eligible for rewards. Those who do not improve will undergo corrective action.

Striking a balance between State and Federal responsibility is the right approach, and it is the way that we have done it and what the President has approved. I think that is awfully important.

I took leadership in terms of the question of safe schools, and I do not know how much of this has been emphasized in this debate, but namely we put into it mental health and services that are available to young people through the schools.

Mr. Chairman, this bill is truly an example of bipartisanship; and I do not know how much of this has been emphasized in this debate, but namely we put into it mental health and services that are available to young people through the schools. Whether we are talking about violence in the schools or aggressiveness in schools, we want to deal with those tragedies and those growing symptoms of problems within the school system, and so we have school-based mental health services. And I was proud of being part of putting that in the bill.

Finally, is this a good bill? Yes. Does it reflect the President’s priorities? Absolutely.

Mr. Chairman, those areas where there are continuing disagreements will be taken up in the debate on the amendments. So this is a full process. We can discuss the voucher question yet again. It is one on which I disagree. Vouchers should be out of this legislation, but it will be voted on as an amendment. In the end, we will be passing an historic education bill for our children and for the future of our country.

Mr. Chairman, I rise in strong support of this bill. First and foremost, I would like to commend the Education and Workforce Committee Chairman BOEHNER and Ranking Member GEORGE MILLER for their leadership, hard work, and diligence.

This bill is truly an example of bipartisanship. But make no mistake—this was not an easy process. There were many hurdles along the way—and many times we all thought an impasse had been reached. No one on either side ever lost sight of the goal—to ensure that every child, regardless of situation, in every public school in America received a quality education.

This is the way the process is supposed to work—partisan politics have been set aside to make way for a meaningful debate on the issues that matter to America and our children.

BUSH PLAN

Yes, I am pleased that the bill before us today is bipartisan. But I am also pleased that
this bill is reflective of President Bush's vision for education reform—to have the best education system possible to leave no child behind. And President Bush supports this bill—

That's what this bill accomplishes. We all won on some issues and we all lost on some issues, but it's the best spirit of compromise, America's children win.

For instance:

H.R. 1 provides unprecedented flexibility and local control.

It is critically important to cut federal education regulations and provide more flexibility to states and local school districts. We should give our educators the flexibility to shape federal education programs in ways that work best for their students and our students. Flexibility allows school districts the ability to target federal resources where they are needed the most. This will ensure that state and local officials can meet the unique needs of their students.

H.R. 1 dramatically enhances flexibility for local school districts in two ways: (1) through allowing school districts to transfer a portion of their funds among an assortment of ESEA programs as long as they demonstrate results and through the consolidation of overlapping federal programs.

H.R. 1 enhances accountability and demands results.

As we provide more flexibility, we must also ensure that federal education programs produce real, accountable results. Too many federal education programs have failed. For example, even though the federal government has spent more than $120 billion on the Elementary and Secondary Act (ESEA) since its inception in 1965, it is not clear that ESEA has led to higher academic achievement. Federal education programs must contain mechanisms that make it possible for the American people to evaluate whether they work.

This bill provides accountability and demands results through high standards and assessments. And it provides appropriate responses to address failure. States will be required to test students in grades 3–8. This provision has not been clearly understood.

It is important to emphasize that the states will develop their own standards and assessments, but the bill does not dictate national test. What the bill does is say that if you are going to accept federal education funding, then you are going to be held accountable for results. State test results are confirmed through the National Assessment of Educational Progress (NAEP) or similar test, which would be required annually for grades 4 and 8 in reading and math. If a state improves on NAEP and their state assessments each year they will be eligible for rewards, and if it does not, there will be sanctions. We reward states for our teachers and improve. Those that do not improve will undergo corrective actions. Striking a balance between state and federal responsibility is the right approach to accountability.

H.R. 1 ensures that our schools are safe.

I am pleased that H.R. 1 includes provisions to ensure that schools have the resources they need to combat substance abuse and violence. An important element included here relates to work that I have done on the Committee, during both negotiations and markup. Namely, this bill provides resources to ensure that mental health screening and services are made available to young people. In addressing school safety, we must ensure that children with mental health needs are identified early and provided with the services they so desperately need. Many youth who may be headed toward school violence or other tragedies can be helped if we address their early symptoms. This includes school-based mental health services language to ensure school safety and combat substance abuse.

H.R. 1 Promotes Reading First.

The bill also includes the President's Reading First Initiative, which awards grants to states that establish comprehensive reading programs anchored in scientific research. Obviously, in order to improve education we must first ensure that every child can learn to read. States must be given both the funds and the tools they need to eliminate the reading deficit. Unfortunately, our schools have been failing our students on this basic aspect of learning. According to the National Center for Educational Statistics, thirty-eight percent of fourth graders cannot read at a basic level—that is, they cannot read and understand a short paragraph that one would find in a simple children's book. Reading failure has devastating, self-esteem, social development, and opportunities for advanced education and meaningful employment.

By funding effective reading instruction programs, this bill ensures that more children will receive the help they need before they fall too far behind. Better reading programs mean fewer children in special education and fewer children dropping out of high school.

Mr. Chairman, this bill represents true bipartisan compromise—a true compromise. Had I written this bill, it would look significantly different. But, I recognize that we cannot allow the perfect to be the enemy of the good. Is this a good bill? Yes. Does it reflect the President's priorities? Absolutely. Will it improve education in America today? No doubt about that.

There are issue areas where we genuinely disagree and will have the opportunity to debate in the coming days.

For example, I strongly oppose any efforts to eliminate the testing provisions of the bill, as this is the centerpiece of the President's plan for accountability. In addition, I strongly oppose the re-insertion of vouchers. Instead, I support this bipartisan compromise in its current form: it makes real strides towards improving education for ALL of our nation's children. As such, I oppose any amendments that would erode this compromise or divert us from our goal: to leave no child behind.

This bill takes a meaningful step towards leaving no child behind. I encourage all of my colleagues to support the bill.

Mr. KILDEE, Mr. Chairman, I yield 2 minutes to the gentleman from Hawaii (Mrs. MINK).

(MRS. MINK of Hawaii asked and was given permission to revise and extend her remarks.)

Mrs. MINK of Hawaii. Mr. Chairman, I said the other day I deeply appreciated the opportunity to be on the working group and commend the gentleman from Ohio (Chairman BACHMANN) and the gentleman from California (Mr. GEORGE MILLER) for the outstanding work that they did in pulling together the essentials for this legislation.

Mr. Chairman, this is a core bill. As we said in the debate on the rule, there were many things on our side that we wanted to have included: The construction provision and the reduction of class size were two paramount things that we will not have the opportunity even during the amendment stage.

The reason that I support this bill, notwithstanding the many omissions, is because the compromise that was struck provided for a doubling of the title I funds. It seems to me this is a crucial test of whether we are serious about this legislation. Let us not forget that title I is premised on the fact that it is to be targeted to poor children. The formula is based upon counting poor children.

So when we hear speeches to the effect that the States ought to be allowed to have the discretion to spend their money any way they see fit, it is a complete annihilation of the process that got us to the formulation of title I back in 1965, and that is to bring specific aid to the poorest schools that cannot finance their educational systems; and, therefore, every year fall further back.

School financing is based upon real property values, and there are many, many places in the country where property values are so low that they cannot fund education adequately compared to the rich and wealthier districts. Let us not destroy that principle by talking about taking the money and letting the States have the opportunity to spend it any way they wish.

Mr. Chairman, there are many other facets to this bill with which I believe improvements can be made; but fundamentally, if we are not able to fund it, we do not have a core agreement.

Mr. Chairman, I rise in support of H.R. 1, which reauthorizes the Elementary and Secondary Education Act for 5 additional years. It was passed by Congress as America's most disadvantaged children. These are our poorest children, who go to school in crumbling buildings, with outdated textbooks, few if any computers, little access to challenging, up-to-date curriculum, and a teaching force that is often overburdened, inexperienced, underpaid, and undertrained. These are children who have been left behind by the way we fund our schools—through local property taxes. The communities these children live in are often unable to raise sufficient funds to provide for the same high-quality education as in wealthier communities. States also provide resources for education, but don't do enough to eliminate this disparity and ensure every child in the State has equal access to the same, high-quality education. ESEA exists to close the gap in resources to the poorest schools, to provide them with the funds to build a foundation for a solid, high-quality education.

The bill we are considering today, H.R. 1 continues the efforts of the House Education Committee, in recognizing that highly qualified teachers are crucial to ensuring that the most disadvantaged students have access to the best education possible, H.R. 1 provides additional resources to
help train teachers to improve their skills. Funding under title II is significantly increased, by almost $3 billion. Though almost $2 billion come from consolidating class size reduction funds with other teacher training funds, this represents a significant increase for teacher quality programs.

Unfortunately, children in wealthier communities, children in the poorest schools more often do not come to school ready to learn, not in the first grade, not in any grade. These are the children that have to deal with distractions at home. They face dangerous surroundings, both in and out of school. And they go to schools that are falling apart, have the largest classes, and may not have enough classroom space, forcing some to take place in hallways, cafeterias, gymnasiums, or worse. These children face many obstacles to getting a solid education, and need the best teachers.

Another major improvement included in H.R. 1 is the doubling of title I funds within 5 years. These funds are the main Federal resources that are intended to fill in the gaps between poor schools and wealthier ones and are very much needed. Without these funds and the great deal of good in many schools, we know the program is currently underfunded and that we need to help many more students. Doubling title I funds over the life of this authorization is a good start toward providing disadvantaged students with the best education possible, improving teacher quality, and helping struggling schools help themselves.

But there are major problems with this bill. Chief among these is the new annual testing provision. It will cost the schools three times through eight. These tests simply point out failure, and in many cases are used inappropriately for high-stakes decisions. H.R. 1 fails to provide enough resources to either help students or schools succeed.

H.R. 1 is written with the premise that if we test children enough, we’ll know which students are failing, and thus, which teachers and schools are failing. This legislation promotes the idea that if a child fails, the solution is to take away the teacher, or move the child to a different school. This perpetuates this notion by providing some funds to some schools that fail, but does little to ensure the school has enough resources to succeed in the first place. The annual tests contained in this bill will not be a vehicle for success, but rather a harbinger of punishment for children, teachers, principals, and schools. In the end, it will be communities that suffer from the misplaced emphasis on these tests.

H.R. 1 makes some resources available to failing schools, but not enough. In the 1998–1999 school year, 3.5 million students were identified as needing improvement, yet only 47 percent of these principals said they got any additional help from their district, from their State, or from the Federal Government. That’s less than half. And while these schools are more likely to get help the longer they’ve been identified as needing improvement, the help isn’t likely to come anytime soon. 70 percent of the schools that were struggling for 3 years saw no additional help, and even 38 percent who ran a school that was struggling for 4 years saw no additional help.

Almost half the title I schools identified as low-performing in 1998–1999 were 75 percent or more minority and eligible for free and reduced price lunch. These schools simply cannot turn themselves around without real help. This issue is not just a national one, but a very local one for me and many of my colleagues. In many of my communities in Hawaii, three-quarters or more schools have been identified as needing improvement. Part of this has to do with our State strengthening its education system, but much of it is also a direct result of these schools not having the resources in the first place to provide a high-quality education. Without the necessary additional resources, these schools are likely to fail, and the annual testing provisions in H.R. 1 will only serve as a vehicle for punishing these schools and disrupting communities rather than making a sincere effort to provide help.

Linked to this flaw is the potential havoc public school choice may wreak. The public school choice provisions in H.R. 1 take a backward approach to providing resources to the children that need them most. The intent of ESEA has always been to help poor schools give kids the best education possible by providing them with more resources. H.R. 1 turns this on its head by dictating that, instead of bringing the resources to the student, bring the student to the resources. That logic is inherently backward.

We should be focusing time, effort, and money on disrupting and dismantling children’s base of security, the neighborhood school. Instead, we should be sending in reinforcers: adequate funding, so poor schools have the same chance to succeed as wealthier schools; qualified, strong, and experienced teaching staff, so they form a crucial foundation and get to know students and their individual problems; and the kind of learning atmosphere that voucher proponents endorse private schools for: smaller class sizes, extended time for learning, training more and after school, schools that aren’t crumbling schools, with computers and modern wiring and infrastructure. We need to turn this debate right-side-up again. Instead of forcing the child to go where the resources are, we should be doing what we should have done all along—bring the resources to the child.

There are other significant problems with H.R. 1. One of the most significant is the various ways it undermines education for students with limited English speaking skills, and those who are recent immigrants. The most important issue is that H.R. 1 blockgrants all of the existing programs for these children into one formula program, but provides too little overall to be distributed in sufficient quantities to be effective. These programs currently are competitive grants and thus are more targeted to students that need them. By turning all these programs into a block-grant, H.R. 1 dilutes these funds, providing less services to the students that most need them. H.R. 1 should be dropped and replaced with a noncompetitive at least until funding reaches $1 billion.

H.R. 1 also contains a dangerous provision for limited English proficient students, requiring schools to get approval from their parents prior to giving these students access to bilingual education services. This provision could cause significant delays in schools providing these children with an education. These are the most vulnerable of our students—they may have little understanding of our systems, little capacity to understand directions people are giving. They have never been educated in a language other than English.

Mr. ISAKSON. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. KELLER), a member of the Committee on Education and the Workforce.

Mr. KELLER. Mr. Chairman, I rise today as an original cosponsor and strong supporter of the President’s No Child Left Behind Act. Why do I support this meaningful education reform legislation? Because, for the first time, more children are going to be able to read in this country. Parents are going to get a report card as to how their children’s school is performing, and children now trapped in a failing school will have a safety valve to get out.

Mr. Chairman, we do these goals by three key measures. First, we will invest an additional $5 billion over the next 5 years in reading for children in grades K–2. This is critical since currently approximately 70 percent of our fourth graders in inner-city schools cannot read. We must address this issue head on.

Second, we will require that States annually test our children in grades three through eight in reading and mathematics. It is critical to measure their performance on an annual basis to ensure that no child falls through the cracks.

How many times have we turned on the television to see a college athlete...
explain he is not able to read, yet he
was able to graduate from high school.
He has fallen through the cracks, and
by measuring the performance each
year, we are going to put an end to this
problem right here in this Congress.

The second criticism is that the Fed-
eral Government should not be in-
volved in testing. H.R. 1 explicitly pro-
hibits federally controlled curricula
tests, prohibits federally controlled
repair孝and as a conservative my-
self, I would like to address both of
those criticisms head on.

First, they say, ‘‘The President’s re-
forms have been left behind in this
bill.’’ Let us look at the facts. The
President called for more money for
reading, testing, and school choice.
This bill provides for reading, testing,
and school choice legislation that
gets them immediate relief, and I believe 90 percent of a loaf of
bread is better than none at all. That is
why I rise today in support of the
House Members how Congress can

Mr. Chairman, I want to support a
bill that involves parent and commu-
nity control at a local level, but I will
not support a bill if it takes decisions
away from parents and local school dis-
tricts and creates a new block grant
program. I want to support a bill that
holds schools accountable for the suc-
cess of our children’s education. We
have more work to do on this bill.

When our school districts, teachers,
parents, and students look at this bill,
will we have passed their test? Special
Education remains underfunded. Title I
remains underfunded, and this bill in-
cludes a new, unfunded Federal man-
date for our school districts, six more
tests for our children.

Mr. Chairman, this bill is not perfect;
but I am here to work with all of my
colleagues today to pass a bipartisan
education bill that is accountable to
our communities and our children.

Mr. ISAKSON. Mr. Chairman, I yield
3 minutes to the gentlewoman from Ne-
braska (Mr. OSBORNE), a member of the
Committee on Education and the
Workforce and the principal author
of the mentoring provisions of H.R. 1.

(Mr. OSBORNE asked and was given
permission to revise and extend his re-
marks.)

Mr. OSBORNE. Mr. Chairman, I
would like to thank the gentleman
from Georgia for yielding me this time.

Mr. Chairman, I rise today in strong
support of H.R. 1. I would like to thank
the gentleman from Ohio (Chairman
BOEHNER) and the gentleman from Cal-
ifornia (Mr. GEORGE MILLER), the rank-
ning member, for their work.

Mr. Chairman, I was formerly in the
coaching profession; and each year we
evaluated hundreds of transcripts from
all across the country. We found over
time that even though someone was a
high school graduate, and even though
their grades were reasonably good on
the transcript, we could not determine
from their transcripts that they could
could adequately teach basic math
or perform. So we had to rely heavily
on SAT and ACT tests.

We have a national crisis in edu-
cation because so many students are
simply passed along. Roughly 88 per-
cent of all fourth graders in the Nation
cannot read at a functional level.

So I think H.R. 1 really addresses
most of these problems and will allevi-
ate much of the crisis that we see be-
fore us.

I would like to mention very quickly
two elements of H.R. 1 that may go rel-
atively unnoticed in the discussion
today. First is the mentoring initiative. Sometimes rural schools are
just as distressed as inner-city schools,
and I think this element will be ad-
dressed in the bill. Small rural schools,
600 students or less, receive very few
Federal dollars. They have no grant
identifiers, and the funds really are
right shoe-fore that they might receive are not worth
the paperwork. So this particular bill
will provide a minimum of $20,000 to
those schools. This will reach thou-
sands of schools across the country, 400
in my State of Nebraska; and I think it
is something that will really help
the smaller school because it will enable
them to hire a teacher, buy four or five
computers, do something meaningful
with the grant money that they are
currently foregoing.

The second aspect of the bill I would
like to mention is that of mentoring.
Over the last 10 years, we have spent
80 billion Federal dollars and we have
seen absolutely no improvement on
test scores or dropout rates. We do not
know what return we have gotten for
our money.

In the city of Kansas City, over the
last 15 years they have spent $2 billion
on education; and they spend $8,000 per
student, more than $8,000. These children
have excellent facilities, great
teacher salaries and excellent cur-
culums; and yet they lost their aca-
demic accreditation last year, first in the city ever to lose accreditation.
They flunked every State performance
standard.

So one says, why does this happen?
Why, if they have been given all these
tools, would this happen?

I would like to read you a quick state-
manship from Gary Orfield, a Har-
vard sociologist who has studied the
school system in Kansas City. He said,
‘‘When students come to class hungry,
exhausted or afraid, when they bounce
from school to school as their families
face eviction, when they have no one at
home to wake them up for the bus,
much less look over their homework,
not even the snazziest facilities, the
strongest curriculum and the best paid
teachers can ensure success.’’

So I think that mentoring is some-
thing that will address this because it
does cut absenteeism, drug abuse, teen-
age pregnancy, violence, and lower
drop-out rates.

Mr. KILDEE. Mr. Chairman, I yield 2
minutes to the gentleman from Geor-
gia (Mr. BISHOP).

Mr. BISHOP. Mr. Chairman, I thank
the gentleman from Michigan (Mr. KIL-
dee) for yielding me this time.

Mr. Chairman, I would like to take
this opportunity to thank the gen-
tleman from Ohio (Mr. BOEHNER) and
the ranking member, the gentleman
from California (Mr. GEORGE MILLER),
for the hard work that they have done
in bringing this bipartisan bill together.

Mr. Chairman, when we ask our fel-
low House Members how Congress can
best help fix our schools, we get as
many different answers as we have
Members. We all feel strongly about
education, and we all have our own
ideas about what needs to be done; and
many of these ideas have merit. That is
why I rise today in support of H.R. 1, a
bill that offers a balanced, thoughtful,
bipartisan course of action for helping
achieve the educational results that
most of us seek; a bill offering more ac-
countability without undue Federal in-
fluence; more flexibility while still tar-
geting many special needs; options for
children who are trapped in underperforming schools while retaining public funds for public education and without vouchers; and provisions I strongly pushed to update technology in rural schools and to double title I funding. We should both achieve perfection but whether it is a fair, constructive compromise that can move the country closer to achieving better schools and a brighter future. And without question, the answer is yes. I urge my colleagues to join in supporting this bill. It is a good bill. A lot of people have worked hard on it. It is a bipartisan consensus of what we need to do to move forward on education, and I think that it will make a difference.

Mr. ISAKSON. Mr. Chairman, I yield 2 minutes to the gentleman from New Hampshire (Mr. BASS).

Mr. BASS. Mr. Chairman, I thank the gentleman from Georgia (Mr. ISAKSON) for yielding me a couple of minutes to talk about this wonderful bipartisan bill.

Mr. Chairman, I commend the ranking member, the gentleman from California (Mr. GEORGE MILLER), and the chairman, the gentleman from Ohio (Mr. BOEHNER) and their work together and also the rest of the committee for a very good product, because this bill provides accountability which will improve educational quality. It provides local school administrators and school boards with more flexibility. It consolidates 34 out of 66 programs. It provides accountability with more funding for title I, which is significant. Lastly, it provides relief for children trapped in falling schools.

Now, although H.R. 1 is a good bill, the single greatest change that we could bring to every elementary and secondary school everywhere in the country is to fulfill the Federal Government’s obligation to fully fund its share of the cost of education for the disabled. Now, I bring this up because the Senate incorporated an amendment to make IDEA funding mandatory, but this language was left out of the House bill; and I regret the fact that I was unable to offer an amendment of my own to phase in full funding over the next 10 years as a mandatory program.

Now, mandatory phase-in is good for the program if it is done on a percentage basis. It is good because local school boards can plan financially from the program if it is done on a percentage basis. I commend the administration, and I commend the leadership on the Committee on Education and the Workforce for ensuring that we give priority to the issue of reading and making sure that all of our children learn to read and that we put accountability back on us and good bipartisan support, each of us giving up a little bit of something that we wanted, this bill will help the American people.

President Bush accepts this bill, and we should work with him to make sure it goes through this House. Mr. ISAKSON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Georgia (Mr. CHAMBLISS).

(Mr. CHAMBLISS asked and was given permission to revise and extend his remarks.)

Mr. CHAMBLISS. Mr. Chairman, I thank the gentleman from the Sixth District of Georgia (Mr. ISAKSON) for his leadership on this issue. He is certainly one of the most knowledgeable Members of this House when it comes to education.

Mr. Chairman, I want to take the opportunity to commend the President for ensuring that his administration makes education of our children its number one priority. While this bill is not a perfect bill, I think we owe a great debt of gratitude to the gentleman from Ohio (Mr. BOEHNER) and the ranking member, the gentleman from California (Mr. GEORGE MILLER), for working to craft a bill that has provided here; and I commend them for bringing both sides together and bringing issues that are important to both sides more towards the middle.

While there are a number of provisions in this bill that I think are very critical, the most important provision, in my opinion, is the Reading First Initiative that we have in this bill that is going to provide flexibility to our States and is going to make reading a number one priority.

My wife is a fifth grade teacher. Her number one frustration with her fifth graders is the fact that too many of them are reading on a first or second grade level and some of them even below that. This bill makes sure that every child in America becomes more proficient in reading by the time they leave the third grade.

As one can imagine, it is frustrating to a teacher not to have children that are doing well, but imagine the frustration of those children who want to learn but simply are handicapped because they do not have the basic skills.

I commend the administration, and I commend the leadership on the Committee on Education and the Workforce for ensuring that we give priority to the issue of reading and making sure that all of our children learn to read and that we put accountability back on the State and local governments to ensure that they are doing the things necessary to make sure that all of our children are reading much more proficiently and at the early grade level.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY), a member of the committee.

Mr. TIERNEY. Mr. Chairman, I thank the gentleman from California (Mr. GEORGE MILLER) for yielding me this time.

Mr. Chairman, this bill has many good features to it, and I am sure that if we manage to maintain or keep out of it some of the problems that we have run into in the past it will probably pass this body. We have managed to keep out block grants, things that in the past administration caused this bill to stop dead in its tracks.

If the President continues to maintain the position that he will not insist on those things, this bill will move forward. We still have to work short of modernizing schools. We still have to work on having smaller class sizes. There is much more to be done, but I do want to call some attention to one feature of this bill that I think merits some consideration. It is the degree of testing that is being asked for.

We have to keep in mind that there already is testing being done in the
States. Virtually every State has a significant amount of testing being done and the Federal Government already requires testing three times in math and reading throughout an elementary school career.

We have to be concerned that the testing that is in this bill does not amount to just quantity over quality, and my fear is that we have not allowed or provided for in this bill a ramping up to scale the capabilities of the testing community to be able to put those 200 additional tests that now going to be required throughout this country in an appropriate way. We have not allowed time for them to be developed and implemented. We have not allowed enough resources for them to be done. The estimates are that it is $30 per test for the administration and much more for the development. The Congressional Budget Office estimates $650 million a year for these tests. Yet the President is only asking for $350 million.

If we continue in this path, States may feel forced to go off-the-shelf tests, the lowest common denominator here; and the problem with that is we are going to run into all sorts of difficulties. Finally, we have never really required this testing procedure then really does measure the progress of our students or is it just putting on them yet another additional burden of still another test in which teachers have to prepare; it has to be developed; they have to take time out of the classroom and away from other subjects that probably should be taught.

So I caution our Members to hopefully go back to the drawing board on the testing provisions and make this truly a good bill, provide the resources that are there, make those tests not something that is required until and unless we do the background work that needs to be done.

Mr. ISAKSON. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Illinois (Mrs. BIGGERT), a member of the House Committee on Education and the Workforce.

Mrs. BIGGERT. Mr. Chairman, I thank the gentleman from Georgia (Mr. ISAKSON) for yielding me this time.

Mr. Chairman, I rise today to express my strong support for H.R. 1, the No Child Left Behind Act of 2001. As a member of the Committee on Education and the Workforce, I am pleased to say that H.R. 1 encompasses President Bush’s vision for education in America. The bill empowers parents, helps children learn to read at an early age, and grants unprecedented flexibility to local school districts while demanding results in public education through strict accountability measures.

I know that many of my colleagues have and will speak in more detail about that, so let me turn to a section of the bill that will not receive as much attention but is important because of the direct and positive impact it will have on the estimated 1 million homeless children and youth in our country.

Mr. Chairman, being without a home should not mean being without an education. Yet, that is what homelessness means for far too many of our children and youth today. Congress recognized the importance of education to homeless youth when it enacted in 1987 the McKinney Education Program. But, despite the progress made by this Act over the last decade, we know that homeless children continue to miss out on what is the only source of stability and promise in their lives: school attendance.

Mr. Chairman, H.R. 1 strengthens the McKinney program by incorporating the provisions contained in the McKinney-Vento Homeless Education Act of 2001. This bill ensures that a homeless child is immediately enrolled in school. That means no red tape, no waiting for paperwork, no bureaucratic delays. It limits the disruption caused by homelessness by requiring schools to make every effort to keep homeless children in the school they were becoming homeless. It also creates a mechanism to quickly and fairly resolve enrollment disputes, ensuring that such process burdens neither the school nor the children’s education. Last, it assists all enrolled and under-enrolled homeless children and youth by raising the program’s authorizing level to $650 million in fiscal year 2002 and re-authorizing the McKinney-Vento program for another 5 years.

As a former school board and PTA president, I believe H.R. 1 and its homeless education provisions meet our commitment to local control, while making the best use of Federal education dollars. I commend the gentleman from Ohio (Mr. BOEHNER), the chairman of the committee, as well as the gentleman from California (Mr. GEORGE MILLER), the ranking member, for understanding that being homeless should not limit a child’s opportunity to learn and for addressing in the bill before us the needs of homeless children.

Mr. Chairman, I urge my colleagues on both sides of the aisle to support the No Child Left Behind Act. This education reform legislation is what America deserves and what America’s children need.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from Michigan (Ms. RIVERS), a member of the committee.

Ms. RIVERS. Mr. Chairman, I rise in opposition to H.R. 1. Less bad is not good. It is not legitimate to argue for passage of a flawed proposal on the basis that it could be worse.

What we have before us is a huge Federal intrusion into the jurisdiction of State and local school boards. What we have is a poll-driven illusion of reform through standardized testing, a vehicle that has come under recent scrutiny. Lastly, what we have here is a largely unfunded Federal mandate to further burden local school districts.

This is a power grab by the Federal Government, pure and simple. It represents only 7 percent of the funding for American schools into control of the entire K-12 system. Such action flies in the face of our long-standing tradition of local control of education. It also exacerbates an already grave problem in this country. Americans do not participate in school board elections. They do not know their board members, when the board meets or how to raise concerns about the schools. We should not encourage the public to turn their eyes to Washington regarding educational matters; we should, instead, direct them back to their own communities and their local boards of education.

But even if this power grab succeeds, Congress cannot deliver on the promises that this bill makes. We don’t have the cooperation of the schools, and we can only touch on what the tests may uncover. This creates a largely unfunded mandate, something we, the Congress, have condemned since 1965.

There is another polling question that might be asked: do you favor requiring local schools to spend more money to comply with Federal requirements?

Mr. Chairman, being without a home is not the panacea its advocates claim. Polling shows some 70 percent of the public supports school accountability, and that would seem to show support for this proposal, but we have not asked whether you favor a larger Federal role in the operation of your local school district? I dare say the opposition to that would be as high as accountability.

While the Federal Government will help with the costs associated in giving these tests, no dollars are available for the very real costs of scoring the tests nor for any response to what the tests may uncover. This creates a largely unfunded mandate, something we, the Congress, have condemned since 1965.

Mr. ISAKSON. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Pennsylvania (Mr. PLATTS), a distinguished member of the Committee on Education and the Workforce and the gentleman who replaced the former chairman of that committee, Mr. Goe. Testifying is not the better part of valor.

Mr. PLATTS. Mr. Chairman, I thank the gentleman from Georgia for yielding me this time.

As a member of the committee, I rise in full support of H.R. 1. I would like to commend the chairman of the committee, the gentleman from Ohio (Mr. BOEHNER), and the ranking member, the gentleman from California (Mr. GEORGE MILLER) for working so diligently with each other, as well as with other members from both sides of the
Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. GEORGE MILLER) to help craft a bipartisan bill that I believe all of us can enthusiastically support. I certainly want to also commend President Bush for his efforts in this area.

He has brought the issue of education reform under the full depth of his commitment to improving America's schools. I have had the honor to speak with the President regarding this issue on a number of occasions now. Each time, he has demonstrated to me his genuine, heart-felt belief that the future of our children and the achievement gap in America's education system.

The bill we are about to consider is numbered H.R. 1 for a reason. It is considered by the administration and appropriately by Members of this House as the top priority for our Nation. There is no more important challenge before our Nation than ensuring that the next generation of schoolchildren is fully equipped with the skills and knowledge they will need to succeed in work and life. Books and chalk boards, good teachers, and a safe learning environment, these are the ingredients to a better future.

Mr. Chairman, H.R. 1 consolidates education. It increases flexibility for local schools and, most importantly, and a corner stone of the President's plan, it requires accountability through annual testing. It treats literacy as a new civil right by requiring parents to receive a parent's permission before putting their children in bilingual education programs to ensure every student can read by grade 3.

An area I have particular interest in is preschool education, and the Early Reading First program proposed by the President. I am also unhappy that the bill requires school districts to try and receive a parent's permission before putting their children in bilingual education programs. Requiring parents to ‘opt-in’ to bilingual education is truly unfair.

I am also unhappy that the bill requires school districts to try and receive a parent's permission before putting their children in bilingual education programs. Requiring parents to ‘opt-in’ in order to place their children in bilingual education is truly unfair.

Mr. Chairman, I think we have a very good education bill before us, given that we did work in a bipartisan effort. I know that some of my Republican colleagues will be offering amendments to add private school vouchers and to also continue the block grant effort. I would urge my colleagues to oppose those amendments and to stay with the base of the bill.

Mr. ISAKSON. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Colorado (Mr. SCHAFER), a member of the Committee on Education and the Workforce.

Mr. SCHAFER. Mr. Chairman, I thank the gentleman for yielding me this time.

I am a cosponsor of H.R. 1, and the reason I am is because the President's educational plan is a good plan, called No Child Left Behind. This plan was adopted in terms of its vision by the Congress and translated into a bill titled H.R. 1, and that is the version of which I became a cosponsor.

This is an ambitious plan, and it is one that is balanced in its approach to education reform. This is a topic, Mr. Chairman, I take quite personally. I have 5 children; 3 of them have been in school, in public school in Colorado for about 3 hours, and it is them and their peers and children just like them that I think ought to be our primary vision and motivation in considering education issues in this bill in particular. With that the President has proposed a vision for education that spoke directly to them.

Key provisions of the bill, however, have been ripped out of the President's plan by the Committee on Education and the Workforce here in the House and elsewhere. For example, on the policy page of the President's plan, the President outlined the following: ‘If schools fail to make adequate yearly progress for 3 consecutive years, districts would lose their Title I funds to transfer to a higher performing public or private school.' This provision, the core provision of the President's plan, has been taken out of his proposal.

While each of us would like to see changes in language or additions to the program, it is important to respect the constraints of these compromises and reject attempts to commit major surgery that would kill the patient. Studies
regularly show that students learn best in small classes with high quality teachers. One of the most critical focuses of this bill is to infuse significant funding into professional development for educators.

I would speak in support of one such program that I believe has the potential to dramatically raise the overall performance of teachers, inspiring good teachers to become excellent teachers.

While it is not contained in House bill, it is part of the Senate bill and will be before the conference committee.

This is the authorization of funding for the National Board for Professional Teaching Standards, which would support a portion of the application fees so teachers can engage in the demanding year-long demonstration of their accomplishment in the act of teaching.

I particularly support funding to conduct outreach for the program because I believe it is a program that can uniquely energize professional expertise for all teachers, and improve the culture of teaching in schools.

Teachers seeking this certification have to justify the decisions they make every day on how they teach and respond to children of diverse background to learning styles, and achievement levels. They answer these questions in writing and through videotape portfolios of their own interaction with students. One of the most critical elements is the follow-up self-reflection criticizing their own performance.

Teachers who have survived this rigorous process repeatedly tell me that just doing it has made them better teachers.

Mr. Chairman, we need to give incentives to those teachers, especially in the very schools targeted in this bill, so that they will have the opportunity to demonstrate their accomplished teaching skills.

Mr. ISAKSON. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas (Mr. HUTCHINSON).

(Mr. HUTCHINSON asked and was given permission to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I support the education initiative that is before us because it provides more funds for education, provides assessments of the progress of students, and it provides more flexibility to the States. But it does more, in my judgment, than justify support. It does something for teachers.

My son, Seth, this week is graduating from the public schools in Fort Smith. He has done well, but he has done it, to a large extent because of one teacher who went the extra mile to help him out. He provided a difference. His name is Mr. Larry Jones. He gave extra hours, and was a career-minded, student-oriented teacher who made a difference in someone’s life. Yet, he received no more pay for his extra ability and devotion.

Quality teachers in my judgment should be paid well, encouraged, and rewarded for their success. This bill includes a provision in title II that I worked on with the committee that allows States and school districts to obtain funding for professional development of teachers, pay differentiation, which rewards teachers’ individual efforts based upon leadership, student achievement, and peer review; and it also provides new approaches, funding for new approaches to provide teachers with optional career paths, such as career, mentor, and master teacher designations.

Mr. Chairman, I support this legislation because it acknowledges that teachers are the heart and soul of our community and should be rewarded and encouraged for their efforts. I hope we can keep teachers in the teaching profession making a difference in the lives of students. I believe this legislation does that. I ask my colleagues to support it.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, I thank the gentleman for yielding time to me. First, I want to salute the leadership of the committee, both the gentleman from Ohio (Chairman BOEHNER), and the gentleman from Delaware (Mr. CASTLE), and Mr. GEORGE MILLER on our side of the aisle. I do not think there is a Member of the House of Representatives that has the passion and the eloquence and is such a virtuoso as the gentleman from California (Mr. GEORGE MILLER), so we thank him for his work. We are all grateful to him.

Mr. Chairman, this last Saturday in my congressional district in Palo Alto, California, the Student Advisory Board for California’s 14th Congressional District, presented their annual report to the community.

This year, the 25 exceptional high school students on the Board decided to focus on one of the most critical issues of our time, education. They specifically analyzed recruitment and retention of teachers.

Their proposal included a number of important initiatives, including loan forgiveness, housing relief, and transportation for teachers, scholarships for college students who agree to teach after their graduation, a national teacher academy, Federal grants for continued learning, and skill-based bonuses.

I bring their ideas to the floor of the House today because it is not only important to heed their voices, but because I believe this bill represents a beginning of what we can do for education, and some of their ideas are in this bill.

The underlying bill is a good bill, it is a balanced bill, and it is a bipartisan bill. It includes a 66 percent increase in teacher training and class size reduction. It includes $1 billion for technology programs, a $128 million increase from current law, and $55 million more than the President’s plan.

Congress is pleased that it includes vouchers. Seventy-one percent of California voters last year chose not to have a State voucher plan because they siphon off some of the most important funding for 90 percent of our students in our country that are in the public education system.

The bill does have its shortcomings. We should fully fund IDEA. We should have school construction. We should take that up after this.

I support the underlying bill, I thank the leadership of the Committee, especially our magnificent gentleman from California (Mr. GEORGE MILLER), and I urge our colleagues to vote for it.

Mr. ISAKSON. Mr. Chairman, I am pleased to yield 4 minutes to the gentleman from Delaware (Mr. CASTLE), the chairman of the Subcommittee on Education Reform and a tireless worker on behalf of President Bush’s desire to leave no child behind.

Mr. CASTLE. Mr. Chairman, I thank the gentleman from Georgia for his kind introduction, and I thank everyone who worked on this bill; of course, the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER), but also including the staff. They have done tremendous work here.

This week, the House takes the next step toward the enactment of H.R. 1, the No Child Left Behind Act of 2001, our best effort to navigate the philosophical differences between our parties and realize our shared vision of a better future for all children.

Prior to 1985, many poor and minority students were denied access to a quality education. In effect, this country had a two-tiered educational system, one with low expectations for poor and minority students and high expectations for others.

Then Washington got involved. Now, after 35 years and more than $130 billion of well-intentioned Washington spending, we have yet to close the achievement gap between disadvantaged students and their more affluent peers. We have allowed ourselves to believe that some children are simply beyond our reach. As a result, this Nation has suffered.

Today, with the consideration of H.R. 1, we have redefined ourselves to the notion that all children can learn, and we begin the reforms to ensure that no child is limited by a high school education that does not provide him or her with the necessary skills to read and write well. The No Child Left Behind Act of 2001 fundamentally changes our system of education to enhance accountability and focuses our attention on student achievement. It increases flexibility, expands options for parents, and ensures that all reforms are tested by scientific research.
Specifically, H.R. 1 builds on the 1994 authorization, focusing on what will be taught and what should be learned at the State and local levels, and it asks schools to demonstrate their ability to drive student results by measuring how well or poorly students perform from one year to the next in reading and math.

Although the bill is careful to preserve a State’s ability to design or select its own standards and assessments, the data required by H.R. 1 will help parents and other school personnel intervene as soon as a student begins to falter, not after several years of failure.

This is essential. As Lisa Graham Keegan, superintendent of Arizona Public Schools, testified before my subcommittee, these tests are not a punishment for students, teachers, or even the school, they are assessment tools. Without them, we simply cannot measure progress and we cannot have accountability.

Yet, some have raised concerns about the tests in their own States. To the extent there are problems such as low standards and cheating, they should be addressed.

That said, I firmly believe that these concerns should not call into question the need to measure progress. I hope we will focus on our attention on how best to use these tests to enhance student achievement.

H.R. 1 also requires each State to sample students in fourth and eighth grade with the National Assessment for Education Progress, or another independent test of the State’s choosing, to confirm the results of the State’s assessments. Since the standards and assessments are developed at the State level, I believe a national measure is critical to help the public monitor the quality of standards and assessments in various States.

Currently, NAEP is the only test that will allow comparison between States and student groups, and is the best barometer of student achievement. Most Members of Congress use NAEP data to demonstrate our Nation’s education failures. While I feel the need to preserve the balance of the agreement, I hope to work with my colleagues to better inform them about NAEP and to ensure that we do not inadvertently promote low standards students with other independent assessments.

Let me state unequivocally that any effort to strike or weaken the test provisions of the H.R. 1 would play into the hands of the keepers of the status quo, effectively preserving a failed system that does not ask if children are learning. A vote against testing would strike at the heart of President Bush’s accountability system. I urge all Members to oppose any such amendment.

H.R. 1 also seeks to address the current lack of accountability for education failure. For our public schools, wherein 90 percent of our children are educated, we provide Federal dollars and technical support as soon as they begin to fail. Yet, after time and assistance, H.R. 1 recognizes that some schools, by virtue of mismanagement or chronic neglect, have not only failed to increase student achievement but have actually retarded educational progress. Therefore, we require a substantial restructuring.

More importantly, we give the children a chance to learn by allowing them to immediately transfer to another, better-performing public or charter school. In addition, we allow students to take their share of Title I dollars to a private entity for tutoring or remediation services to ensure that they get the help that they need.

Finally, H.R. 1 grants new flexibility to States and local school districts, and vests additional power in the hands of practitioners, not bureaucrats.

I urge everyone to support this legislation and to oppose the testing amendment.

Mr. GEORGE MILLER of California, Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. Wu), a member of the Committee.

(Mr. Wu asked and was given permission to revise and extend his remarks.)

Mr. Wu. Mr. Chairman, I would like to speak for a moment about H.R. 1, which I consider to be a good bill, but one which could be even better.

There are two notable omissions from this bill: a freestanding effort to reduce class size and a freestanding effort to build new schools or to repair crumbling schools.

Class size reduction efforts are included in this bill, but they compete, they compete with teacher quality and teacher training programs. I submit to the Members that no school, no parent, should have to choose between having a quality teacher and a small class size which promotes learning and teaching. This is the only way that we can truly lead behind.

Many Members know that many parents choose to send their children to private school substantially in part to get the benefits of smaller class size. But all children should have the benefit of this kind of education, a small class and a quality teacher.

Small class size, reducing class size, was a freestanding effort lost in the Senate by 50 to 48, and we were not permitted to bring that amendment to this floor. I urge the conferences to restore the freestanding program in the conference committee.

This program has fallen victim to politics associated with the Clinton administration. I think that is extremely unfortunate, because this is not a Clinton idea, this is a commonsense idea, one which benefits all children across America, and we should restore it to this bill any way we can.

The CHAIRMAN. Without objection, the gentleman from Ohio (Mr. Boehner) will reclaim his time.

There was no objection.

Mr. BOEHNER. Mr. Chairman, I am pleased to yield 4½ minutes to the gentleman from Michigan (Mr. EHLERS), a member of the committee.

Mr. EHLERS. Mr. Chairman, I thank the gentleman for yielding time to me. I also thank him for good service as the chairman of the committee on a very difficult bill.

Mr. Chairman, I am not only thankful for his service, and that of the gentleman from California (Mr. GEORGE MILLER), the ranking member, but I am thankful that we have a good President who supports improving education, and supports it not just because it is a major campaign issue, but supports it from his heart. He also understands the appropriate Federal role, and his work on this reflects that.

We need flexibility and accountability. We need respect for local and State rights and responsibilities. Again, I say that from my heart, because I have served in local, State, and Federal government. This bill provides that flexibility. It also provides that accountability. I urge this body to vote for that bill.

Mr. Chairman, my interest in education extends back many years. I served for 22 years as a professor at the University of California at Berkeley and at Calvin College. My interest in this bill’s particular aspect of education developed some 36 years ago when I became involved in working with teachers in elementary schools, trying to improve science education.

This arose very naturally from my background as a scientist. I have taught National Science Foundation summer institutes for elementary school teachers. I have worked in schools with the teachers and the students. I believe I have a good understanding of the issue.

I think it is extremely important that we improve our science education in this Nation, not just because I am a scientist, but because that is where the jobs of the future are. We currently have over 300,000 open jobs in this Nation for scientists, engineers, technologists, and those jobs are not being filled because we are not training the people.

This bill will help to train our children so they will qualify for those jobs in the future. I think that is an extremely important aspect of the bill. But we do have to strengthen the bill a bit because, although the bill asks States to set standards for science, it does not require assessments of student learning of science.

We hope to take care of that problem in a colloquy which the gentleman from Ohio (Mr. BOEHNER) and I will engage in in just a moment. The Senate has included science assessments in that bill. We had to omit a magic bill. It unfortunately is not in the current bill before us, but we are hoping through the colloquy to make sure that is in the bill when it reaches the House for consideration of the conference report.

Let me also make one last comment about “Leaving no child behind.” I believe that it is very important to apply
that principle to all those who have learning difficulties but are still learn-
ing-able. I am referring specifically to dyslexia, in which I have a deep inter-
est because I have a grandchild who has dyslexia. This tie I am wearing today came from a private school in which my grandson is also in private school which specializes in dyslexia. We are simply not doing the job in public edu-
cation to take care of these students, and we must in the future.

Mr. Chairman, I would like to enter into a colloquy with the gentleman from Ohio (Mr. BOEHNER), chairman of the Committee on Education and the Workforce.

The current language of H.R. 1 requires that a school identified for im-
provement must provide all students in that school the option to transfer to another public school within the same local educational agency.

I am concerned that this language may not provide public school choice to students in many rural areas. For example, in my mostly rural congres-
sional district, a school district is often comprised of a limited number of schools, sometimes including only a few elementary schools and one high school.

With few schools from which to choose, there is little or no choice within the same school district and, therefore, no relief for those students.

Mr. Chairman, I am hopeful that as this legislative process continues, the bill can include language such as I proposed to the Committee on Rules which allows a student trapped in a failing school to transfer to another public school, regardless of the school dis-
trict.

Will the chair continue to ex-
amine this issue during the conference with the Senate?

Mr. BOEHNER. Mr. Chairman, will the gentleman yield?

Mr. WICKER. I yield to the gen-
tleman from Ohio.

Mr. BOEHNER. As the gentleman noted, similar language is in the Sen-
ate bill, and I would pledge to work with the gentleman from Mississippi (Mr. WICKER) to address this issue in conference. H.R. 1, as we know, provides for within district school choice and then allows for the establishment of cooperative agreements with neighboring school districts, to the extent practical, if there are no higher-performing schools in the original district.

I understand the gentleman’s con-
cerns about meaningful public school choice in rural areas where choices are limited, and I can assure the gen-
tleman that I will work in conference towards giving students at low-per-
foming schools the option of transferring to another public school outside of their current school district.

Mr. WICKER. Reclaiming my time, I thank the gentleman for this assur-
ance.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from California (Ms. SANCHEZ).

Mr. KILDEE. Mr. Chairman, I am pleased to speak in support of this leg-
sislation. This bill is proof that friends on both sides of the aisle, even those who may not agree often, can come to-
together in a bipartisan way to ac-
complish a goal.

We cannot hold public schools ac-
countable for improving education un-
less we give them the funds to ensure
that they can meet those goals. I believe that this bill does both.

Mr. Chairman, H.R. 1 authorizes $24 billion in funding for our national kindergarten through 12th grade education programs, a 29 percent increase over the current fiscal year; more than the funding levels provided by President Bush's own budget.

The bill doubles title I funds over the next 5 years to $17.2 billion, and it includes real support for teacher training.

I am reminded, 2 years ago when then-Vice President Al Gore was in my district and we were talking about school construction, we asked a young student about 12 years old what was the most important thing she was looking forward to in her classroom and she said, well, everybody knows, Congresswoman, that the quality of the teacher is the most important thing for a child to learn.

I am delighted that we are doing something about teacher training. This bill also removes provisions diverting funds from public schools, whatever the newest name for them are, including private, parochial, charter. Vouchers do not support the vast majority of the students in the United States.

I am reluctant to support some parts of this legislation, but, overall, I am very proud of the work that my fellow members of the Committee on Education and the Workforce have done. And I commend both the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER) for having made this bill possible, because truly without both gentlemen and she said, well, everybody knows, Congresswoman, that the quality of the teacher is the most important thing for a child to learn.

I am grateful that we are doing something about teacher training. This bill also removes provisions diverting funds from public schools, whatever the newest name for them are, including private, parochial, charter. Vouchers do not support the vast majority of the students in the United States. The distance-learning programs offer a cost-effective way to level the playing field for all students, offering them the opportunity to take the same classes as their peers in larger and better-funded schools.

Mr. BOEHNER. Mr. Chairman, if the gentleman will continue to yield, I want to thank the gentleman from Ohio for his support of this legislation, to keep in mind the importance of distance learning.

I believe strongly that distance learning is an important tool for many local school districts. And for this reason, this legislation places strong emphasis on distance-learning programs in the education technology grant program.

Mr. NETHERCUTT. Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, I visited STEP Star, which is the distance-learning program operated by Educational Service District 101 in my own 5th District of Washington. Their program is very impressive.

So, once again, I thank the gentleman for his support of distance-learning programs; and I just ask that as he moves forward with this legislation, to keep in mind the importance of ensuring that distance-learning programs remain affordable to the most vulnerable students and school districts, rural, small, and underserved urban districts.

Mr. BOEHNER. Mr. Chairman, I thank the gentleman for his comments and pledge to work with the gentleman on this and other programs as we get into the conference.

Mr. HOLT. Mr. Chairman, I yield to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Chairman, I thank the gentleman from Michigan (Mr. KILDEE) for yielding the time to me, and I commend him and distinguished Members from California and Michigan, as well as the gentleman from Ohio (Mr. BOEHNER), chairman of the Committee on Education and the Workforce, for their sincere effort to put together a bipartisan bill.

We are looking forward over the years of the Elementary and Secondary Education Act. Congress has amended, expanded, streamlined, revised the ESEA eight times creating programs to help migrant children, neglected and delinquent youngsters, limited English proficient students, and other special children.

Programs have been launched to enhance math and science instruction and rid the schools of drugs and violence. Smaller ESEA programs have been created to advance school desegregation, stimulate educational innovation and achieve other important purposes.

However, the face of American education has changed in many ways over the past 30 years. One way it is changing right now that has been addressed earlier but cannot be emphasized too much is that over the next 10 years, we will need to recruit, train and hire 2.2 million new teachers, 2.2 million, just to keep up with attrition and retirement.

Mr. Chairman, I would also say that success in the information age depends not just on how well we educate our children generally, but how well we educate them in math and science specifically.

The majority of these new teachers will be called on to teach math and science. I am proud to have served on the National Commission on Mathematics and Science Chairing teaching by former astronaut and Senator John Glenn.

The Glenn Commission calls for major changes in the quality, quantity, and professional work environment of our math and science teachers.

Although not on the same scale as in the bill that the gentlemanwoman from Maryland (Mrs. MORELLA) and I produced from the Glenn Commission, this bill includes new math and science partnerships that mirror what we set out to do in the Glenn Commission. It is an excellent start on focusing the attention on math and science education.

The gentlemanwoman from Illinois (Mrs. BIGGERT) and I, also in committee, put together a bipartisan amendment to strengthen math and science partnerships.

Going further, one of the main recommendations of the Glenn Commission was to establish regional academies that would recruit talented, mid-career professional and recent graduates in math and science teaching. Unfortunately, that recommendation is
Mr. BOEHNER. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. SOUDER), a member of the Committee on Education and the Workforce.

Mr. SOUDER. Mr. Chairman, I want to make it clear at the beginning of my remarks that I strongly support our President. I think he is doing a great job. I strongly support the gentleman from Ohio (Mr. BONNIE), our committee chairman. I think he has done a great job in a very difficult situation. But I rise to oppose this education bill,Goals 2001.

I remember as a kid, I heard President Nixon say we are all Keynesians now. Right now I kind of feel like what we are saying is we are all liberals now in education. The fact is, in this Goals 2001, this current bill, unlike Goals 2000 where we were supposed to have the States evolve towards a national plan, we have a national plan.

Unlike the spending in education under President Clinton, this bill spends more. Unlike the education bills under President Clinton where there was a proposal to just develop and look at a national test, this has national testing; and it has it for 6 years from now, mandated by a backup of the Federal Government that, if one’s State test does not meet the national standards, one can have one’s money jerked.

Furthermore, it will lead to, in my belief, a national curriculum. There are more new programs in this bill than there were under President Clinton. At some point, one says when is it a bipartisan bill and when is it just taking two-thirds or more of what the Democrats had proposed in the past? Now there are some amendments here that could change the bill. The amendment of the gentleman from California (Mr. COX) would have the spending be only a little bit more than under President Clinton. The bill of the gentleman from Texas (Mr. ARMSTRONG) would take us back to where we were last year on school choice. The bill of the gentleman from South Carolina (Mr. DEMINT) would take us, not quite back to where we were last year, but at least to the Kennedy position in the Senate.

I know there are not going to be very many conservatives who are going to stand up under the pressures that we are under, and against the polls, and oppose this bill. I do not know whether there will be five of us, whether there will be 10 of us, or whether there are 20 of us; but there are some of us going to say that there are still Republicans who are conservative on the education issue, as on other issues.

Mr. KILDEE. Mr. Chairman, I yield 2½ minutes to the gentleman from Wisconsin (Mr. KIND).

(MR. KIND asked and was given permission to revise and extend his remarks.)

Mr. KIND. Mr. Chairman, I thank the gentleman from Michigan for yielding me this time.

Mr. Chairman, as a member of the Committee on Education and the Workforce, I rise in strong support of the underlying core bill, H.R. 1, the Elementary and Secondary Education Reauthorization Act.

Let me be clear though, we have a lot of good schools, a lot of good school districts, a lot of good students doing incredibly well in the public education system throughout our country. I am particularly proud of the education system we have in the State of Wisconsin and my district that I represent in western Wisconsin. But there are also a lot of student educators needing the most disadvantaged students throughout the country. I am particularly proud of the education system we have in the State of Wisconsin and my district that I represent in western Wisconsin. But there are also a lot of student educators needing the most disadvantaged students throughout the country. It increases resources in key programs. It does consolidate a lot of the programs that exist at the Federal level, but consolidates it with added flexibility to local school districts.

It has an emphasis on early childhood reading programs. It recognizes the importance of professional development programs for our teachers, but also an area that is of particular concern for me, professional development of the leadership of our schools, principals and superintendents.

It recognizes the need for research-based education programming and the important role that technology brings in educating our children today. It also contains measurements, measurements which will hopefully be used for diagnostic purposes with enough remediation resources in order to lift students who are underperforming in our school districts, rather than as a means to just punish schools and our students.

But there is still work that needs to be done. There are some glaring absences in this education bill, not least of which is this education programming. There was an excellent study that came out of the University of Wisconsin just a couple of weeks ago that was published in the Journal of American Medical Association that I would reference my colleagues to, talking about the advantages and the benefits of a good focused pre-K education program. We also need to do a better job and a more efficient job of the education research programs that exist right now.

But perhaps the most glaring weakness of the bill is that we are not living up to our responsibility for special education funding in this country. The gentleman from Oregon (Mr. HOOLEY) and I offered an amendment to get the Federal Government to live up to our 40 percent responsibility for special education funding for local school districts. That amendment was not made in order.

We hope to be able to work as the appropriation process moves forward this year in getting enough of our colleagues to recognize the importance of the Federal Government to live up to our cost share for special education expenses.

If we can do one thing that will free up more resources, increase flexibility to local school districts, it is for us to live up to that 40 percent cost share rather than the slightly less than 15 percent that we currently have today. So we have more work to do this year, but H.R. 1 is a good start.

Mr. BOEHNER. Mr. Chairman, I yield 2½ minutes to the gentleman from Kentucky (Mr. FLETCHER), a member of the Committee.

Mr. FLETCHER. Mr. Chairman, I appreciate the opportunity to speak on this very important subject. I think we all would probably agree that the education of our children is one of our greatest responsibilities.

Let me say thanks to the gentleman from Ohio (Chairman BOEHNER) for all of his work, an amazing accomplishment as we pass this bipartisan bill out of the House Committee on Education and the Workforce.

Folks have said, well, it is not perfect. Of course it is not. But it is a very, very good product and a great step in the right direction. Does it please everyone? No, but I think it does an outstanding job to change the direction of education in this country, the first change we have had in probably about 30 years.

The President has established the principles, and I think this bill meets those principles. There are some things that we might work on as we amend it to try to give students more choice. But right now, the focus that I think we need to look at, too, is particularly on the educational gap that we have in this country.

When I look at minorities and look at only 36 percent of minorities being able to read on grade level by the fourth grade, we have a problem, a serious problem, an unacceptable problem. I believe this legislation, this initiative by the President, will help address that problem, a problem that I would say has been largely ignored over the last several decades.

The gap has not decreased. We have not offered the kind of help in education to empower minorities in this country that we should. I think it is a reflection of some soft discrimination that lowers expectations, that we need to make sure that that is stopped and that we raise expectations, increasing accountability that is needed in this country greatly to make sure that the minorities close that gap.
We have seen that happen in Texas under the President’s leadership. I believe it can happen nationally, and I think that is one of the strengths of this bill is to say let us stop that sort of discrimination. Let us provide the kind of educational opportunities that are needed to provide to the priorities in this country so that we give them the kind of freedom for those children to be all that they can be.

Let me say this, with the flexibility it offers, it is the very thing we heard on our education hearing we had in Lexington, Kentucky. We had a hearing on minority education in Lexington, Kentucky, at Booker T. Washington. One of the things we heard from a teacher, Richard Greene, was that give us the flexibility locally that we need to take these children to mentor them, to provide the kind of education that they need, because he does that. He has seen lives turned around.

I believe this education bill will give greater freedom to make real differences in the lives of those students and allow that teacher, Richard Greene, to provide that mentoring and opportunity to those students to give them the opportunity again to reach their full potential and be all they can be.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS). (Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Chairman, this Congress, led by the gentleman from Ohio (Chairman BOEHNER) and the gentleman from California (Mr. GEORGE MILLER), has come together to produce an agreement that I believe will make America’s public schools better, and I am pleased to support it.

This bill introduces a new principle into Federal education policy; and that is, as we increase resources to public schools, we also increase responsibility. We require schools that have not measured up to figure out how to make that measurement happen.

I am particularly pleased that, with the cooperation of the majority, we have made efforts in this bill to expand opportunities to use Federal resources for pre-kindergarten education. Under a proposal—manager’s amendment—which I worked on with the gentleman from Ohio (Mr. BOEHNER), schools will be able to use monies under title IV of this bill to provide quality pre-kindergarten education.

Also, under title I of this bill, the bill clarifies that, in whole school reform, pre-K monies may also be used. I also appreciate the fact that the majority worked with my efforts to provide funding for peer mediation programs so that school violence can be curtailed.

Mr. KILDEE. Mr. Chairman, I yield 2½ minutes to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. Mr. Chairman, I thank the gentleman from Michigan (Mr. KILDEE) for yielding me this time.

Mr. Chairman, I thank the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER) for all the hard work that was expended in crafting a compromise between the two parties.

I will say that I plan to support this legislation for many of the reasons that were enumerated already, particularly by the gentleman from New Jersey (Mr. ANDREWS) and the gentleman from Wisconsin (Mr. KIND).

I will add that I am a little disturbed and I have a problem issue, Mr. Speaker. One is the enormous gap between the funding levels provided in the authorization, and we all use all this terminology here, meaning, for those who are watching at home, if there is anything at home, the amount of money that we said we would spend and the amount of money that we intend to spend.

The amount of money that we said we want to spend, we indicated in the commitment. The amount of money that we intend to spend was decided on the floor not long ago when we passed the budget resolution offered by the majority. The problem is there is an enormous gap between what we said we want to spend and what we actually intend to spend.

So all of this sounds great, but until the appropriators come to meet and decide on what that level of funding would be, we face a problem issue, Mr. Two, we constantly complain in this body about how the Federal Government is not living up to its responsibilities with local governments in terms of providing dollars for special education, or IDEA. TheFord.

I hear from educators all across my district, Democrats, Republicans, those who teach in schools where one has a large swatch of poor kids and those who teach in districts where one has middle-class or upper-income students.

The former chairman of our committee from Pennsylvania, who was a good man, often complained that before we moved as a Congress to enact new programs, we ought to live up to our commitments. My colleagues, our Government should live up to our commitment to provide up to 40 percent of funding for IDEA. We are not doing that. Not only are we not doing that, but amendments were blocked by the majority.

The last two points: the most urgent challenge we face in the great State I am from, Tennessee, and the area I am from, Memphis, is building new schools. No money is provided for that and no opportunity to bring an amendment for that.

Lastly, class size reduction. I had the opportunity to speak at one of the finest schools in my district’s graduations. Thirty-six students graduated. Wonderful class. The kids are all going to go on to college. I will speak at a few other graduations in the coming days.

As I hear fourth and fifth grade teachers complain about teaching 25 to 30 students, I cannot help but think why the majority would not allow an amendment to deal with class size reduction.

Again, I intend to support this bill; but I commit to this Congress, if 5- and 6- and 7-, 8-, 9-, 10-, 11-, 12-year-olds could vote, they would vote us all out of the place. Because not one of them would support learning in a school that was 40 to 50 years old, where water does not run, where roofs are falling in. We would not subject ourselves to that, and we certainly should not subject our kids to that.

We will pass this bill in the coming days, but I hope we come back and do some permanent and good schools for kids all across this Nation.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Chairman, I thank the gentleman from Michigan (Mr. GEORGE MILLER), a Democratic chairman. I think this is a great example of what happens when we work together. We deal with the Nation’s business. This is not a perfect product; however, but it certainly is a very good product.

The administration, many of my Republican colleagues want to talk about accountability. We need to ensure the students perform and the schools perform. Those are very good things. My State of in Maryland has been a leader on the question of accountability. The additional tests will help us measure whether our students are achieving or whether we are passing them through.

But in addition to accountability, we also need resources, and that is why I am very pleased that additional resources are in this bill for title I to help disadvantaged students, also for teacher training and class size reduction. I would like a little more for class size reduction, but clearly there has been a substantial amount, two, which is why the Democrats saying we need resources in addition to accountability.

Mr. Chairman, I thank the gentleman from New Jersey (Mr. ANDREWS) for his hard work and also to the gentleman from California (Mr. GEORGE MILLER), a Democratic chairman. I think this is a great example of what happens when we work together. We deal with the Nation’s business. This is not a perfect product, however; but it certainly is a very good product.

The administration, many of my Republican colleagues want to talk about accountability. We need to ensure the students perform and the schools perform. Those are very good things. My State of in Maryland has been a leader on the question of accountability. The additional tests will help us measure whether our students are achieving or whether we are passing them through.

But in addition to accountability, we also need resources, and that is why I am very pleased that additional resources are in this bill for title I to help disadvantaged students, also for teacher training and class size reduction. I would like a little more for class size reduction, but clearly there has been a substantial amount, two, which is why the Democrats saying we need resources in addition to accountability.

Reading, the foundation for educational achievement, is funded adequately, and I am very pleased with that. And my personal issue, after-
school programs, received a substantial increase. We need to provide opportunities for young people to have constructive after-school activities to provide a total environment.

Let me add that we also have in this bill a concern about the public schools or charter schools or schools that are performing helps enforce accountability. I think that is very good.

Now, this is not a perfect bill, and there are serious concerns on the question of school construction and school modernization. We have talked a lot about technology. We need more money to modernize our schools to utilize the latest technology. But some things are very basic in terms of school modernization. We need air-conditioning.

Some fourth graders standing out on the steps taking a photo-op with their Congressman said to me, “Congressman, we need air-conditioning. Because when it gets hot, our teacher gets grouchy.” And I think that is a real good advertisement for school construction. I hope we pass this bill.

Mr. BOEHNER. Mr. Chairman, I yield 1 minute to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding me this time, and I do want to compliment the President on his efforts to make education a high priority in this country. The pillars of the next generation rest upon teachers giving knowledge to this new and young and curious, inquisitive generation of Americans.

I want to compliment the gentleman from Ohio (Mr. BOEHNER), his staff and the committee on the struggle that they are having to bring this bill to the floor, and there are many good things in this legislation. But this legislation is going to be the quintessential example of the principle of unintended consequences, and I am referring to the accountability part.

People keep talking about accountability and they use the word “accountability.” That means piling on of tests. And when the educational system, especially in local areas, know that their lives are being brought to bear, and there are many good things in this legislation. But this legislation is going to be the quintessential example of the principle of unintended consequences, and I am referring to the accountability part.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, the relationship between student mobility, or transiency, and academic performance warrants significant national attention. In certain neighborhoods, especially in our inner cities and migrant families, when mobility and academic performance bear a direct correlation to student underachievement. According to a 1994 GAO study on student transiency, 41 percent of all third graders from low-income families in America have changed schools. Nearly one-half of all third graders, nearly one-half million students, have attended three or more schools since the first grade.

Lacking permanent shelter of their own, these children and their parents, oftentimes single heads of household, move from place to place throughout the school year. Forced to migrate between the homes of kind relatives and friends, these families are uprooted from the neighborhood elementary school with every move, until the next move to yet another temporary location, usually in another nearby neighborhood. Our Nation’s migrant families need stability for their children’s education.

Mr. Chairman, I will be placing in the RECORD key findings from the GAO study that documented this phenomenon, Elementary School Children: Many Change Schools Frequently, Hampering Their Education, and also key articles from the Catalyst for Cleveland School Districts. Both support the findings that residential instability is the key corollary to poor student performance. The problems for mobile students, many experts say, has been ignored for too long by educators who accept the notion that there is little they can do about it. But with rising consciousness of these disruptive patterns, local school systems have begun to focus on how to address mobility with specific programs targeted to help these multiple-move families.

As we take H.R. 1 to conference with the Senate, it is my hope we can work together to address this issue. During committee markup, the gentleman from Ohio (Mr. KUCINICH) offered an amendment to deal with this problem. The gentlewoman from Cleveland, Ohio (Mrs. JONES) knows the critical need for attention to this destabilizing pattern. I look forward to working with the chairman, the gentleman from Ohio (Mr. BOEHNER), and the ranking member, the gentlewoman from California (Mr. GEORGE MILLER), who have been so kind to offer any assistance I might provide.

The CHAIRMAN. The time of the gentlewoman from Ohio (Ms. KAPTUR) has expired.

Mr. BOEHNER. Mr. Chairman, I yield 30 seconds to the gentlewoman from Ohio (Ms. KAPTUR) to complete her dialogue.

Ms. KAPTUR. I thank the gentleman.

Mr. BOEHNER. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I thank the gentleman.

Mr. BOEHNER. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I thank the gentleman.

Mr. GEORGE MILLER of California. Mr. Chairman, I want to thank the chairman for his comments, and I look forward to working with him and others in the conference committee to help these families advance their children’s academic performance, especially by encouraging a range of solutions to stabilize their residential situation during the early years of learning for their children.

Ms. KAPTUR. Mr. Chairman, I thank the chairman and the ranking member, and I submit for the RECORD the material I referred to earlier.


Hon. MARRY KAPTUR, House of Representatives.

DEAR MS. KAPTUR: The United States has one of the highest mobility rates of all developed countries; annually, about one-fifth of all Americans move. Elementary school children who move frequently face disruption to their lives, including their schooling. And, sadly, these children are often not helped to adjust to the disruption of a new school—new children, teachers, and principal—and to high academic standards in the curriculum between the old school and the new. The success of children who change schools frequently may therefore be jeopardized. In addition, the schools that children attend to high academic standards, advocated by national and state leaders, these children may face increased difficulty in achieving success.

In response to these concerns, you asked us to obtain information on children who change schools frequently: (1) their number and characteristics, (2) their success in their new schools, (3) the help that federal educational programs, such as Migrant Education Program, and Title I, provide, and (4) the help that improved student record systems could provide.
ELEMENTARY SCHOOL CHILDREN: MANY CHANGE SCHOOLS FREQUENTLY, HARMING THEIR EDUCATION

One-sixth of the nation’s third graders—who have changed schools frequently, attending at least three different schools since the beginning of first grade, may not provide timely and complete information from a migrant child. Unless policymakers could help mobile children receive services. For example, children’s school records often take up to 6 weeks to arrive in a new school, and student records often differ from states and districts.

RESULTS IN BRIEF

One in six of the nation’s children who are third-graders—over a half million—have changed schools frequently, attending at least three different schools since the beginning of first grade. Unless policymakers focus greater attention on the needs of children who have changed schools frequently, often in large and limited English proficient (LEP)—these children may continue to be low achieving in math and reading as well as to be low achieving in first grade. Local school districts generally provide little additional help to assist mobile children.

The Department of Education can play a role in helping children to obtain the appropriate educational services in a timely manner. Specifically, the Department can develop strategies so that all eligible children, including those who have changed schools frequently, will have access to federally funded Migrant Education and Chapter 1 services. Timely and comparable record systems are one way to help mobile children receive services. For example, a child’s school records often take 2 to 6 weeks to arrive in a new school, according to data collected by the California State Department of Education and others. Moreover, student records often are not comparable across states and districts. The federal Migrant Student Record Transfer System (MSRTS), established to transfer information from a migrant child’s former school district to a new school district, also does not provide timely and complete information. However, as in other systems, such as one currently being piloted in a few states, may in the future provide comparable and more timely transfer of student records for all children, including migrants.

CONCLUSIONS

Children who change schools frequently face many challenges to their success in school. Such change can cause disruption and add to the other challenges—low-income, limited English proficiency, and migrant status—that mobile children face and are often difficult for them. Nevertheless, many of the children who change schools frequently may be less likely to receive Migrant Education and Chapter 1 services. Furthermore, children meeting program eligibility standards
We found that about 17 percent of third-graders have changed schools frequently, that is, have attended three or more schools since the beginning of first grade. About one-quarter of third-graders have changed schools frequently. One-fourth of third-graders in inner city schools have changed schools frequently, that is, have attended three or more schools since first grade. In comparison, only one-seventh of children from rural or suburban areas or from small cities or towns have changed schools frequently.

Children from low-income families are more likely to change schools frequently than those from higher income families. Among children in families with annual incomes below $10,000, 30 percent have changed schools frequently, compared with 8 percent of children in families with incomes of $50,000 or more. The percentage of children who change schools frequently decreases as income increases.

NATIVE AMERICAN, BLACK, HISPANIC, MIGRANT, AND LEP CHILDREN MORE LIKELY TO CHANGE SCHOOLS FREQUENTLY

Native American, black, and Hispanic children are more likely to change schools frequently than Asian or white children. However, these differences are less related to race or ethnicity than to differences in income and, consequently, homeownership versus renter status: renters tend to move much more frequently than homeowners.

When we examined 1990 Current Population Survey data reported by the Bureau of the Census, race or ethnic differences in mobility largely disappeared after considering homeownership versus renter status.

Migrant and limited English proficient (LEP) children are much more likely to change schools frequently than all children. About 40 percent of migrant children and 34 percent of LEP children change schools frequently, in comparison with 17 percent of all children. Compared with about 3 percent of all children, a smaller percentage of migrant and LEP children have never changed schools—28 and 38 percent, respectively.

Teachers reported that children who change schools frequently, compared with those who have never changed schools, are much more likely to have problems related to nutrition or health and hygiene. Among children who change schools frequently, 10 percent are reported to have nutrition problems, compared with about 3 percent of children who have never changed schools. Similarly, teachers report that 20 percent of children who change schools frequently have health problems. Compared with about 8 percent of children who have never changed schools.

For all children, those who have changed schools frequently are more than twice as likely to repeat a grade as those who have never changed schools. Among children who change schools frequently, about 20 percent repeat a grade; in contrast, among children who have never changed schools, about 8 percent repeat a grade.

Children who change schools frequently are less likely to receive educational support from federal programs than those who have never changed schools. For example, migrant children change schools frequently and are less likely to receive migrant education services than those who have never changed schools. In addition, low-achieving children who change schools frequently are less likely to get Chapter 1 services than those low-achieving children who have never changed school. This is true for children achieving below grade level in math as well as reading.

(Mobile students score lower on state test)

(By Sandra Clark)

Cleveland 4th-graders who changed one or more times during the school year scored lower on the Ohio Proficiency Test than those who stayed at the same school. The analysis reported by the Bureau of the Census is based on student demographics and test scores from 1997 through 1999, the analysis indicates an achievement gap that varied little even as the test changed in difficulty during the period.

The highest achievement gaps in math and science were 7.5 points and 9.2 points, respectively. The average gap in reading was 3.5 points. Reading is something children can learn at home, says Russell W. Rumberger, education professor at University of California, Santa Barbara. Families rely on the school for a major chunk of educational science, which is why the achievement gap in those subjects is largest, Rumberger says.

(Catalyst’s findings come as no surprise to Robertson. The district has not targeted mobile students for any special help, Robertson says. However, he adds that districtwide initiatives, such as establishing standards and periodically assessing students’ strengths and weaknesses should help them.

‘We found that,’ Robertson says, ‘we are trying to make sure they have access to good teaching and what we need to do for all kids.’

Cleveland findings reflect studies done elsewhere that linked student mobility to lower achievement.

The Minneapolis Public Schools, the Family Housing Fund and other groups studied mobile students in the city. The year-long study, called the Kids Mobility Project, found that students who moved three or more times earned reading scores that were half that of students who stayed put.

David Kerbow, a University of Chicago researcher who has studied mobility in Chicago Public Schools, says constant movement slows the learning pace for not only mobile students but also their stable classmates. An analysis of math in highly mobile classrooms shows teachers frequently stop and start to integrate new students with various achievement levels into the class, Kerbow says. Introduction of new material slows as the teacher keeps changing lessons. And, over time, students in highly mobile classrooms get instruction that is about a year behind that of students in more stable schools, Kerbow reports.

Miles Park finds answers

(By Sandra Clark)

A tour of Miles Park Elementary School offers a snapshot of mobility—its causes, its impact, and even a way to minimize its harm.

Any staff member can guide the tour. They all have stories.

Clerk Ella Kirtley can explain what a task it is to keep pace with the rapid student turnover. Librarian Jeanne Irvin says she spends countless hours and dollars retrieving books from students who leave. Second-grade teacher Jane E. Rodgers can demonstrate how she tries to teach an ever-changing class.

The Cleveland Municipal School District, like most in the country, has no official policy for mitigating the impact of mobility. The district has been pushing schools to implement new policies, and even a way to minimize its harm.

“The area superintendent says ‘You did good [with proficiency] last year. How much are you going to improve this year?’” Bauer says. “There’s a new student, there’s a new student, there’s a new student with grades lower than an LD [Learning Disabled] student. You’re here for six weeks, you’re responsible for increasing scores every year.’

The staff is fluent in mobility because enrollment shifts dramatically here. The school’s 1999 mobility rate, the most recent available, of 14.7 percent is below the district average for elementary schools, about 16 percent.

Yet, staff sees a constant churning of students in and out of the school. To date, the school’s enrollment shifted from 538 students to 510 and then back to 538. That means about four whole classrooms full of kids have come and gone this school year. The impact the movement has on staff is huge, as the other says.

Mobility’s influence on behavior and achievement becomes clear one day when
Kenneth returns from speech lessons to Rodger's 2nd-grade class. The tenor of the class shifts. A slight rumble of discord replaces the chatter of children constructing a picture game. Kenneth, not his real name, is the most recent of eight new students in Rodger's class this school year. Kenneth rarely follows school rules and is functioning below grade level, Rodgers says. His classmates know this and give him grief. Little shoes are sent his way, to which he responds by glaring at them and leaving class.

He stands out, Rodgers says. Kenneth is the only student not wearing the school's blue and white uniform. "My students are starting to write paragraphs, and he can't write a sentence," Rodgers says. "I don't have time to work with him.

"I move quicker," Rodgers says. "I'm a 25-year teacher. He had a first-year teacher." Students like Kenneth are in danger of failing. A 1994 General Accounting Office report on mobility said 3rd-graders who have changed schools frequently are 2½ times as likely to repeat a grade as 3rd-graders who have never changed schools.

A CATALYST analysis of mobility in Cleveland schools also showed a link between mobility and class disruption.

The analysis also showed average proficiency test scores of mobile students are about 5 points below scores of stable students.

Janice Smallwood's 4th-grade class at Miles Park has 24 students. Seven are new. When Smallwood tested reading and math levels, students scored between 4.66 and 1.68. Six of the mobile students are at the bottom of the list, scoring below those labeled "basic," says her assistant principal Kelley A. Dudley. Both tests assign a grade equivalent based on the student's score and prescribe what students should study to close any achievement gaps.

Defend the concept of placing new students in nearby homeless and battered women's shelters. Families living at the Zelma George Homeless Shelter attend Miles Park, A.B. Hart Middle and South High School. Families can stay only 14 days unless they receive an extension from the shelter, shelter officials say. (See story page 12.)

To Kirtley and Pagers says an increasingly important role in homelessness and school instability. Mobility for families recently cut from welfare is four times higher than their other families, says Claudia Coulton, social welfare professor at Case's Mandel School of Applied Social Sciences. About 42 percent of Cuyahoga County families losing welfare within months of leaving cash assistance, compared to the national average of 8 percent of families not on welfare moving during the period, Coulton says.

That's not entirely bad news. Many parents now have jobs and can afford to move to better neighborhoods, says Rasool Jackson, Cleveland school's director of Student Administrative Services.

Bauer disagrees, saying welfare reform portends more instability. Bauer says he believes more Mile Park students losing their homes and moving in with family members since welfare reform took hold.

Another major cause for discomfort is the experience of leaving a school.

"I think she wanted to see what I knew," Tanneshia says of teacher who had attended four schools in three years. She's taught some stuff then I don't know what happened. She said she'd ask me some questions. Then she'd ask me a question and I answered it.

"I think she wanted to see what I knew," Tanneshia says. "A rude clerk can really damage people's confidence in the system. That person can really make a person feel uncomfortable through their warmth and coldness."
between. His lessons had been in English, some in Spanish.

Because of frequent movement among students, Isken set up welcoming procedures for new students. The new student and parent or guardian arrive, they are asked about the child’s school and medical history. “Immediately, we had an academic, health and family history. We knew what the support needs would be.”

Students are tested and assigned to classes based on achievement levels. Then, measures such as one-to-one tutoring are prescribed, Isken says.

When students leave, they are given transfer forms with immunization data, enrollment information and telephone numbers or contact people at the school. “Our children (leave) with more information than we got when they came,” Isken says.

A program designed to serve the children of migrant workers has provided a way to help ensure that student records follow them. New Generation System is a student-recognition program. It is used at a school in California.

It is operated by a consortium of 11 states, including Ohio and Texas. Health, academic and demographic information is available to consortium members via the Internet. Patricia Meyerholen, programs director for the Texas Migrant Information Program.

To protect student privacy, the site is encrypted with a password. A few consortium members have access, Meyerholen says.

New Generation System maintains data on about 200,000 of an estimated 784,000 migrant children nationwide, Meyerholen says.

LOW-COST HOUSING

Minneapolis Public Schools attacked mobility at one of its root causes—a lack of low-cost housing.

“It’s the 1 percent vacancy rate that wreaks such havoc on family stability,” says Elizabeth H. Hinz, policy and planning director. “Housing isn’t here, period. Or the housing that’s available people can’t afford.”

The district joined with groups such as the Family Housing Fund and launched the Kids Mobility Project. The research project explored the effect of constant residential moves on student achievement. It produced a report in 1998 that linked inadequate housing to student mobility, poor attendance and lower reading scores, says Shawna Tobechukwu, spokeswoman for the Family Housing Fund.

Tobechukwu says results were used to lobby the state legislature to increase the budget for low-cost housing. Lawmakers responded to the data and raised the budget by about $96 million in the last two years, says Angie Bernhard, research and policy director at Family Housing Fund. “The report was a big part of the information we used to make our case,” Bernhard says. “It was very persuasive to legislators on both sides of the aisle.”

EXTRA RESOURCES

In 1994, Montgomery County Public Schools in Maryland began allocating extra staff to schools based on mobility rates, poverty rates and the number of students speaking limited English, says Susan F. Marks, the district’s assistant superintendent. The strategy increased test scores and raised student mobility rates. Lean budgets meant the district, headquartered in Rockville, Md., simply sent an extra teacher or two to high-mobility schools.

Last year, the county revamped the program. For one, it took mobility and language out of the equation and focused on reducing high-mobility schools, says Frank H. Stetson, Community Superintendent for the school system.

In an area where international professionals come and go regularly, mobility and language are not the best indicators of need, Stetson says. Poverty is. And poorer schools tend to have lower school attendance and achievement, Stetson adds.

“If we used mobility we’d be sending resources to schools that didn’t need them,” Stetson says.

To add resources, the system ranked schools by poverty. Then it gave funds for such items as all-day kindergarten, extra staff to achieve a 1-to-1 teacher-student ratio and programs like Reading Recovery in the primary grades, Mark says. It also plans to add 41 positions to reduce class size at high-poverty high schools and middle schools.

TRANSPORTATION

A coalition of community organizations has taken steps to reduce school mobility among children in Baltimore County, Md., by providing bus service so that students who move can remain in the same school.

The area has neighborhoods containing hundreds of apartments in low-rise buildings where families constantly move in and out. A move from one apartment to another 10 minutes away could send children to a different school, says Julie J. Gaynor, a Baltimore County council member and chairwoman of the Stay Put committee.

The Stay Put program was founded in 1992 to cut school mobility. It is a non-profit project of the education committee of the Essex-Middle River-White Marsh Chamber of Commerce. The group runs several programs such as shuttle buses supplied by the district to transport children who move back to their old school.

Families often move because landlords offer free rent for one month. Stay Put encourages landlords to put the freebies at the end of the lease, increasing the likelihood that kids will stay in the same place. At the group’s urging, landlords also have donated an apartment which serves as a community center where students who live in the complex can receive after-school tutoring and adults can prepare for the General Education Development Certificate (GED).

Gaynor says a new focus is on opening a conflict mediation center so families can resolve differences rather than move away.

Funding for the community center’s staff comes from various sources, including school district grants, Gaynor says.

ACCOUNTABILITY

The California accountability system addresses a common complaint of schools that suffer high mobility: They say they shouldn’t be held accountable for the performance of students who entered their schools months, weeks or even days before the high-stakes tests are given.

The California Department of Education figures mobility into its accountability system. Districts are required to report mobility. The state wants a district to determine which of its scores will or will not be used in the system.

“If you’re not in the district a year, your scores don’t count for rewards and interventions for students,” McCabe says in the department’s Office of Policy and Evaluation.

California schools report two types of mobility figures. Rates for students who move in a district a full year and students who have not been in a school a full year. Schools do not report “churn,” the frequent in-and-out movement of the students. And scores of students who change schools within the same district are not exempt from the accountability system, McCabe says.

Districts that report mobility rates are given three years and extra money to improve. If no improvement occurs, penalties such as reducing the principal, staff or closing the school kick in.

Successful districts receive $70 for every child, McCabe says.

Mr. GEORGE MILLER of California.

Mr. MILLER. I yield myself the balance of my time, and I want to thank all the members of our committee on both sides of the aisle that have participated in this debate and to the other Members that have joined us during this general debate. They were very generous in their congratulating both the chairman and myself, and I want to extend to that the chairman again for the manner in which this bill has been handled.

We have an opportunity here today to change the direction of the Federal role in education, to provide additional resources to local educational agencies with greater flexibility than they have had at any time in the life of this program. They can apply these resources to whatever needs they see the most, that need the attention, that can benefit from the application of those resources to try to get the results that all of us want with the passage of this legislation, but more importantly, to get the results the parents want for children and the children want for themselves.

Our children in America have that potential, they have that ability, and they have that talent. But far too often, far too often, they lose the opportunity to capitalize on their talents, to capitalize on their ability, because they are ignored in the school district or the school district is without resources, or children are mischaracterized. A lot of things happen during the educational year. This legislation is to try to make sure we put the emphasis on the child; that we have a means, as the President said, to assess a child on an annual basis so that we can determine what are the additional resources that child needs; what kind of help should be focused on that child.

In these annual assessments, it is more than just a test, it is about seeing whether or not the child needs a Saturday class, do they need a tutor, do they need a mentor, both of which are allowed under this legislation. Do they need to go to summer school? Do they need some additional testing? Do they need eyeglasses? Those are the kinds of things we want to be able to focus on the child so that every child has that real opportunity. We have the opportunity if, in fact, we provide those resources. We focus on the child and we can start to close that gap between rich and poor children, between majorities and minorities, children in the school.

The other tools that are available are the resources we put into teacher quality, to professional development, to training, to lower class sizes in those schools that have not that the still need to do that. Those are decisions that the local school district can make. It is very important. We know now
that a well-qualified teacher is one of the most important ingredients in that child’s education in the school setting.

Obviously, we believe the most important ingredient is the family. If there is one thing this bill cannot do, that would greatly help us all, is if we could just get every parent to spend time with their child, or grandchild, reading to those children and telling them that it is important. This education would complement that, and we would greatly help us all, as it is the President has had, that so many Members of this Congress have had, and that is to make sure that each and every child has that opportunity.

Mr. Chairman, I look forward to the amendment process.

Mr. BOEHNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let me first thank all of the Members for all their kind comments, I would like to craft this bill, to put it together, and that is to make sure that each and every child has that opportunity.

Mr. PAUL. Mr. Chairman, thirty-six years ago Congress blatantly disregarded all constitutional limitations on its power over K-12 education by passing the Elementary and Secondary Education Act (ESEA). This act of federal Government’s role in education in the 35 years that the Federal Government has been involved. This is a big step. This will take courage on the part of Members and take courage on the part of this institution to forge our way down a new path. But I think today is the day to do it, and I think this is the bill that will put us on the right path.

This bill did not get here by itself, though. All the Members worked hard but are a select group of people who deserve to get our thanks: Sally Lovejoy, who heads up the education group on our staff; members of her staff, Kent Talbert, Christy Wolfe, Rich Stombres, Ben Peltier, Cindy Herrel, Pam Davidson, George Conant, JoMarie St. Martin, Bob Sweet, Doug Moser, Dave Schnittger and his team, and Paula Nowakowski, staff director.

Let me also thank the Democrat staff who worked very closely with us: Charlie Barone, Alex Nock, Denise Forte, John Lawrence, Brendan O’Neil with the office of the gentlewoman from California (Ms. McDow with the office of the gentleman from Indiana (Mr. Roemer); Kara Haas, a staffer in the office of the gentleman from Delaware (Mr. Castle); Karen Weiss with the office of the gentleman from California (Ms. McKean); and Glee Smith of the office of the gentleman from Georgia (Mr. Isakson).

They spent as many hours or more than the Members in terms of helping to craft this bill, to put it together, and to put us on the track where we are today, and I want to thank them for their work.

Mr. PAUL. Mr. Chairman, I rise to express my concern about the legislative language of H.R. 1—The No Child Left Behind Act of 2001, that contains a “grandfather” clause permitting school districts that currently segregate homeless children to continue to do so. The McKinney Act has prohibited this form of segregation. Since 1990, the McKinney Act has required States and school districts to integrate homeless students into the mainstream school environment, and to remove barriers to their enrollment, attendance, and success in school.

As a practical matter, segregation of home- less children who are disproportionately Black and Latino means racial re-segregation. In Chicago, for example, 92% of homeless families that use shelter facilities are African American. To the poor students throughout this nation this is a cruel separation is not new, and has never been “equal.” National educational policy must not now in the 21st Century embrace this insidious notion: that children should be sent to schools based on their housing or economic status. There is no sound teaching rationale for educating home- less children separately. Homeless children are like all other children and represent an array of educational strengths and needs. Some emerge as valedictorians or above-average achievers, others as special education students, and some simply average achievers.

Putting children in schools with a label of “homelessness” is stigmatizing and demean- ing. In many years of work in my district, I have never met a single family that asked for a segregated school. In fact, the parents along with the Chicago Coalition for the Homeless in Chicago fought and closed a segregated facil- ity.

I have a letter from a homeless child name Junior Brewer who is ten years of age, he wrote “I think no matter what, if you are home- less, no one else can control this, you have to be separated from your friends because we are all created equal inside.” What do I tell Junior about the hypocrisy and lies that is being portrayed in H.R. 1. After all Junior, if you are poor and Black or Latino or some other ethnic group being created equal in the inside among men, women, and children is just a dream. Our Republicans say we will leave no child behind but their actions say oth- erwise. We must show through deeds not words that no child is left behind.

Mr. PAUL. Mr. Chairman, thirty-six years ago Congress blatantly disregarded all constitutional limitations on its power over K-12 education by passing the Elementary and Secondary Education Act (ESEA). This act of federal Government control over education contributed to a decline in education quality. Congress has periodically tried to circumvent the constitutional limitations on its authority by using the people’s own money to bribe them into complying with unconstitutional federal dictates.

Mr. Chairman, what does this not violate state control because states are free to not accept federal funds. However, every member here knows that it is the rare state adminis- trator who will decline federal funds to avoid compliance with federal mandates. It is time Congress stopped trying to circumvent the constitutional limitations on its authority by using the people’s own money to bribe them into complying with unconstitutional federal dictates.

Some will claim that this does not violate state control because states are free to not accept federal funds. However, every member here knows that it is the rare state adminis- trator who will decline federal funds to avoid compliance with federal mandates. It is time Congress stopped trying to circumvent the constitutional limitations on its authority by using the people’s own money to bribe them into complying with unconstitutional federal dictates.

Mr. PAUL. Mr. Chairman, thirty-six years ago the federal Government control over education contributed to a decline in education quality. Congress has periodically responded to the American people’s concerns that federal bureaucrats had it within their powers to un- derway. Just a day before the 49th States, or the best, or even student loans, because their state’s education system is inferior to the “as- sessment” used by the other 49 states?

Nature’s testing will reveal the extent to which a na- tional curriculum as teachers will teach what their students need to know in order to pass their mandated “assessment.” After all, federal
funding depends on how students perform on these tests! Proponents of this approach dismiss these concerns by saying “there is only one way to read and do math.” Well then what are the battles about phonics versus whole language or new math versus old math about? There are continuing disputes about teaching all subjects at once versus the mastery of a subject matter. Once federal mandatory testing is in place however, those arguments will be settled by the beliefs of whatever regime currently holds sway in DC. Mr. Chairman, I would like my colleagues to consider that if comfortable they would feel supporting this bill if they knew that in five years proponents of fuzzy math and whole language could be writing the NAEP?

Proponents of H.R. 1 justify the mandatory testing by claiming it holds schools “accountable.” Of course, everyone is in favor of holding schools accountable but accountable to whom? Under this bill, schools remain accountable to federal bureaucrats and those who develop the state tests upon which participating schools performance is judged. Even under the much touted Straight "A’s" proposal, schools which fail to live up to their bureaucratically-determined “performance goals” will lose the flexibility granted to them under this act. Federal and state bureaucrats will determine if the schools are to be allowed to participate in the Straight "A's" program. Further, the bureaucrats will judge whether the states are living up to the standards set in the state’s education plan—yet this is the only part of the bill which even attempts to debureaucratize and decentralize education!

Under the United States Constitution, the federal government has no authority to hold states “accountable” for their education performance. In the free society envisioned by the founders, schools are held accountable to parents, not federal bureaucrats. However, the current system of imposing oppressive taxes on America’s families and using those taxes to fund federal education programs denies parental control of education by denying them control over their education dollars.

As a constitutional means to provide parents with the flexibility to determine their children’s educations, H.R. 368. The Family Education Freedom Act restores parental control over the classroom by providing American parents a tax credit of up to $3,000 for the expenses incurred in sending their child to private, public, parochial, other religious school, or for home schooling their children.

The Family Education Freedom Act returns the fundamental principle of a truly free economy to America’s education system: what the great Austrian economist von Mises called “consumer sovereignty.” Consumer sovereignty simply means consumers decide who succeeds or fails in the market. Businesses that best satisfy consumer demand will be the most successful. Consumer sovereignty is the means by which the free society maximizes human happiness.

When parents control the education dollar, schools must be responsive to parental demands that their children receive first-class educations, otherwise, parents will find alternative means to educate their children. Furthermore, children are the true owners of the schools. They should be able to use their tax credits to improve their schools by purchasing of educational tools such as computers or extracurricular activities such as music programs. Parents of public school students may also wish to use the credit to pay for special services for their children.

According to a recent Manhattan Institute study of the effects of state policies promoting parental choice, increasing parental control boosts the average SAT verbal score by 21 points and the student’s SAT math score by 22 points! The Manhattan Institute study also found that increasing parental control of education is the best way to improve student performance on the NAEP tests.

I have also introduced the Education Quality Tax Cut Act (H.R. 369), which provides a $3,000 tax deduction for contributions to K-12 education scholarships as well as for cash or in-kind donations to private or public schools. The Education Quality Tax Cut Act will allow concerned citizens to become actively involved in improving their local public schools as well as help underprivileged children receive the type of education necessary to help them reach their full potential. I ask my colleagues: who in a child’s life, must have the right to decide whether to spend their money on facilities, teachers or testing. The bill does not provide any additional funds for school construction, and does not provide enough to help states develop the new mandated tests or recruit more teachers to reduce class sizes. In fact, the rule will not even allow these issues to be discussed on the floor.

Unless we work to ensure that sufficient money is included for education in the appropriations process, then all we are doing today is making empty promises. When appropriations melees begin toward the end of the year, I hope the American people will remind every member who votes for this bill that they have a promise to keep. Every member who holds a press conference to tout their commitment to education after their vote on this bill should be prepared to follow through.

Mr. Chairman, we have an opportunity to do great things for education. But this legislation is only a down payment. I hope we remember to pay the rest of the bill.

Mr. Speaker, as a freshman Member of Congress it has been exciting to be a part of the House Education and Workforce Committee, working to draft a bipartisan legislation.
education bill which truly will help students in California and throughout the country. I have been touring the schools in my district to find out from teachers, administrators, parents, and students what they need from the Federal Government when it comes to education policy.

I think the bill that was reported from the Education Committee makes an excellent start toward helping our students achieve success. I am pleased with the increased funding levels for title I, the education program for disadvantaged students, and the increased targeting of funds to low-income areas and at-risk students.

I am also extremely happy with what is not in the bill—private school vouchers. The Education Committee voted to eliminate the voucher provisions and I hope the House will vote to keep vouchers out of the bill as well. We should be focusing on improving our public schools, rather than using public funds to send students to private schools. Vouchers don’t make sense for Los Angeles area students. The $1,500 voucher proposed by President Bush wouldn’t be enough money to send a child to a private school in Los Angeles. And we simply don’t have enough private schools willing to accept students with vouchers.

Although I am happy with the bill, I do have some concerns. I had hoped that the Republican Congress would increase funding for education, facilitate the opportunity to improve this bill through amendments. Unfortunately, we were not offered that opportunity. I wanted to offer an amendment to allow community learning centers to use their funds to implement programs which would help immigrant students with language and life skills. A similar amendment passed the other body by a 96–0 vote, and I had hoped the House would have the opportunity to vote on the amendment. Unfortunately, we were denied that opportunity.

Also, I had hoped that a school construction amendment offered by my colleague from New York, Mr. OWENS, would have been made in order for consideration today. California’s efforts to reduce class size and our dramatic population increases have combined to make school construction essential. I am very disappointed that the House won’t have the opportunity to vote on school construction today.

I also have concerns with portions of the bill dealing with bilingual and immigrant education, and hope they can be improved as the bill moves through the legislative process. As our recent census numbers show us, bilingual and immigrant students are no longer solely the responsibility of States like California, Texas, Florida, and New York. We must be prepared to dramatically increase the funding for students in order to meet the needs of states like Arkansas and Georgia, which are experiencing a large influx of immigrant and bilingual children.

This bill also recommends that students be moved out of bilingual classrooms into English-only programs within three years. This provision is overly restrictive and has no basis in academic research. There is no evidence that students can learn a new language within 3 years. Mandating a time limit on bilingual education impedes the ability of school districts to tailor their instruction to children’s individual needs.

I am also unhappy with the provision in H.R. 1 which requires school districts to try and receive a parent’s permission before putting a child into a bilingual education program. Requiring parents to “opt-in” in order to place their children in bilingual education is unfair. It places the burden of educating an English-learning student on the parent, rather than the school. In addition, there could also be a significant cost to appropriate educational services as the parent and school deal with the administrative paperwork required to place a child in a bilingual education program.

I think we have a very good education bill before us today. I know that some of my Republican colleagues will offer amendments to add private school vouchers or to block grant important education programs. I urge my colleagues to oppose these efforts and keep the important reforms made in the base bill.

Mrs. MEEK of Florida. Mr. Chairman, there are some good things in this bill, but it has some very serious flaws, particularly the failure to fund school modernization and the tremendously damaging changes proposed in the permissible uses of funds under the title I program.

The distinctive characteristic of Federal participation in elementary and secondary education has always been that Federal funding is targeted to achieve the needs of students who come from low-income families. I firmly believe that it makes sense to hold school districts accountable for student performance. Unfortunately, by diluting the targeting of title I funds, H.R. 1 fails our students from low-income families and continues the movement toward abandoning our commitment to them.

The title I program and the law were designed to target funds to children who come from low-income families. The formula for title I is driven by individual poverty; the number of children who qualify for free lunches determines the amount of money that goes to a school district.

Currently, under title I, local education agencies target funds to schools with the highest percentage of children from low-income families. Unless a participating school is operating a “schoolwide” program, the school must target Title I services to children who are failing, or at most, those failing to meet State academic standards.

When the program was created in 1965, the eligibility threshold for using title I funds to operate “schoolwide” programs was 75 percent. Let me repeat that again. Originally, 75 percent of students in a given school had to be poor in order for a school to be able to use title I funds in schoolwide programs.

H.R. 1, as reported, lowers the poverty eligibility threshold for schoolwide programs from 50 percent to 40 percent. This change means that 60 percent of children in that school do not have to qualify as poor; yet they will reap the benefits of title I funds.

I am for helping all students in our public schools, but not by lowering the poverty threshold to 40 percent, and diluting the program’s focus on poor children. Simply put; we are taking from the poor to give to those who are more fortunate. This is not the way to bridge the so-called achievement gap.

The proposed change in the poverty eligibility threshold is just the latest installment in the Congress’ abandonment of students from low-income families, the very students who have historically been the focus, and the intended beneficiaries of the title I program. If H.R. 1 passes in this form, we will have gone from targetting the Federal Government’s primary program in education to help the poor from schools with poverty levels of 75 percent to schools with poverty levels of 40 percent. This seems to me very radical and very unwise.

Education is the number one issue for all Americans, in large part because a good education is critical to achieving the American dream. We should focus our Federal investment on those that need it the most. The proposed change to title I is misguided and wrong. We should take a fresh look at this critical issue.

Mr. GILMAN. Mr. Chairman, I rise today in support of H.R. 1. I am pleased that we are working on this education legislation so early in the 107th Congress and that this legislation will provide more funding for all of our Nation’s schools.

The basics of this bill include developing and implementing high academic standards, helping students achieve these standards with local, State, and Federal funding and requiring some level of accountability for student achievement.

With a strong focus on improving reading skills and literacy, this legislation will help strengthen the foundation that all children need in order to succeed in school. Coupled with increased funding for title I programs and a focus on helping students achieve high standards, this reading initiative will make a significant impact in children’s lives.

As cochair of the Congressional Child Care Caucus, I am particularly pleased with the Raumert First Initiative and the funding targeted to children ages three through five. These competitive grants will aid in the development of verbal skills, phonetic awareness, prereading development and assistance training for the professional development of teachers in child care centers or Head Start centers. If we are to expect our children to achieve great academic success in elementary and secondary school, it is vitally important that their teachers are ready and able to meet the challenges of every day instruction in the classroom.

Moreover, our Nation’s teachers are called upon to act as surrogate parents, counselors, confidants, and security officers, in addition to their basic responsibilities of educating students on a daily basis. With many teachers choosing to leave the profession, we need to help retain them and by providing the necessary funding for training and professional development, as well as a teacher mentoring program, hopefully we can retain the best and brightest in their profession and prevent a massive shortage which is anticipated in New York State.

Accordingly, I urge my colleagues to support this bill, as well as the Dunn amendment for school security program funding, the Meek amendment for student mentoring programs and the Mink amendment for new teacher mentoring. This legislation is a right first step towards strengthening and improving our Nation’s public education system.

Mrs. CHRISTENSEN. Mr. Chairman, I rise in support of H.R. 1—the Leave No Child Behind Act of 2001, in large measure because the members of the Education and Workforce Committee were able to come together on a bipartisan basis to forge an agreement on a major education reform bill which would hold public schools accountable for improving the
H2420

CONGRESSIONAL RECORD—HOUSE May 22, 2001

education of our children while offering substantial increases in Federal funds to help accomplish that goal.

I applaud my colleagues the ranking Democrat on the Education and Workforce Committee, Mr. GEORGE MILLER of California, for his work with Chairman BOEHNER and officials of the White House to reach a consensus on a bipartisan school improvement bill.

As passed by the committee H.R. 1 authorizes $24 billion in funding on ESEA programs, representing a 29 percent increase over the current fiscal year and well above the funding levels provided for in President Bush’s own budget.

While these badly needed increase makes this a good bill there still remain a number of political obstacles—such as the misguided budget reconciliation bill which this body passed last week—which must be overcome before we can have a sound bill. It is important to point out, that in their budget, the Republican leadership cut funding for education below even FY ‘01’s amendment in order to pay for tax breaks for the wealthy.

I would like to urge my colleagues on both sides of the isle not to forget to need for funding for school construction and modernization. Across the country, hundreds of school buildings no longer function as effective places of learning, or even as decent places of shelter. Too many of our children are being left behind in schools with moldy walls, peeling paint, inadequate heat, poor ventilation, broken plumbing, lead-paint, substandard electrical service, and rodent and insect infestations. School repairs are a massive and expensive problem that school districts cannot face alone. They need Federal help.

For this reason, Mr. Chairman, I would oppose any effort to restore the President’s choice proposal and I am disappointed at the adopted rule to block any amendment on school construction and modernization. My dear colleague Congressman MAJOR OWENS introduced one of those amendments. Congress has already appropriated $20 billion for school construction, renovation and repair, provide schools located in underserved communities with funding to repair leaking roofs and faulty plumbing; ensure that schools built before WWII do not continue to contribute to childhood illnesses; and modernize more for elementary and secondary education nationwide. No appropria-

tions have been provided for this program since FY 1994, thus slowing almost to a halt, the incipient progress we were beginning to make in our education system. Mr. Chairman, while we fully recognize that it takes more than just an educational system to work well, this grant would give the Virgin Islands Department of Education, a tremendous and needed boost, in its ongoing efforts to improve the education it provides to our children. I am disappointed that the Rules Committee did not make Mr. UNDERWOOD’s amendment in order.

This notwithstanding, the bill before us today is a big improvement over what the committee began considering. It provides substantial new resources, including $4 billion more for elementary and secondary education for next year compared to this year, in exchange for higher standards and tough accountability rules, which all of us want and support.

I applaud the committee’s Democrats as well as the Republicans who voted in committee to eliminate private school vouchers from this bill. Mr. Chairman, our public schools are plagued with enough problems already. We don’t need to add to those problems by taking funding away from our schools in the form of vouchers.

The bill we are considering today, Mr. Chairman, represents a compromise, which is what being a member of this body is all about. No side, neither Republican nor Democrat gets what they want all the time. That is what the Framers of our country intended when they created the principle of separation of powers. My constituents and the children of the Virgin Islands will benefit from the increased funding represented in this bipartisan bill. I urge my colleagues on both sides of the aisle to support it.

Mr. CRENshaw. Mr. Chairman, I rise today to address this important measure to reform and improve our public education system. As an original cosponsor of H.R. 1, I, like many of my colleagues, was disappointed at some of the budget amendments associated with this bill. During committee consideration. For instance, I believe that the school choice provisions that the President outlined in his education reform package represented a reasonable compromise. He provided a graduated series of steps that school choice efforts should take to improve without jeopardizing the students who attend that school awaiting improvement. His three-year program recognized that every year a child is in school is a precious opportunity to instill knowledge in her mind and a love of learning in her soul.

I intend to support amendments that will be offered on the floor to restore these school choice provisions to the bill, and I am hopeful that these efforts will succeed. But, in the event that a majority of my colleagues do not favor any legislation in empowering parents through school choice, I am likely to still support this legislation.

Mr. Chairman, we cannot allow the perfect to be the enemy of the good. There are many innovative and important proposals included in H.R. 1. It consolidates federal programs, cutting their number by half. It gives local school districts flexibility to transfer up to 50% of federal funding between programs—that is 10 times more flexibility than they are now afforded. It helps all parents—rich and poor alike—to get their children the after-school, tutoring, or remedial assistance they need if they are in low-performing schools.

While it may not include everything I would like, it represents a positive step forward. I commend Chairman BOEHNER and the Republicans and Democrats of the House Education and Workforce Committee for their hard work in crafting a compromise that keeps the dialogue open and keeps education reform moving forward.

Mr. REYES. Mr. Chairman, today the House is taking up extremely important legislation, H.R. 1, a bill to reauthorize the Elementary and Secondary Education Act (ESEA). Although the bipartisan support for this bill is encouraging, just two weeks ago the republicans passed a budget resolution that committed no new resources for education. In fact, the budget resolution provided less than the amount the President requested by $900 million for fiscal year 2002 and by $21.4 billion over ten years. Instead of providing new resources for education, the conference report set funding levels equal to the amounts recommended by the Congressional Budget Office (CBO), just to keep up with inflation. By contrast, H.R. 1 as reported authorizes approximately $5.5 billion more for elementary and secondary education programs for fiscal year 2002 than the $18.5 billion appropriated in fiscal year 2001. This difference between the funding levels authorized in H.R. 1 and the funds committed to education in the budget conference report confirms my concern about the Republican budget. Although Republicans claim to support investments in priorities such as education, their budget did not commit the necessary resources. Furthermore, last week we voted on an unfair rule for H.R. 1 which prevented Democrats from offering key education priorities as amendments. There is nothing in the bill addressing class-size reduction, school modernization or the need to provide adequate funding authorizations for bilingual and migrant education.

The absence of a specific class size reduction program in the bill is unfortunate. H.R. 1 contains no provisions for a specific class-size reduction, school modernization or the need to provide adequate funding authorizations for bilingual and migrant education.

The absence of a specific class size reduction program in the bill is unfortunate. H.R. 1 contains no provisions for a specific class size. In my opinion, schools should not be forced to chose between reducing class size and providing high quality professional development. Research clearly shows that reducing class size, particularly in the early grades, improves student achievement and does not leave them behind. This bill also falls short of providing enough resources for migrant students. In just the past two years, the average number of dollars spent per migrant student has declined by 11 percent. This bill’s proposed increase in migrant education funding does not go nearly far enough to reverse that decline.

The bill further fails migrant students by omitting strong provisions to create a migrant student records transfer system. Such a system would eliminate two serious problems facing migrant students: the health risks caused by multiple unnecessary vaccinations and the denial of high school graduation because of missing records of earned credits. H.R. 1 instead contains weak language that has already been in place for years and produced no results. We should not forgo the opportunity to ensure that migrant children are not left behind.

In addition, this country faces a dramatic challenge in bringing schools up to minimally acceptable conditions as well as meeting school construction and modernization needs for the 21st century. In my district there are schools that finally have access to computers and technology, but don’t have enough electrical outlets to run the technology. I am sure that this is the case in school districts across the country where the average school building is 42 years old. States and localities cannot reasonably be expected to carry the incredible financial burden of building and repairing our schools. Well-maintained schools are critically important for the health and safety of our students. Federal help is not only appropriate, it is essential to an achievement needed, as community achieving the incredible financial burden of building and repairing our schools.
May 22, 2001

CONGRESSIONAL RECORD—HOUSE

H2421

9th. We need to address issues such as class size reduction, school modernization, bilingual education and migrant student needs before we give massive tax cuts to the wealthiest Americans.

I also want to share my grave concern about the parental notification and consent requirements contained in H.R.1. If enacted, these requirements will serve as a barrier to implementing bilingual education programs. According to this bill, schools will be required to “make reasonable and substantial efforts” to gain informed parental consent prior to placing children in an instructional program that is not taught primarily in English. This provision places an undue bureaucratic burden on local schools that will deter them from offering bilingual education classes.

These parental notification and consent measures have also been inserted into Title I—the section of the bill dedicated to assistance for low-income students. Schools that want to use some of their Title I funds for specialized services aimed at assisting limited English proficient children will be burdened with these requirements. No other group of students with special needs is singled out in this way. These provisions are a step back to the days when limited English proficient students were barred from Title I-funded education. These parental notification provisions are therefore inherently unfair and should be removed when this bill reaches the conference committee.

Mr. BOEHNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the “No Child Left Behind Act of 2001”.

SEC. 2. REFERENCES.
Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as the amendment 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. 3. TRANSITION.
Except as otherwise specifically provided in this Act, or any amendment made by 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 such funds may not be provided after the date that is one year after the effective date of this Act.

SEC. 4. TABLE OF CONTENTS.
The table of contents for this Act is as follows:
Sec. 1. Short title.
Sec. 2. References.
Sec. 3. Transitions.
Sec. 4. Table of contents.
Sec. 5. Effective date.

TITLE I—IMPROVING THE ACADEMIC PERFORMANCE OF THE DISADVANTAGED

PART A—BASIC PROGRAM
Sec. 101. Disadvantaged children meet high academic standards.
Sec. 102. Authorization of appropriations.
Sec. 103. Reservation for school improvement.
Sec. 104. Basic programs.
Sec. 105. School choice.
Sec. 106. Academic achievement and local educational agency and school improvement.
Sec. 107. State assistance for school support services.
Sec. 108. Academic achievement awards program.

PART B—STUDENT READING SKILLS IMPROVEMENT GRANTS
Sec. 111. Reading first; early reading first.
Sec. 112. Amendments to Even Start.
Sec. 113. Inexpensive book distribution program.

PART C—EDUCATION OF MIGRATORY CHILDREN
Sec. 121. State allocations.
Sec. 122. State applications; services.
Sec. 123. Authorized activities.
Sec. 124. Coordination of migrant education activities.

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

PART E—FEDERAL EVALUATIONS AND DEMONSTRATIONS
Sec. 151. Evaluations.
Sec. 152. Demonstrations of innovative practices.
Sec. 153. Ellender-close up fellowship program; dropout reporting.

PART F—COMPREHENSIVE SCHOOL REFORM
Sec. 161. School reform.

PART G—RURAL EDUCATION FLEXIBILITY AND ASSISTANCE
Sec. 171. Rural education.

PART H—GENERAL PROVISIONS OF TITLE I
Sec. 181. General provisions.

TITLE II—PREPARING, TRAINING, AND RECRUITING QUALITY TEACHERS
Sec. 201. Teacher quality training and recruitment grants.
Sec. 203. Civic education; teacher liability provisions.

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

PART A—EDUCATION OF LIMITED ENGLISH PROFICIENT AND IMMIGRANT CHILDREN
Sec. 301. Programs authorized.
Sec. 302. Conforming amendment to Department of Education Organization Act.

PART B—INDIAN AND ALASKA NATIVE EDUCATION
Sec. 312. Alaska Native education.
Sec. 313. Amendments to the education amendments of 1978.

TITLE IV—IMPROVING INFORMED PARENTAL CHOICE AND INNOVATIVE PROGRAMS

PART A—INNOVATIVE PROGRAMS
Sec. 401. Promoting informed parental choice grants.
Sec. 402. Continuation of awards.

PART B—PUBLIC CHARTER SCHOOLS
Sec. 411. Public charter schools.
Sec. 412. Continuation of awards.

PART C—MAGNET SCHOOLS ASSISTANCE; WOMEN’S EDUCATIONAL EQUITY
Sec. 421. Magnet schools assistance.
Sec. 422. Women’s educational equity.
Sec. 423. Continuation of awards.

TITLE V—21ST CENTURY SCHOOLS
Sec. 501. Safe schools.

TITLE VI—IMPACT AID PROGRAM
Sec. 601. Payments under section 8002 with respect to fiscal years in which insufficient funds are appropriated.
Sec. 602. Calculation of payment under section 8003 for small local educational agencies.
Sec. 603. Construction.
Sec. 604. State consideration of payments in providing State aid.
Sec. 605. Authorization of appropriations.
Sec. 606. Redesignation of program.

TITLE VII—ACCOUNTABILITY
Sec. 701. Flexibility and accountability.

TITLE VIII—GENERAL PROVISIONS
Sec. 801. General provisions.
Sec. 802. Comprehensive regional assistance centers.
Sec. 803. National diffusion network.
Sec. 804. Eisenhower regional mathematics and science education consortia.
Sec. 805. Technology-based technical assistance.
Sec. 806. Regional technical support and professional development.

TITLE IX—MISCELLANEOUS PROVISIONS
PART A—AMENDMENTS TO OTHER ACTS
SUBPART 1—NATIONAL EDUCATION STATISTICS ACT
Sec. 901. Amendment to NESA.

SUBPART 2—HOMELESS EDUCATION
Sec. 911. Short title.
Sec. 912. Findings.
Sec. 913. Purpose.
Sec. 914. Education for homeless children and youth.
Sec. 915. Technical amendment.

PART B—REPEALS
Sec. 921. Repeals.

TITLE V—IMPROMTING THE ACADEMIC PERFORMANCE OF THE DISADVANTED

PART A—BASIC PROGRAM
Sec. 101. Disadvantaged children meet high academic standards.
Sec. 102. Authorization of appropriations.
Sec. 103. Reservation for school improvement.
Sec. 104. Basic programs.
Sec. 105. School choice.
Sec. 106. Academic achievement and local educational agency and school improvement.
Sec. 107. State assistance for school support services.
Sec. 108. Academic achievement awards program.

PART B—STUDENT READING SKILLS IMPROVEMENT GRANTS
Sec. 111. Reading first; early reading first.
Sec. 112. Amendments to Even Start.
Sec. 113. Inexpensive book distribution program.

PART C—EDUCATION OF MIGRATORY CHILDREN
Sec. 121. State allocations.
Sec. 122. State applications; services.
Sec. 123. Authorized activities.
Sec. 124. Coordination of migrant education activities.

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

PART E—FEDERAL EVALUATIONS AND DEMONSTRATIONS
Sec. 151. Evaluations.
Sec. 152. Demonstrations of innovative practices.
Sec. 153. Ellender-close up fellowship program; dropout reporting.

PART F—COMPREHENSIVE SCHOOL REFORM
Sec. 161. School reform.

PART G—RURAL EDUCATION FLEXIBILITY AND ASSISTANCE
Sec. 171. Rural education.

PART H—GENERAL PROVISIONS OF TITLE I
Sec. 181. General provisions.

TITLE II—PREPARING, TRAINING, AND RECRUITING QUALITY TEACHERS
Sec. 201. Teacher quality training and recruitment grants.
Sec. 203. Civic education; teacher liability provisions.

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

PART A—EDUCATION OF LIMITED ENGLISH PROFICIENT AND IMMIGRANT CHILDREN
Sec. 301. Programs authorized.
Sec. 302. Conforming amendment to Department of Education Organization Act.

PART B—INDIAN AND ALASKA NATIVE EDUCATION
Sec. 312. Alaska Native education.
Sec. 313. Amendments to the education amendments of 1978.
“(3) The best education decisions are made by those who know the students and who are responsible for implementing the decisions.

(4) Educators and parents should retain the right to provide quality education and prepare their children free of excessive regulation by the Federal Government.

(5) The Supreme Court has regarded the right of parents to send their children to schools of their choice as a fundamental right implicit in the concept of ordered liberty within the 14th Amendment to the Constitution, as specified in Meyer v. Nebraska, 262 U.S. 390 (1923), and Pierce v. Society of Sisters, 268 U.S. 510 (1925).

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

(7) There are much more likely to be identified as failing to meet State academic standards for satisfactory progress. As a result, these schools are generally the most in need of additional resources and technical assistance to build the capacity of these schools to address the many needs of their students.

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

(9) Congress and the public would benefit from directing the efforts of the Elementary and Secondary Education Act of 1965.

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

(11) The purpose and intent of this title are to ensure that all children have a fair and equal opportunity to obtain a high-quality education.

(12) The recognition of need.—The Congress recognizes the following:

(1) Educational needs are particularly great for low-achieving children in our Nation's highest-poverty schools, with low English proficiency, children of migrant workers, children with disabilities, Indian children, children who are neglected or delinquent, and young children who are in need of reading assistance and family literacy assistance.

(2) Despite more than 3 decades of Federal assistance, a sizable achievement gap remains between minority and nonminority students, and between disadvantaged students and their more advantaged peers.

(3) Too many students attend local schools that fail to prepare them with a quality education, and are given no alternatives to enable them to receive a quality education.

(4) Federal education agencies, and schools need to be held accountable for improving the academic achievement of all students, and for identifying and turning around low-performing schools.

(5) States and local educational agencies need to ensure 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 and continuous expectations for student academic achievement.

(6) Federal education assistance is intended not only to increase pupil achievement overall, but also to provide substantial assistance to meet the special needs of disadvantaged students, and help ensure that all students, especially the disadvantaged, meet challenging academic achievement standards. It can only be determined if schools, local educational agencies, and States are reaching this goal if student achievement results are reported specifically by disadvantaged students.

SEC. 102. AUTHORIZATION OF APPROPRIATIONS. Section 1002 is amended to read as follows: “SEC. 1002. AUTHORIZATION OF APPROPRIATIONS.—

(1) LOCAL EDUCATIONAL AGENCY GRANTS.—For the purpose of carrying out part A, other than section 1120(e), there are authorized to be appropriated $17,500,000,000 for fiscal year 2002, $15,000,000,000 for fiscal year 2003, $14,500,000,000 for fiscal year 2004, $16,500,000,000 for fiscal year 2005, and $17,200,000,000 for fiscal year 2006.

(2) STUDENT READING SKILLS IMPROVEMENT GRANTS.—

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

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

(c) EVEN START.—For the purpose of carrying out subpart 3 of part B, there are authorized to be appropriated $150,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(d) INEXPENSIVE BOOK DISTRIBUTION PROGRAM.—For the purpose of carrying out subpart 4 of part B, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and each of the 4 succeeding fiscal years.

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

(4) COMPREHENSIVE SCHOOL REFORM.—For the purpose of carrying out section 1116, there are authorized to be appropriated $260,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(5) LOCAL EDUCATIONAL AGENCY GRANTS.—For the purpose of carrying out part E, there are authorized to be appropriated $300,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(6) PRESCHOOL EDUCAIION FOR YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT RISK OF DROPPING OUT.—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 4 succeeding fiscal years.

(7) SEC. 1002. AUTHORIZATION OF APPROPRIATIONS.—

(a) EVALUATION, AND TECHNICAL ASSISTANCE.—

(1) STATE RESERVE.—Each State may reserve, from the sum of the amounts it receives under parts A, C, and D of this title, an amount equal to the greater of 1 percent of the amount it received under such parts for fiscal year 2001, or $400,000 ($50,000 for each outlying area), in order to evaluate the effectiveness of subparts 1 and 2, to carry out administrative duties assigned under parts A, C, and D.

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

(3) Special Rule.—The amount received by each State under paragraphs (1) and (2) may not exceed the amount of State funds expended by the State educational agency to administer elementary and secondary education programs in such State.

(4) Assistance for Local School Improvement.—

(5) Program Authorized.—The Secretary shall award grants to States to provide subgrants to local educational agencies for the purpose of providing assistance for school improvement consistent with section 1116. Such grants shall be allocated on the basis of Indian Affairs, and the outlying areas, in proportion to the grants received by the State, the Bureau of Indian Affairs, and the outlying areas for the fiscal year under parts A, C, and D of this title. The Secretary shall expeditiously allocate 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 the enactment of the No Child Left Behind Act of 2001.

(6) 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 to each participating school;

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

(C) renewable for 2 additional years if the school demonstrates satisfactory progress consistent with the State and local educational agency plans developed under section 1116.

(7) Priority.—The State, in awarding such grants, shall give preference to local educational agencies with the lowest achieving schools, that demonstrate the greatest need for such funds, and that demonstrate the strongest commitment to use such funds to provide adequate resources to enable the lowest achieving schools to meet the yearly progress goals under State and local school improvement, controversy, and restructuring plans under section 1116.

(8) Administrative Costs.—A State educational agency that receives a grant award under this part shall not use more than 5 percent of such award for administration, evaluation, and technical assistance expenses.
“(7) 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 the academic standards under this Act and local school improvement, corrective action, and restructuring plans under section 1116.

(8) AUTHORIZATION OF APPROPRIATIONS.—For carrying out this section, there are authorized to be appropriated $500,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

SEC. 103. RESERVATION FOR SCHOOL IMPROVEMENT.

Section 1003 is amended to read as follows:

SEC. 1003. RESERVATION FOR SCHOOL IMPROVEMENT.

(a) STATE RESERVATIONS.—Each State shall reserve 1 percent of the amount it receives under part 2 of title A for fiscal years 2002 and 2003, and 2 percent of the amount received under such part for fiscal years 2004 through 2006, to carry out subsection (b) and to carry out the State’s responsibilities under sections 1116 and 1117, including carrying out the State educational agency’s statewide system of technical assistance and support for local educational agencies.

(b) USES.—Of the amount reserved under subsection (a) for any fiscal year, the State educational agency shall allocate at least 95 percent of that amount directly to local educational agencies for schools identified for school improvement, corrective action, and restructuring under section 1116(c) that have the greatest need for that assistance in amounts sufficient to have a significant impact in improving those schools.

(c) PRIORITY.—The State educational agency, in allocating funds to local educational agencies under this section, shall give priority to local educational agencies that—

(I) have the lowest achieving schools;

(II) demonstrate the greatest need for such funds; and

(III) demonstrate the strongest commitment to ensuring that such funds are used to enable the lowest achieving schools to meet the yearly progress goals 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, it may make the excess amount to local educational agencies in accordance with either or both—

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

(II) section 1126(c).

(e) SPECIAL RULE.—Notwithstanding any other provisions of this section, the amount of funds reserved by the State under subsection (a) in any given fiscal year shall not decrease the amount of State funds each local educational agency receives under this section, which amount was determined by the State agency under part 2 in the preceding fiscal year.

SEC. 104. BASIC PROGRAMS.

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

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

Subpart 1—Basic Program Requirements

SEC. 1111. STATE PLANS.

(a) PLANS REQUIRED.—

(I) IN GENERAL.—Any State desiring to receive a grant under this part shall submit to the Secretary before October 1, 2001, a plan describing 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 the State’s plans under title IV, part A, Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 7101 et seq.), the Workforce Investment Act (29 U.S.C. 9831 et seq.), and the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.).

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

(III) ACADEMIC STANDARDS, ACADEMIC ASSESSMENTS, AND ACCOUNTABILITY.—

(1) CHALLENGING ACADEMIC STANDARDS.—

(A) 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 schools to assess student achievement and for ensuring that they make adequate yearly progress in accordance with the State’s definition under subparagraph (B).

(B) ADEQUATE YEARLY PROGRESS.—Each State plan shall demonstrate, based on academic assessments described under paragraph (4), what constitutes adequate yearly progress of the State, and of public and nonacademic educational agencies in the State, toward enabling all public 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 agency, and school.

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

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

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

(iii) measures the student dropout rate, as defined for the Common Core of Data maintained by the National Center for Education Statistics established under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2901 et seq.), and the National Education Statistics Act of 1994 (20 U.S.C. 9902);

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

(I) The achievement of all public school students;

(II) The achievement of—

(aa) economically disadvantaged students;

(bb) students from major racial and ethnic groups;

(cc) students with disabilities;

(dd) students with limited English proficiency;

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

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

(vi) includes a timeline that—

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

(II) establishes a target year by which all members of each group of students described in subclauses (I) and (II) of clause (iii) shall meet or exceed the State’s proficient level of academic performance on the State’s academic assessments used for the purposes of this section and section 1116, except that the target year shall not be more than 12 years from the baseline year; and

(III) establishes, for each year after the target year, annual goals for the academic performance of each group of students.
described in subclauses (I) and (II) of clause (iii) of the State academic assessment that—

(‘‘(aa) indicates a minimum percentage of students who meet the proficient level on the academic assessments that the percentage is the same for each group of students described in subclauses (I) and (II) of clause (iii); or

(bb) indicates an annual minimum amount by which the percentage of students who meet the proficient level among each group of students described in subclauses (I) and (II) of clause (iii) shall increase, such that the minimum increase for each group is equal to or greater than 100 percent minus the percentage of the group meeting the proficient level in the baseline year divided by the number of years from the baseline year to the target year established under clause (ii).”

(D) ANNUAL IMPROVEMENT FOR SCHOOLS.—

For a school to make adequate yearly progress under subparagraph (A), not less than 95 percent of each group of students described in subparagraph (C)(iii)(II) who are enrolled in the school are required to take the academic assessments, consistent with section 612(a)(17)(A) of the Juvenile Justice and Delinquency Prevention Act (20 U.S.C. 1412(a)(17)(A)) and paragraph (4)(G)(ii), on which adequate progress is based.

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

(3) Option for Local Education Agency.

Each State shall ensure that in developing its plan, it diligently seeks public comment from a range of public agencies.

(D) ANNUAL IMPROVEMENT FOR SCHOOLS.—

For a school to make adequate yearly progress under subparagraph (A), not less than 95 percent of each group of students described in subparagraph (C)(iii)(II) who are enrolled in the school are required to take the academic assessments, consistent with section 612(a)(17)(A) of the Juvenile Justice and Delinquency Prevention Act (20 U.S.C. 1412(a)(17)(A)) and paragraph (4)(G)(ii), on which adequate progress is based.

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

(F) Option for Local Education Agency.

Each State shall ensure that in developing its plan, it diligently seeks public comment from a range of public agencies.

(G) Option for Local Education Agency.

Each State shall ensure that in developing its plan, it diligently seeks public comment from a range of public agencies.
(B) another academic assessment selected by the State which meets the criteria of section 7101(b)(1)(B)(ii) of this Act; (3) the State educational agency shall work with other agencies and local consortia that are additional educational service agencies or other local consortia, and institutions to provide technical assistance to local educational agencies and schools to carry out the State agency’s responsibilities under this part, including technical assistance in providing professional development under section 1114A and technical assistance under section 1117; and (4) where educational service agencies do not exist, the State educational agency shall consider the potential for professional development and technical assistance through other cooperative agreements such as through a consortium of local educational agencies; (5) the State educational agency shall notify local educational agencies and the public of the content and student academic achievement standards and academic assessments developed under this section, and of the agencies and individuals participating in schoolwide programs, and will fulfill the State educational agency’s responsibilities regarding local educational agency improvement and school improvement under section (a), (b), or (c), immediately notify the plan does not meet the requirements of subsections (a), (b), and (c); and (C) providing a hearing; and (D) have the authority to approve 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 it any element of the requirements of this part, or any specific aspect of the requirements of this part that would otherwise be available for State administration and activities in each year until the Secretary determines that the State meets those requirements; (B) NO EXTENSION.—The Secretary shall not withhold any additional waivers, or enter into any additional compliance agreements to extend, the deadlines described in subparagraph (A) for any State. (2) FAILURE TO MEET REQUIREMENTS ENACTED IN 2001.—If the Secretary determines that the State plan does not meet the requirements of this section, other than the requirements described in paragraph (1), the Secretary may withhold funds for State administration and monitoring or provide such funds to other authorities or agencies that the Secretary determines are capable of monitoring its implementation; (A) MINIMUM REQUIREMENTS.—In general.—If a State fails to meet the requirements established by the Improving America’s Schools Act of 1994 (or under any waiver granted by the Secretary or under any compliance agreement with the Secretary) for demonstrating that it has in place challenging academic content standards and student achievement standards, and a system for measuring and monitoring student progress, the Secretary shall withhold 25 percent of the funds that would otherwise be available for State administration and activities in each year until the Secretary determines that the State meets those requirements; (B) NO EXTENSION.—The Secretary shall not grant any additional waivers of, or enter into any additional compliance agreements to extend, the deadlines described in subparagraph (A) for any State. (2) FAILURE TO MEET REQUIREMENTS ENACTED IN 2001.—If the Secretary determines that the State plan does not meet the requirements of this section, other than the requirements described in paragraph (1), the Secretary may withhold funds for State administration and monitoring or provide such funds to other authorities or agencies that the Secretary determines are capable of monitoring its implementation; (A) MINIMUM REQUIREMENTS.—In general.—If a State fails to meet the requirements established by the Improving America’s Schools Act of 1994 (or under any waiver granted by the Secretary or under any compliance agreement with the Secretary) for demonstrating that it has in place challenging academic content standards and student achievement standards, and a system for measuring and monitoring student progress, the Secretary shall withhold 25 percent of the funds that would otherwise be available for State administration and activities in each year until the Secretary determines that the State meets those requirements; (B) NO EXTENSION.—The Secretary shall not grant any additional waivers of, or enter into any additional compliance agreements to extend, the deadlines described in subparagraph (A) for any State. (2) FAILURE TO MEET REQUIREMENTS ENACTED IN 2001.—If the Secretary determines that the State plan does not meet the requirements of this section, other than the requirements described in paragraph (1), the Secretary may withhold funds for State administration and monitoring or provide such funds to other authorities or agencies that the Secretary determines are capable of monitoring its implementation; (A) MINIMUM REQUIREMENTS.—In general.—If a State fails to meet the requirements established by the Improving America’s Schools Act of 1994 (or under any waiver granted by the Secretary or under any compliance agreement with the Secretary) for demonstrating that it has in place challenging academic content standards and student achievement standards, and a system for measuring and monitoring student progress, the Secretary shall withhold 25 percent of the funds that would otherwise be available for State administration and activities in each year until the Secretary determines that the State meets those requirements; (B) NO EXTENSION.—The Secretary shall not grant any additional waivers of, or enter into any additional compliance agreements to extend, the deadlines described in subparagraph (A) for any State.
State prior to the enactment of the No Child Left Behind Act of 2001 may use those reports for the purpose of this subsection, so long as any such report is modified, as may be needed, to comply with the information required by this subsection.

“(4) ANNUAL STATE REPORT TO THE SECRETARY.—Each State receiving assistance under this Act—

(A) shall annually to the Secretary, and make widely available within the State—

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

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

(iii) 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 to the extent required by this section).

(5) PARENTS RIGHT-TO-KNOW.—

(A) QUALIFICATIONS.—At the beginning of each school year, a local educational agency that receives funds under this part shall notify the parents of each student attending any school receiving funds under this part that they may request, and shall provide the parents upon request (and in a timely manner), 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 required by paragraph (A), the parents may request under such paragraph (A), a school which receives funds under this part shall provide to each individual parent—

(i) a description of the comprehensive and detailed performance of the individual student for whom they are the parent in each of the State academic assessments required under this part; and

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

(C) FORMATTING.—Each local educational agency shall include in its plan under subsection (b) an assurance that it has in effect a policy that meets the requirements prescribed under this section.

(i) PRIVACY.—Information collected under this section shall be collected and disseminated in a manner that protects the privacy of individuals.

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 if the agency has on file with the State educational agency a plan, approved by the State educational agency, that is coordi-
May 22, 2001

CONGRESSIONAL RECORD—HOUSE

H2427

low-income children below the age of compulsory school attendance, ensure that such services comply with the academic achievement standards established under section 614(a) of the Handicapped Children's Education Act (20 U.S.C. 1414(a)); and

"(H) comply with the requirements of section 1119 regarding the qualifications of teachers and paraprofessionals;"

And child centered schools of the local educational agency's authority to obtain waivers on the school's behalf under title VIII of this Act, and if the State is an Ed-Flex Partnership State, to obtain waivers under the Education Flexibility Partnership Act of 1999; and

"(I) coordinate and collaborate, to the extent feasible, as determined by the local educational agency, with other agencies providing services to children, youth, and families;

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

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

"(B) shall disseminate to local educational agencies the Head Start academic achievement standards established under section 641A(a) of the Head Start Act (42 U.S.C. 9836a(a)), and such agencies affected by such subparagraph shall plan for the implementation of such subparagraph with the assistance of the State educational agency (or State and local laws, and local teacher contracts), including the procedures of other Federal, State, and local funding sources to assist with such subparagraph.

"(3) INAPPLICABILITY.—The provisions of this subsection shall not apply to preschool programs using the Even Start model or to Even Start programs implementing the Even Start model.

"(4) LOCAL EDUCATIONAL AGENCY DISCRETION.—

"(A) IN GENERAL.—A local educational agency shall be able to use the funds under this part only in eligible school attendance areas.

"(B) ELIGIBLE SCHOOL ATTENDANCE AREAS.—For the purposes of this part—

"(i) "School attendance area" means, in relation to a particular school, the geographical area in which the children who are normally served by that school reside, and who are eligible for programs under this part; and

"(ii) "School attendance area" means a school attendance area in which the percentage of children from low-income families is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(C) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(D) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(E) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(F) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(G) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(H) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(I) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(J) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(K) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(L) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(M) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(N) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(O) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(P) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(Q) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(R) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(S) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(T) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(U) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(V) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(W) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(X) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(Y) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(Z) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(AA) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(BB) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(CC) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(DD) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(EE) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(FF) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(GG) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(HH) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(II) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(JJ) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(KK) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.

"(LL) "School attendance area" means a school attendance area in which the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children from low-income families enrolled in the school.
(A) eligible school attendance areas in which the concentration of children from low-income families exceeds 75 percent; and

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

(2) In order for a local educational agency to treat as eligible, and serve, any children for whom it is required to carry out the activities described in subsection (c), it shall:

(a) maintain a separate fiscal accounting record, by program, for funds from different Federal programs under this part, so that the State educational agency may reserve such funds as are necessary under this part to meet the requirements of section 111A for such fiscal year, except that a school meeting challenging State academic content standards and the State academic achievement standards of the entire school (including taking into account the entire educational program in a high poverty school; and

(b) to determine the ranking of each area;

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

(2) ALLOCATION TO PUBLIC SCHOOL ATTENDANCE AREAS. To the extent that the local educational agency shall have the final authority, consistent with section 1120, to determine which local educational agency shall have the final authority, consistent with section 1120, to serve schools in rank order from highest to lowest according to the ranking as assessed under paragraph (1).

(3) RESERVATION. In determining the number of children ages 5 through 17 who are from low-income families, the local educational agency may reserve such funds as are necessary under this part to meet the requirements of section 111A for such fiscal year, except that a school meeting challenging State academic content standards and the State academic achievement standards of the entire school shall use funds as are necessary under this part to meet those requirements of section 111A for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities.

(3) E XEMPTION FROM STATUTORY AND REGULATORY REQUIREMENTS. A school that consolidates funds from different Federal programs under this section shall not be required to maintain separate fiscal accounting records, by program, that identify the specific activities supported by those particular funds as long as it maintains records that demonstrate that the schoolwide program considered as a whole addresses the intent and purposes of each of the Federal programs that were consolidated to support the schoolwide program.

(4) PROFESSIONAL DEVELOPMENT. Each school receiving funds under this part for any fiscal year shall devote sufficient resources to effectively carry out the activities described in subsection (f)(2) that is based on the English proficiency include the performance of children in relation to the State academic content standards and the State student academic achievement standards described in section 1111(b)(1).

(B) Schoolwide reform strategies that—

(a) provide opportunities for all children to meet the State’s proficient levels of student achievement described in section 1111(b)(1); and

(II) increase the amount and quality of learning time, such as providing an extended community-

(B) The Secretary may approve a local educational agency to treat as eligible, and serve, any children for whom it is required to carry out the activities described in subsection (c), it shall:

(a) maintain a separate fiscal accounting record, by program, for funds from different Federal programs under this part, so that the State educational agency may reserve such funds as are necessary under this part to meet the requirements of section 111A for such fiscal year, except that a school meeting challenging State academic content standards and the State academic achievement standards of the entire school (including taking into account the entire educational program in a high poverty school; and

(b) to determine the ranking of each area;

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

(2) ALLOCATION TO PUBLIC SCHOOL ATTENDANCE AREAS. To the extent that the local educational agency shall have the final authority, consistent with section 1120, to determine which local educational agency shall have the final authority, consistent with section 1120, to serve schools in rank order from highest to lowest according to the ranking as assessed under paragraph (1).

(3) RESERVATION. In determining the number of children ages 5 through 17 who are from low-income families, the local educational agency may reserve such funds as are necessary under this part to meet the requirements of section 111A for such fiscal year, except that a school meeting challenging State academic content standards and the State academic achievement standards of the entire school shall use funds as are necessary under this part to meet those requirements of section 111A for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities.

(3) E XEMPTION FROM STATUTORY AND REGULATORY REQUIREMENTS. A school that consolidates funds from different Federal programs under this section shall not be required to maintain separate fiscal accounting records, by program, that identify the specific activities supported by those particular funds as long as it maintains records that demonstrate that the schoolwide program considered as a whole addresses the intent and purposes of each of the Federal programs that were consolidated to support the schoolwide program.

(4) PROFESSIONAL DEVELOPMENT. Each school receiving funds under this part for any fiscal year shall devote sufficient resources to effectively carry out the activities described in subsection (f)(2) that is based on the English proficiency include the performance of children in relation to the State academic content standards and the State student academic achievement standards described in section 1111(b)(1).

(B) Schoolwide reform strategies that—

(a) provide opportunities for all children to meet the State’s proficient levels of student achievement described in section 1111(b)(1); and

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

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

(iv) 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 who are members of the target population and programs that are included in the schoolwide program; and

(v) address how the school will determine if such services are necessary; and

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

(iii) developed by fully qualified (as defined in section 8101) teachers.

(ii) In accordance with section 1115A and subsection (b)(4), high quality and ongoing professional development for teachers and paraprofessionals, and, where appropriate, pupil services personnel, parents, principals, and other staff to enable all children in the school to meet the State’s student academic achievement standards.

(D) Strategies to attract high quality teachers to high need schools, such as differential pay supplements for teachers and paraprofessionals, and, where appropriate, pupil services personnel, parents, and other staff to enable all children in the school to meet the State’s student academic achievement standards.

(3) PLAN DEVELOPMENT.

(A) The eligible school shall develop a schoolwide program for the academic year, before and after-school, andsummer programs and opportunities, and help provide for, or develop, arrangements with programs under Reading First, Early Reading First, Even Start, Carl D. Perkins Vocational and Technical Education Act of 1998, and the Head Start Act.

(B) Accountability. A schoolwide program under this section shall be subject to the school improvement provisions of section 1116.

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

(ii) Summer programs and opportunities. A schoolwide program under this section may use funds provided under this title to enhance summer programs for children who are not yet at a grade level at which the local educational agency provides a free public education.

(4) ELIGIBLE CHILDREN.

(A) The eligible school shall develop a schoolwide program for the academic year, before and after-school, andsummer programs and opportunities, and help provide for, or develop, arrangements with programs under Reading First, Early Reading First, Even Start, Carl D. Perkins Vocational and Technical Education Act of 1998, and the Head Start Act.

(B) Accountability. A schoolwide program under this section shall be subject to the school improvement provisions of section 1116.

(5) REQUIREMENTS.

(A) The eligible school shall develop a schoolwide program for the academic year, before and after-school, andsummer programs and opportunities, and help provide for, or develop, arrangements with programs under Reading First, Early Reading First, Even Start, Carl D. Perkins Vocational and Technical Education Act of 1998, and the Head Start Act.

(B) Accountability. A schoolwide program under this section shall be subject to the school improvement provisions of section 1116.

(6) ELIGIBLE CHILDREN.

(A) The eligible school shall develop a schoolwide program for the academic year, before and after-school, andsummer programs and opportunities, and help provide for, or develop, arrangements with programs under Reading First, Early Reading First, Even Start, Carl D. Perkins Vocational and Technical Education Act of 1998, and the Head Start Act.

(B) Accountability. A schoolwide program under this section shall be subject to the school improvement provisions of section 1116.

(7) REQUIREMENTS.

(A) The eligible school shall develop a schoolwide program for the academic year, before and after-school, andsummer programs and opportunities, and help provide for, or develop, arrangements with programs under Reading First, Early Reading First, Even Start, Carl D. Perkins Vocational and Technical Education Act of 1998, and the Head Start Act.

(B) Accountability. A schoolwide program under this section shall be subject to the school improvement provisions of section 1116.
“(2) COMPREHENSIVE SERVICES.—If medical, nutrition, and other social services are not otherwise available to eligible children in a targeted assistance school and such school, if appropriate, has incorporated such services into its needs assessment and established a collaborative partnership with local service providers, and if funds are not reasonably available from other public sources or for the purpose to provide such services, then a portion of the funds provided under this part may be used as a last resort to provide such services, including—

(A) professional development necessary to assist school personnel in identifying and providing special education and related services to students who are hearing impaired, blind, or otherwise have educational needs that are substantial and cannot be addressed through regular education or special education services provided by the local educational agency; and

(B) professional development necessary to assist school personnel in identifying and providing special education and related services to students who are hearing impaired, blind, or otherwise have educational needs that are substantial and cannot be addressed through regular education or special education services provided by the local educational agency.

“SECTION 1115A. SCHOOL CHOICE.

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

“(b) CHOICE PLAN.—A local educational agency that chooses to implement a public school choice program shall first develop a plan that includes a description of how the local educational agency will use resources under this part and from other resources to implement the plan.

“(1) each eligible student across grade levels served under this part will have equal access to the program;

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

“(3) parents of eligible students in the local educational agency will be given prompt notice of the existence of the public school choice program, and permission to participate in it, and a clear explanation of how the program will operate;

“(4) the program will include charter schools and other schools offering alternative action under paragraph (6)(D), or for restructuring under paragraph (7), 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), (6), or (7) 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.

“(2) SCHOOL PLAN.—(A) REVISED PLAN.—After the resolution of a review under paragraph (2), each school identified under paragraph (1) for school improvement shall, as soon as practicable after being identified, develop or revise a school plan, in consultation with parents, school staff, the local educational agency serving the school, the local school board, and other outside experts, for approval by such local educational agency. The school plan shall cover a 2-year period and provide a comprehensive plan of the actions necessary to address the specific academic issues that caused the school to be identified for school improvement, and to make adequate yearly progress for the purpose of providing to the school’s teachers and principal high-quality professional development that—

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

(ii) meets the requirements for professional development activities under section 1115A; and

(iii) is provided in a manner that affords greater opportunity for participating in such professional development;

(iv) specify how the funds described in clause (ii) will be used to increase the school from school improvement status;

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

(vi) provide an assurance that the school that their child will attend.

“(F) REVIEW.—To determine if an elementary school or a secondary school that is or has been identified as in need of improvement under this part and from other resources to implement the plan, including the technical assistance to be provided by the local educational agency under section 1111(b)(2)(C)(iii)(I) and (II) and enrolled in the school that will ensure that all such groups of students meet the State’s proficient level of performance on the most recent assessment described in section 1111(b)(4) not later than 10 years after the date of enactment of the No Child Left Behind Act of 2001;

(2) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE.—(A) IN GENERAL.—(I) OPPORTUNITY TO REVIEW.—Each school identified for school improvement shall, not later than 3 months after being so identified, develop or revise a school plan, including the technical assistance to be provided by the local educational agency, including a public charter school, that has not been identified for school improvement under subparagraph (A), unless such an option is prohibited by State law.

“(B) TRANSFER.—Students who use the option to transfer under subparagraph (E) shall be enrolled in classes and other activities in the public school to which they transfer in the same manner as all other children at the public school.

“(C) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE.—(A) Before identifying an elementary school or a secondary school for school improvement under section 1111(b)(2)(C)(iii)(I) and (II) and enrolled in the school that will ensure that all such groups of students meet the State’s proficient level of performance on the most recent assessment described in section 1111(b)(4) not later than 10 years after the date of enactment of the No Child Left Behind Act of 2001;

(3) REVIEW.—To determine if an elementary school or a secondary school that is or has been identified as in need of improvement under this part and from other resources to implement the plan, including the technical assistance to be provided by the local educational agency under section 1111(b)(2)(C)(iii)(I) and (II) and enrolled in the school that will ensure that all such groups of students meet the State’s proficient level of performance on the most recent assessment described in section 1111(b)(4) not later than 10 years after the date of enactment of the No Child Left Behind Act of 2001;

(4) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE.—(A) IN GENERAL.—(I) OPPORTUNITY TO REVIEW.—Each school identified for school improvement shall, not later than 3 months after being so identified, develop or revise a school plan, including the technical assistance to be provided by the local educational agency, including a public charter school, that has not been identified for school improvement under subparagraph (A), unless such an option is prohibited by State law.

“(B) TRANSFER.—Students who use the option to transfer under subparagraph (E) shall be enrolled in classes and other activities in the public school to which they transfer in the same manner as all other children at the public school.

“(C) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE.—(A) Before identifying an elementary school or a secondary school for school improvement under section 1111(b)(2)(C)(iii)(I) and (II) and enrolled in the school that will ensure that all such groups of students meet the State’s proficient level of performance on the most recent assessment described in section 1111(b)(4) not later than 10 years after the date of enactment of the No Child Left Behind Act of 2001;

“SECTION 1116. ACADEMIC ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT.

“The sections heading and subsections (a) through (d) of section 1116 are amended to read as follows:

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

(1) use the State academic assessments 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);
school plan if it meets the requirements of this paragraph.

"(4) TECHNICAL ASSISTANCE.—

(A) IN GENERAL.—For each school identified for school improvement under paragraph (1), the local educational agency serving the school shall provide technical assistance as the school develops and implements the school plan through implementation of such plan.

(B) SPECIFIC ASSISTANCE.—Such technical assistance—

(i) shall include assistance in analyzing data from the academic assessments required under section 1111(b)(4), and other sample of student work, to identify and address instructional problems and solutions;

(ii) shall include assistance in identifying and implementing professional development, instructional strategies, and methods of instruction to appropriately address the identified problems and solutions;

(iii) shall include assistance in providing appropriate professional development for all relevant staff, that is 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;

(iv) shall include assistance in analyzing and revising the school’s budget so that the school resources are more efficiently allocated for the purposes of increasing student achievement and to remove the school from school improvement status; and

(v) may be provided—

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

(II) by the State educational agency, an institution of higher education (in full compliance with chapter 31 of Title 20 of the Higher Education Act of 1965), a public not-for-profit organization or for-profit organization, an educational service agency, or another entity with experience in helping schools improve performance.

(C) SCIENTIFICALLY BASED RESEARCH.—Technical assistance provided under this section by a local educational agency or an entity approved by the State shall be based on scientifically based research.

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

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

(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 parents described in this paragraph can become involved in addressing the academic issues that caused the school to be identified for school improvement; and

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

(6) 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 identified as a school in need of improvement; and

(II) any underlying staffing, curriculum, or other problems in the school; and

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

(B) SYSTEM.—In order to help students served under this paragraph effectively improve their academic performance and achieve the goals established for them under section 1111(b)(4), each local educational agency shall continue to develop and implement new or revised plans for the school. Each local educational agency shall ensure that, for any school identified for school improvement, each local educational agency shall develop a school improvement plan consistent with the State plans described in section 1111(b)(4). The school improvement plan shall—

(i) identify the academic issues that caused the school to be identified for school improvement; and

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

(I) provide all students enrolled in the school with the opportunity to transfer to another public school or continue in the local educational agency, including a public charter school, that has not been identified for school improvement under paragraph (1), unless prohibited by State law;

(II) make supplemental instructional services available, consistent with subsection (d)(1); 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 school year in which the local educational agency implements subparagraph (A), the local educational agency shall implement 1 of the following alternative governance arrangements for the school consistent with State law:

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

(ii) Replacing the principal and all or most of the school staff that are relevant to the failures of adequate yearly progress, consistent with State law.

(iii) Entering into a contract with an entity, such as a private management company, to operate the school.

(C) AVAILABLE RESULTS.—The State educational agency shall ensure that, for any school year in which a school is subject to school improvement under this subsection, the results of the academic assessments that are available are made available to the local educational agency by the end of the school year in which the academic assessments are administered.

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

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

(A) shall provide, or shall pay for the provision of, transportation for the student to the public school the child attends; and

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

(9) COOPERATIVE AGREEMENT.—In any case described in paragraph (6)(D)(ii) or (7)(A)(iii)(I), if all public schools in the local educational agency to which a child may transfer, are identified for school improvement, the agency shall enter into a cooperative agreement with other local educational agencies in the area for a transfer.

(10) DURATION.—If any school identified for corrective action or restructuring—

(A) makes adequate yearly progress for 2 consecutive years, the local educational agency need no longer subject it to corrective action or restructuring nor identify it as in need of improvement; or

(B) fails to make adequate yearly progress, but children from low-income families in the school make statistically significant educational progress for low-performing students and the school make statistically significant educational progress for low-performing students, the local educational agency shall—

(i) place or continue as appropriate the school identified for school improvement, the agency shall implement 1 of the following alternative governance arrangements for the school consistent with State law:

(ii) Replacing the principal and all or most of the school staff that are relevant to the failures of adequate yearly progress, consistent with State law.

(iii) Entering into a contract with an entity, such as a private management company, to operate the school.

(11) STATE RESPONSIBILITIES.—The State shall—

May 22, 2001

CONGRESSIONAL RECORD—HOUSE

H2431
“(A) make technical assistance under section 1117 available to all schools identified for school improvement and restructuring under this sub-section;

(B) if it determines that a local educational agency has failed to carry out its responsibilities under this sub-section, take such corrective actions as the State finds appropriate and in compliance with section 1116 of the Education Improvements Act of 2001.

(C) ensure that academic assessment results under this part are provided to schools within the same school year in which the assessment was given.

(D) STATE REVIEW AND LOCAL EDUCATIONAL AGENCY IMPROVEMENT.— (1) The State shall—
   (i) 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 1116(b)(2) toward meeting the State’s student academic achievement standards; and
   (ii) publicize and disseminate to local educational agencies, teachers and other staff, parents, students, and the community the results of the State review consistent with section 1116, including the academic achievement of disaggregated results, as required by section 1116(b)(2).

(2) IDENTIFICATION OF LOCAL EDUCATIONAL AGENCY IMPROVEMENT.— (A) A State shall identify a local educational agency that—
   (i) for 2 consecutive years failed to make adequate yearly progress as defined in the State’s plan, as such plan was in effect on the day preceding the date of the enactment of the No Child Left Behind Act of 2001; and
   (B) in was in improvement status under this section as this section was in effect on the day preceding the date of the enactment of the No Child Left Behind Act of 2001, during which a local educational agency did not make adequate yearly progress as defined in the State’s plan, as such plan was in effect on the day preceding the date of such enactment.

(3) TRANSITION.—The 2-year period described in paragraph (2)(A) shall include any continuous subperiods of improvement as defined by the State, in accordance with section 1116(b)(2) of the No Child Left Behind Act of 2001, during which a local educational agency did not make adequate yearly progress as defined in the State’s plan, as such plan was in effect on the day preceding the date of such enactment.

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

(5) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE.—
   (A) REVIEW.—Before identifying a local educational agency for improvement under paragraph (2), a State educational agency shall provide the local educational agency with an opportunity to review the local educational agency data, including academic assessment data, on which that proposed identification is based.
   (B) SUPPORTING EVIDENCE.—If the local educational agency believes that the proposed identification is in error for statistical or other substantive reasons, it may provide supporting evidence to the State educational agency, which such agency shall consider before making a final determination not later than 20 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 notify parents in a format, and to the extent practicable in a language they understand, of each student enrolled in a school in a local educational agency identified for improvement, of the results of the review under paragraph (1) and, if the agency determines that the school is in need of improvement, the reasons for that identification and how parents can participate in upgrading the quality of the local educational agency.

(7) CENTRAL AGENCY REVISIONS.—
   (A) PLAN.—Each local educational agency identified under paragraph (2) shall, not later than 30 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 the local educational agency;
   (ii) identify specific goals and objectives the local educational agency will take to make adequate yearly progress and which—
      (I) have the greatest likelihood of improving the performance of participating children in meeting the State’s student academic achievement standards;
      (II) address the professional development needs of staff;
      (III) include specific measurable achievement goals and targets for each of the groups of students enrolled in a school in a local educational agency that are identified under paragraph (2); and
      (IV) incorporate, as appropriate, extended learning time for students such as before school, after school, during the summer, and extension of the school year.
   (iii) identify how the local educational agency will provide written notification to parents in a format, and to the extent practicable in a language they understand, pursuant to paragraph (6); and
   (iv) specify the responsibilities of the State educational agency and the local educational agency toward meeting the State’s student academic achievement standards;
   (B) IMPLEMENTATION.—The local educational agency shall implement its plan or revised plan expeditiously, but not later than the beginning of the school year following the school year in which the school has been identified for improvement.

(8) STATE RESPONSIBILITY.—
   (A) IN GENERAL.—For each local educational agency identified under paragraph (2), the State shall provide technical or other assistance, if requested, as authorized under section 1117, to better enable the local educational agency—
      (i) to develop and implement its revised plan as approved by the State educational agency consistent with the requirements of this section; and
      (ii) to work with schools needing improvement.
   (B) TECHNICAL ASSISTANCE.—Technical assistance provided under this section by the State educational agency or an entity authorized by such agency shall be based upon scientifically based research.

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

(A) IN GENERAL.—After providing technical assistance under paragraph (6) and subject to subparagraph (D), the State—
   (i) may take corrective action at any time with respect to a local educational agency that has been identified under paragraph (2); and
   (ii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).

(B) DEFINITION.—As used in this paragraph, the term ‘corrective action’ means assistance, 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 school; and
   (ii) is designed to meet the goal of having all students served under this part perform at the proficient and advanced performance levels.

(10) ADDITIONAL LOCAL EDUCATIONAL AGENCY RESPONSIBILITIES.—Each local educational agency shall take not less than 1 of the following corrective actions:
   (i) Withhold funds from the local educational agency;
   (ii) Require the local educational agency to take corrective action in accordance with this paragraph, the State department of education, or the State board of education, to improve the academic performance of students served under this part;
   (iii) Remove particular schools from the jurisdiction of the local educational agency and establish alternative arrangements for public governance and supervision of such schools.

(11) PARENTAL OPTIONS.—Each local educational agency shall publish, and disseminate to parents and the public any corrective action it takes under this paragraph through such means as the Internet, the media, and public agencies.

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

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

(B) require the local educational agency to develop, with parents (and the provider they have chosen), a statement of specific performance goals for the student, how the student’s progress will be measured, and a plan for improving achievement;

(B) provide for the termination of such contract with the provider and the termination of such contract with the provider shall be in writing and shall state the reasons for such termination;

(C) contain provisions with respect to the making of payments to the provider by the local educational agency;
agency subject to this paragraph shall provide annual notice to parents (if feasible, in the parents' language) of the availability of services under this paragraph and the eligible providers of such services. Section 1117 is amended to read as follows:

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

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

(1) first, provide support and assistance to local educational agencies subject to corrective action under section 1116 and assist schools, in accordance with section 1116(b)(10), for which a local educational agency has failed to carry out its responsibilities under paragraphs (6) and (7) of section 1116(b);

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

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

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

(1) first, provide support and assistance to local educational agencies subject to corrective action under section 1116 and assist schools, in accordance with section 1116(b)(10), for which a local educational agency has failed to carry out its responsibilities under paragraphs (6) and (7) of section 1116(b);

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

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

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

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

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

(e) FUNDS.—Each State—

(1) shall use funds reserved under section 1003(a) and

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

(f) ALTERNATIVES.—The State may devise additional approaches to providing the assistance and support described in subsection (c), as providing assistance through institutions of higher education and educational service agencies or other local consortia, and private providers of scientifically based technical assistance and the State may seek approval from the Secretary to use funds made available under section 1003 for such approaches as part of the State plan.

Sec. 1106. ACADEMIC ACHIEVEMENT AWARD PROGRAM.

Sections 1106 through 1108 are amended to read as follows:

SEC. 1106. ACADEMIC ACHIEVEMENT AWARD PROGRAM.

(a) ESTABLISHMENT OF ACADEMIC ACHIEVEMENT AWARD PROGRAM.—

(1) IN GENERAL.—Each State shall—

(A) compile an alphabetical list of schools that have achieved academic and/or other standards specified by the State under this part; and

(B) make a one-time payment to each school on the list.

(b) FUNDING.—

(1) RESERVATION OF FUNDS FOR STATE.—For the purpose of carrying out this section, each State may reserve from the amount available under section 1003 for each fiscal year an amount not to exceed 3 percent of such amount.

(2) USE WITHIN 3 YEARS.—Notwithstanding any other provision of law, not more than 3 percent of such amount may be reserved by the State for a fiscal year, not to exceed the amount received by the State for such fiscal year, not to exceed the amount received by the Secretary to the President, for the purpose of carrying out this section, as determined by the Secretary to the President.

(3) AWARD TO DISTINCTION EDUCATORS.—A school described in paragraph (1) may use such funds to make a one-time payment to each District or Local Education Agency in the State in which the school is located to provide recognition and reward to teachers who have been designated as "Distinction Educators" by the State in accordance with paragraph (2).

(c) ADMINISTRATION.—The State shall—

(1) establish guidelines for determining the eligibility of schools described in paragraph (1) and of districts or other local education agencies to receive funds under this section.

(2) report annually to the Secretary of Education on the number of schools and districts or other local education agencies that received funds under this section, the amount reserved under this section, and the amount used under this section.

(3) make the data and information reported to the Secretary available to the public.

(4) provide technical assistance and support to schools and districts or other local education agencies in the State that have received funds under this section.

(d) MEASUREMENT OF ACHIEVEMENT.—The Secretary shall—

(1) establish criteria for determining the eligibility of schools and districts or other local education agencies for funds under this section.

(2) review and evaluate the effectiveness of the programs and projects funded under this section.

(3) report to the Congress on the effectiveness of the programs and projects funded under this section.

(4) make the data and information reported to the Congress available to the public.

(5) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—Each State educational agency shall—

(A) consult with local educational agencies and school districts or other local education agencies to determine which, based on the quality and effectiveness of their services, are eligible to participate; (B) develop criteria consistent with paragraph (6) and apply such criteria to potential providers to determine which, based on the quality and effectiveness of their services, are eligible to participate;

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

(D) develop and implement standards and techniques for monitoring the quality and effectiveness of the services offered by providers, and withdraw approval from those that fail to meet those standards for two consecutive years;

(E) provide annual notice to potential providers of supplemental services of the opportunity to provide services under this paragraph and of the applicable procedures for obtaining approval from the State educational agency to be a provider of such services;

(F) provide a provider to determine which, based on the quality and effectiveness of their services, are eligible to participate;

(G) provide parents of children receiving supplemental instructional services under this paragraph and of the applicable procedures for obtaining approval from the State educational agency to be a provider of such services.

(6) CRITERIA FOR PROVIDERS.—In order for a provider to be included on the State list under paragraph (5)(c), a provider shall agree to the following:

(A) Provide parents of children receiving supplemental instructional services under this paragraph and of the applicable procedures for obtaining approval from the State educational agency to be a provider of such services;

(B) Require a provider to meet all applicable standards for two consecutive years;

(C) Maintain an updated list of approved providers to determine which, based on the quality and effectiveness of their services, are eligible to participate;

(D) Provide parents of children receiving supplemental instructional services under this paragraph and of the applicable procedures for obtaining approval from the State educational agency to be a provider of such services;

(E) Require a provider to meet all applicable standards for two consecutive years;

(F) Provide a provider to determine which, based on the quality and effectiveness of their services, are eligible to participate;

(G) Provide parents of children receiving supplemental instructional services under this paragraph and of the applicable procedures for obtaining approval from the State educational agency to be a provider of such services.

Sec. 1107. FUNDING.

(a) FUNDING.—For the purpose of carrying out this section, each State may reserve from the amount available under section 1003 for each fiscal year an amount not to exceed the amount received by the State under this part for the preceding fiscal year, not more than 30 percent of such excess amount.

(b) USE WITHIN 3 YEARS.—Notwithstanding any other provision of law, the amount reserved under paragraph (1) may be used for any purpose specified by the State in the State plan for the preceding fiscal year, not more than 30 percent of such excess amount.

(c) SPECIAL ALLOCATION RULE FOR SCHOOLS IN HIGH-POVERTY AREAS.—

(A) IN GENERAL.—Each State receiving a grant under this part shall distribute at least 75 percent of the amount reserved under paragraph (1) for each fiscal year to schools described in subparagraph (B), or to teachers teaching in such schools.

(B) SCHOOL DESCRIBED.—A school described in subparagraph (A) is a school whose student population is in the highest quarter of schools in terms of the percentage of children from low-income families.

Sec. 1115. PARENTAL INVOLVEMENT.

(a) LOCAL EDUCATIONAL AGENCY POLICY.—

Each local educational agency may receive funds under this part only if such agency implements programs, activities, and procedures for the involvement of parents in the decision-making process, consistent with the provisions of this section. Such activities shall be planned and implemented with meaningful consultation with parents of participating children, and shall be designed to meet the needs of diverse populations.

(b) WRITTEN POLICY.—Each local educational agency that receives funds under this part shall—

(1) establish a written policy for involving parents in the decision-making process, including the expectation for parent involvement, and describe how the local educational agency will—

(A) involve parents in the joint development of programs and activities under section 1116; and

(B) provide technical assistance and other support to assist participating schools in planning and implementing effective parent involvement;
Section 1119. Qualifications for Teachers and Paraprofessionals.

SEC. 1119. QUALIFICATIONS FOR TEACHERS AND PARAPROFESSIONALS.

(a) Teachers.

(1) In general.—Each local educational agency receiving assistance under this part shall ensure that each teacher hired on or after the effective date of the No Child Left Behind Act of 2001 and teaching in a program supported under this part is fully qualified.

(2) Professional standards.—Such a teacher shall be fully qualified if—

(1) the teacher has completed the required educational program for the level of instruction taught by the teacher, including passing the required examination at the level of instruction taught by the teacher;

(2) the teacher is licensed, certified, or endorsed to teach at the level of instruction taught by the teacher, and has met all other requirements for the teacher's license, certification, or endorsement;

(3) the teacher is fully qualified in the subject, language, or grade level taught by the teacher in accordance with State requirements; and

(4) the teacher is fully qualified for at least the number of years that is the lesser of—

(A) the number of years specified in any State law relating to the number of years the teacher must have taught at every grade level or subject immediately prior to teaching at the grade level or subject in which the teacher is hired under this part, or

(B) the number of years specified in subsection (c) of section 1112 of the No Child Left Behind Act of 2001 for the grade level or subject in which the teacher is hired under this part.

(b) New paraprofessionals.

(1) In general.—Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired 1 year or more after the effective date of the No Child Left Behind Act of 2001 and teaching in a program supported under this part are fully qualified.

(2) Professional standards.—Such a paraprofessional shall be fully qualified if—

(1) in the case of a paraprofessional who is employed to work directly with students, the paraprofessional meets the qualifications for paraprofessionals described in section 1119 of the No Child Left Behind Act of 2001;

(2) in the case of a paraprofessional who is employed to work directly with students and who is not described in section 1119 of the No Child Left Behind Act of 2001, the paraprofessional meets the qualifications for paraprofessionals described in section 1119 of the No Child Left Behind Act of 2001 or another State law or regulation; and

(3) in the case of a paraprofessional who is employed to work directly with students and who is not described in section 1119 of the No Child Left Behind Act of 2001 or another State law or regulation, the paraprofessional meets the qualifications for paraprofessionals described in section 1119 of the No Child Left Behind Act of 2001 or another State law or regulation.

(c) Special training for paraprofessionals.

(1) In general.—Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired 1 year or more after the effective date of the No Child Left Behind Act of 2001 and teaching in a program supported under this part are fully qualified.

(2) Professional standards.—Such a paraprofessional shall be fully qualified if—

(1) the paraprofessional is fully qualified under subsection (b) of this section;

(2) the paraprofessional is fully qualified in the subject, language, or grade level taught by the teacher in accordance with State requirements; and

(3) the paraprofessional is fully qualified for at least the number of years that is the lesser of—

(A) the number of years specified in any State law relating to the number of years the paraprofessional must have taught at every grade level or subject immediately prior to teaching at the grade level or subject in which the paraprofessional is hired under this part, or

(B) the number of years specified in subsection (c) of section 1112 of the No Child Left Behind Act of 2001 for the grade level or subject in which the paraprofessional is hired under this part.

(d) Review of qualifications.

(1) In general.—Each local educational agency receiving assistance under this part shall review the qualifications of each paraprofessional hired 1 year or more after the effective date of the No Child Left Behind Act of 2001 and teaching in a program supported under this part.

(2) Professional standards.—Such a paraprofessional shall be fully qualified if—

(1) the paraprofessional is fully qualified under subsection (b) of this section;

(2) the paraprofessional is fully qualified in the subject, language, or grade level taught by the teacher in accordance with State requirements; and

(3) the paraprofessional is fully qualified for at least the number of years that is the lesser of—

(A) the number of years specified in any State law relating to the number of years the paraprofessional must have taught at every grade level or subject immediately prior to teaching at the grade level or subject in which the paraprofessional is hired under this part, or

(B) the number of years specified in subsection (c) of section 1112 of the No Child Left Behind Act of 2001 for the grade level or subject in which the paraprofessional is hired under this part.

(e) Exception.

(1) In general.—Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired 1 year or more after the effective date of the No Child Left Behind Act of 2001 and teaching in a program supported under this part are fully qualified.

(2) Professional standards.—Such a paraprofessional shall be fully qualified if—

(1) the paraprofessional is fully qualified under subsection (b) of this section;

(2) the paraprofessional is fully qualified in the subject, language, or grade level taught by the teacher in accordance with State requirements; and

(3) the paraprofessional is fully qualified for at least the number of years that is the lesser of—

(A) the number of years specified in any State law relating to the number of years the paraprofessional must have taught at every grade level or subject immediately prior to teaching at the grade level or subject in which the paraprofessional is hired under this part, or

(B) the number of years specified in subsection (c) of section 1112 of the No Child Left Behind Act of 2001 for the grade level or subject in which the paraprofessional is hired under this part.

(f) Period of employment.

(1) In general.—Each local educational agency receiving assistance under this part shall review the qualifications of each paraprofessional hired 1 year or more after the effective date of the No Child Left Behind Act of 2001 and teaching in a program supported under this part.

(2) Professional standards.—Such a paraprofessional shall be fully qualified if—

(1) the paraprofessional is fully qualified under subsection (b) of this section;

(2) the paraprofessional is fully qualified in the subject, language, or grade level taught by the teacher in accordance with State requirements; and

(3) the paraprofessional is fully qualified for at least the number of years that is the lesser of—

(A) the number of years specified in any State law relating to the number of years the paraprofessional must have taught at every grade level or subject immediately prior to teaching at the grade level or subject in which the paraprofessional is hired under this part, or

(B) the number of years specified in subsection (c) of section 1112 of the No Child Left Behind Act of 2001 for the grade level or subject in which the paraprofessional is hired under this part.
(b) and (c) shall not apply to a paraprofessional—

(1) who is proficient in English and a language other than English and who provides services primarily to enhance the participation of children in programs under this part through improved teacher quality.

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

(3) 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 through improved teacher quality.

(4) 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 through improved teacher quality.

(5) 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 through improved teacher quality.

(6) 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 through improved teacher quality.

(7) 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 through improved teacher quality.

(8) 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 through improved teacher quality.

(9) 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 through improved teacher quality.

(10) 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 through improved teacher quality.

(11) 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 through improved teacher quality.

(12) 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 through improved teacher quality.

(13) 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 through improved teacher quality.

(14) 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 through improved teacher quality.

(h) VERIFICATION OF COMPLIANCE...
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 any educational agency 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 the results of that assessment will be used to improve those services;

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

(F) the method or sources of data that are used under subsection (a)(4) and section 111(c)(2) to determine the number of children from low-income families in participating school attendance areas who attend private schools; and

(G) how and when the agency will make decisions on the provision of services to such children, including a thorough consideration and analysis of the views of the private school officials on the provision of contract services through that agency.

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

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

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

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

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

(c) PUBLIC CONTROL OF FUNDS.—

(1) IN GENERAL.—The control of funds provided under this part shall be under the control and supervision of such public agency.

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

(A) waive any requirements of this section for such local educational agency;

(B) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 8505 and 8506; and

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

(d) CAPITAL EXPENSES.—

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

(2) THE SECRETARY SHALL REALLOCATE ANY AMOUNTS ALLOCATED UNDER SUBparagraph (A) THAT ARE NOT USED BY A STATE FOR THE PURPOSE OF THIS SUBSECTION TO OTHER STATES ON THE BASIS OF THEIR RESPECTIVE NEEDS, AS DETERMINED BY THE SECRETARY.

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

SEC. 1120A. FISCAL REQUIREMENTS.

(a) MAINTENANCE OF EFFORT.—A local educational agency shall maintain in its records and provide to the State, and the local educational agency shall forward the documentation in subsection (b)(4) to the State.

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

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

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

(c) COMPARABILITY OF SERVICES.—

(1) IN GENERAL.—Except as provided in paragraphs (a)(4) and (b), a local educational agency may receive funds under this part only if State and local funds are used under this part to provide services that, when taken as a whole, are substantially comparable in each school.

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

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

(ii) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies;

(B) for the purpose of subparagraph (A), in the determination of expenditures per pupil from State and local funds, or instructional salaries per pupil from State and local funds, staff salaries, and other differentials for that work shall not be included in such determinations.

(C) a local educational agency need not include unpredictable changes in student enrollment or personnel costs after the beginning of a school year in determining comparability of services under this subsection.

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

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

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

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

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

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

(B) excess costs of providing services to children with disabilities as determined by the local educational agency.

(g) EXCLUSION OF FUNDS.—For the purpose of complying with subsections (b) and (c), a State or local educational agency may exclude supplemental State or local funds expended in an in-school attendance area or school for programs that meet the intent and purposes of this part.

SEC. 1120B. COORDINATION REQUIREMENTS.

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

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

(1) developing and implementing a systematic procedure for receiving records regarding such children transferred with parental consent from a Head Start assignment, where applicable, to other early childhood development programs such as Early Reading First;

(2) establishing channels of communication between school staff and Head Start programs in such Head Start agencies (including teachers, social workers, and health staff) or other early
childhood development programs such as Early Reading First, as appropriate, to facilitate coordination of programs;  
(3) conducting meetings involving parents, kindergarten, Early Reading First school staff, and Head Start teachers or, if appropriate, teachers from other early childhood development programs such as Early Reading First, to discuss the developmental and other needs of individual children;  
(4) organizing and participating in joint transition related training of school staff, Head Start staff and, where appropriate, other early childhood staff; and  
(5) linking the educational services provided in such local educational agency with the services provided by Head Start agencies and Early Reading First programs.

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

"Subpart 2—Allocations

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

(a) RESERVATION OF FUNDS.—From the amount appropriated for payments to States for any fiscal year, the Secretary of the Interior shall reserve a total of 1 percent to provide assistance to—  
(1) the outlying areas in the amount determined in accordance with subsection (b); and  
(2) the Secretary of the Interior in the amount necessary to make payments pursuant to subsection (d).

(b) ASSISTANCE TO OUTLYING AREAS.—  
(1) FUNDS RESERVED.—From the amount made available for any fiscal year under section (a), the Secretary shall award grants to the outlying areas.

(2) COMPETITIVE GRANTS.—For each of fiscal years 2002 and 2003, the Secretary shall carry out the purposes described in paragraph (1), except that the amount reserved to carry out such competition shall not exceed the amount reserved under this section for the freely associated states for fiscal year 1999.

(3) LIMITATION FOR COMPETITIVE GRANTS.—  
(A) COMPETITIVE GRANTS.—The Secretary shall use funds described in paragraph (2) to award grants to competitive basis to the outlying areas and freely associated States to carry out the purposes of this part.  
(B) AWARD BASE.—The Secretary shall award grants under paragraph (A) on a competitive basis, pursuant to the recommendations of the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(C) 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 subsection (B).

(4) SPECIAL RULE.—The provisions of Public Law 95-134, permitting the consolidation of grants in certain areas, shall not apply to funds provided to the freely associated States under this section.

(c) DEFINITIONS.—For the purposes of subsections (a) and (b)—  
(1) the term ‘freely associated States’ means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau and  
(2) the term ‘outlying area’ means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(d) ALLOTMENT TO THE SECRETARY OF THE INTERIOR.—  
(1) IN GENERAL.—The amount allotted for payment to the Secretary of the Interior under subsection (a)(2) for any fiscal year shall be, as determined pursuant to criteria established by the Secretary, the amount necessary to meet the special educational needs of—  
(A) Indian children on reservations served by elementary and secondary schools for Indian children operated or supported by the Department of the Interior; and  
(B) out-of-State Indian children in elementary and secondary schools in local educational agencies until contracts with the Department of the Interior.

(2) PAYMENTS.—From the amount allotted for payments to the Secretary of the Interior under subsection (a)(2), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this subsection, subject to the requirements described in paragraph (1). The amount of such payment may not exceed, for each such child, the greater of—  
(A) 40 percent of the average per-pupil expenditure in the State in which the agency is located; or  
(B) 48 percent of such expenditure in the United States.

SEC. 1122. AMOUNTS FOR BASIC GRANTS, CONCENTRATION GRANTS, AND TAR-GETED GRANTS.

(a) ALLOCATION FORMULA.—Of the amount appropriated to carry out this part for each fiscal years 2002 through 2006 (referred to in this subsection as the current fiscal year),—  
(1) an amount equal to the amount appropriated to carry out section 1124 for fiscal year 2001 shall be allocated in accordance with section 1124.

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

(3) an amount equal to 100 percent of the amount, if any, by which the amount appropriated under section 106(a) for the current fiscal year exceeds the amount appropriated under section 106(a) for the fiscal year to which section 1124A applies for such fiscal year shall be allocated in accordance with section 1125.

(b) ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS.—  
(1) IN GENERAL.—If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all local educational agencies in States are eligible to receive under sections 1124, 1124A, and 1125 for such fiscal year, the Secretary shall make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this subsection, subject to the requirements of this subsection for every local educational agency within that State, the State educational agency shall reallocate funds proportionately from all other local educational agencies in the State that are receiving funds in excess of the hold harmless amounts specified in this subsection.

(2) RAPID REDUCTIONS.—  
(I) IN GENERAL.—If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under subsection (c) for such fiscal year, the Secretary shall make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this subsection, subject to the requirements of this subsection for every local educational agency within that State, the State educational agency shall reallocate funds proportionately from all other local educational agencies in the State that are receiving funds in excess of the hold harmless amounts specified in this subsection.

(3) ADMISSION TO STANDING COMMITTEE.—If additional funds become available for making payments under subsection (c) for such fiscal year, amounts that were reduced under paragraph (1) shall be increased on the same basis as such amounts were reduced.

(4) DEFINITION.—For the purposes of this section, the term ‘State’ means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 1124. BASIC GRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) AMOUNT OF GRANTS.—  
(1) GRANTS FOR LOCAL EDUCATIONAL AGENCIES AND PUERTO RICO.—Except as provided in paragraph (4) and in section 1126, the grant that a local educational agency is eligible to receive under this section for a fiscal year is the amount determined by multiplying—  
(A) the number of children counted under subsection (c); and  
(B) 40 percent of the average per-pupil expenditure in the United States, by the amount determined under this subparagraph shall not be less than 32 percent or more than 48 percent, of the average per-pupil expenditure in the United States.

(2) CALCULATION OF GRANTS.—  
(A) ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—The Secretary shall calculate grants under this section on the basis of the number of children counted under subsection (c) for local educational agencies, unless the Secretary and the Secretary of Commerce determine that some or all of those data are unreliable or that their use would be otherwise inappropriate, in which case—  
(i) the 2 Secretaries shall publicly disclose the reasons for their determination in detail; and  
(ii) paragraph (3) shall apply.

(B) ALLOCATIONS TO SMALL AND SMALL LOCAL EDUCATIONAL AGENCIES.—(I) For any fiscal year in which this paragraph applies, the Secretary shall calculate grants under this section for each local educational agency.  
(II) The amount of a grant for this section for each large local educational agency shall be the amount determined under clause (i).  
(III) For small local educational agencies, the Secretary educational agency may either—  
(I) distribute grants under this section in amounts determined by the Secretary under clause (i); or  
(II) use an alternative method approved by the Secretary to distribute the portion of the
State's total grants under this section that is based on those small agencies.

(11) An alternative method under clause (iii)(II) shall be based on population data that the Secretary shall utilize for the purposes of this section on the basis of the number of children counted under section 1124(c) for counties, and State educational agencies shall not suballocate county amounts to local educational agencies of the Secretary for the purpose of the criteria as determined by the most recent reliable data available.

(12) In any State in which the Commonwealth of Puerto Rico is available to carry out this section for such fiscal year under this section; or

(13) the average of—

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

(2) the number of children in such State counts under subsection (a) multiplied by 150 percent of the national average per-pupil payment made with funds available under this section for that year.

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

(a) Eligibility for and Amount of Grants. Under this section, (A) Except as otherwise provided in this paragraph, each local educational agency, in a State other than Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, which is eligible for a grant under section 1124 for any fiscal year is eligible for an additional grant under this section for that fiscal year if the number of children in each such area with a total population less than 20,000.

(b) The number of children in such State counts under subsection (a) shall be less than the lesser of—

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

(2) the average of—

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

(2) the number of children in such State counts under subsection (a) multiplied by 150 percent of the national average per-pupil payment made with funds available under this section for that year.

SEC. 1124A. CONCENTRATION GRANTS TO LOCAL EDUCATIONAL AGENCIES.
(a) The amount of the weighted child count determined under subsection (c); and
(b) the quotient resulting from the division of the number of children determined under section 1124(c) for that fiscal year by the total number of children counted under section 1124(c) for that agency for that fiscal year.
(3) AMOUNT.

(1) IN GENERAL.

The amount of the grant for which the Secretary allocates funds available under this section for any fiscal year shall be the product of—
(i) the number of children determined under section 1124(c) for that fiscal year; and
(ii) the quotient resulting from the division of the number of children determined under section 1124(a)(1) for the fiscal year for which the determination is being made divided by the total number of children counted under section 1124(c) for that agency for that fiscal year.

(2) WEIGHTED CHILD COUNT.

(i) BY NUMBER OF CHILDREN.

This amount is determined by adding—
(I) the number of children determined under section 1124(c) constituting up to 2,312, inclusive, of the county’s total population aged 5 to 17, inclusive, multiplied by 4.0; and
(II) the number of such children constituting more than 29.20 percent, but not more than 42.20 percent, of such population, multiplied by 2.5; and
(III) the number of such children constituting more than 41.452 percent, of such population, multiplied by 1.0.

(ii) BY NUMBER OF CHILDREN.

The amount of the grant for which the Secretary allocates funds available under this section for any fiscal year, the amount of the grant for which the Commonwealth of Puerto Rico is eligible under this section for any fiscal year, and the amount of the grant for which the District of Columbia is eligible under this section shall be determined in accordance with section 1124(a)(2) and (3).

(4) LOCAL ALLOCATIONS.

(A) In General.

For each fiscal year for which the Secretary allocates funds available under this section for any fiscal year shall be the amount determined for those agencies under section 1124(a)(1) for the fiscal year for which the determination is being made divided by the total number of children counted under section 1124(c) for that agency for that fiscal year.

(B) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(C) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(D) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(E) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(F) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(G) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(H) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(I) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(J) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(K) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(L) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(M) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(N) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(O) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(P) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(Q) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(R) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(S) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(T) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(U) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(V) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(W) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(X) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(Y) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(Z) Grant to local educational agency to other eligible local educational agencies in the United States for that fiscal year.

(aa) $340,000; or

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

(2) SPECIAL RULE.

(A) For each county or local educational agency to receive a grant under this subsection, the amount of the grant for which the Secretary allocates funds available under this section shall be determined in accordance with subsection (c) for Puerto Rico, multiplied by the amount determined in subparagraph (B).

(B) WEIGHTED CHILD COUNT.

(i) By number of children.

This amount is determined by adding—
(I) the number of children determined under section 1124(c) constituting up to 2,312, inclusive, of the county’s total population aged 5 to 17, inclusive, multiplied by 4.0; and
(II) the number of such children constituting more than 29.20 percent, but not more than 42.20 percent, of such population, multiplied by 2.5; and
(III) the number of such children constituting more than 41.452 percent, of such population, multiplied by 1.0.

(ii) By number of children.

The amount of the grant for which the Commonwealth of Puerto Rico under this paragraph shall not be the product of—
(I) the number of such children in excess of 9,646, inclusive, in such population, multiplied by 2.0; and
(IV) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.5.

(B) Puerto Rico.

(1) In general.

The amount of the grant for which the Secretary allocates funds available under this section for any fiscal year shall be the product of—
(i) the number of children determined under section 1124(c) constituting up to 2,312, inclusive, of the county’s total population aged 5 to 17, inclusive, multiplied by 1.5; and
(ii) the number of such children constituting more than 29.20 percent, but not more than 42.20 percent, of such population, multiplied by 1.25; and
(iii) the number of such children constituting more than 41.452 percent, of such population, multiplied by 0.75.

(2) Special rule.

(A) In general.

For each fiscal year for which the Secretary allocates funds available under this section for any fiscal year shall be the product of—
(i) the number of children determined under section 1124(c) constituting up to 2,312, inclusive, of the county’s total population aged 5 to 17, inclusive, multiplied by 1.5; and
(ii) the number of such children constituting more than 29.20 percent, but not more than 42.20 percent, of such population, multiplied by 1.25; and
(iii) the number of such children constituting more than 41.452 percent, of such population, multiplied by 0.75.

(3) Special rule.

(A) In general.

The amount of the grant for which the Commonwealth of Puerto Rico under this paragraph shall not be the product of—
(I) the number of such children in excess of 9,646, inclusive, in such population, multiplied by 2.0; and
(IV) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.5.

(B) Puerto Rico.

(1) In general.

The amount of the grant for which the Secretary allocates funds available under this section for any fiscal year shall be the product of—
(i) the number of children determined under section 1124(c) constituting up to 2,312, inclusive, of the county’s total population aged 5 to 17, inclusive, multiplied by 1.5; and
(ii) the number of such children constituting more than 29.20 percent, but not more than 42.20 percent, of such population, multiplied by 1.25; and
(iii) the number of such children constituting more than 41.452 percent, of such population, multiplied by 0.75.

(2) Special rule.

(A) In general.

For each fiscal year for which the Secretary allocates funds available under this section for any fiscal year shall be the product of—
(i) the number of children determined under section 1124(c) constituting up to 2,312, inclusive, of the county’s total population aged 5 to 17, inclusive, multiplied by 1.5; and
(ii) the number of such children constituting more than 29.20 percent, but not more than 42.20 percent, of such population, multiplied by 1.25; and
(iii) the number of such children constituting more than 41.452 percent, of such population, multiplied by 0.75.

(3) Special rule.
Provisions Act or any other provision of law, not more than 15 percent of the funds allocated to a local educational agency for any fiscal year under this subpart (but not including funds re- ceived through any reallocation under this sub- part) may remain available for obligation by such agency for 1 additional fiscal year.

(b) WAIVER.—A State educational agency may, once only, waive the percentage limitation in subsection (a) if—
"(1) the agency determines that the request of a local educational agency is reasonable and necessary; or
"(2) supplemental appropriations for this subpart become available.

(c) PERCENTAGE LIMITATION.—The percentage limitation under subsection (a) shall not apply to any local educational agency that receives less than $50,000 under this subpart for any fiscal year.

SEC. 112B. NEUTRAL AND NONIDEO-LOGICAL.

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

PART B—STUDENT READING SKILLS

§ 111. READING FIRST; EARLY READING FIRST.

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

(1) by striking the part heading and inserting the following:

"PART B—STUDENT READING SKILLS IMPROVEMENT GRANTS;"

(2) by redesignating sections 1201 through 1212 as sections 1211 through 1222, respectively; and

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

"Subpart 1—Reading First

§ 1201. FINDINGS.

The Congress finds as follows:

"(1) The 2000 National Assessment of Educational Progress found that 68 percent of fourth grade students in the United States are reading below the proficient level.

"(2) According to the 2000 National Assessment of Educational Progress report on reading, 63 percent of African Americans, 56 percent of Hispanic Americans, 69 percent of children living in poverty, and 47 percent of children in urban schools scored 'below basic' in reading.

"(3) More than 1/2 of the students placed in special education are identified as learning disabled and, for many as 80 percent of the students so identified, reading is the primary disability.

"(4) It is estimated that, at a minimum, 10,000,000 children have difficulty learning to read. 10 to 15 percent of those children eventually drop out of high school, and only 2 percent complete a 4-year program at an institution of higher education.

"(5) It is estimated that the number of children who are typically identified as poor readers can be significantly reduced through the implementation of early identification and prevention programs that are based on scientifically based reading research or no recognized reading research.

"(6) The report issued by the National Reading Panel in 2000 found that the course of reading instruction that obtains maximum benefits for students includes explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency, and reading comprehension strategies.

§ 1202. PURPOSE AND AMOUNTS.

The purposes of this subpart are as follows:

"(1) To provide assistance to States and local educational agencies in establishing reading programs in grades kindergarten through 4 that are based on scientifically based reading research, in order to ensure that every student can read at grade level or above not later than the end of this grade.

"(2) To provide assistance to States and local educational agencies in preparing teachers, in-

cluding 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 States and local educational agencies in selecting and admin- istering rigorous diagnostic reading and screen- ing assessment tools that are valid and reliable, document the effectiveness of this subpart in im- proving the reading skills of students, and im- prove the climate of the State.

"(4) To provide assistance to States and local educational agencies in selecting or developing effective classroom instructional materials, pro- grams, and strategies scientifically and research-based methods that have been proven to prevent or remediate reading failure.

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

§ 1203. FORMULA GRANTS TO STATES.

"(a) In General.—

"(1) AUTHORIZATION TO MAKE GRANTS.—In the case of each State that in accordance with section 1204 submits to the Secretary an application for a 5-year period, the Secretary, subject to the application’s approval, shall make a grant to the State in accordance with subsections (c) and (d). For each fiscal year, the funds pro- vided under the grant shall equal the allotment determined under section 1204(b) for such fiscal year.

"(2) DURATION OF GRANTS.—

"(A) In General.—Subject to subparagraph (b), a grant under this section shall be awarded for a period of not more than 5 years.

"(B) INTERIM REVIEW.—

"(i) PROGRESS REPORT.—

"(II) SUBMISSION.—Not later than 60 days after the termination of the third year of the grant period, each State receiving a grant under this section shall submit a progress report to the Sec- retary.

"(III) INFORMATION INCLUDED.—The progress report shall include information on the progress the State, and local educational agencies within the State, are making in reducing the number of students served under this subpart in the first and second grades who are reading below grade level, as demonstrated by such information as teacher reports and school evaluations of mas- terly of the essential components of reading in- struction. The report shall also include evidence from the State and its local educational agencies that they have significantly increased the number of students served under this subpart in the first and second grades who are reading below grade level, and significantly increased the percentages of stu- dents in ethnic, racial, and low-income popu- lations who are reading at grade level or above, and successfully retained this achievement.

"(ii) PEER REVIEW.—The progress report de- scribed in clause (i) shall be reviewed by the peer review panel convened under section 1204(c).

"(iii) CONSEQUENCES OF INSUFFICIENT PROGRESS.—After the submission of the progress report described in clause (i), if the Secretary determines that the States are not making significa- nt progress in meeting the purposes of this subpart, the Secretary may withhold from the State, in whole or in part, further payments under this section in accordance with section 455 of the General Education Provisions Act (20 U.S.C. 1234d) or take such other action author- ized by law as the Secretary deems necessary, including providing technical assistance upon request of the State.

"(b) DETERMINATION OF AMOUNT OF ALLOT- MENTS.—

"(1) RESERVATIONS FROM APPROPRIATIONS.—From the total amount made available under section 1002(b)(1) to carry out this subpart for a fiscal year, the Secretary—

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

"(B) shall reserve 1/2 of 1 percent for the Sec- retary of the Interior for programs under this subpart in schools operated or funded by the Bureau of Indian Affairs;

"(C) shall reserve not more than 3 percent or $30,000,000, whichever is less, to carry out sec- tion 1206;

"(D) may reserve not more than 1 percent to carry out section 1207; and

"(E) shall reserve $5,000,000 to carry out sec- tion 1208.

"(2) STATE ALLOTMENTS.—From the total amount made available under section 1002(b)(1) to carry out this subpart for a fiscal year and not reserved under paragraph (1), the Secretary shall allot 80 percent to each State among the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(3) DETERMINATION OF STATE ALLOTMENT AMOUNTS.—

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

"(B) EXCEPTIONS.—

"(i) IN GENERAL.—Subject to clause (ii), no State receiving an allotment under subpara- graph (A) may receive less than 1/4 of 1 percent of the total amount allotted under such sub- paragraph.

"(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) REALLOCATION.—If a State described in paragraph (2) does not apply for an allotment under this section for a fiscal year, and if the State’s application is not approved, the Sec- retary shall reallocate such amount to the remain- ing States in accordance with paragraph (3).

"(5) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

"(i) DISTRIBUTION OF SUBGRANTS.—The Sec- retary may make a grant to a State under this section only if the State agrees to expend at least 80 percent of the amount of the funds pro- vided under the grant for the purpose of mak- ing, in accordance with this subsection, com- petitive subgrants to local educational agencies.

"(ii) NOTICE.—A State receiving a grant under this section shall provide notice to all local educa- tional agencies in the State of the availability of competitive subgrants and the requirements for applying for the subgrants.

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

"(4) LIMITATION TO CERTAIN LOCAL AGEN- CIES.—A State receiving a grant under this sec- tion may award subgrants under this subsection only to local educational agencies—

"(A) that have the highest percentages of stu- dents in grades kindergarten through 3 reading below grade level; and

"(B) that—

"(i) have jurisdiction over—

"(4) LIMITATION TO CERTAIN LOCAL AGEN- CIES.—A State receiving a grant under this sec- tion may award subgrants under this subsection only to local educational agencies—

"(A) that have the highest percentages of stu- dents in grades kindergarten through 3 reading below grade level; and

"(B) that—

"(i) have jurisdiction over—

"(4) LIMITATION TO CERTAIN LOCAL AGEN- CIES.—A State receiving a grant under this sec- section may award subgrants under this subsection only to local educational agencies—

"(A) that have the highest percentages of stu- dents in grades kindergarten through 3 reading below grade level; and

"(B) that—

"(i) have jurisdiction over—
“(I) that have the highest percentages of students in grades kindergarten through 3 reading below grade level; and

“(II) have the greatest numbers or percentages of children aged 3 through 17 from low-income families.

“(III) subject to paragraph (A), a local educational agency that receives a subgrant under this subsection shall use the funds provided under the subgrant to carry out the following activities:

“(i) Selecting and implementing rigorous diagnostic reading and screening assessment tools;

“(ii) Providing family literacy services, especially to parents enrolled in participating schools, through the use of library materials, parent reading instruction, and approaches that are based on scientifically based reading research, to encourage reading and support their children’s reading development.

“(B) LOCAL PLANNING AND ADMINISTRATION.—A local educational agency that receives a subgrant under this subsection may use not more than 2 percent of the funds provided under the subgrant for planning and administrative purposes.

“(C) ANNUAL REPORTING.—(i) In general.—A State that receives a grant under this section shall annually report to the Secretary, at such time and in such form as the Secretary may require, the information described in subparagraph (B) and a description of how such partnership is being used to improve reading instruction based on scientifically based reading research, to encourage reading and support their children’s reading development.

“(ii) Privacy protection.—Data in the report shall be set forth in a manner that protects the privacy of individuals.

“(iii) Contract.—To the extent practicable, a State shall enter into a contract with an entity that conducts scientifically based reading research, under which contract the entity will produce the reports required to be submitted under this subparagraph.

“SEC. 1204. STATE FORMULA GRANT APPLICATIONS.

“(a) In general.—A State that desires to receive a grant under section 1203 shall submit an application to the Secretary at such time and in such form as the Secretary may require. The application shall contain the information described in subsection (b) and a description of how such partnership is being used to improve reading instruction based on scientifically based reading research, to encourage reading and support their children’s reading development.

“(b) CONTENTS.—An application under this section shall contain the following:

“(I) An assurance that the Governor of the State, in consultation with the State educational agency, has made an adequate commitment to submit to the Secretary, at such time and in such manner as the Secretary may reasonably require, a State plan containing a description of a process for identifying reading difficulties, including those that are due to being identified as being a child with a specific learning disability, an intervention and an appraisal that are based on scientifically based reading research and an approach to improving reading achievement.

“(II) A program that is designed to improve the literacy achievement of children who are failing to achieve at grade level in reading or who have difficulty reading, including a description of how such partnership is being used to improve reading instruction based on scientifically based reading research, to encourage reading and support their children’s reading development.

“(III) A program that is designed to improve the literacy achievement of children who are failing to achieve at grade level in reading or who have difficulty reading, including a description of how such partnership is being used to improve reading instruction based on scientifically based reading research, to encourage reading and support their children’s reading development.

“(b) CONTENTS.—An application under this section shall contain the following:

“(I) An assurance that the Governor of the State, in consultation with the State educational agency, has made an adequate commitment to submit to the Secretary, at such time and in such manner as the Secretary may reasonably require, a State plan containing a description of a process for identifying reading difficulties, including those that are due to being identified as being a child with a specific learning disability, an intervention and an appraisal that are based on scientifically based reading research and an approach to improving reading achievement.

“(II) A program that is designed to improve the literacy achievement of children who are failing to achieve at grade level in reading or who have difficulty reading, including a description of how such partnership is being used to improve reading instruction based on scientifically based reading research, to encourage reading and support their children’s reading development.

“(III) A program that is designed to improve the literacy achievement of children who are failing to achieve at grade level in reading or who have difficulty reading, including a description of how such partnership is being used to improve reading instruction based on scientifically based reading research, to encourage reading and support their children’s reading development.

“SEC. 1206. GRANT TO SUPPORT PROGRAMS TO IMPROVE READING INSTRUCTION.

“(a) In general.—A State that desires to receive a grant under this section 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) and a description of how such partnership is being used to improve reading instruction based on scientifically based reading research, to encourage reading and support their children’s reading development.
“(C) to assist local educational agencies in identifying interventions, and instructional materials, programs and approaches, based on scientifically based reading research, including early childhood classroom reading materials and remedial programs and approaches.

(3) An assurance that the State, and local educational agencies in the State, will participate in all national evaluations under this subpart.

(c) PROTOCOLS—

(1) In general.—The Secretary, in consultation with the peer review panel convened under paragraph (2), shall approve an application of a State under this section if such application meets the requirements of this section.

(2) Peer review.—

(A) In general.—The Secretary, in consultation with the National Institute for Literacy, shall establish procedures to evaluate applications under this section. At a minimum, the panel shall include—

(i) 3 individuals selected by the Secretary;

(ii) 3 individuals selected by the National Institute for Literacy; and

(iii) 3 individuals selected by the National Research Council of the National Academy of Sciences.

(B) Selection.—The panel shall be composed of experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under this section, and experts who provide professional development to teachers of reading to children and adults, and experts who provide professional development to other instructional staff, based on scientifically based reading research.

(C) Recommendations.—The panel shall recommend grant applications from States under this section to the Secretary for funding or for disapproval.

(d) Reading and Literacy Partnership—

(1) In general.—In order for a State to receive a grant under section 1203, the Governor of the State, in consultation with the State educational agency, shall establish a reading 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 local educational agency that is eligible to receive a subgrant under section 1205.

(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.

(G) A parent of a public or private school student or a parent who educates their child or children in their 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 an 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, and who may include a representative of—

(A) an institution of higher education operating a program of teacher preparation based on scientifically based reading research in the State;

(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 district or a public library that offers reading or literacy programs for children or families.

SEC. 1205. DISCRETIONARY GRANTS TO STATES.

(a) In general.—In the case of a State that, in accordance with paragraphs 1203 and 1204, has received approval of an application for a 5-year formula grant, the Secretary may make additional 2-year discretionary grants to the State for the use specified in (d). For each fiscal year, the funds provided under the discretionary grant shall equal the allotment determined for the State under subsection (b).

(b) Determination of amount of allotments.—From the total amount made available under section 1002(b)(1) to carry out this subpart for a fiscal year and not reserved under paragraph (a), the Secretary shall make additional 2-year discretionary grants to the States described in subsection (a) as follows:

(1) for fiscal years 2002 and 2003, based upon a determination of such States' relative likelihood of effectively implementing a program under this subpart; and

(2) for fiscal year 2004 and subsequent fiscal years, based upon such States' applications under subsection (c).

(c) State discretionary grant applications.—

(1) In general.—A State that desires to receive a grant under this section for a grant period that includes any fiscal year after fiscal year 2003 shall submit the information described in paragraph (3) to the Secretary at such time and in such form as the Secretary may require.

(2) Peer review.—The peer review panel convened under section 1204(c)(2), shall allot 20 percent under this section among the States described in subsection (a) (I) satisfies the requirements of section 1203(c)(7)(A); and

(ii) will carry out its obligations under this subpart, particularly paragraph (5); and

(iii) will work with other local educational agencies in the State, or with the Reading and Literacy Partnership, in the State, to assist such non-receiving agencies in increasing the reading achievement of students.

(3) Information.—The information described in this paragraph shall be transmitted to the Secretary in accordance with this subsection to local educational agencies.

(d) Local uses of funds.—A local educational agency that receives a subgrant under this subsection—

(A) shall use the funds provided under the subgrant to carry out the activities described in section 1203(c)(7)(A); and

(B) may use such funds to carry out the activities described in section 1203(c)(7)(B).

SEC. 1206. EXTERNAL EVALUATION.

(a) In general.—From funds reserved under section 1203(b)(1)(C), the Secretary shall contract with an independent qualified outside organization for a 5-year, rigorous, scientifically valid, quantitative evaluation of this subpart.

(b) Process.—Such evaluation shall be conducted by an organization outside of the Department that is capable of independently and carrying out an independent evaluation that identifies the effects of specific activities carried out by States and local educational agencies under this subpart. Such evaluation shall use only data relating to students served under this subpart and shall take into account factors influencing student performance that are not controlled by teachers or education administrators.

(a) Analysis.—Such evaluation 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 States and local educational agencies measure the essential components of reading instruction.

(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 discretionary grant under section 1205 results in an increase in the number of children who read proficiently.
“(6) A measurement of the extent to which specific rigorous diagnostic reading and screening assessment tools assist teachers in identifying specific reading deficiencies.

“(7) A measurement of the extent to which professional development programs implemented by States using funds received under this subpart improve reading instruction.

“(8) An analysis of changes in students’ interest in reading and time spent reading outside of school.

“(9) 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 the States and local educational agencies on a periodic basis for use in program improvement.

“SEC. 1207. NATIONAL ACTIVITIES.

“From funds reserved under section 1203(b)(1)(D), the Secretary may provide technical assistance in achieving the purposes of this subpart to States, local educational agencies, and schools requesting such assistance.

“SEC. 1208. INFORMATION DISSEMINATION.

“(a) IN GENERAL.—From funds reserved under section 1203(b)(1)(E), the National Institute for Literacy, in collaboration with the Secretary of Education and the Director of the National Institute for Child Health and Human Development,

“(1) shall disseminate information on scientifically based reading research pertaining to children, youth, and adults;

“(2) shall develop and disseminate information about schools, local educational agencies, and States that effectively developed and implemented classroom reading programs that meet the requirements of this subpart, including those effective States, local educational agencies, and schools identified through the evaluation and peer review provisions of this subpart; and

“(3) shall support the continued identification and dissemination of information on reading programs that contain the essential components of reading instruction as supported by scientifically based research, that provide improved reading outcomes for children, youth, and adults;

“(b) DISSEMINATION.—At a minimum, the National Institute for Literacy shall disseminate such information to—

“(1) recipients of Federal financial assistance under this subpart;

“(2) recipients of Federal financial assistance under part A of title III, the Head Start Act, the Individuals with Disabilities Education Act, and the Adult Education and Family Literacy Act; and

“(3) other Bureau-funded schools (as defined in section 1141(3) of the Education Amendments of 1978).

“SEC. 1209. DEFINITIONS.

“‘For purposes of this subpart:

“(1) ELIGIBLE PROFESSIONAL DEVELOPMENT PROVIDER.—The term ‘eligible professional development provider’ means a provider of professional development in reading instruction to teachers, including special education teachers, that is based on scientifically based reading research.

“(2) ESSENTIAL COMPONENTS OF READING INSTRUCTION.—The term ‘essential components of reading instruction’ means explicit and systematic instruction in—

“(A) phonemic awareness;


Congressional Record — House  
May 22, 2001

H2444

pea review panel convened under section 1204(c)(2).

"(e) LOCAL USES OF FUNDS.—

(1) REQUIRED ACTIVITIES.—An eligible applicant shall use the funds provided under the grant to carry out the following activities:

(A) Providing children aged 3 through 5 with high-quality language and literacy-rich environments in which to acquire prereading skills.

(B) Providing professional development for early childhood teachers that prepares them with scientific research-based knowledge of early reading development to assist in developing the children’s—

(i) automatic recognition of the letters of the alphabet;

(ii) understanding that words are made up of small segments of speech sounds and that certain letters regularly represent such speech sounds;

(iii) spoken vocabulary and oral comprehension abilities; and

(iv) understanding of semantic concepts.

(C) Identifying and providing scientific research-based prereading language and literacy activities and instructional materials for use in developing the children’s—

(i) automatic recognition of the letters of the alphabet;

(ii) understanding that words are made up of small segments of speech sounds and that certain letters regularly represent such speech sounds;

(iii) spoken vocabulary and oral comprehension abilities; and

(iv) understanding of semantic concepts.

(2) OPTIONAL ACTIVITIES.—An eligible applicant that receives a grant under this part shall use the funds provided under the grant to carry out the following activities:

(A) Using scientific research-based screening tools or other appropriate measures to determine whether children are developing the skills identified in this subsection.

(B) Integrating such instructional materials and literacy activities with programs of existing child care agencies, preschools, and Head Start centers, and with family literacy services.

(f) AWARD AMOUNTS.—The Secretary may establish a maximum award amount, or ranges of award amounts, for grants under this subpart.

SEC. 1223. FEDERAL ADMINISTRATION.

"The Secretary shall consult with the Secretary of Health and Human Services in order to coordinate the activities undertaken under this subpart with programs under the Head Start Act (42 U.S.C. 9831 et seq.).

SEC. 1224. REPORTING REQUIREMENTS.

"Each eligible applicant receiving a grant under this subpart shall report annually to the Secretary regarding the eligible applicant’s progress in addressing the purposes of this subpart.

SEC. 1225. EVALUATION.

"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 $2,000,000 to contract for an independent evaluation of the effectiveness of this subpart.

SEC. 1226. ADDITIONAL RESEARCH.

"From the amount made available under section 1002(b)(2) for each of the fiscal years 2002 through 2006, the Secretary shall reserve not more than $3,000,000 to conduct, in consultation with the National Institute for Child Health and Human Development, the National Institute for Literacy, and the Department of Health and Human Services, additional research on language and literacy development for children aged 3 through 5.

SEC. 112. AMENDMENTS TO EVEN START.

Part B of title I (20 U.S.C. 6361 et seq.), as amended by section 111, is further amended—

(1) by inserting before section 1231 (as so redesignated by section 111) the following:

"Subpart 3—William F. Goodling Even Start Family Literacy Programs;"

(2) in each of sections 1231 through 1242 (as so redesignated by section 111) (A) by striking “this part” each place such term appears and inserting “this subpart”; and (B) by striking “1002(b)” each place such term appears and inserting “1002(b)(3)”;

(3) in section 1231(d), by striking “2252” and inserting “1209”;

(4) in section 1232—

(A) in subsection (a)—

(i) in paragraph (1)(A), by striking “1209” and inserting “1232”;

(ii) in paragraph (2), by striking “1211” each place such term appears and inserting “1241”;

and

(B) in subsection (b)—

(i) by amending paragraph (2)(C) to read as follows—

"(C) COORDINATION WITH SUBPART 1.—The consortium shall coordinate its activities with the activities of the reading and literacy partnership for the State established under section 1204(d), if the State receives a grant under section 1203; and"

(ii) in paragraph (3), by striking “1225” and inserting “1209”;

(5) in section 1233—

(A) by striking “1204(d)”; each place such term appears and inserting “1232(d)(4)” and “1232(d)(4)”;

(B) by striking “1209” and inserting “1240”;

and

(6) in section 1234—

(A) in subsection (b)—

(i) in paragraph (1)(A), by moving the margins of clauses (e) and (f) 2 ems to the right; and

(ii) in paragraph (3), by striking “1202(a)(1)(C)” and inserting “1232(a)(1)(C)”;

and

(B) in subsection (c)—

(i) in paragraph (1)—

(I) by striking “1203(a)” and inserting “1232(a)”;

and

(II) by striking “1203(b)” and inserting “1232(b)”;

and

(ii) in paragraph (2), by striking “1210,” and inserting “1240,”;

(7) in section 1235—

(A) in paragraph (10), by striking “2252” and inserting “1209”;

(B) in paragraph (12), by striking “2252,” and inserting “1209,”;

and

(C) in paragraph (15), by striking “program,” and inserting “program to be used for program improvement.”

(8) in section 1237—

(A) in subsection (c)(1)—

(i) in subparagraph (B), by striking “1205,” and inserting “1240,”

(ii) in paragraph (4), by striking “1406,” and inserting “8306,”;

and

(B) in subsection (d), by striking “14302,” and inserting “1240.”

(9) in section 1238—

(A) in subsection (a)(1)—

(i) in subparagraph (A)(ii), by striking “1205,” and inserting “1240,”

(ii) in subparagraph (F), by striking “1204(b),” and inserting “1234(b),”; and

(B) in subsection (b)—

(i) in paragraph (3)—

(I) by striking “1207(c)(1)(A)” and inserting “1237(c)(1)(A)”;

and

(II) by striking “1210,” and inserting “1240,”;

(ii) in paragraph (5)(B), by striking “1204(b),” and inserting “1234(b),”;

and

(iii) in paragraph (5), by striking “1208,” and inserting “1238.”

(10) in section 1239—

(A) by striking “1202(b)(1),” and inserting “1232(b)(1),”;

and

(B) by striking “1205(10)” and inserting “1235(10),”

(11) in section 1241—

(A) in subsection (b)(1)—

(i) by striking “1202(b)(2),” and inserting “1232(b)(2),”;

(ii) by striking “2252,” and inserting “1209,”;

and

(3) redesignating subsections (a) through (c) as subsections (b) through (d), respectively; and

(4) by inserting before subsection (b) (as so redesignated) the following:

"(a) PURPOSE.—The purpose of this program is to establish and implement a model partnership between a governmental entity and a private entity, to help prepare young children for reading, and 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, motivation activities, and other essential literacy resources, and shall assign the highest priority to serving the youngest and neediest children in the United States.

"(b) CONTRACTORS.—Section 1251(b) (as so redesignated) is amended by striking “books to students, that motivate children to read,” and inserting “books to young and school-aged children that motivate them to read.”

"(c) REQUIREMENTS OF CONTRACT.—Section 1251(c) (as so redesignated) is amended—

(1) in the matter preceding paragraph (1), by striking “subsection (a)” and inserting “subsection (b);” and

(2) in paragraph (4), by inserting “training and” before “technical.”

"(d) SPECIAL RULES FOR CERTAIN SUBCONTRACTORS—MULTI-YEAR CONTRACTS.—Section 1251 (as so redesignated) is amended by inserting after subsection (d) the following:

"(e) SPECIAL RULES FOR CERTAIN SUBCONTRACTORS.—

(1) FUNDS FROM OTHER FEDERAL SOURCES.—Subcontractors operating 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.

(3) MULTI-YEAR CONTRACTS.—The contractor may enter into a multi-year subcontract under this section in low-income communities with a substantial number or percentage of children with special needs, as described in subsection (c)(3), for a contract with a term in excess of three years.

(4) TERMINATION OF CONTRACT.—Notwithstanding any other provision of this Act, any person or agency that was awarded a contract under part E of title X (20 U.S.C. 8131) prior to
the date of the enactment of this Act shall continue to receive funds in accordance with the terms of such contract until the date on which the contract period terminates under such terms.

PART C—EDUCATION OF MIGRATORY CHILDREN

SEC. 121. STATE ALLOCATIONS.

Section 1303 (20 U.S.C. 6393) is amended—

(1) by amending subsection (a) to read as follows:

(a) STATE ALLOCATIONS.—

‘‘(1) FISCAL YEAR 2002.—For fiscal year 2002, each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part an amount equal to—

(A) the sum of the estimated number of migratory children aged three through 21 who reside in the State during the previous year; and

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

(2) SUBSEQUENT YEARS.—

(A) BASE AMOUNT.—

(i) IN GENERAL.—Except as provided in subsection (b) and clause (ii), each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part, for fiscal year 2003 and succeeding fiscal years, an amount equal to—

(I) the amount that such State received under this part for fiscal year 2002, plus

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

(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 amount for 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—

(aa) the number of identified eligible migratory children, aged 3 through 21, residing in the State during the previous year; and

(bb) 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

(bb) 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, nor more than 48 percent, of the average per-pupil expenditure in the United States;‘‘;

(2) by amending subsection (b) to read as follows:

‘‘(b) ALLOCATION TO PUERTO RICO.—

‘‘(1) IN GENERAL.—For each fiscal year, the grant which the Commonwealth of Puerto Rico shall receive under this part shall be the amount determined by multiplying the number of children counted under subsection (a) by the Commonwealth of Puerto Rico by

(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; and

(B) for fiscal years 2003 through 2004, 82.5 percent.

(3) LIMITATION.—If the application of paragraph (2) would result in any of the 50 States or the District of Columbia receiving less under this part than it received under this part for the preceding fiscal year,‘‘;

and

(3) by striking subsection (d) and redesignating subsection (e) as subsection (d).

SEC. 122. STATE APPLICATIONS; SERVICES.

(a) PROGRAM INFORMATION.—Section 1304(b) (20 U.S.C. 6394(c)) is amended—

(1) in paragraph (1), by striking ‘‘addressed through paragraph—‘‘ and then following the semi-colon at the end inserting the following:

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

(2) in paragraph (2), by striking ‘‘paragraph (1)’’ and inserting ‘‘paragraphs (1) and (2)’’;

(3) in paragraph (3)—

(A) by striking ‘‘appropriate’’;

(B) by striking ‘‘to the extent feasible,’’ and inserting ‘‘out’’; and

(C) by striking ‘‘1118’’ and inserting ‘‘1118, unless extraordinary circumstances warrant making implementation consistent with such section impractical’’;

and

(4) in paragraph (7), by striking ‘‘section 1303(c)(1) and (2)(B)(i) of section 1303(a)’’ and inserting ‘‘paragraphs (1)(A) and (2)(B)(i) of section 1303(a)’’.

SEC. 123. AUTHORIZED ACTIVITIES.

Section 1306 (20 U.S.C. 6396) is amended to read as follows:

‘‘SEC. 1306. AUTHORIZED ACTIVITIES.

(a) IN GENERAL.—

(1) FLEXIBILITY.—Each State educational agency, and each educational agency, shall have the flexibility to determine the activities to be provided with funds made available under this part, except that such funds shall be used to meet the needs of migratory children that result from their migratory lifestyle, and to permit these children to participate effectively in school.

(2) UNALLOCATED FUNDS.—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, State, and local educational programs, except that migratory children who are eligible to receive services under part A of this title may receive those services through funds provided under that part, or through arrangements with another State or other appropriate entity that the Secretaries determine, pursuant to criteria that the Secretaries shall establish, will improve the delivery of services to migratory children whose education is interrupted.

PART D—NEGLECTED OR DELINQUENT YOUTH

SEC. 131. NEGLECTED OR DELINQUENT YOUTH.

The heading for part D of title I is amended to read as follows:

‘‘PART D—PREVENTION AND INTERVENTION PROGRAMS FOR NEGLECTED OR DELINQUENT CHILDREN AND YOUTH’’.

SEC. 132. FINDINGS.

Section 1401(a) (20 U.S.C. 6421(a)) is amended by striking paragraphs (6) through (9) and inserting the following:

‘‘(6) Youth returning from correctional facilities need to be involved in programs that provide them with high-level skills and other support to help them stay in school and complete their education.

(7) Pregnant and parenting teenagers are a high-at-risk group for dropping out of school and should be targeted by dropout prevention programs.

SEC. 133. ALLOCATION OF FUNDS.

Section 1412(b) (20 U.S.C. 6432(b)) is amended to read as follows:

‘‘(b) GRANTS TO STATE AGENCIES IN PUERTO RICO.—

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

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

‘‘B’’) 32 percent of the average per-pupil expenditure in the United States.

‘‘2’’) MINIMUM PERCENTAGE.—The percentage in paragraph (1)(A) shall not be less than—

‘‘A’’) for fiscal year 1991, 75.5 percent; and

‘‘B’’) for fiscal year 2000, 80.0 percent; and

‘‘C’’) for fiscal year 2004, 82.5 percent; and

‘‘D’’) for fiscal year 2005 and succeeding fiscal years.

‘‘3’’) LIMITATION.—If the application of paragraph (2) would result in any of the 50 States or the District of Columbia receiving less under this part than it received under this part for the preceding fiscal year, the percentage in paragraph (1)(A) or the percentage used for the preceding fiscal year, the percentage in paragraph (2) would result in any of the 50 States or the District of Columbia receiving less under this part than it received under this part for the preceding fiscal year, the percentage in paragraph (1)(A) or the percentage used for the preceding fiscal year.

SEC. 136. USE OF FUNDS.

Section 1415(a) (20 U.S.C. 6434(a)) is amended—

(1) in paragraph (1)(B), by inserting ‘‘, vocational and technical training’’ after ‘‘secondary school completion’’;

(2) in paragraph (2)(B)—

(A) in clause (i), by inserting ‘‘and after’’ the semicolon;

(B) in clause (ii), by striking ‘‘, and’’ and inserting ‘‘a semicolon;’’ and

(C) by striking clause (iii), by striking ‘‘part F of this title’’ and inserting ‘‘part H’’; and

(4) in paragraph (2)(D), by striking ‘‘subsection 14701’’ and inserting ‘‘section 8651’’.

SEC. 137. PURPOSE.

Section 1421(3) (20 U.S.C. 6451(3)) is amended to read as follows—

‘‘3’’) operate programs in local schools for youth returning from correctional facilities and programs which may assist youth at risk of dropping out of school.’’.

SEC. 138. PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES.

Section 1422 (20 U.S.C. 6452) is amended—

(1) in subsection (a), by striking ‘‘retrained’’;

(2) by adding subsection (b) to read as follows:

‘‘(b) SPECIAL RULE.—A local educational agency which includes a correctional facility that operates a school is not required to operate a program of support for children returning to school to accommodate the effects on such agency of incarcerating children who will be returning from correctional facilities if—

(1) the strategies and programs ordered under this part in paragraph (1)(D) of section 1415(a) include the following:

(i) a program designed to provide support services for youth returning from correctional facilities; and

(ii) a program designed to provide support services for youth returning from correctional facilities; and

(2) the program is an integrated program which includes—

(i) a program designed to provide support services for youth returning from correctional facilities; and

(ii) a program designed to provide support services for youth returning from correctional facilities; and

(3) the local educational agency that includes a correctional facility that operates a school shall not have a negative impact on meeting the transitional and academic needs of the students returning from correctional facilities .’’.

SEC. 139. LOCAL EDUCATIONAL AGENCY APPLICATIONS.

Section 1423 (20 U.S.C. 6453) is amended by striking paragraphs (4) through (9) and inserting the following:

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

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

‘‘6’’) as appropriate, a description of how such school will coordinate with existing social, health, and other services to meet the needs of students returning from correctional facilities,
students at risk of dropping out of school, and other participating students, including prenatal health care and nutrition services related to the health of the parent and child, parenting and child care classes, child care, targeted reentry and outreach programs, referrals to community resources, and scheduling flexibility; “(7) as appropriate, a description of any partners or organizations formed or identified to develop training, curriculum-based youth entrepreneurship education, and mentoring services for participating students; “(8) as appropriate, a description of how programs will involve parents in efforts to improve the educational achievement of their children, prevent the involvement of their children in delinquent behavior, and encourage their children to remain in school and complete their education; “(9) a description of how the program under this subpart will be coordinated with other Federal, State, and local programs, such as job training programs and vocational and technical education programs serving this at-risk population; “(10) a description of how programs providing mentoring and peer mediation; “(11) the extent to which programs to meet the unique academic needs of participating youth, including vocational and technical education, special education, career counseling, curriculum-based youth entrepreneurship education, and assistance in securing student loans or grants for postsecondary education and “(12) the extent to which varying models of comprehensive school reform are funded under this title, and the effect of the implementation of such models on improving achievement of disadvantaged students; “(E) the costs as compared to the benefits of the activities assisted under this title; “(F) the extent to which 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; “(G) the extent to which actions authorized under section 1116 of this title are employed by State and local educational agencies to improve the academic achievement of students in low-performing schools, and the effectiveness of the implementation of such actions; “(H) the extent to which technical assistance made available under this title is used to improve the achievement of students in low-performing schools, and the impact of such assistance on such achievement; “(I) the extent to which State and local fiscal accounting requirements under this title limit the flexibility of schoolwide programs; “(J) the impact of the professional development activities under this title on instruction and student performance; “(K) the extent to which the assistance made available under this title is targeted to disadvantaged students and schools that need them the most; “(L) the effectiveness of Federal administration assistance made available under this title, including monitoring and technical assistance; and “(M) such other issues as the Secretary considers appropriate. “(2) SOURCES OF INFORMATION.—In conducting the assessment under this subsection, the Secretary shall use information from a variety of sources, including the National Assessment of Educational Progress (carried out under section 411 of the National Education Statistics Act of 1994 (20 U.S.C. 6301), state evaluations, and other research; “(3) SCOPE.—In carrying out this subsection, the Secretary shall “(A) conduct studies and evaluations of the following: “(a) NATIONAL ASSESSMENT.— “(1) IN GENERAL.—In accordance with this section, the Secretary shall conduct a national assessment of programs assisted under this title. “(2) ISSUES TO BE EXAMINED.—In conducting the assessment under this subsection, the Secretary shall examine— “(A) the implementation of programs assisted under this title and the impact of such implementation on increasing student academic achievement, particularly schools with high concentrations of children living in poverty; “(B) the implementation of State standards, assessments, and accountability systems developed under this title and the impact of such implementation on educational programs and instruction at the local level; “(C) the impact of schoolwide programs and targeted assistance programs under this title on improving student academic achievement; “(D) the extent to which varying models of comprehensive school reform are funded under this title, and the effect of the implementation of such models on improving achievement of disadvantaged students; “(E) the costs as compared to the benefits of the activities assisted under this title; “(F) the extent to which 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; “(G) the extent to which actions authorized under section 1116 of this title are employed by State and local educational agencies to improve the academic achievement of students in low-performing schools, and the effectiveness of the implementation of such actions; “(H) the extent to which technical assistance made available under this title is used to improve the achievement of students in low-performing schools, and the impact of such assistance on such achievement; “(I) the extent to which State and local fiscal accounting requirements under this title limit the flexibility of schoolwide programs; “(J) the impact of the professional development activities under this title on instruction and student performance; “(K) the extent to which the assistance made available under this title is targeted to disadvantaged students and schools that need them the most; “(L) the effectiveness of Federal administration assistance made available under this title, including monitoring and technical assistance; and “(M) such other issues as the Secretary considers appropriate. “(3) SOURCES OF INFORMATION.—In conducting the assessment under this subsection, the Secretary shall use information from a variety of sources, including the National Assessment of Educational Progress (carried out under section 411 of the National Education Statistics Act of 1994 (20 U.S.C. 6301), state evaluations, and other research; “(4) COORDINATION.—In carrying out this subsection, the Secretary shall “(A) coordinate conducting the national assessment with respect to this title through a longitudinal study described in subsection (c); and “(B) ensure that the independent review panel described in subsection (d) participates in conducting the national assessment, including planning for and reviewing the assessment. “(5) REPORTS.— “(A) INTERIM REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit to the President and the Congress an interim report on the national assessment conducted under this subsection. “(B) FINAL REPORT.—Not later than 4 years after the date of enactment of the Leave No Child Behind Act of 2001, the Secretary shall transmit to the President and the Congress a final report on the national assessment conducted under this subsection. “(6) STUDIES AND DATA COLLECTION.— “(1) IN GENERAL.—In addition to other activities described in this section, the Secretary may, through the issuance of grants or contracts with appropriate entities— “(A) conduct studies and evaluations of the need for, and effectiveness of, each program authorized under this title; “(B) collect the data necessary to comply with the Government Performance and Results Act of 1993 and (c); “(C) provide guidance and technical assistance to State educational agencies and local educational agencies in developing and maintaining management information systems through which such agencies can develop program performance indicators in order to improve services and performance. “(2) MINIMUM INFORMATION.—Under this subpart, the Secretary shall determine, at a minimum, trend information on the effect of each program authorized under this title, which shall be included in the reports submitted and reported under subsections (a) and (c). “(C) NATIONAL LONGITUDINAL STUDY.— “(1) IN GENERAL.—The Secretary shall conduct a longitudinal study of schools receiving assistance under this title. “(2) ISSUES TO BE EXAMINED.—In carrying out this subsection, the Secretary shall conduct a longitudinal study of schools receiving assistance under this title. “(A) An accurate description and analysis of short-term and long-term effectiveness of the assistance made available under this title upon academic achievement. “(B) Information that can be used to improve the effectiveness of the assistance made available under this title in enabling students to meet challenging achievement standards. “(C) An analysis of educational practices or model programs that are effective in improving the achievement of disadvantaged children “(D) An analysis of the costs as compared to the benefits of the assistance made available under this title in improving the achievement of disadvantaged children. “(E) An analysis of the effects of the availability of school choice options under section 1116 on the academic achievement of disadvantaged students, on schools in school improvement, and on schools from which students have transferred under such options. “(F) Other information as the Secretary considers appropriate. “(2) SCOPE.—In conducting the study referred to in paragraph (1), the Secretary shall “(A) conducts its analysis on a nationally representative sample of schools participating in programs under this part; “(B) to the extent practicable, includes in its analysis students who attend different schools during the course of the study; and “(C) analyzes varying models or strategies for delivering school services, including “(i) schoolwide and targeted services; and “(ii) comprehensive school reform models. “(D) INDEPENDENT REVIEW PANEL.—In conducting the study referred to in subsection (a), the Secretary shall establish an independent review panel (in this subsection referred to as the ‘Review Panel’) to advise the Secretary on methodological and other issues that arise in carrying out subsections (a) and (c). “(2) APPOINTMENT OF MEMBERS.— “(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall appoint to the Review Panel from among qualified individuals who are...
“(i) specialists in statistics, evaluation, research, and assessment;”
“(ii) education practitioners, including teachers, principals, and local and State superintendents of education;”
“(iii) other individuals with technical expertise who would contribute to the overall rigor and quality of the program evaluation.”

“(B) APPOINTMENTS.—The Secretary shall ensure that—

“(i) in order to ensure diversity, a majority of the number of individuals appointed under subparagraph (A)(i) represent disciplines or programs outside the field of education; and

“(ii) the total number of the individuals appointed under subparagraph (A)(i) or (A)(ii) does not exceed ½ of the total number of the individuals appointed under this paragraph.”

“(3) FUNCTIONS.—The Review Panel shall consult with and advise the Secretary—

“(A) to ensure that the assessment conducted under subsection (a) and the study conducted under subsection (c)—

“(i) adhere to the highest possible standards of quality with respect to research design, statistical analysis, and the dissemination of findings;”
“(ii) use valid and reliable measures to document program implementation and impacts; and

“(B) to ensure—

“(i) that the final report described in subsection (a)(ii)(B) is reviewed not later than 120 days after its completion by not less than 2 independent experts in program evaluation;”
“(ii) that the experts evaluate and comment on the degree to which the report complies with subsection (a) and

“(iii) that the comments of such experts are transmitted with the report under subsection (a)(3)(B).”

“SEC. 152. DEMONSTRATIONS OF INNOVATIVE PRACTICES.

(a) IN GENERAL.—Section 1502 (20 U.S.C. 6492) is amended—

“(1) by redesignating subsection (b) as subsection (c);

“(2) by striking in subsection (a) “(2) EVALUATION.—The Secretary” and inserting “(2) EVALUATION.—The Secretary and inserting “(b) EVALUATION.—The Secretary” and by moving such subsection (b) 2 ems to the left;

“(3) by striking in subsection (a) “Such projects shall include program stress testing and all that follows through “career guidance opportunities.”;

“(4) by striking “student performance standards” and inserting “student achievement standards”;

“(5) by inserting “academic” after “to meet challenging State” and

“(6) after “DEMONSTRATION PROGRAMS” and all that follows through “GENERAL.—From the” and inserting “(a) IN GENERAL.—From the”.

“SEC. 153. ELLENBERG-CLOSE UP FELLOWSHIP PROGRAM; DROPOUT REPORTING.

(a) IN GENERAL.—Part E of title I (20 U.S.C. 6491 et seq.) is further amended by adding at the end the following.

“SEC. 1503. ELLENBERG-CLOSE UP FELLOWSHIP PROGRAM;

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

“(i) It is a worthwhile goal to ensure that all students in America are prepared for responsible citizenship and that all students have the opportunity to be involved in activities that promote and demonstrate good citizenship.

“(ii) It is a worthwhile goal to ensure that America’s educators have access to programs for the continued improvement of their professional skills.

“(iii) Allen J. Ellender, a Senator from Louisiana and President pro tempore of the United States Senate, had a distinguished career in public service characterized by extraordinary energy, determination, and wisdom. Senator Ellender provided valuable support and encouragement to the Close Up Foundation, a nonprofit, nonpartisan foundation promoting knowledge and understanding of the Federal Government among young people and educators. Therefore, it is a fitting and appropriate tribute to Senator Ellender to name to students of limited economic means and the teachers who work with such students, so that such students and teachers may participate in the programs supported by the Close Up Foundation.

“(d) USE OF FUNDS.—Grants 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.

“(e) GENERAL PROVISIONS.—Each application submitted under this paragraph shall contain provisions to assure—

“(i) that fellowship grants are made only to teachers who have worked with at least one student from such teacher’s school who participates in the programs described in subsection (b);

“(ii) that no teacher in each school participating in the programs assisted under subsection (b) may receive more than one fellowship in any fiscal year; and

“(iii) the proper disbursement of the funds received under this subsection.

“(4) PROGRAMS FOR RECENT IMMIGRANTS AND STUDENTS OF MIGRANT PARENTS.—

“(1) ESTABLISHMENT.—

“(A) GENERAL AUTHORITY.—In accordance with this subsection, the Secretary may grants to the Close Up Foundation of Washington, District of Columbia, a nonprofit, nonpartisan, nonfederal foundation, for the purpose of assisting the Close Up Foundation in carrying out its program to support the understanding of the Federal Government among economically disadvantaged recent immigrants and students of migrant parents.

“(B) USE OF FUNDS.—Grants under this subsection may be used for financial assistance to economically disadvantaged recent immigrants, migrant parents, and students of migrant parents who participate in the program described in subsection (a).

“(1) ADMINISTRATIVE PROVISIONS.

“(A) GENERAL RULE.—Payments under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment.

“(B) 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 all books, records, and other documents of the Secretary and to all books, records, and other documents that pertain to any grant under this section.

“(f) LIMITATION.—Of the funds appropriated under this section, and any amounts made available from such funds to carry out subsection (c) of this section.
SEC. 1504. DROP OUT REPORTING.

"State educational agencies receiving funds under this title shall annually report to the National Center on Education Statistics (established under section 6132 of the National Education Statistics Act of 1994 (20 U.S.C. 9002)) on the dropout rate of students in the State, as defined for the Center’s Common Core of Data.”.

(a) SEC. 1504. DROP OUT REPORTING.—(1) FINDINGS.—Congress finds the following:

(A) A number of schools across the country have shown impressive gains in student performance through comprehensive school reform approaches based on scientifically-based research and effective practices that include an emphasis on basic academics and parental involvement so that all children can meet challenging State content and academic achievement standards.

(B) PURPOSE.—The purpose of this section is to provide financial incentives for schools to develop comprehensive school reform, based upon scientifically-based research and effective practices that include an emphasis on basic academics and parental involvement so that all children can meet challenging State content and academic achievement standards.

(b) PROGRAM AUTHORIZED.—(1) IN GENERAL.—The Secretary is authorized to provide grants to State educational agencies to support and sustain comprehensive school reforms based on scientifically-based research and effective practices that include an emphasis on basic academics and parental involvement so that all children can meet challenging State content and academic achievement standards.

(c) STATE AWARDS.—(1) STATE APPLICATION.—(A) IN GENERAL.—Each State educational agency that desires to receive a grant under this section shall submit an application to the Secretary containing such information as the Secretary requires.

(B) REQUIREMENTS.—Each State application shall also describe:

(i) the process and selection criteria by which the State educational agency, using experts representing the State educational agencies to provide subgrants to local educational agencies to provide subgrants to local educational agencies;

(ii) how the agency will ensure that funds under this part are used only for comprehensive school reform purposes;

(iii) the academic performance of students in core academic subjects within participating schools; and

(iv) the process and selection criteria by which the State educational agency, using experts representing the State educational agencies to provide subgrants to local educational agencies to provide subgrants to local educational agencies.

(2) USES OF FUNDS.—(A) IN GENERAL.—Except as provided in subparagraph (B), a State educational agency that receives an award under this section shall use such funds to provide technical assistance and support for local educational agencies to support and sustain comprehensive school reforms based on scientifically-based research and effective practices.

(B) GRANT REQUIREMENTS.—(I) IDENTIFICATION.—(i) the agency will provide technical assistance to the local educational agencies to support and sustain comprehensive school reforms that include an emphasis on basic academics and parental involvement so that all children can meet challenging State content and academic achievement standards.

(ii) the agency will provide technical assistance to the local educational agencies to support and sustain comprehensive school reforms that include an emphasis on basic academics and parental involvement so that all children can meet challenging State content and academic achievement standards.

(iii) how the agency will provide, technical assistance to the local educational agencies to support and sustain comprehensive school reforms that include an emphasis on basic academics and parental involvement so that all children can meet challenging State content and academic achievement standards.

(iv) how the agency will provide, technical assistance to the local educational agencies to support and sustain comprehensive school reforms that include an emphasis on basic academics and parental involvement so that all children can meet challenging State content and academic achievement standards.

(v) how the agency will provide, technical assistance to the local educational agencies to support and sustain comprehensive school reforms that include an emphasis on basic academics and parental involvement so that all children can meet challenging State content and academic achievement standards.

(2) GRANT REQUIREMENTS.—(A) IN GENERAL.—A State educational agency that receives a grant under this subpart shall provide such funds to schools that implement a comprehensive school reform program that—

(i) employs proven strategies and proven methods for student learning, teaching, and school management that are based on scientifically-based research and effective practices that have been successfully implemented in similar schools;

(B) GRANT REQUIREMENTS.—A grant to a local educational agency or consortium shall be—

(i) of sufficient size and scope to support the initial costs of the comprehensive school reforms selected or designed by each school identified in the application of the local educational agency or consortium;

(ii) in an amount not less than $50,000 to each participating school; and

(iii) renewable for additional 1-year periods after the initial 1-year grant is made if schools are making substantial progress in the implementation of their reforms.

(C) PRIORITY.—The Secretary, in awarding grants under this paragraph, shall give priority to local educational agencies that—

(i) plan to use the funds in schools identified as needing improvement or corrective action under section 1116(c); or

(ii) demonstrate a commitment to assist schools with out-of-district allocations, professional development, and institutional support to ensure the comprehensive school reforms are properly implemented and are sustained in the future.

(D) GRANT CONSIDERATION.—In making subgrant awards under this part, the State educational agency shall take into account the equitable distribution of awards to different geographic regions, urban and rural areas, and to schools serving elementary and secondary students.

(E)铝合金热交换器—(A) A State educational agency that receives a grant award under this section may reserve not more than 5 percent of such award for administrative, evaluative, and implementation support.

(F) SUPPLEMENT.—Funds made available under this section shall be used to supplement, not supplant, any other Federal, State, or local funds that would otherwise be available to carry out this section.

(G) REPORTING.—(1) IN GENERAL.—Each State educational agency that receives an award under this section shall provide to the Secretary such information as the Secretary may require, including the names of local educational agencies and schools that receive subgrants under this section, the amount of such award, a description of the comprehensive school reforms selected and in use, and a copy of the State’s annual evaluation of the implementation of comprehensive school reforms supported under this part and student achievement results.

(H) LOCAL AWARDS.—(1) IN GENERAL.—Each local educational agency or consortium that applies for a subgrant under this section shall—

(i) identify which schools eligible for funds under part A plan to implement a comprehensive school reform program, including the projected costs of such a program;

(ii) describe how the agency or consortium will integrate the comprehensive school reforms into their existing comprehensive school reform plans, based on scientifically-based research and effective practices that such schools will implement;

(iii) how the agency or consortium will provide technical assistance and support for the effective implementation of the school reform approaches selected and in use by schools selected under such subpart and student achievement results.

(I) REPORTING.—The Secretary shall provide to the Secretaries of Education and Health and Human Services and the appropriate committees of Congress a summary of the implementation of the comprehensive school reform programs and the student achievement results.
“(ii) has been found to have strong evidence that such model will significantly improve the performance of participating children.

(3) Special rule.—A school that receives funds pursuant to this section for regional comprehensive school reform shall not be limited to using nationally available approaches, but may develop its own comprehensive school reform program for schoolwide change that complies with paragraph (2).

(4) Evaluation and report.—

(A) In general.—The Secretary shall develop a plan for national evaluation of the programs developed pursuant to this section.

(B) Evaluation.—This national evaluation shall evaluate the implementation and results achieved by local educational agencies within 2 years of implementing comprehensive school reforms, and assess the effectiveness of comprehensive school reforms in schools with diverse characteristics.

(5) Reports.—Prior to the completion of a national evaluation, the Secretary shall submit an interim report outlining first year implementation activities to the Committees on Education and the Workforce and Appropriations of the House of Representatives and the Committees on Health, Education, Labor, and Pensions and Appropriations of the Senate.

(6) Quality initiatives.—The Secretary, through grants or contracts, shall provide funds for the following activities:

(A) General assistance.—A joint public and private partnership that receives matching funds from private organizations, in order to assist States, local educational agencies, and schools in making informed decisions when applying for or selecting providers of comprehensive school reform, consistent with the requirements described in subsection (d)(3).

(B) Other activities.—Other activities that—

(1) encourage the development of comprehensive reform models;

(2) build the capacity of comprehensive school reform providers to increase the number of schools the providers can serve; and

(3) ensure that schools served receive high quality services that meet the needs of their teachers and students.

PART G—RURAL EDUCATION FLEXIBILITY AND ASSISTANCE

SEC. 171. RURAL EDUCATION.

Title I is amended by adding at the end the following new part:

“PART G—RURAL EDUCATION FLEXIBILITY AND ASSISTANCE

SEC. 1701. SHORT TITLE.

This part may be cited as the ‘Rural Education Initiative Act’.

SEC. 1702. FINDINGS.

Congress finds the following:

“(1) While there are rural education initiatives identified at the State and local level, no Federal education policy focuses on the specific and unique needs of rural school districts and schools.

“(2) Small school districts often cannot use Federals funded by competitive grants because the formula allocation does not provide enough revenue to carry out the program the grant is intended to fund.

“(3) A critical problem for rural school districts involves the hiring and retention of qualified educators, especially in reading, science, and mathematics. As a result, teachers in rural schools are almost twice as likely to provide instruction in three or more subjects than teachers in urban schools.

“(4) Rural schools also face other tough challenges, such as shrinking local tax bases, high transportation costs, aging buildings, limited course offerings, and limited resources.

“Subpart 1—Rural Education Flexibility

SEC. 1711. FORMULA GRANT PROGRAM AUTHORIZED.

“(1) Alternative uses.—

(A) In general.—Notwithstanding any other provision of law, an eligible local educational agency may use the applicable funding, that the agency is entitled to receive under section 1711(c) for a fiscal year, to carry out local activities authorized in part A of title I, part A of title II, part A of title III, part A of title IV, or part A of title V, or any combination of such activities, in accordance with paragraph (1) not later than a date that is established by the State educational agency for the notification.

(B) Eligibility.—

(i) In general.—A local educational agency shall be eligible to use the applicable funding in accordance with subsection (a).

(ii) The total number of students in average daily attendance at all of the schools served by the local educational agency is less than 100; and

(iii) all of the schools served by the local educational agency are designated with a school locale code of 1 or 2 as determined by the Secretary of Education.

“Subpart 2—Rural Education Assistance

SEC. 1712. PROGRAM AUTHORIZED.

Each State educational agency that uses or receives funds under section 1711 or 1712 for a fiscal year shall administer an assessment consistent with section 1111.

“Subpart 3—Rural Education Assistance

SEC. 1713. ACCOUNTABILITY.

“(1) Academic achievement.—

(A) In general.—Each State educational agency that uses or receives funds under section 1711 or 1712 for a fiscal year shall administer an assessment consistent with section 1111.

(B) Special rule.—Each local educational agency that is eligible to receive a grant under this subpart for a fiscal year shall be eligible for supplemental funds for such fiscal year under subpart 2.

“Subpart 4—State Education Agency Determination Regarding Continuing Participation—

SEC. 1714. FLEXIBILITY AND ASSISTANCE

SEC. 1703. RURAL EDUCATION FLEXIBILITY AND ASSISTANCE

SEC. 1704. QUALITY INITIATIVES

SEC. 1705. CENSUS DETERMINATION

SEC. 1706. BUDGETARY ADJUSTMENT

SEC. 1707. ADDITIONAL AMOUNTS

SEC. 1708. SUPPLEMENT NOT SUPPLANT

SEC. 1709. ALTERNATIVE USES

SEC. 1710. DISBURSEMENT

SEC. 1711. APPROPRIATIONS

SEC. 1712. PROGRAM AUTHORIZED

SEC. 1713. ACCOUNTABILITY

SEC. 1714. FLEXIBILITY AND ASSISTANCE

“Subpart 2—Rural Education Assistance

SEC. 1715. PROGRAM AUTHORIZED

SEC. 1716. QUALITY INITIATIVES

SEC. 1717. CENSUS DETERMINATION

SEC. 1718. BUDGETARY ADJUSTMENT

SEC. 1719. ADDITIONAL AMOUNTS

SEC. 1720. SUPPLEMENT NOT SUPPLANT

SEC. 1721. ALTERNATIVE USES

SEC. 1722. DISBURSEMENT

SEC. 1723. APPROPRIATIONS

SEC. 1724. PROGRAM AUTHORIZED

SEC. 1725. ACCOUNTABILITY

SEC. 1726. FLEXIBILITY AND ASSISTANCE
‘‘(b) GRANTS TO STATES.—

‘‘(1) IN GENERAL.—From amounts appropriated under section 1002(f) for this subpart that are not reserved under subsection (a), the Secretary shall award grants for a fiscal year to State educational agencies that have applications approved under section 1723 to enable the State educational agencies to award subgrants to eligible local educational agencies for local administrative activities described in subsection (c)(2).

‘‘(2) ALLOCATION.—From amounts appropriated for this subpart, the Secretary shall allocate to each State educational agency for a fiscal year an amount that bears the same ratio to the amount of funds appropriated under section 1002(f) for this subpart that are not reserved under subsection (a) as the number of students in average daily attendance served by eligible local educational agencies in the State bears to the number of all such students served by eligible local educational agencies in all States for that fiscal year.

‘‘(3) DIRECT AWARDS TO SPECIALY QUALIFIED AGENCIES.—

‘‘(A) NONPARTICIPATING STATE.—If a State educational agency elects not to participate in the program under this subpart or does not have an application approved under section 1723 for a specially qualified agency in such State desiring a grant under this subpart, the Secretary may award under this subpart 20 percent of the funds appropriated under section 1002(f) for this subpart to the Secretary to provide assistance to a specially qualified agency in such State desiring an award under this subpart.

‘‘(B) DIRECT AWARDS TO SPECIALLY QUALIFIED AGENCIES.—The Secretary may award, on a competitive basis, the amount the State educational agency is eligible to receive under paragraph (2) directly to specially qualified agencies in the State.

(c) LOCAL AWARDS.—

‘‘(1) ELIGIBILITY.—A local educational agency shall be eligible to receive funds under this subpart if—

(A) 20 percent or more of the children aged 5 to 17, inclusive, served by the local educational agency are from families with incomes below the poverty line; and

(B) all of the schools served by the agency are designated with a school code of 6, 7, or 8 as determined by the Secretary of Education.

‘‘(2) USES OF FUNDS.—Grant funds awarded to local educational agencies or made available to schools under this subpart shall be used for—

(A) teacher recruitment and retention, including the use of signing bonuses and other financial incentives;

(B) teacher professional development, including programs that train teachers to utilize technology to improve teaching and to train special needs teachers;

(C) educational technology, including software and hardware as described in part B of title V; and

(D) parental involvement activities; or

(E) programs to improve student academic achievement.

‘‘SEC. 1723. STATE DISTRIBUTION OF FUNDS.

(a) BASIS.—A State educational agency shall award grants to eligible local educational agencies—

‘‘(1) on a competitive basis; or

‘‘(2) on a competitive basis or on a priority basis as the Secretary determines, after notice and an opportunity for a hearing, that the agency fails to meet the priorities described in this act.

(b) ADMINISTRATIVE COSTS.—A State educational agency receiving a grant under this subpart may not use more than 5 percent of the amount of the grant for State administrative costs.

‘‘SEC. 1724. REPORTS.

(a) STATE REPORTS.—Each State educational agency that receives a grant under this subpart shall provide an annual report to the Secretary. The report shall describe—

‘‘(1) the method the State educational agency used to award grants to eligible local educational agencies and to provide assistance to schools under this subpart;

‘‘(2) how eligible local educational agencies and schools used funds provided under this subpart; and

‘‘(3) the degree to which progress has been made toward meeting the goals and objectives described in the application submitted under section 1723.

(b) SPECIALLY QUALIFIED AGENCY REPORT.—

Each specially qualified agency that receives a grant under this subpart shall provide an annual report to the Secretary. Such report shall describe—

‘‘(1) how such agency uses funds provided under this subpart; and

‘‘(2) the degree to which progress has been made toward meeting the goals and objectives described in the application submitted under section 1723.

(c) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the Committee on Education and the Workforce for the House of Representatives and the Committee on Health, Education, Labor, and Pensions for the Senate an annual report. The report shall describe—

‘‘(1) the methods the State educational agency used to award grants to eligible local educational agencies and to provide assistance to schools under this subpart;

‘‘(2) how eligible local educational agencies and schools used funds provided under this subpart; and

‘‘(3) progress made in meeting specific measurable educational goals and objectives.

‘‘SEC. 1725. PERFORMANCE REVIEW.

Three years after a State educational agency or specially qualified agency receives funds under this part, the Secretary shall review the progress of such agency in achieving the goals and objectives included in its application, to determine whether the agency has made progress toward meeting such goals and objectives. To receive the reimbursement of each agency, the Secretary shall—

‘‘(1) review the use of funds of such agency under section 1721(c)(2); and

‘‘(2) deny the provision of additional funds in subsequent fiscal years to an agency only if the Secretary determines, after notice and an opportunity for a hearing, that the agency’s use of funds has been inadequate to justify continuation of such funding.

‘‘SEC. 1726. DEFINITIONS.

In this subpart—

‘‘(1) the term ‘poverty line’ means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved;

‘‘(2) the term ‘specially qualified agency’ means an eligible local educational agency, located in a State that does not participate in a program under this subpart in a fiscal year, that may apply directly to the Secretary for a grant under this Act in such year under section 1721(b)(3)(A).

‘‘Subpart 3—General Provisions

‘‘SEC. 1731. DEFINITIONS.

In this subpart, the term ‘State’ means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.”
Title II (20 U.S.C. 6601 et seq.) is amended to read as follows:

"TITLE II—PREPARING, TRAINING, AND RECRUITING QUALITY TEACHERS"

"SEC. 201. TEACHER QUALITY TRAINING AND RECRUITMENT FUND." Title II (20 U.S.C. 6601 et seq.) is amended to read as follows:

"TITLE II—PREPARING, TRAINING, AND RECRUITING QUALITY TEACHERS"

"PART A—Teacher Quality Training and Recruiting Fund"

"SEC. 2001. PURPOSE.

"The purpose of this part is to provide grants to States and local educational agencies in order to assist in achieving significant gains in student academic achievement through such strategies as improving teacher and principal quality and increasing the number of highly qualified teachers in the State.

"Subpart 1—Grants to States to Prepare, Train, and Recruit Qualified Teachers"

"SEC. 2011. FORMULA GRANTS TO STATES.

"(a) IN GENERAL.

"In the case of each State that in accordance with section 2012 submits to the Secretary a State plan for a fiscal year, the Secretary shall make a grant for the year to the State for the uses specified in section 2012. The grant shall consist of the allotment determined for the State under subsection (b)(1) of section 2012 and the State's share of the remaining part of the grant.

"(b) DETERMINATION OF AMOUNT OF ALLOWANCE—

"(1) RESERVATION OF FUNDS—From the amount made available to carry out this subpart for any fiscal year, the Secretary shall reserve—

"(A) 1⁄3 of 1⁄3 percent of the total amount made available for fiscal year 2001 under section 2013 for public schools in the State to carry out such activities and making subgrants to local educational agencies under subparts 2 and 3.

"(2) ALLOTMENTS—

"(A) HOLD HARMLESS.

"(i) IN GENERAL—Subject to subparagraph (B), from the total amount made available to carry out this subpart for any fiscal year, the State shall—

"(I) allot the total amount made available to carry out such activities and making subgrants to local educational agencies under subparts 2 and 3.

"(ii) RATABLE REDUCTION—If the total amount made available to carry out such activities and making subgrants to local educational agencies under subpart 2 or 3 is less than the total amount made available to carry out such activities and making subgrants to local educational agencies under subparts 2 and 3, the Secretary shall—

"(A) hold harmless—

"(i) IN GENERAL—From the amounts made available to carry out such activities and making subgrants to local educational agencies under subparts 2 and 3, the Secretary shall—

"(ii) RATABLE REDUCTION—If the total amount made available to carry out such activities and making subgrants to local educational agencies under subparts 2 and 3 is less than the total amount made available to carry out such activities and making subgrants to local educational agencies under subparts 2 and 3, the Secretary shall—

"(B) NONPARTICIPATING AGENCIES—In the case of a State that did not receive any funds for fiscal year 2001 under section 2071, the Secretary shall—

"(i) NONPARTICIPATING AGENCIES—In the case of a State that did not receive any funds for fiscal year 2001 under section 2071, the Secretary shall—

"(ii) HOLD HARMLESS—From the amounts made available to carry out such activities and making subgrants to local educational agencies under subparts 2 and 3, the Secretary shall—

"(B) ALLOTMENT OF ADDITIONAL FUNDS—

"(i) IN GENERAL—Subject to clause (ii), for any fiscal year for which the total amount made available to carry out such activities and making subgrants to local educational agencies under subparts 2 and 3 is less than the total amount made available to carry out such activities and making subgrants to local educational agencies under subparts 2 and 3, the Secretary shall—

"(ii) RATABLE REDUCTION—If the total amount made available to carry out such activities and making subgrants to local educational agencies under subparts 2 and 3 is less than the total amount made available to carry out such activities and making subgrants to local educational agencies under subparts 2 and 3, the Secretary shall—

"(C) RATABLE REDUCTION—If the funds described in subparagraph (A) are insufficient to make allotments under subpar-
pay the full amounts that all local educational agencies are eligible to receive under such sub-
paragraph for any fiscal year, the State shall ratify reduce such amounts for such fiscal year.

(3) ALLOTMENT OF ADDITIONAL FUNDS.—
(A) IN GENERAL.—For any fiscal year for
which the funds that a State receives under this sub-
paragraph exceed the amount described in subpara-
graph (B) exceed the total amount required to make al-
lotments under paragraph (2), the State shall distribute the amount described in subpara-
graph (B) through a formula under which—
(i) 20 percent is allocated to local edu-
cational agencies in accordance with the rel-
ative enrollment under subsection (a) of section 200 for
the fiscal year for which satisfactory data are available, com-
pared to the number of such individuals who re-
side in the geographic areas served by all the local
educational agencies in the State for that fiscal
year.

(B) CALCULATION OF AMOUNT.—
(i) In general.—The amount described in
this subparagraph for any fiscal year is the base
amount for such State and year, plus any additional amount for such State and year.
(ii) BASE AMOUNT.—For purposes of this sub-
paragraph, the term ‘‘base amount’’ means 50 per-
cent of the funds that remain to a State after a State makes the reservations described in sub-
paragraph (b) and the allotments described in para-
graph (2).

(2) AMOUNT DESCRIBED.—For purposes of
this subparagraph, the term ‘‘additional amount’’ means the amount (if any) by which the base
amount for a State exceeds the maximum amount described in subsection (d)(2)(B).

(d) MATH AND SCIENCE PARTNERSHIPS.—
(1) IN GENERAL.—The State may make a
grant to a State under this subpart only if the
State agrees to distribute the amount described in paragraph (2) through a competitive subprocess
grant program, as such term is defined in subpart 2.

(2) AMOUNT DESCRIBED.—
(A) IN GENERAL.—The amount described in
this paragraph for a State for any fiscal year is 30 per-
cent of the amount described in subpara-
graph (b)(3) that the State receives under this subpart for the year that remain after the State makes the reservations described in subsection (b) and the allotments described in subsection (c)(2).

(B) LIMITATION.—In no case may the amount described in this paragraph exceed a maximum amount calculated by multiplying the total amount described in subpara-
graph (b)(3) that the State receives under this subpart for a fiscal year that the State does not reserve under subsection (b) by a percentage, selected by the State, that shall be not less than 10 percent and not more than 20 percent.

(e) AUTHORIZED STATE ACTIVITIES.—The au-
thorized State activities referred to in subsection (b)(1)(A) are the following:

(1) Reforming teacher certification, recerti-
fication, or licensure requirements to ensure that—
(A) teachers have the necessary teaching skills and academic content knowledge in the subject areas in which they are assigned to teach;
(B) teacher certification, recertification, or licensure requirements are aligned with the State’s challenging State academic content standards; and
(C) States have the knowledge and skills necessary to help students meet challenging State student achievement standards.

(2) Carrying out programs that—
(A) include support during the initial teach-
ing or leadership experience, such as mentoring programs that—
(i) mentoring to beginning teachers from veter-
eran teachers with expertise in the same subject matter that the beginning teachers will be teaching;
(ii) similar mentoring to principals or super-
intendents;
(iii) provide mentor time for activities such as coaching, observing, and assisting the teach-
ers or school leaders who are mentored; and
(iv) use standards or assessments for guiding beginning teacher development that are consistent with the State’s student achievement standards and with the requirements for professional development activities under section 203;
(B) establish, expand, or improve alternative routes to State certification of teachers, es-
pecially in the areas of mathematics and science, for highly qualified individuals with a baccala-
ureate degree, including mid-career profes-
sionals from other occupations, paraprofes-
sionals, former military personnel, and recent college or university graduates with records of academic success, who are not able to enroll in academic degree programs to become teachers.

(3) Developing and implementing effective me-
chanisms to assist local educational agencies to be
effective and efficient in hiring and retaining
highly qualified and effective teachers and
principals.

(4) Reforming tenure systems and imple-
menting teacher testing and other procedures to
expeditiously remove ineffective teachers from
the classroom.

(5) Developing enhanced performance sys-
tems to measure the effectiveness of specif-
competitive professional development programs and strategies.

(6) Providing technical assistance to local educational agencies to improve
implementation of such strategies.

(7) Funding projects to promote reciprocity
of teacher certification or licensure between or among States, except that no reciprocity agree-
ment developed under this paragraph or devel-
oped using funds provided under this Act may lead to the weakening of any State teaching cer-
tification or licensuring requirement.

(8) Developing or assisting local educational
agencies in the development and utilization of proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as through the use of technology and distance
learning.

(9) Providing assistance to local educational
agencies for the development and implementa-
tion of innovative professional development pro-
grams that train teachers to use technology to
improve teaching and learning in a consistent and re-
sults effective implementation of section 207.

(10) Developing or assisting local educational
agencies in developing merit-based performance assessment for teachers, rigorous strategies that provide differential and bonus pay for teachers in high-need subject areas such as reading, math, and science and in high-pov-
erty schools.

(11) Providing assistance to local educational
agencies for the development and implementa-
tion of professional development programs for
principals that enable them to be effective school leaders and prepare all students to
achieve challenging State content and student achievement standards, including the develop-
ment and support of school leadership acad-
emies to help exceptionally talented aspiring or current principals and superintendents become
outstanding managers and educational leaders.

(12) Developing or assisting local educational
agencies in developing, or assisting local edu-
cational agencies in developing, teacher ad-
mancement initiatives that promote professional growth and emphasize multiple career paths,
including regular teacher, principal, and master teacher career paths, with pay differen-

tiation.

(13) Developing and implementing strategies to
remove ineffective teachers from the classroom, through the use of sophisticated laboratory
tests and revised annually in accordance with section
673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of
the size involved for the most recent fiscal year, for
which satisfactory data are available, com-
pared to the number of such individuals who re-
side in the geographic areas served by all the local
educational agencies in the State for that fiscal
year.

(14) Providing technical assistance to
local educational agencies to participate in programs
that—
(A) focus on education and training of math-
ematics and science teachers that improves teachers’ knowledge and skills and encourages
intellectual growth;

(B) improve mathematics and science teach-
ing by encouraging institutions of higher edu-
cation to assume greater responsibility for im-
proving mathematics and science teacher edu-
cation through the establishment of a com-
prehensive, integrated system of recruiting, training, and retaining and supporting teachers;

(2) bring mathematics and science teachers
in elementary and secondary schools together
with scientists, mathematicians, and engineers
to increase the subject matter knowledge of teachers and improve their teaching skills
through the use of sophisticated laboratory
equipment and work space, computing facilities, and other resources that institutions of higher education are better able to provide than
the schools.
**SEC. 2022. APPLICATION REQUIREMENTS.**

(a) IN GENERAL.—An eligible partnership seeking to receive a subgrant from a State under this subpart shall submit an application to the State in such manner, and accompanied by such information as the State may require.

(b) PARTNERSHIP APPLICATION CONTENTS.—Each such application shall include—

(1) an assessment of the teacher quality and professional development of all the schools and agencies participating in the eligible partnership with respect to the teaching and learning of mathematics and science;

(2) a description of how the activities to be carried out by the eligible partnership will be aligned with State academic content standards in mathematics and science and with other educational reform activities that promote student achievement in mathematics and science;

(3) a description of how the activities to be carried out by the eligible partnership will be based on a review of relevant research, and an explanation of why the activities are expected to improve student achievement and to strengthen the quality of mathematics and science instruction; and

(4) a description of—

(A) how the eligible partnership will carry out the activities described in section 2023(c); and

(B) the eligible partnership’s evaluation and accountability plan described in section 2024.

**SEC. 2023. MATH AND SCIENCE PARTNERSHIP SUBGRANTS.**

(a) In General.—From the amount described in section 2012(d), the State educational agency, working in conjunction with the State agency for higher education (if such agencies are separate), shall award subgrants on a competitive basis to eligible partnerships to enable such partnerships to carry out activities described in subsection (c).

(b) DURATION.—The State shall award subgrants under this subpart for a period of not less than 3 years.

(c) AUTHORIZED ACTIVITIES.—A recipient of funds provided under this subpart may use the funds for the following activities related to elementary or secondary schools—

(1) Establishing and operating mathematics and science summer professional development workshops or institutes for elementary and secondary school teachers that—

(A) directly relate to the curriculum and content areas in which the teacher provides instruction, and focus only secondarily on pedagogy;

(B) enhance the ability of teachers to understand and use the State’s academic content standards for mathematics and science and to select appropriate curricula;

(C) train teachers to use curricula that are—

(i) based on scientific research;

(ii) aligned with State academic content standards; and

(iii) object-centered, experiment-oriented, and concept- and content-based; and

(iv) provide supplemental assistance and follow-up training during the school year for summer institute graduates; and

(B) may include—

(i) programs that provide prospective teachers and novice teachers opportunities to work under the guidance of experienced teachers and college faculty;

(ii) a provision of access to the use of data and assessments to inform and instruct classroom practice; and

(iii) professional development activities, including follow-up activities, such as curriculum alignment, distance learning, and activities that train teachers to utilize technology in the classroom.

(2) SUMMER PROFESSIONAL DEVELOPMENT WORKSHOPS OR INSTITUTES.—The term ‘summer professional development workshop or institute’ means a workshop or institute that—

(A) students studying mathematics, engineering, and science or mathematicians, engineers, and scientists currently working in the field;

(B) establishes and operating programs to bring teachers into contact with working scientists, engineers, and mathematicians, to expand teacher content knowledge of and research in science and mathematics;

(C) establishes and operating programs to bring teachers into contact with working scientists, engineers, and mathematicians, to expand teacher content knowledge of and research in science and mathematics;

(D) establishes and operating programs to bring teachers into contact with working scientists, engineers, and mathematicians, to expand teacher content knowledge of and research in science and mathematics;

(E) establishes and operating programs to bring teachers into contact with working scientists, engineers, and mathematicians, to expand teacher content knowledge of and research in science and mathematics;

(F) provides for follow-up training during the academic year that is conducted in the classroom for a period of not less than 3 consecutive or nonconsecutive days that—

(ii) if the workshop or institute is conducted during a two-week period, the follow-up training shall be conducted for a period of at least 4 days; and

(iii) if the follow-up training is for teachers in rural school districts, it may be conducted through distance learning.

Subpart 3—Subgrants to Local Educational Agencies

**SEC. 2021. LOCAL USE OF FUNDS.**

(a) IN GENERAL.—Subject to subsection (b), each local educational agency that receives a subgrant under this subpart may use the subgrant to carry out the following activities—

(1) Initiatives to assist in recruiting and hiring fully qualified teachers who will be assigned teaching positions within their field, including—

(A) providing signing bonuses or other financial incentives, such as differential pay, for teachers to teach in areas in which there exists a shortage of such fully qualified teachers within a school or the local educational agency;

(B) establishing programs that—

(i) recruit professionals from other fields and provide such professionals with alternative routes to teacher certification; and

(ii) provide increased opportunities for minority, individuals with disabilities, and other individuals underrepresented in the teaching profession; and

(C) implementing hiring policies that ensure comprehensive recruitment efforts as a way to expand the applicant pool, such as through identifying teachers certified through alternative routes, coupled with a system of intensive screening designed to hire the most qualified applicant.

(2) Initiatives to promote retention of highly qualified teachers and principals, particularly within elementary and secondary schools with a high percentage of low-achieving students, including programs that provide incentives for hiring new hired teachers, such as from master teachers, or principals or superintendents;

(D) incentives, including financial incentives, to retain teachers who have a record of success in helping low-achieving students improve their academic success; or

(E) incentives, including financial incentives, to principals who have a record of improving the performance of all students, but particularly students from economically disadvantaged families and students from racial and ethnic minority groups.

(3) Programs and activities that are designed to improve the quality of the teacher force, such as—

(A) innovative professional development programs (which may be through partnerships including institutions of higher education), in which programs that train teachers and principals to utilize technology to improve teaching and learning, are consistent with the requirements of section 2033, and are coordinated with part B of title V;

(B) development and utilization of proven, cost-effective strategies for the implementation of professional development activities, such as through the utilization of technology and distance learning;

(C) tenure reform; and

(D) merit pay;

(3) Programs and activities that are designed to improve the quality of the teacher force, such as—

(A) innovative professional development programs (which may be through partnerships including institutions of higher education), in which programs that train teachers and principals to utilize technology to improve teaching and learning, are consistent with the requirements of section 2033, and are coordinated with part B of title V;

(B) development and utilization of proven, cost-effective strategies for the implementation of professional development activities, such as through the utilization of technology and distance learning;

(C) tenure reform; and

(D) merit pay;
“(F) professional development programs that provide instruction in how to teach children with different learning styles, particularly children with disabilities and children with special learning needs (including those who are gifted and talented); and

“(G) professional development programs that provide instruction in methods of improving student performance on standardized tests and how to identify early and appropriate interventions to help children described in subparagraph (F) learn.

“(4) Teacher opportunity payments, consistent with section 2034.

“(5) Professional activities designed to improve the quality of principals and superintendents, including the development and support of academically talented, emerging or current principals and superintendents, and to become outstanding managers and educational leaders.

“(6) Hiring fully qualified teachers, including teachers who become fully qualified through State and local alternative routes, and special education teachers, in order to reduce class size, particularly in the early grades.

“(7) Teacher advancement initiatives that promote professional growth and emphasize multiple career paths, such as career teacher, mentor teacher, and master teacher career paths, with pay differentiation.

“(b) SPECIAL RULE.—

“(1) In general.—For any fiscal year for which a request is described in section 2012(d)(2)(A) for a State is less than 15 percent of the total amount of the funds that the State receives under this subpart for the year that the State does not reserve under section 2012(b), each local educational agency that receives a subgrant under this subpart from the State shall use the funds to comply with paragraph (2).

“(2) Special rule.—A local educational agency required to comply with this paragraph shall use not less than the amount expended by the agency under section 217(b)(5) of the Elementary and Secondary Education Act (as in effect on the day before the date of the enactment of the No Child Left Behind Act of 2001), for the fiscal year preceding the year in which such enactment occurs, to carry out professional development activities in mathematics and science.

“SEC. 2032. LOCAL APPLICATIONS.

“(a) In general.—A local educational agency seeking a subgrant from a State under this subpart shall submit an application to the State—

“(1) at such time as the State shall require; and

“(2) which is coordinated with other programs under this Act, or other Acts, as appropriate.

“(b) Local application contents.—The local application described in subsection (a), shall include, at a minimum, the following:

“(1) An assurance that the local educational agency will target funds to schools within the jurisdiction of the local educational agency that—

“(A) have the lowest proportion of fully qualified teachers;

“(B) have the largest average class size; or

“(C) are identified for school improvement under section 1116(b).

“(2) A description of how the local educational agency will coordinate professional development activities authorized under this subpart with professional development activities provided through other Federal, State, and local programs, including those authorized under title I, part A of title III, parts A and B of title V, and (where applicable) the Individuals with Disabilities Education Act and the Carl D. Perkins Vocational and Technical Education Act.

“(3) A description of how the local educational agency will integrate funds under this subpart with funds received under part B of title V for professional programs to train teachers to utilize technology to improve teaching and learning.
SEC. 2043. PARTICIPATION AGREEMENT AND FUNDING.

"(a) PARTICIPATION AGREEMENT.—An eligible member or former member of the Armed Forces selected to participate in the Troops-to-Teachers Program under section 2042 shall receive financial assistance under this section if the participant agrees to the following terms and conditions:

(1) to obtain, within such time as the Secretary may require, certification or licensure as a fully qualified elementary school teacher, secondary school teacher, or vocational or technical teacher; and

(2) to accept an offer of full-time employment as a fully qualified elementary school teacher, secondary school teacher, or vocational or technical teacher for not less than three school years with a local educational agency or public charter school, to begin the school year after obtaining such certification or licensure.

"(b) VIOLATION OF PARTICIPATION AGREEMENT Exceptions.—A participant in the Troops-to-Teachers Program shall not be consider- ed in violation of the participation agreement entered into under subsection (a) during any period in which the participant—

(1) is pursuing a full-time course of study related to the field of teaching at an institution of higher education;

(2) is serving on active duty as a member of the Armed Forces;

(3) is temporarily totally disabled for a period of time not to exceed three years as established by sworn affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

(5) is seeking and unable to find full-time employment as a fully qualified teacher in an elementary or secondary school or as a vocational or technical teacher for a single period not to exceed 27 months; or

(6) satisfies the provisions of additional reimbursement exceptions that may be prescribed by the Secretary.

"(c) STIPEND FOR PARTICIPANTS.—

(1) STIPEND AUTHORIZED.—Subject to paragraph (2), the Secretary may make grants under such section to local educational agencies to members of the Armed Forces to participate in the Troops-to-Teachers Program.

(2) LIMITATION.—The total number of stipends that may be paid under paragraph (1) in any fiscal year may not exceed 3,000.

(3) BONUS FOR PARTICIPATION.—Subject to a paragraph (2), the Secretary may, in lieu of paying a stipend under subsection (c), pay a bonus of $10,000 to a participant in the Troops-to-Teachers Program selected under section 2042 who agrees in the participation agreement under subsection (a) to accept full-time employment as a fully qualified elementary school teacher, secondary school teacher, or vocational or technical teacher for not less than three years in a high need school.

"(d) OTHER CONDITIONS FOR GRANTS.—The total number of bonuses that may be paid under paragraph (1) in any fiscal year may not exceed 1,000.

"(e) HIGH NEED SCHOOL DEFINED.—For purposes of this subsection, ‘‘high need school’’ means a public elementary school, public secondary school, or public charter school that meets the requirements described in subsection (a).
"(C) The school meets any other criteria established by the Secretary in consultation with the National Assessment Governing Board.

(e) TREATMENT OF STIPEND AND BONUS.—A stipend or bonus paid under this section shall be required to be paid under this section at least in part by the participant and in part by the States participating in the Program as elementary school teachers, secondary school teachers, or vocational or technical teachers.

(2) LIMITATION.—The total amount of grants under paragraph (1) in any fiscal year may not exceed $5,000,000.

"SEC. 2045. SUPPORT OF INNOVATIVE PRE-RETIREMENT TEACHER CERTIFICATION PROGRAMS...

(a) DEVELOPMENT, IMPLEMENTATION AND DEMONSTRATION.—The Secretary may enter into a memorandum of agreement with a State, an institution of higher education, or a consortium of States or institutions of higher education, to develop, implement, and demonstrate teacher certification programs for members of the Armed Forces described in section 2042(a)(1) for the purpose of assisting such members to consider and prepare for a career as a fully qualified elementary school teacher, secondary school teacher, or vocational or technical teacher upon their retirement from the Armed Forces.

(b) PROGRAM ELEMENTS.—A teacher certification program under subsection (a) shall—

(1) provide recognition of military experience and training as related to licensure or certification requirements;

(2) provide courses of instruction that may be conducted in a military installation;

(3) incorporate alternative approaches to achieve teacher certification, such as innovative methods to gaining field-based teaching experiences, and evidence-based and expanded experience as related to skills, knowledge, and abilities required of elementary school teachers, secondary school teachers, or vocational or technical teachers;

(4) provide for courses to be delivered via distance education methods; and

(5) address all required requirements or specifications as established by the Secretary.

(c) APPLICATION PROCEDURE.—A State or institution of higher education (or a consortium of States or institutions of higher education) that has a program leading to State approved teacher certification programs may submit a proposal to the Secretary for consideration under subsection (a). The Secretary shall give preference to programs that provide recognition of military experience and training as related to licensure or certification requirements.

(d) CONTINUATION OF PROGRAMS.—The Secretary may enter into agreements with States or institutions of higher education, to demonstrate the success of the teacher certification programs under subsection (a). Upon successful completion of the demonstration phase, the continued operation of the teacher certification programs shall not be the responsibility of the Secretary.

(e) FUNDING LIMITATION.—The total amount obligated by the Secretary under this section in any fiscal year may not exceed $5,000,000.

"SEC. 2046. REPORTING REQUIREMENTS...

(a) REPORT REQUIRED.—Not later than March 31 of each year, the Secretary shall submit to Congress a report on the progress of the Troops-to-Teachers Program, which shall include—

(1) the number of participants in the Troops-to-Teachers Program;

(2) the schools in which the participants are employed;

(3) the grades at which the participants teach;

(4) the subject matters taught by the participants;

(5) the rates of retention of the participants by the local educational agencies and public charter schools employing the participants.

(6) Such other matters as the Secretary or the Comptroller General, as the case may be, considers appropriate.

(b) RECOMMENDATIONS.—The report of the Comptroller General under this section shall also include any recommendations of the Comptroller General regarding any means of improving the Troops-to-Teachers Program, including the continued operation and retention of participants in the Program.

"SEC. 2047. DEFINITIONS...

For purposes of this chapter:

(1) ARMED FORCES.—The term ‘‘Armed Forces’’ means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(2) PROGRAM.—The term ‘‘Program’’ means the Troops-to-Teachers Program authorized by this subpart.

(3) RESERVE COMPONENT.—The term ‘‘reserve component’’ means—

(A) the Army National Guard of the United States;

(B) the Army Reserve;

(C) the Air National Guard of the United States;

(D) the Air Force Reserve;

(E) the Air National Guard of the United States;

(F) the Coast Guard Reserve;

(G) the Coast Guard Reserve.

(4) SECRETARY CONCERNED.—The term ‘‘Secretary concerned’’ means—

(A) the Secretary of the Army, with respect to matters concerning a reserve component of the Army;

(B) the Secretary of the Navy, with respect to matters concerning a reserve component of the Air Force; and

(C) the Secretary of the Transportation, with respect to matters concerning the Coast Guard Reserve.

"CHAPTER 2—TRANSITION TO TEACHING...

"SEC. 2048. PROFESSIONALS SEEKING TO CHANGE CAREERS...

(a) PURPOSE.—The purpose of this section is to address the need of high-need local educational agencies for highly qualified teachers in particular subject areas, such as mathematics, science, foreign languages, bilingual education, and special education, needed by, following the model of the program under chapter 1, by recruiting, preparing, placing, and supporting career-changing professionals who have knowledge and experience that will help them become effective public and private nonprofit agencies or organizations to carry out programs authorized by this section.

(b) PROGRAM AUTHORIZED.—The Secretary may award grants, contracts, or cooperative agreements to institutions of higher education and public and private nonprofit agencies or organizations to carry out programs authorized by this section.

(c) APPLICATION.—Each applicant that desires an award under subsection (b) shall submit an application to the Secretary containing such information as the Secretary requires, including—

(1) a description of the target group of career-changing professionals upon which the applicant will focus its recruitment efforts in carrying out its program under this section, including a description of the characteristics of that target group that shows how the knowledge and experience of its members are relevant to meeting the purpose of this section;

(2) a description of the training that program participants will receive and how that training will relate to their certification as teachers;

(3) a description of how the applicant will coordinate, as needed, with other institutions, agencies, or organizations to recruit, train, place, support, and provide teacher induction programs to program participants under this section, including the establishment of agreements or commitments from those institutions, agencies, or organizations to the applicant’s program;
“(4) a description of how the applicant will evaluate the progress and effectiveness of its program, including—

(4A) the program’s goals and objectives;

(4B) the indicators the applicant will use to measure the program’s progress; and

(4C) the outcome measures that will be used to determine the program’s effectiveness; and

(5) the conditions of approval and assurances as the Secretary may require.

(d) USES OF FUNDS AND PERIOD OF SERVICE—

(1) AUTHORIZED ACTIVITIES.—Funds under this section may be used for—

(A) recruiting program participants, including identifying opportunities under the program and putting them in contact with other institutions, agencies, or organizations that would train, place, and support them;

(B) in-kind contributions and other financial incentives for program participants, not to exceed $5,000 per participant;

(C) assiting institutions of higher education or other providers of teacher training to tailor their training to meet the particular needs of professionals who are changing their careers to teaching;

(D) placement activities, including identifying high-need local educational agencies with a need for the particular skills and characteristics of the newly trained program participants and enabling program participants to obtain employment in those local educational agencies; and

(E) post-placement induction or support activities for program participants.

(2) PERIOD OF SERVICE.—A program participant in a program under this section who completes his or her training shall serve in a high-need local educational agency for at least 3 years.

(3) REPLACEMENT.—The Secretary shall establish such replacement policies as the Secretary determines appropriate to ensure that program participants who receive a stipend or other financial incentive under paragraph (1)(B), fail to complete their service obligation under paragraph (2), repay all or a portion of such stipend or other incentive.

(e) EQUITABLE DISTRIBUTION.—To the extent practicable, the Secretary shall make awards under this section that support programs in different geographic regions of the United States.

(f) DEFINITION.—As used in this section, the term ‘high-need local educational agency’ means a career-changing professionals who—

(1) hold at least a baccalaureate degree;

(2) demonstrate interest in, and commitment to, becoming a teacher; and

(3) have knowledge and experience that are relevant to teaching a high-need subject area in a high-need local educational agency.

Subpart 5—Funding

SEC. 2051. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—For the purpose of carrying out this part, other than subsection (a), there are authorized to be appropriated $3,600,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.

(b) SUBPART 4.—For the purpose of carrying out subsection (a), there are authorized to be appropriated $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.

Subpart 6—General Provisions

SEC. 2061. DEFINITIONS.

‘For purposes of this part—

(1) ARTS AND SCIENCES.—The term ‘arts and sciences’ means those areas in which academic majors are offered by the arts and sciences organizational unit.

(2) BEGINNING TEACHER.—The term ‘beginning teacher’ means an educator in a public school who has not yet been teaching 3 full school years.

(3) MENTORING PROGRAM.—The term ‘mentoring program’ means to provide professional support and development, instruction, and guidance to beginning teachers, but does not include a teacher or instructor who begins to work in a supervisory position.

(4) PUBLICLY REPORT.—The term ‘publicly report’, when used with respect to the dissemination of information, means that the information is made widely available to the public, including parents and students, through such means as the Internet and major print and broadcast media outlets.

(b) AUTHORIZED ACTIVITIES.—Funds under this section may be used for—

(1) TRANSFER AND REDESIGNATION.—Part K of title X (20 U.S.C. 8331 et seq.) is transferred and redesignated as part B of title II. Sections 10901 and 10902 are redesignated as sections 2101 and 2102, respectively.

(2) EVALUATION.—Section 2102(g) (as so redesignated) is amended by striking ‘‘14701.’’ and inserting ‘‘851:’’; and

(3) REAUTHORIZATION.—Section 2102(i) (as so redesignated) is amended by striking ‘‘$4,000,000 for fiscal year 1996, and such sums as may be necessary for each of the four succeeding fiscal years.’’ and inserting ‘‘such sums as may be necessary for fiscal year 2002 and the four succeeding fiscal years.’’

(4) CONTINUING AND AWARDS.—Notwithstanding any other provision of this Act, any person or agency that was awarded a grant or contract under part K of title X (20 U.S.C. 8331 et seq.) to carry out activities under this part 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.

SEC. 203. CIVIC EDUCATION: TEACHER LIABILITY PROTECTION.

(a) IN GENERAL.—Title II, as amended by sections 202 and 202, is further amended by adding at the end the following:

‘‘PART C—CIVIC EDUCATION

SEC. 2201. SHORT TITLE.

‘‘This part may be cited as the ‘Education for Democracy Act.’’

SEC. 2202. FINDINGS.

‘‘The Congress finds that—

(1) college freshmen surveyed in 1999 by the Higher Education Research Institute at the University of California at Los Angeles demonstrated higher levels of engagement, both academically and politically, than any previous entering class of students;

(2) college freshmen in 1999 demonstrated the lowest levels of knowledge in the 20-year history of surveys conducted by the Higher Education Research Institute at the University of California at Los Angeles;

(3) United States secondary school students expressed relatively low levels of interest in politics and economics in a 1999 Harris survey;

(4) the 3rd Annual Phi Delta Kappa/Gallup Poll of 2000 indicated that preparing students to become responsible citizens was the most important purpose of public schools;

(5) Americans surveyed by the Organization of Economic Cooperation and Development indicated that only 59 percent had confidence that schools have a major effect on the development of good citizenship;

(6) teachers often do not have sufficient expertise in the subjects that they teach, and 50 percent of all secondary school history students in America are being taught by teachers with neither a major nor a minor in history;

(7) secondary school students correctly answered fewer than 50 percent of the questions on the test of economic knowledge in a 1999 Harris survey;

(8) the 1998 National Assessment of Educational Progress indicated that students have not acquired a superficial knowledge of, and lacked a depth of understanding regarding, civics;

(9) civics and economic education are important not only to developing citizenship competencies in the United States, but also critical to supporting political stability and economic health in other democracies, particularly emerging democratic market economies;

(10) more than 75 percent of Americans surveyed by the National Center for State Studies in 1997 admitted that they knew only some or very little about the Constitution of the United States; and

(11) the Constitution of the United States is too often viewed within the context of history and not as a living document that shapes current events.

SEC. 2203. PURPOSE.

‘‘(1) It is the purpose of this part—

(A) to improve the quality of civics and government education by ensuring that the history and principles of the Constitution of the United States, including the Bill of Rights;

(B) to foster civic competence and responsibility; and

(C) to improve the quality of civic education and economic education through cooperative civic education and economic education exchange programs with emerging democracies.

SEC. 2204. AUTHORITY.

‘‘The Secretary may make grants to, or enter into contracts with—

(1) the Center for Civic Education to carry out civic education activities in accordance with sections 2005 and 2006; and

(2) the National Council on Economic Education to carry out economic education activities in accordance with section 2006.

SEC. 2205. WE THE PEOPLE PROGRAM.

‘‘(a) USE OF FUNDS.—The Center for Civic Education may use funds made available under grants or contracts under section 2201 only to carry out activities—

(A) under the Citizen and the Constitution program in accordance with subsection (b); and

(B) under the Project for Economic Education program in accordance with subsection (c).

(b) CITIZEN AND THE CONSTITUTION PROGRAM.—

(1) EDUCATIONAL ACTIVITIES.—The Center for Civic Education—

(A) shall use funds made available under grants or contracts under section 2201 to—

(i) to continue and expand the educational activities of the program entitled ‘We the People... The Citizen and the Constitution’ administered by the Center for Civic Education;

(ii) to carry out activities to enhance student attainment of challenging academic content standards in civics and government;

(iii) to provide a test of civic education instruction based on the basic principles of the Nation’s constitutional democracy and the history of the Constitution of the United States, including the Bill of Rights;

(iv) to provide, at the request of a participating school, school and community simulated congressional hearings following the course of instruction described in clause (iii); and

(v) to provide an annual national competition of simulated congressional hearings for secondary school students who wish to participate in such a program; and

(B) may use assistance made available under section 2201 only to—

(i) to provide advanced sustained and ongoing training of teachers about the institution of the United States and the political system of the United States;
(i) to provide materials and methods of instruction, including teacher training, that utilize the latest advancements in educational technology, and
(ii) to provide civic education materials and services to address specific problems such as the prevention of school violence and the abuse of drugs and alcohol.

(2) Made available under grants or contracts under section 2204(1), the Secretary shall require the Center for Civic Education to make the education program authorized under this subsection available to public and private elementary schools and secondary schools, including Bureau-funded schools, in each of the 43 countries listed in the December 31, 2005, list of eligible countries, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(c) Project Citizen.—

(1) Educational Activities.—The Center for Civic Education—

(A) shall fund programs available under grants or contracts under section 2204(1)—

(i) to continue and expand the educational activities to address specific problems such as the prevention of school violence and the abuse of drugs and alcohol;

(ii) to continue and expand the educational activities to address specific problems such as the prevention of school violence and the abuse of drugs and alcohol.

(2) Availability of Program.—As a condition of receipt of funds under grants or contracts under section 2204(1), the Secretary shall require the Center for Civic Education to make the education program authorized under this subsection available to public and private elementary schools and secondary schools, including Bureau-funded schools, in each of the 43 countries listed in the December 31, 2005, list of eligible countries, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(d) Bureau-Funded School Defined.—In this section, the term "Bureau-funded school" means a school that—

(1) is eligible for assistance under section 2204(2) only if the Secretary concurs with the Secretary that such grant, or contract, is consistent with the foreign policy of the United States and eligible countries.

(2) Avoidance of Duplication.—With the concurrence of the Secretary of State, the Secretary shall ensure that—

(1) the activities carried out under the programs assisted under this section are not duplicative of other activities conducted in eligible countries; and

(2) any institutions in eligible countries, with which the Center for Civic Education or the National Council on Economic Education may work in conducting such activities, are consistent with the foreign policy of the United States.

(e) Eligible Country Defined.—In this section, the term "eligible country" means a Central European country, an Eastern European country, Armenia, Azerbaijan, Estonia, Georgia, the independent states of the former Soviet Union as defined in section 3 of the FREEDOM Support Act (22 U.S.C. 5801), the Republic of Ireland, the presence of Northern Ireland in the United Kingdom, and any developing country (as such term is defined in section 294(d) of the Education for the Dead Act) if the Secretary, with the concurrence of the Secretary of State, determines that such developing country has a democratic form of government.

SEC. 2207. FUNDING.

(a) Authorization of Appropriations.—

(1) We the People Program.—There are authorized to be appropriated to carry out sections 2204(1) and 2205 such sums as may be necessary for each of fiscal years 2002 through 2006.

(b) Cooperative Civic Education and Economic Education Exchange Programs.—There are authorized to be appropriated to carry out sections 2204(1) and 2205 such sums as may be necessary for each of fiscal years 2002 through 2006.

(c) Limitation.—In each fiscal year, the Secretary may use not more than 30 percent of the amount appropriated under subsection (a)(2) for assistance for economic activities.

PART D—TEACHER LIABILITY PROTECTION

SEC. 2301. TEACHER IMMUNITY.

(a) Immunity.—Notwithstanding any other provision of law, no school board member of, or teacher or other employee of, or other entity authorized by the Federal, State, or local government to receive funds under this Act shall be liable for monetary damages in his or her personal capacity for an action that was taken in connection with an official duty and in the scope of such duty.

(b) Limitation.—The immunity established under subsection (a) shall apply only to liability arising under Federal law.

(c) Continuation Awards.—Notwithstanding any other provision of this Act, any person or agency that was awarded a grant under part F of title X (20 U.S.C. 8141 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 until the date on
TITLE III—EDUCATION OF LIMITED ENGLISH PROFICIENT AND IMMIGRANT CHILDREN; INDIAN AND ALASKA NATIVE EDUCATION

PART A—EDUCATION OF LIMITED ENGLISH PROFICIENT AND IMMIGRANT CHILDREN

SEC. 301. PROGRAMS AUTHORIZED. (a) TITLE HEADING.—The heading for title III is amended to read as follows: “TITLE III—EDUCATION OF LIMITED ENGLISH PROFICIENT AND IMMIGRANT CHILDREN; INDIAN AND ALASKA NATIVE EDUCATION”.

(b) SHORT TITLE.—Section 3101 (20 U.S.C. 6801) is repealed.

(c) LIMITATION ON AVAILABILITY OF CERTAIN FUNDS FOR SCHOOLS.—(1) IN GENERAL.—Section 3601 (20 U.S.C. 7001)—

(2) PART HEADING REPEAL.—The part heading for part F of title III is repealed.

(d) FUNDING AND BUDGETARY AMENDMENTS.—The part heading “PART 1—EDUCATIONAL AND HUMAN SERVICES” and each part heading cited in the amendment of section 5204 (as so amended; amended by section 501) and inserted after section 5204 (as so amended) are amended by striking “title III” each place such term appears and inserting “this part”.

(2) PART HEADING REPEAL.—The part heading for part F of title III is repealed.

SEC. 3102. FINDINGS AND PURPOSES. (a) FINDINGS.—The Congress finds as follows:

(1) English is the common language of the United States and every citizen and other person residing in the United States should have a command of the English language in order to develop to their full potential.

(2) Limited English proficient children, including recent immigrant children, must overcome the number of challenges in receiving an education in order to participate fully in American society, including—

(A) segregated educational programs;

(B) disproportionate and improper placement in special education and other special programs due to the use of inappropriate evaluation procedures;

(C) the limited English proficiency of their parents, which hinders the parents’ ability to fully participate in the education of their children; and

(D) a need for additional teachers and other staff who are professionally trained and qualified to serve such children.

(3) States and local educational agencies need assistance in developing the capacity to provide programs of instruction that offer and provide an equal educational opportunity to children who need special assistance because of their limited English proficiency.

(4) Since 1979, the number of limited English proficient children attending school in the United States has more than doubled to greater than 4,000,000, and demographic trends indicate the population of limited English proficient children will continue to increase.

(5) Native Americans, including native residents of rural and remote areas, and Native American languages (as such terms are defined in section 103 of the Native American Languages Act) have a unique status under Federal law that requires special policies within the broad purposes of this part to serve the educational needs of language minority students in the United States.

(6) Research, evaluation, and data collection capabilities in the field of instruction for limited English proficient children need to be strengthened so that educators and other staff teaching limited English proficient children in the classroom can better identify and promote programs, program implementation strategies, and instructional practices that will succeed in the effective education of limited English proficient children.

(7) The Federal Government has a special and continuing responsibility that States and local educational agencies provide children of limited English proficiency the same educational opportunities afforded other children.

(b) PURPOSES.—The purposes of this part are—

(1) to help ensure that children who are limited English proficient, including recent immigrant children, develop high levels of academic attainment in English, and meet the same challenging State academic content standards and challenging State student academic achievement standards that are expected of all children;

(2) to develop high-quality programs designed to improve proficiency in teaching limited English proficient children;

(3) to assist local educational agencies to develop and enhance their capacity to provide high-quality programs designed to prepare limited English proficient students, including recent immigrant students, to enter all-English instructional settings within 3 years; and

(4) to provide State educational agencies and local educational agencies with the flexibility to implement instructional programs, tied to scientifically based research and sound to research and theory on teaching limited English proficient children, that the agencies believe to be the most effective for teaching English.

SEC. 3103. PARENTAL NOTIFICATION AND CONSENT FOR ENGLISH LANGUAGE INSTRUCTION. (a) NOTIFICATION.—If a local educational agency uses funds under this subpart to provide English language instruction to limited English proficient children, the agency shall inform a parent or the parent of a child participating in an English language instruction program for limited English proficient children assisted under this subpart of—

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

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

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

(4) what the specific exit requirements are for the program;

(5) the expected rate of transition from the program into a classroom that is not tailored for limited English proficient children; and

(6) the expected rate of graduation from high school for the program if funds under this subpart are used for children in secondary schools.

(b) CONSENT.

(1) AGENCY REQUIREMENTS.—

(A) INFORMED CONSENT.—For a child who has been identified as limited English proficient prior to the beginning of the school year, each local educational agency that receives funds under this subpart shall make a reasonable and substantial effort to obtain informed parental consent prior to the placement of a child in an English language instruction program for limited English proficient children. The part are used for children in secondary schools.

(2) PART HEADING REPEAL.—The part heading for part F of title III is repealed.

(b) WRITTEN CONSENT NOT OBTAINED.—

(1) IN GENERAL.—If written consent is not obtained, the local educational agency shall maintain a written record that includes the date and manner in which such informed consent was sought, including the specific efforts made to obtain such consent.

(2) PROOF OF EFFORT.—Notice, in an understandable form, of specific efforts to obtain written consent and a copy of the written record described in clause (i) shall be mailed or delivered in writing to a parent or the parents of the child or children to whom the award period terminates under such terms.

(3) SUPPLEMENTAL EVIDENCE.—If such notice has been mailed or delivered in writing, the local educational agency shall provide appropriate educational services.

(4) SPECIAL RULE APPLICABLE DURING SCHOOL YEAR.—For children who have not been identified as limited English proficient prior to the beginning of the school year, the local educational agency shall make a reasonable and substantial effort to obtain parental consent under this clause. For such children, the agency shall document, in writing, its specific efforts to obtain such consent prior to placing the child in a program described in subparagraph (A).

(5) THE EXPECTED RATE OF TRANSITION FROM THE PROGRAM INTO A CLASSROOM THAT IS NOT TAILORED FOR LIMITED ENGLISH PROFICIENT CHILDREN.

(b) WRITTEN CONSENT NOT OBTAINED.—

(1) IN GENERAL.—If written consent is not obtained, the local educational agency shall maintain a written record that includes the date and manner in which such informed consent was sought, including the specific efforts made to obtain such consent.

(2) PROOF OF EFFORT.—Notice, in an understandable form, of specific efforts to obtain written consent and a copy of the written record described in clause (i) shall be mailed or delivered in writing to a parent or the parents of the child or children to whom the award period terminates under such terms. After such notice has been mailed or delivered in writing, the local educational agency shall provide appropriate educational services.

(3) SPECIAL RULE APPLICABLE DURING SCHOOL YEAR.—For children who have not been identified as limited English proficient prior to the beginning of the school year, the local educational agency shall make a reasonable and substantial effort to obtain parental consent under this clause. For such children, the agency shall document, in writing, its specific efforts to obtain such consent prior to placing the child in a program described in subparagraph (A). After such notice has been mailed or delivered in writing, the local educational agency shall provide appropriate educational services to such children. For a child who has been identified as limited English proficient, the part are used for children in secondary schools.

(4) SUPPLEMENTAL EVIDENCE.—Notice, in an understandable form, of specific efforts to obtain written consent and a copy of the written record described in clause (i) shall be mailed or delivered in writing to a parent or the parents of the child or children to whom the award period terminates under such terms. After such notice has been mailed or delivered in writing, the local educational agency shall provide appropriate educational services to such children. For a child who has been identified as limited English proficient, the part are used for children in secondary schools.

(5) THE EXPECTED RATE OF TRANSITION FROM THE PROGRAM INTO A CLASSROOM THAT IS NOT TAILORED FOR LIMITED ENGLISH PROFICIENT CHILDREN.

(b) WRITTEN CONSENT NOT OBTAINED.—

(1) IN GENERAL.—If written consent is not obtained, the local educational agency shall maintain a written record that includes the date and manner in which such informed consent was sought, including the specific efforts made to obtain such consent. After such notice has been mailed or delivered in writing, the local educational agency shall provide appropriate educational services.

(2) PROOF OF EFFORT.—Notice, in an understandable form, of specific efforts to obtain written consent and a copy of the written record described in clause (i) shall be mailed or delivered in writing to a parent or the parents of the child or children to whom the award period terminates under such terms. After such notice has been mailed or delivered in writing, the local educational agency shall provide appropriate educational services to such children. For a child who has been identified as limited English proficient, the part are used for children in secondary schools.

(3) SPECIAL RULE APPLICABLE DURING SCHOOL YEAR.—For children who have not been identified as limited English proficient prior to the beginning of the school year, the local educational agency shall make a reasonable and substantial effort to obtain parental consent under this clause. For such children, the agency shall document, in writing, its specific efforts to obtain such consent prior to placing the child in a program described in subparagraph (A). After such notice has been mailed or delivered in writing, the local educational agency shall provide appropriate educational services to such children. For a child who has been identified as limited English proficient, the part are used for children in secondary schools.

(4) SUPPLEMENTAL EVIDENCE.—Notice, in an understandable form, of specific efforts to obtain written consent and a copy of the written record described in clause (i) shall be mailed or delivered in writing to a parent or the parents of the child or children to whom the award period terminates under such terms. After such notice has been mailed or delivered in writing, the local educational agency shall provide appropriate educational services to such children. For a child who has been identified as limited English proficient, the part are used for children in secondary schools.
"(b) SPECIAL RULE.—Notwithstanding subsection (a), in the case of an assessment of reading or language arts of any student who has attended school in the United States (excluding Puerto Rico and other possessions of the United States), for one or more consecutive school years, the assessment shall be in the form of a test written in English, except that, if the entity administering the assessment determines, on a case-by-case basis, that assessments in another language or form would likely yield more accurate and reliable information on what such student knows and can do, the entity may assess such student in such language or form for 1 additional year.

**SEC. 3105. FORMULA GRANTS TO STATES.**

(a) IN GENERAL.—In the case of each State that receives a grant under section 3110 submitted to the Secretary an application for a fiscal year, the Secretary shall make a grant for the year to the State for the purposes specified in subsection (b). The grant shall consist of the allotment determined for the State under subsection (c).

(b) PURPOSES OF GRANTS.—(1) REQUIRED EXPENDITURES.—The Secretary may make a grant under subsection (a) only if the State involved agrees that the State will expend at least 55 percent of its allotment under subsection (c) for the purpose of making subgrants to eligible entities to provide assistance to limited English proficient children in accordance with sections 3108 and 3109.

(2) AUTHORIZED EXPENDITURES.—Subject to paragraph (1), an entity that receives a grant under subsection (a) may expend not more than 5 percent of its allotment under subsection (c) for one or more of the following purposes:

(A) Carrying out the provisions of subsection (b)(1) that authorize the use of funds for the authorized activities described in section 3108 and 3109.

(i) professional development activities, and other activities, that assist personnel in meeting State and local certification requirements for teaching limited English proficient children, and

(ii) other activities that provide such personnel with the knowledge and skills necessary to educate limited English proficient children.

(B) Providing scholarships and fellowships to students who agree to teach limited English proficient children once they graduate.

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

(D) Providing technical assistance and other forms of assistance to local educational agencies that—

(i) educate limited English proficient children; and

(ii) are not receiving a subgrant from a State under this subpart.

(E) Providing additional bonuses to subgrantees whose performance has been exceptional in terms of the speed with which children enrolled in the subgrantee’s programs and activities attain English language proficiency and meet challenging State academic content standards and challenging State student academic achievement standards.

(c) DETERMINATION OF ALLOTMENT AMOUNTS.—

(1) RESERVATIONS.—From the amount appropriated under section 3110 to carry out this subpart for each fiscal year, the Secretary shall reserve—

(A) 5 percent of such amount for payments to entities that are considered to be local educational agencies under section 3110(a) for activities performed by the Secretary;

(B) 5 percent of such amount for payments to outlying areas, to be allotted in accordance with their respective needs for assistance under this subpart, as determined by the Secretary, for activities approved by the Secretary, consistent with this part; and

(C) ½ of 1 percent of such amount for evaluation of the programs under this part and for dissemination of best practices.

(2) CONTINUING AWARDS.—Before making awards under paragraph (3) for any fiscal year, the Secretary shall make continuing awards to recipients of grants under subpart 1 of part A of the Bilingual Education Act, as that Act was in effect on the day before the effective date of the No Child Left Behind Act of 2001, in order to provide such recipients with a basic level of support even if they do not otherwise receive a grant under this subpart.

(3) STATE ALLOTMENTS.—(A) IN GENERAL.—From the amount appropriated under section 3110 to carry out this subpart for each fiscal year after carrying out paragraphs (1) and (2), the Secretary shall allot to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico an amount which bears the same ratio to such amount as the total number of children and youth who are limited English proficient and who reside in such State bears to the total number of such children and youth residing in all such States that, in accordance with section 3107, submit to the Secretary an application for the year.

(B) REALLOTMENT.—(i) In general.—If any State described in subparagraph (A) does not submit to the Secretary an application for a fiscal year, or submits an application that is not acceptable to the Secretary, the Secretary, after reasonable notice and opportunity for a hearing, determines that such State is not eligible to receive a grant under section 3108 and any additional requirements that may be imposed by the Secretary; and

(ii) shall reallocate any portion of such allotment remaining after the application of subclause (I) to the remaining States in accordance with subparagraph (A).

(4) USE OF DATA FOR DETERMINATIONS.—(A) In general.—Except as provided in paragraph (B), for the purpose of determining the number of children and youth who are limited English proficient in a State and in all States for each fiscal year, the Secretary shall use the most recent satisfactory data available from the Bureau of the Census and the American Community Survey available from the Department of Commerce.

(B) EXCEPTION.—If the data described in subparagraph (A) are not available, the Secretary shall use the most recent satisfactory data provided by the States, such as enrollment data and data that reflect the number of students taking the English proficiency assessments by the Secretary.

(c) 5 NO REDUCTION PERMITTED BASED ON TEACHING METHOD.—The Secretary may not reduce a State’s allotment based on the State’s selection of an educational method to teach English language to children who are limited English proficient.

**SEC. 3106. NATIVE AMERICAN AND ALASKA NA-**

**TIVE CHILDREN IN SCHOOLS.**

(a) ELIGIBLE ENTITIES.—For the purpose of carrying out programs under this part for individual schools served by elementary, secondary, and postsecondary schools operated predominately for Native American or Alaska Native children, the following shall be considered to be a local educational agency:

(1) An Indian tribe.

(2) A tribally sanctioned educational authority.

(3) A Native Hawaiian or Native American Pacific Islander native language educational organization.

(4) An elementary or secondary school that is operated or funded by the Bureau of Indian Affairs, or a consortium of such schools.

(5) An elementary or secondary school operated under a contract with or grant from the Bureau of Indian Affairs in consortium with another such school or a tribal or community organization.

(6) An elementary or secondary school operated by the Bureau of Indian Affairs and an institution of higher education, in consortium with an elementary or secondary school operated under a contract with or grant from the Bureau of Indian Affairs or a tribal or community organization.

**SEC. 3107. APPLICATIONS BY STATES.**

For purposes of section 3105, an application submitted by a State for a grant under such section shall be in accordance with this section if the application—

(1) describes the process that the State will use in making competitive subgrants to eligible entities under section 3106(c);

(2) contains an agreement that, in carrying out this subpart, the State will coordinate its programs and activities under this subpart with its other programs and activities under this Act and other Acts, as appropriate;

(3) contains an agreement that the State—

(A) shall monitor the progress of students enrolled in programs and activities receiving assistance under this subpart in attaining English proficiency and, in attaining English proficiency, meet challenging State academic content standards and challenging State student academic achievement standards;

(B) shall establish standards and benchmarks for English language development that are aligned with State academic content and achievement standards; and

(C) will ensure that eligible entities comply with section 3104 to annually test children in English who have been in the United States for 3 or more consecutive years;

(4) contains an assurance that the State will develop high-quality assessments to measure English language proficiency and require eligible entities receiving a subgrant under this subpart annually to assess the English proficiency of all children served by limited English proficiency participating in a program funded under this subpart;
“(7) contains an agreement that the State will develop annual performance objectives for raising the level of English proficiency of each limited English proficient student, and that these objectives will include percentage increases in performance on annual assessments in reading, writing, speaking, and listening comprehension as compared to the preceding school year; and

(8) if the State determines that the State will require eligible entities receiving a subgrant under this subpart to use the subgrant in ways that will build such recipient's capacity to continue to offer high-quality English language instruction and programs which assist limited English proficient children in attaining challenging State academic content standards and challenging State academic achievement standards, using approaches and methodologies based on scientifically based research and sound research and theory on teaching limited English proficient children, by—

(a) developing and implementing new English language and academic content instructional programs for children who are limited English proficient; where this number shall be based on the ratio of a State's allotment under paragraph (1), the State shall allot to—

(b) implementing, within an individual school, schoolwide programs for restructuring, reforming, and upgrading all relevant programs and operations relating to English language and academic content instruction for limited English proficient students; or

(c) implementing, within the entire jurisdiction of a local educational agency, agencywide programs for restructuring, reforming, and upgrading all relevant programs and operations relating to English language and academic content instruction for limited English proficient children; or

(d) implementing, within the entire jurisdiction of a local educational agency, agencywide programs for restructuring, reforming, and upgrading all relevant programs and operations relating to English language and academic content instruction for limited English proficient students.

(2) AUTHORIZED SUBGRANTEE ACTIVITIES.—

(A) A State may make a subgrant to an eligible entity from funds received by the State under this subpart only if the entity agrees to expend the funds to improve the education of limited English proficient children and their families, through the acquisition of English and the attainment of challenging State academic content standards and challenging State academic achievement standards, using approaches and methodologies based on scientifically based reading research and sound research and theory on teaching limited English proficient children, by—

(1) IN GENERAL.—To receive a subgrant from a State under this subpart, 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 limited English proficient children to attain English proficiency and meet challenging State academic content standards and challenging State academic achievement standards as soon as possible, but not later than after 3 consecutive years of attendance in United States schools (excluding schools in Puerto Rico), and to move into a classroom where instruction is not tailored for limited English proficient children.

(2) SELECTION OF MEANINGFUL AND PRACTICAL OBJECTIVES.—

(A) Upgrading program objectives and measurable classroom based performance measures for limited English proficient children, consistent with sections 3134 and 3135.

(B) Developing and implementing new programs and activities proposed in the application and ensure that they are of sufficient size and scope to meet the purposes of this subpart.

(C) APPLICATIONS BY ELIGIBLE ENTITIES.—

(1) GENERAL.—To receive a subgrant from a State under this subpart, an eligible entity shall submit an application to the State at such time and in such manner as the State may require.

(2) REQUIRED DOCUMENTATION.—The application shall—

(A) describe the programs and activities proposed to be developed, implemented, and administered under the subgrant;

(B) describe how the eligible entity will use the subgrant funds to meet the requirement in section (b)(2); and

(C) describe how the eligible entity, using the disaggregated results of the student assessments required under section 1111(b)(4) and other available data, will annually review the progress of elementary and secondary schools within its jurisdiction, or served by it, to determine if the eligible entity is making the adequate progress necessary to ensure that limited English proficient students attending the schools will meet the State's proficient level of performance described in section 1111(b)(4), and will hold such schools accountable for making such progress.

(3) REQUIREMENTS FOR APPROVAL.—The application shall contain assurances that—

(A) the eligible entity will use qualified personnel who have appropriate training and professional credentials in teaching children who are limited English proficient, and who are proficient in English, including written and oral communication skills.

(B) the eligible entity includes one or more local educational agencies, each such agency complying with section 3103(b) prior to, and throughout, each school year;

(C) the eligible entity annually will assess the English proficiency of all children with limited English proficiency participating in programs funded under this subpart on a regular basis, and

(D) the eligible entity has described in the application how students enrolled in the programs and activities proposed in the application will be proficient in English after 3 academic years of enrollment;

(F) the eligible entity will ensure that programs will enable children to speak, read, write, and comprehend the English language and meet challenging State academic content standards and challenging State academic achievement standards; and

(G) the eligible entity is not in violation of any law, including State constitutional law, regarding the education of limited English proficient children, consistent with sections 3134 and 3135.

(H) the eligible entity complies with section 3121(a)(2).
under this subpart shall be reserved for competitive subgrants to eligible entities described in subsection (a) that the State determines—

(1) have experienced significant increases, as compared not satisfy the requirements of subsection (b)(1) but have significant needs for programs under this subpart.

SEC. 3110. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this subpart, there are authorized to be appropriated $750,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

Subpart 2—Administration

SEC. 3121. EVALUATIONS.

(a) IN GENERAL.—Each eligible entity that receives a subgrant under subpart 1 shall provide the State, at the conclusion of every second fiscal year during which the subgrant is received, with an evaluation, in a form prescribed by the State, of—

(1) the programs and activities conducted by the entity with funds received under subpart 1 during the 2 immediately preceding fiscal years;

(2) the progress made by students in learning the English language and meeting challenging State academic content standards and challenging State student academic achievement standards;

(3) the number and percentage of students in the programs and activities attaining English language proficiency by the end of each school year, and any valid and reliable assessment of English proficiency; and

(4) the progress made by students in meeting challenging State academic content standards and challenging State student academic achievement standards for each of the 2 years after such students are no longer receiving services under this part.

(b) USE OF EVALUATION.—An evaluation provided by an eligible entity under subsection (a) shall be used by the entity and the State—

(1) for improvement of programs and activities;

(2) to determine the effectiveness of programs and activities in assisting children who are limited English proficient to attain English proficiency and meeting challenging State student academic achievement standards; and

(3) in determining whether or not to continue funding for specific programs or projects.

(c) EVALUATION COMPONENTS.—An evaluation provided by an eligible entity under subsection (a) shall include—

(1) an evaluation of whether students enrolling in a program or activity conducted by the entity with funds received under subpart 1—

(A) have attained English proficiency and are meeting challenging State academic content standards and challenging State student academic performance standards; and

(B) have achieved a working knowledge of the English language that is sufficient to permit them to perform, in English, in a classroom that is not limited to limited English proficient children; and

(2) such other information as the State may require.

(d) EVALUATION MEASURES.—In prescribing the form of an evaluation provided by an entity under subsection (a), a State shall approve evaluation measures, as applicable, for use under subsection (a) or (c) that are designed to assess—

(1) oral language proficiency in kindergarten;

(2) oral language proficiency, including speaking and listening skills, in first grade;

(3) both oral language proficiency, including speaking and listening skills, and reading and writing proficiency in grades 2 and higher; and

(4) attainment of challenging State student academic achievement standards.

SEC. 3122. REPORTING REQUIREMENTS.

(a) STATE REPORTS.—Every second year, each State 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 on—

(1) programs and activities undertaken by States under subpart 1 and the effectiveness of such programs and activities in improving the education provided to children who are limited English proficient;

(2) the types of instructional programs used under subpart 1 to teach limited English proficient children;

(3) the number of programs or projects, if any, that were discontinued because they were not able to reach program goals;

(4) the number of limited English proficient children served under subpart 1 who were transitioned out of special instructional programs funded under such subpart into classrooms where instruction is not tailored for limited English proficient children, and

(5) other information gathered from the reports submitted under subsection (a).

SEC. 3123. COORDINATION WITH RELATED PROVISIONS.

In order to maximize Federal efforts aimed at serving the educational needs of children and youth of limited English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs serving language-minority and limited English proficient students that are administered by the Department and other agencies.

Subpart 3—General Provisions

SEC. 3131. DEFINITIONS.

For purposes of this part:

(1) CHILDREN AND YOUTH.—The term ‘‘children and youth’’ means individuals aged 3 through 21.

(2) COMMUNITY-BASED ORGANIZATION.—The term ‘‘community-based organization’’ means a private nonprofit organization of demonstrated effectiveness or Indian tribe or tribally sanctioned educational authority which is representative of a community or significant segments of a community or limited English proficient children served under subpart 1 who are provided educational or related services to individuals in the community. Such term includes a Native Hawaiian or Native American Pacific Islander, or the language normally used by such individual.

(3) ELIGIBLE ENTITY.—The term ‘‘eligible entity’’ means—

(A) one or more local educational agencies; or

(B) one or more local educational agencies in collaboration with an institution of higher education, community-based organization, or State educational agency.

(4) NATIVE HAWAIIAN OR NATIVE AMERICAN PACIFIC ISLANDER NATIVE LANGUAGE EDUCATIONAL ORGANIZATION.—The term ‘‘Native Hawaiian or Native American Pacific Islander native language educational organization’’ means a nonprofit organization with a majority of its governing board and employees consisting of individuals who are qualified to use traditional Native American languages used in their educational programs and with not less than 5 years successful experience in providing educational services in traditional Native American languages.

(5) NATIVE LANGUAGE.—The term ‘‘native language’’, when used with reference to an individual, means the language normally used by such individual.

(6) SPECIALLY QUALIFIED AGENCY.—The term ‘‘specially qualified agency’’, when used with reference to an individual, means an eligible entity located in a State that, for that year—

(A) does not submit to the Secretary an application under sections 3106(a) and 3107; or

(B) submits an application (or any modification to an application) that the Secretary, after reasonable notice and opportunity for a hearing, determines does not satisfy the requirements of subpart 1.

(7) TRIBALLY SANCTIONED EDUCATIONAL AUTHORITY.—The term ‘‘tribally sanctioned educational authority’’ means—

(A) any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe;

(B) any nonprofit institution or organization that is—

(i) charted by the governing body of an Indian tribe to operate a school described in section 3106(a) or otherwise to oversee the delivery of educational services to members of the tribe; and

(ii) approved by the Secretary for the purpose of carrying out programs under subpart 1 for individuals served by a school described in section 3106(a); or

(8) TRIBAL LANGUAGE.—The term ‘‘tribal language’’ means any natural language designated by the governing body of a tribe under section 3106(b)(3) that is spoken or understood by any member of a tribe.

(9) TRIBAL SCHOOL.—The term ‘‘tribal school’’ means—

(A) a tribal_entity, entity, or official, over programs and other provision of subpart 1, may include programs of instruction, community-based organization, or State educational agency, or official.

(10) TRIBALLY SANCTIONED.—Nothing in this part 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. 3133. LIMITATION ON FEDERAL REGULATIONS.

The Secretary shall issue regulations under this part only to the extent that such regulations are necessary to ensure compliance with the specific requirements of this part.

SEC. 3134. LEGAL AUTHORITY UNDER STATE LAW.

Nothing in this part shall be construed to negate or supersede 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. 3135. CIVIL RIGHTS.

Nothing in this part shall be construed in a manner inconsistent with any Federal law guaranteeing a civil right.

SEC. 3136. PROGRAMS FOR NATIVE AMERICANS AND PUERTO RICO.

Programs authorized under subpart 1 that serve Native American children, Native American, Native Pacific Island children, and children in the Commonwealth of Puerto Rico, notwithstanding any other provision of subpart 1, may include programs of instruction, teacher training, curriculum development, evaluation, and testing designed for Native American children and for students learning Native American languages and children who are limited English proficient; except that a primary outcome of programs serving such children shall be increased English proficiency among such children.

CONFORMING AMENDMENT TO DEPARTMENT OF EDUCATION ORGANIZATION ACT.

(a) IN GENERAL.—(1) RECLASSIFICATION.—The Department of Education Organization Act is amended by

May 22, 2001
CONGRESSIONAL RECORD—HOUSE
H2463
striking “Office of Bilingual Education and Minority Languages Affairs’’ each place such term appears in the text and inserting “Office of Educational Services for Limited English Proficient Children’’.

(2) CONFORMING AMENDMENT.—Section 209 of the Department of Education Organization Act is amended by striking “Director of Bilingual Education and Minority Languages Affairs,’’ and inserting “Director of Educational Services for Limited English Proficient Children,’’.

(2) CLERICAL AMENDMENTS.—

(1) SECTION 209.—The section heading for section 209 of the Department of Education Organization Act is amended to read as follows:

“OFFICE OF EDUCATIONAL SERVICES FOR LIMITED ENGLISH PROFICIENT CHILDREN’’.

(2) SECTION 216.—The section heading for section 216 of the Department of Education Organization Act is amended to read as follows:

“SEC. 216. OFFICE OF EDUCATIONAL SERVICES FOR LIMITED ENGLISH PROFICIENT CHILDREN’’.

(3) TABLE OF CONTENTS.—

(A) SECTION 209.—The table of contents of the Department of Education Organization Act is amended by amending the item relating to section 209 to read as follows:

“Sec. 209. Office of Educational Services for Limited English Proficient Children.’’.

(B) SECTION 216.—The table of contents of the Department of Education Organization Act is amended by amending the item relating to section 216 to read as follows:

“Sec. 216. Office of Educational Services for Limited English Proficient Children’’.
SEC. 3214. APPLICATIONS. (a) APPLICATION REQUIRED.—Each local educational agency that desires to receive a grant under this chapter shall submit an application to the Secretary, in such form and containing such information as the Secretary may reasonably require. (b) CONTENTS OF APPLICATION REQUIRED.—Each application submitted under subsection (a) shall include a comprehensive program for meeting the needs of Indian children served by the local educational agency, including the language and cultural needs of the children, that— (1) provides programs and activities to meet the culturally related academic needs of American Indian and Alaska Native students; (2)(A) is consistent with State and local plans under other provisions of this Act; and (B) includes academic content and performance goals for such children, and benchmarks for attaining such goals, that are based on the challenging State standards under title I; (3) includes a plan of whose members are parents of Indian children; (4) sets forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children, and representatives of the area, to be served; (5) describes how funds made available under this chapter are effective in improving the educational opportunity of Indian students from secondary schools, including public hearings held by such agency to provide the individuals described in this subparagraph a full and timely opportunity to provide comments on the program and to offer recommendations regarding the program; and (6) describes how the local educational agency— (A) will periodically assess the progress of all Indian students enrolled in the schools of the local educational agency, including Indian children who do not participate in programs assisted under this chapter, in meeting the goals described in the program; and (B) will be involved in programs assisted under this chapter by having been properly trained to carry out such programs; and (c) ASSURANCES.—Each application submitted under subsection (a) shall include assurances that— (1) the local educational agency will use funds in a manner consistent with State and local academic content standards and State student academic achievement standards; (2) early childhood programs; (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 to whom the local educational agency is providing an education; (B) will use the best available talents and resources, including individuals from the Indian community, to whom the local educational agency is providing an education; and (C) was developed by such agency in open consultation with parents of Indian children and teachers, and, if appropriate, Indian students from secondary schools, including public hearings held by such agency to provide the individuals described in this subparagraph a full and timely opportunity to provide comments on the program and to offer recommendations regarding the program; and (d) SCHOOLWIDE PROGRAMS.—Notwithstanding any other provision of law, a local educational agency may use funds made available under this chapter to support a schoolwide program under section 1114 if— (1) the committee composed of parents established pursuant to section 3214(c)(4) approves the use of the funds for the schoolwide program; and (2) the schoolwide program is consistent with the purposes described in section 3211. (4) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds provided under this chapter for any fiscal year may be used for administrative purposes. SEC. 3216. INTEGRATION OF SERVICES AUTHORIZED. (a) PLAN.—An entity receiving funds under this chapter may submit a plan to the Secretary for the integration of education and related services provided to Indian students. (b) COORDINATION OF SERVICES.—Upon the receipt of an acceptable plan, the Secretary, in cooperation with each Federal agency providing grants for the provision of education and related services to the applicant, shall authorize the applicant to coordinate, in accordance with such plan, its federally funded education and related services programs, or portions thereof, serving Indian students in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions. (c) PROGRAMS AFFECTED.—The funds that may be consolidated in a demonstration project under such plan shall include funds for any Federal program exclusively serving Indian children or the funds reserved under any program to exclusively serve Indian children under which the applicant is eligible for receipt of funds under a statutory or administrative formula for the purposes of providing education and related services which will be used to serve Indian students in a single demonstration project. (d) PLAN REQUIREMENTS.—For a plan to be acceptable pursuant to subsection (b), it shall— (1) identify the programs or funding sources to be consolidated; (2) be consistent with the purposes of this section authorizing the services to be integrated in a demonstration project; and (3) describe a comprehensive strategy which identifies the full range of potential educational opportunities and related services to be provided to Indian students to achieve the goals set forth in this chapter; (4) describe the way in which services are to be integrated and delivered and the results expected from the plan; (5) identify the projected expenditures under the plan in a single budget; (6) identify the local, State, or tribal agency or agencies to be involved in the delivery of the services integrated under the plan; (7) identify any statutory provisions, regulations, policies, or procedures that the applicant believes need to be waived in order to implement its plan; (8) set forth measures of student achievement and performance goals designed to be met within a specified period of time; and (9) be approved by a parent committee formed in accordance with section 3214(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 or agency providing funds to be used to implement the plan, and with the entity submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal departmental regulations, policies, or procedures necessary to enable the applicant to implement its plan. Notwithstanding any other provision of law, the Secretary of the affected department or agencies shall have the authority to waive any regulation, policy, or procedure promulgated by that department that has been so identified by the applicant or department. The affected department determines that such a waiver is consistent with the intent of this chapter or
those provisions of the statute from which the program involved derives its authority which are specifically applicable to Indian students.

[(j) PLAN APPROVAL.—Within 90 days after the regent's approval of an applicant's plan by the Secretary, the Secretary shall inform the applicant, in writing, of the Secretary's approval or disapproval of the plan. If the plan is disapproved, the applicant shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend its 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 the enactment of the No Child Left Behind Act of 2001, the Secretary of Education shall submit a preliminary report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives on the status of the implementation of the demonstration program authorized under this section.

(h) RESPONSIBILITIES OF LEAD AGENCY.—The responsibilities of the lead agency shall include—

(i) the use of a single report format related to the project for individual projects which shall be utilized by an eligible entity to report on the activities undertaken under the project;

(ii) the use of a single report format related to the project expenditures for the individual project which shall be utilized by an eligible entity to report on all project expenditures;

(iii) the implementation of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

(iv) the provision of technical assistance to an eligible entity to assist the eligible entity to establish, before April 28, 1988, the eligibility of a child for entitlement under this chapter and to otherwise aid services to Indian students in a manner consistent with the purposes of this section.

(p) DEFINITIONS.—For the purposes of this section, the term 'Secretary' means—

(1) the Secretary of the Interior, in the case of an eligible applicant meeting the definition of contract or grant school under title XI of the Education Amendments of 1978; or

(2) the Secretary of Education, in the case of any other applicant.

(q) REPORT ON STATUTORY OBSTACLES TO PROGRAM INTEGRATION.—

(1) IN GENERAL.—Not later than 2 years after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary of Education shall submit a preliminary report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives on the status of the implementation of the demonstration program authorized under this section.

(2) FINAL REPORT.—Not later than 5 years after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary of Education shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives on the results of the implementation of the demonstration program authorized under this section. Such report shall identify statutory barriers to the ability of participants to integrate more effective services and related services to Indian students in a manner consistent with the purposes of this section.

(3) RESPONSIBLE USE OF FUND TRANSFERS AUTHORIZED.—The Secretary is authorized to take such action as may be necessary to provide for an interagency transfer of funds otherwise available to an eligible entity in order to further the purposes of this section.

(3) ADMINISTRATION OF FUNDS.—

(a) IN GENERAL.—Program funds shall be administered in such a manner as to allow for a determination that funds from specific programs are consistent with the responsibilities of the eligible entity authorized under such program, except that the eligible entity shall determine the proportion of the funds granted which shall be allocated to such purpose.

(b) SEPARATE RECORDS NOT REQUIRED.—Nothing in this section shall be construed as requiring the eligible entity to maintain separate records tracing any services or activities conducted under its approved plan to the individual programs under which funds were authorized, nor as authorizing the eligible entity be required to allocate expenditures among such individual programs.

(c) OVERAGE.—All administrative costs may be considered as eligible costs under this section, but such administrative costs shall not be entitled to the full amount of such costs (under each program or department's regulations), and no overage shall be counted for Federal aid purposes provided that the costs were specifically used for the purposes provided for under this section.

(d) FISCAL ACCOUNTABILITY.—Nothing in this section shall be construed to interfere with the authority of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to the Single Audit Act of 1984.

(e) DOCUMENTATION.—For purposes of determining whether a child is eligible to be counted for the purpose of computing the amount of a grant under section 3213, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number, if the child is a member of a tribe or band. Nothing in subsection (b) shall be construed to require the furnishing of an enrollment number.

(f) MONITORING AND EVALUATION REVIEW.—

(1) IN GENERAL.—(A) For each fiscal year, in order to provide such information as is necessary to carry out the responsibilities 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 paragraph shall take into account the size of the local educational agency and the geographic location of such agencies.

(B) A local educational agency may not be held liable to the United States or be subject to any penalty, by reason of the findings of an audit that relates to the period preceding, or the date of submission, of any form used to establish, before April 28, 1988, the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act of 1975, with respect to any child shall have no bearing on the determination of whether the child is eligible for assistance under this chapter.

(C) The Secretary shall submit a preliminary report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives on the status of the implementation of the demonstration program authorized under this section.

(2) FAILURE.—The failure of an applicant to furnish any information described in this subsection other than the information described in paragraph (1) with respect to any child shall have no bearing on the determination of whether the child is eligible for assistance under this chapter.

(g) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect a definition contained in section 3251.
under subsection (a) shall not be counted for the purpose of computing the amount of a grant under section 3213.

(g) TRIBAL GRANT AND CONTRACT SCHOOLS.—Notwithstanding any other provision of this section, in awarding funds under this chapter to a tribal school that receives a grant or contract from the Bureau of Indian Affairs, the Secretary shall:

(1) establish a date on, or a period not longer than 31 consecutive days during which, the agency counts those children, so long as that date or period occurs before the deadline established by the Secretary for submitting an application under section 3214; and

(2) determine that each such child was enrolled in a free public education in a school of the agency on that date or during that period, as the case may be.

H2467

SEC. 3215. PAYMENTS.

(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary shall pay to each local educational agency that submits an application that is approved by the Secretary under this chapter the amount determined under section 3213. The Secretary shall notify the local educational agency of the amount of the payment not later than June 1 of the year for which the Secretary made the grant.

(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 in which 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) INJUNCTION 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 under section 3215 or 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) DEFINITION OF FISCAL EFFORT.—If, for any fiscal year, the Secretary determines that a local educational agency failed to maintain the fiscal effort of such agency at the level specified in paragraph (1), the Secretary shall:

(A) reduce the amount of the grant that would otherwise be made to such agency under this chapter in the exact proportion of such agency’s failure to maintain its fiscal effort at such level; and

(B) not use the reduced amount of the agency’s expenditures for the preceding year to determine the amount payable to such agency 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.—The Secretary may waive the requirement of paragraph (1), for not more than 1 year at a time, if the Secretary determines that the failure to comply with such requirement is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the agency’s financial resources.

(b) The Secretary shall not use the reduced amount of such agency’s expenditures for the fiscal year preceding the fiscal year for which a waiver is granted or the amount specified in paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1) in the absence of the waiver.

(d) REALLOCATIONS.—The Secretary may reallocate, in a manner that the Secretary determines will best carry out the purpose of this chapter, any funds otherwise payable to any Indian tribe on or after the date prescribed in subsection (a) of section 3212. The Secretary may make such reallocations in such manner as the Secretary deems necessary to achieve the purpose of this chapter.

CHAPTER 2—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

SEC. 3211. 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 such actions as are necessary to achieve the coordination of activities assisted under this chapter with—

(A) other programs funded under this Act; and

(B) Federal programs supported for the education, or demonstration of any activity described in subsection (a)(1).

(b) ELIGIBLE ENTITIES.—For the purpose of this section, the term ‘eligible entity’ means a local educational agency, State educational agency, Indian tribe, Indian organization, federally supported elementary and secondary school for Indian students, Indian institution, Native Hawaiian organization, Indian tribe, Indian tribe organization, local educational agency, Indian tribe, Indian organization, federally supported elementary and secondary school for Indian students, Indian institution, including an Indian institution of higher education, or a consortium of such institutions.

(c) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary shall award grants to eligible entities to carry out activities that meet the purpose specified in subsection (a)(1), including—

(A) innovative programs related to the educational needs of educationally disadvantaged children;

(B) educational services that are not available to such children in sufficient quantity or quality including remedial instruction, to raise the achievement of Indian children in one or more of the core academic subjects of English, mathematics, science, foreign languages, art, history, and geography;

(C) bilingual and bicultural programs and projects;

(D) special health and nutrition services, and other related activities, that address the unique health, social, and psychological problems of Indian children;

(E) special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or reenter school, and to increase the rate of secondary school graduation;

(F) comprehensive guidance, counseling, and testing services;

(G) early childhood and kindergarten programs, including family literacy programs, programs that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

(H) partnerships between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to enhance their postsecondary education; and

(I) partnerships between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to enhance their postsecondary education.

(2) A PPLICATION.—Each application submitted to the Secretary under subsection (a) must—

(A) demonstrate the ability to be replicated.

(b) IN GENERAL.—The Secretary shall award grants to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

(1) In addition to awarding the multiyear grants described in subsection (a)(1), the Secretary may award grants to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

(2) APPLICATION.—Any eligible entity that desires to receive a grant under this section shall submit an application to the Secretary at such time, and in such manner as the Secretary may require.

(3) QUALIFICATIONS.—The Secretary shall publish in the Federal Register a notice describing the qualifications for eligibility for a grant under this section.

(4) ADMINISTRATION.—The Secretary may require any entity receiving a grant under this section to submit a final report containing a description of such activities, and the results of the activities included in such report, to the Secretary.
(ii) information demonstrating that the proposed program is either a research-based program (which may be a research-based program that has been modified to be culturally appropriate to the population who will be served); or (iii) information demonstrating that the training provided is appropriate for the students who will be served; or (iv) a description of how the applicant will incorporate the proposed services into the ongoing school program once the grant period is over;

(v) such other assurances and information as the Secretary may reasonably require.

SEC. 3222. CONGRESSIONAL DEVELOPMENT FOR TEACHERS AND EDUCATION PROFESSIONALS.

(a) PURPOSES.—The purposes of this section are—

(1) to increase the number of qualified Indian individuals who are teaching in 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 (1) and paragraph (2).

(b) ELIGIBLE ENTITIES.—For the purposes of this section, the term ‘eligible entity’ means—

(i) an institution of higher education, including an Indian institution of higher education;

(ii) a State or local educational agency, in consortium with an institution of higher education; and

(iii) an Indian tribe or organization, in consortium with an institution of higher education.

(c) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants to eligible entities having applications approved under this section to enable such entities to carry out the activities described in subsection (d).

(d) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—Grants under this section shall be used to provide support and training for Indian individuals who are in a manner consistent with the purposes of this section. Such activities may include but are not limited to, continuing programs, symposia, workshops, conferences, field visits, and financial support.

(2) SPECIAL RULE.—(A) For education personnel, the training received pursuant to a grant made under this section may be in-service or preservice training.

(B) For individuals who are being trained to enter any field other than teaching, the training received pursuant to a grant made under this section shall be in a program that results in a graduate degree.

(e) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information, as the Secretary may reasonably require.

(f) SPECIAL RULE.—In making grants under this section, the Secretary—

(1) shall consider the prior performance of the eligible entity; and

(2) may not limit eligibility to receive a grant under this section on the basis of—

(A) the number of previous grants the Secretary has awarded to 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 OBILIGATION.—

(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, report the program activities, and its compliance of such recipient with the work requirement under paragraph (1).

CHAPTER 3—NATIONAL RESEARCH ACTIVITIES

SEC. 3231. NATIONAL ACTIVITIES.

(a) AUTHORIZED ACTIVITIES.—The Secretary may use funds made available under section 3232(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 subsection.

(b) ELIGIBILITY.—The Secretary may carry out any of the activities described in subsection (a) directly or through grants or cooperative agreements with Indian tribes, Indian organizations, State educational agencies, local educational agencies, institutions of higher education, including Indian institutions of higher education, and other public and private agencies and institutions.

(c) COORDINATION.—Research activities supported under this section—

(1) shall be carried out in consultation with the Office of Educational Research and Improvement; and

(2) may include collaborative research activities which are jointly funded and carried out by the Office of Indian Education Programs and the Office of Educational Research and Improvement.

CHAPTER 4—FEDERAL ADMINISTRATION

SEC. 3241. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.

(a) MEMBERSHIP.—There is established a National Advisory Council on Indian Education (hereafter in this section referred to as the ‘Council’), which shall—

(1) consist of 15 Indian members, who shall be appointed by the President from lists of nominees furnished, from time-to-time, by Indian tribes and organizations; and

(2) represent different geographic areas of the United States.

(b) DUTIES.—The Council shall—

(1) advise the Secretary concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under this subpart—

(A) with respect to which the Secretary has jurisdiction; and

(B) that includes Indian children or adults as participants; or

(2) that may benefit Indian children or adults;

(2) make recommendations to the Secretary for filling the position of Director of Indian Education when such vacancy occurs; and

(3) submit to the Congress, not later than June 30 of each year, a report on the activities of the Council, including—

(A) any recommendations that the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants, or that may benefit Indian children or adults; and

(B) recommendations concerning the funding of any program described in subparagraph (A).

SEC. 3242. PEER REVIEW.

The Secretary may use a peer review process to review applications submitted to the Secretary under chapter 2 or 3.

SEC. 3243. PREFERENCE FOR INDIAN APPLI CANTS.

In making grants under chapter 2 or 3, the Secretary shall give a preference to Indian applicants, supporting organizations, and institutions described in section 3221(b).

SEC. 3244. MINIMUM GRANT CRITERIA.

The Secretary may not approve an application for a grant under part 2 unless the application is for a grant that is—

(1) of sufficient size, scope, and quality to achieve the purpose or objectives of such grant; and

(2) based on relevant research findings.

CHAPTER 5—DEFINITIONS; AUTHORIZATIONS OF APPROPRIATIONS

SEC. 3251. DEFINITIONS.

For the purposes of this subpart—

(1) ADULT.—The term ‘adult’ means an individual who—

(A) has attained the age of 16 years; or

(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); or

(C) considered by the Secretary of the Interior to be an Indian for any purpose:

(D) an Eskimo, Aleut, or other Alaska Native;

(E) a member of an organized Indian group that received a grant under the Indian Education Act of 1988 or a lesser sum for the year preceding the date of the enactment of the Improving America’s Schools Act of 1994.

SEC. 3252. AUTHORIZATIONS OF APPROPRIA TIONS.

(a) CHAPTER 1.—For the purpose of carrying out chapter 1 of this subpart, there are authorized to be appropriated $100,000,000 for fiscal year 2004, and such sums as may be necessary for each of fiscal years 2005 through 2006.

(b) CHAPTERS 2 AND 3.—For the purpose of carrying out chapters 2 and 3 of this subpart, there are authorized to be appropriated $25,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2006.

(c) SAVINGS PROVISION.—Funds appropriated for part A of title IX of the Elementary and Secondary Education Act of 1965 (as in effect on the date before the date of the enactment of this Act) shall be available for use under part 1 of section 311 of such Act, as added by this section.

SEC. 3253. ALASKA NATIVE EDUCATION.

(a) IN GENERAL.—Part B of title III (as added by section 311 of this Act) is further amended by adding at the end the following new subpart:

Subpart 2—Alaska Native Education

SEC. 3301. SHORT TITLE.

This subpart may be cited as the ‘Alaska Native Educational Equity, Support, and Assistance Act’.
SEC. 3302. FINDINGS.

"The Congress finds and declares:

"(1) The attainment of educational success is critical to the betterment of the conditions, long-term well-being, and preservation of the culture of Alaska Natives.

"(2) It is the policy of the Federal Government to encourage the maximum participation by Alaska Natives of the planning and the management of Alaska Native education programs.

"(3) Alaska Native children enter and exit school with serious educational handicaps.

"(4) Achievement of Alaska Native children is far below national norms. In addition to low Native performance on standardized tests, Native student dropout rates are high, and Alaska Native children are significantly underrepresented among holders of baccalaureate degrees in the State of Alaska. As a result, Native student are being denied their opportunity to become full participants in society by grade school and high school education that are condemning an entire generation to an underclass status and a life of limited choices.

"(5) The programs authorized herein, combined with expanded Head Start, infant learning, and early childhood education programs, and parent education programs are essential if educational hardships are to be overcome.

"(6) The sheer magnitude of the geographic barriers to be overcome in delivering educational services to Alaska Natives should be addressed through the development and implementation of innovative, model programs in a variety of areas.

"(7) Congress finds that Native children should be afforded the opportunity to begin their formal education on a par with their non-Native peers. The Federal Government should lend support to education programs developed by and undertaken within the Alaska Native community to improve educational opportunity for all students.

SEC. 3302. PURPOSE.

"It is the purpose of this subpart to—

"(1) recognize the unique educational needs of Alaska Natives;

"(2) authorize the development of supplemental educational programs to benefit Alaska Natives;

"(3) supplement existing programs and authorities in the area of education to further the purposes of this subpart; and

"(4) provide direction and guidance to appropriate Federal, State, local and Indian agencies to focus resources, including resources made available under this subpart, on meeting the educational needs of Alaska Natives.

SEC. 3304. PROGRAM AUTHORIZED.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to, or enter into contracts with, Alaska Native organizations, educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, and consortia of such organizations and entities to carry out programs that meet the purposes of this subpart.

"(b) PERMISSIBLE ACTIVITIES.—Programs under this subpart may include—

"(i) programs to prepare teachers to address the cultural diversity and unique needs of Alaska Native students;

"(ii) in-service programs to improve the ability of teachers to meet the unique needs of Alaska Native students; and

"(iii) recruiting and preparing teachers who are Alaska Natives, reside in communities with high concentrations of Alaska Native students, and are likely to succeed as teachers in isolated, rural communities and engage in cross-cultural instruction;

"(D) the development and operation of home instruction programs for Alaska Native pre-school children, the purpose of which is to ensure the active involvement of parents in their children's education from the earliest ages;

"(E) family literacy services;

"(F) the development and operation of student enrichment programs in science and mathematics that—

"(i) are designed to prepare Alaska Native students from rural areas, who are preparing to enter high school, to excel in science and math; and

"(ii) provide appropriate support services to the families of such students that are needed to enable such students to benefit from the program;

"(G) research and data collection activities to determine the educational status and needs of Alaska Native students;

"(H) other research and evaluation activities related to programs under this subpart; and

"(I) other activities consistent with the purposes of this subpart, to meet the educational needs of Alaska Native children and adults.

"(b) HOME INSTRUCTION PROGRAMS.—Home instruction programs for Alaska Native preschool children under paragraph (2)(D) may include—

"(A) programs for parents and their infants, from prenatal through age three;

"(B) programs for parents and their infants, from ages three through age five;

"(C) training, education, and support for parents in such areas as reading readiness, observation, story-telling, and critical thinking;

"(D) 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) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2006 to carry out this subpart.

SEC. 3305. ADMINISTRATIVE PROVISIONS.

"(a) APPLICATION REQUIRED.—No grant may be made to an entity unless a written application is submitted 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 subpart.

"(b) APPLICATIONS.—State and local educational agencies are eligible to apply for an award under this subpart only as part of a consortium involving an Alaska Native organization. This consortium may include other eligible applicants.

"(c) CONSULTATION REQUIRED.—Each applicant for funding shall provide for ongoing advice from and consultation with representatives of the Alaska Native community.

"(d) LOCAL EDUCATIONAL AGENCY COORDINATION.—Each applicant for an award under this subpart shall inform each local educational agency serving students who would participate in the project about its application.

SEC. 3306. DEFINITIONS.

"For purposes of this subpart—

"(1) the term "Alaska Native" has the same meaning as the term "Native" has in section (b) of the Alaska Native Claims Settlement Act; and

"(2) the term "Alaska Native organization" means a tribe, consortium of tribes, regional nonprofit Native association, and other Alaska Native organizations that—

"(A) has or commits to acquire expertise in the education of Alaska Natives; and

"(B) has Alaska Natives in substantive and policy-making positions within the organization.

"(b) SAVINGS PROVISION.—Funds appropriated for part C of title IX of the Elementary and Secondary Education Act of 1965 (as in effect on the date of enactment of this Act) shall be available for use under subpart 2 of part B of title III of such Act, as added by this section.

SEC. 311. AMENDMENTS TO THE EDUCATION AMENDMENTS OF 1978.

"Part B of title XI of the Education Amendments of 1978 (25 U.S.C. 2001 et seq.) is amended to read as follows:

"PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

SEC. 1120. FINDING AND POLICY.

"(a) FINDING.—Congress finds and recognizes that the Federal Government has the sole responsibility for the operation and financial support of the Bureau of Indian Affairs for the education of Indian children.

"(b) POLICY.—It is the policy of the United States to work in full cooperation with Indian tribes toward the goal that the programs of the Bureau of Indian Affairs funded school system are of the highest quality and meet the unique educational and cultural needs of Indian children.

"SEC. 1121. ACCREDITATION AND STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS.

"(a) PURPOSE.—The purpose of the standards implemented under this section shall be to afford Indian students being served by a school operated by the Bureau of Indian Affairs the same opportunities as all other students in the United States to achieve the same challenging State academic achievement standards expected of all students.

"(b) STUDIES AND SURVEYS RELATING TO STANDARDS.—Not later than 1 year after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Education, shall submit to Congress a report describing the results of surveys and studies conducted to establish the extent to which each of the basic educational needs of Indian children attending Bureau schools is being met. Such studies and surveys shall take into account factors such as academic needs, local cultural differences, type and level of language skills, geographic isolation, and appropriate teacher-student ratios for such children, and shall be directed toward the attainment of equal educational opportunity for such children.

"(c) REVISION OF MINIMUM ACADEMIC STANDARDS.—

"(1) IN GENERAL.—Not later than 2 years after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary shall—

"(A) propose revisions to the minimum academic standards published in the Federal Register on September 9, 1995 (50 Fed. Reg. 174) for the basic education of Indian children attending Bureau funded schools in accordance with the purpose described in subsection (a) and the findings of the studies and surveys conducted under subsection (b);

"(B) publish such proposed revisions to such standards in the Federal Register for the purpose of receiving comments from the tribes, tribal school boards, Bureau funded schools, and other interested parties; and

"(C) consistent with the revisions of this section and section 1111, take such actions as are necessary to coordinate standards implemented
under this section with the Comprehensive School Reform Plan developed by the Bureau and—

(i) with the standards of the improvement plans for schools in which any school operated by the Bureau of Indian Affairs is located; or

(ii) in the case where schools operated by the Bureau are within the boundaries of reservations of land of one tribe but within the boundaries of more than one State, with the standards of the State improvement plan of one such State selected by the tribe.

(2) FURTHER REVISIONS.—Not later than 6 months after the close of the comment period, the Secretary shall prepare final standards. The Secretary shall distribute such standards to all tribes and publish such final standards in the Federal Register. The Secretary shall revise such standards periodically, and prior to any revision of such final standards, the Secretary shall distribute such proposed revision to all the tribes, and publish such proposed revision in the Federal Register, for the purpose of receiving comments from the tribes and other interested parties.

(3) APPLICABILITY OF STANDARDS.—Except as provided in subsection (e), the final standards published under paragraph (2) shall apply to all Bureau funded schools not accredited under subsection (f), and may also serve as a model for education programs for Indian children in public schools.

(4) CONSIDERATIONS WHEN ESTABLISHING AND REVISIONING STANDARDS.—In establishing and revising such standards, the Secretary shall take account of the unique needs of Indian students and support and reinforcement of the specific cultural heritage of each tribe.

(d) MODIFIED OR MODIFIED STANDARDS.—The Secretary shall provide alternative or modified standards in lieu of the standards established under subsection (c), whenever necessary, so that the programs of each school are in compliance with the minimum accreditation standards required for schools in the State or region where the school is located.

(e) WAIVER OF STANDARDS; ALTERNATIVE STANDARDS.—A tribal governing body, or the local school board so designated by the tribal governing body, shall have the local authority to waive, in part or in whole, the standards established under subsections (c) and (d) if such standards are deemed by such body to be inappropriate for their community. When a Bureau funded school board shall, not later than 60 days after a waiver under this subsection, submit to the Secretary a proposal for alternative standards, the Secretary shall take account of the specific needs of the tribe's children. Such alternative standards shall be established by the Secretary unless specifically rejected by the Secretary for good cause and in writing to the affected tribes or local school board, which rejection shall be final and not subject to review.

(f) ACCREDITATION AND IMPLEMENTATION OF STANDARDS.—

(i) DEADLINE FOR MEETING STANDARDS.—Not later than the second academic year after publication of the standards, to the extent necessary funding is available, Bureau funded schools shall meet the standards established under subsections (c) and (d) or shall be accredited.

(ii) Accreditation body, if the accreditation standards of the tribal accrediting body have been accepted by formal action of the tribal governing body and are equal to or exceed the accreditation standards of the State or region in which the school is located.

(iii) by a regional accreditation agency; or

(iv) by State accreditation standards for the State in which the school is located.

(2) DETERMINATION OF STANDARDS TO BE APPLIED.—The accreditation type or standards applied for each school shall be determined by the school board, in consultation with the Administrator of the school, provided that in the case where the School Board and the Administrator fail to agree on the type of accreditation and standards to apply, the decision of the school board with the approval of the tribal governing body shall be final.

(3) ASSISTANCE TO SCHOOL BOARDS.—The Secretary, through contracts and grants, shall assist school boards of contract or grant schools in implementation of the standards established under this section and, in consultation with such school boards, shall provide data comparable to those used by Bureau operated schools.

(b) ANNUAL PLAN FOR MEETING OF STANDARDS.—Except as provided in subsections (e) and (f), the Secretary shall begin to implement the standards established under this section immediately upon the date of their establishment. On an annual basis, the Secretary shall submit to the appropriate committees of Congress, all Bureau funded schools, and the tribal governing bodies having direct authority to buy such schools, all Bureau schools and contract or grant schools up to the level required by the applicable standards established under this section. Such plans shall include timelines for bringing each school up to the level required by such standards.

(c) CLOSURE OR CONSOLIDATION OF SCHOOLS.—

(1) IN GENERAL.—Except as specifically required by statute, no school or peripheral educational program operated by the Bureau on or after January 1, 1992, may be closed or consolidated or have its program substantially curtailed unless done according to the requirements of this subsection.

(2) EXCEPTIONS.—This subsection shall not apply—

(A) in those cases where the tribal governing body, or the local school board concerned (if so designated by the tribal governing body), requests closure or consolidation; or

(B) when a temporary closure, consolidation, or substantial curtailment is required by plant conditions which constitute an immediate hazard to health and safety.

(3) RESTORATION.—The Secretary shall, by regulation, promulgate standards and procedures for the closure, transfer to another authority, consolidation, or substantial curtailment of Bureau schools, in accordance with the requirements of this subsection.

(4) NOTICE.—Whenever closure, transfer to another authority, consolidation, or substantial curtailment of a school is under active consideration or review by any division of the Bureau or the Department of the Interior, the affected tribe, tribal governing body, and designated local school board shall be immediately kept fully and currently informed, and afforded an opportunity to comment with respect to such consideration or review. When a formal decision is made to close, transfer to another authority, consolidate, or substantially curtail a school, the affected tribe, tribal governing body, and designated school board shall be notified at least 6 months prior to the end of the school year preceding the proposed closure date. Copies of any such notices and information shall be transmitted promptly to the appropriate committees of Congress and the Office of Federal Register.

(5) REPORT.—The Secretary shall make a report to the appropriate committees of Congress, the affected tribe, and the designated school board so involved. The report shall include the specific consideration or review referred to in paragraph (4). The report shall include a study of the impact of such action on the student population, identify those students with particular educational and social needs, and ensure that alternative services are available to such students. Such report shall include the description of the consultation conducted between the potential service provider, current service provider, parents, tribal representatives and the tribe or tribes involved, and the Director of the Office of Indian Education Programs within the Bureau regarding such students.

(6) LIMITATION ON CERTAIN ACTIONS.—No irreparable action may be taken in furtherance of any such proposed school closure, transfer to another authority, consolidation, or substantial curtailment (including any action which would prejudice the personal rights of programs of such school) prior to the end of the first full academic year after such report is made.

(7) TRIBAL GOVERNING BODY APPROVAL REQUIRED FOR CERTAIN ACTIONS.—The Secretary may terminate, contract, transfer to any other authority, consolidate, or substantially curtail the operation or facilities of—

(A) any Bureau funded school that is operated on or after January 1, 1999; or

(B) any program of such a school that is operated on or after January 1, 1999; or

(C) any school board of a school operated under a grant under the Tribally Controlled Schools Act of 1988, only if the tribal governing body approves such action.

(8) APPLICATION FOR CONTRACTS OR GRANTS FOR NON-BUREAU FUNDED SCHOOLS OR EXPANSION OF BUREAU FUNDED SCHOOLS.—

(i) IN GENERAL.—(A) The Secretary shall only consider the factors described in subparagraph (B) in reviewing—

(I) applications from any tribe for the awarding of a contract or grant for a school that is not a Bureau funded school; and

(II) applications from any tribe or school board of any Bureau funded school for—

(aa) a school which is not a Bureau funded school; or

(bb) the expansion of a Bureau funded school which would increase the amount of funds received by the Indian tribe or school board under section 1127.

(ii) With respect to applications described in this subparagraph, the Secretary shall give consideration to all the factors described in subparagraph (B), but no such application shall be denied based primarily upon the geographic proximity of comparable public education.

(iii) With respect to applications described in subparagraph (A) the Secretary shall consider the following factors relating to the program and services that are the subject of the application:

(I) The adequacy of the facilities or the potential to obtain or provide adequate facilities.

(II) Geographic and demographic factors in the affected areas.

(III) The adequacy of the applicant's program plans or, in the case of a Bureau funded school, of projected needs analysis done either by the Bureau or the Bureau organized.

(IV) Geographic proximity of comparable public education.

(V) The stated needs of all affected parties, including students, families, tribal governments at both the central and local levels, and school organizations.

(VI) Adequacy and comparability of programs already available.

(VII) Consistency of available programs with tribal educational codes or tribal legislation on education.

(VIII) The history and success of these services for the proposed population to be served, as determined from all factors, including but not limited to standardized examination performance.
whether to approve any application described in paragraph (1)(A) not later than 180 days after such application is submitted to the Secretary.

(B) If the Secretary fails to make the determination described in paragraph (A) or to act on an application described in subparagraph (A) before January 1, 1987 (regardless of compliance with the Rehabilitation Act of 1973, and with the Americans with Disabilities Act of 1990. Nothing in section 702 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, are incorporated into this Act and shall be treated as though such provisions are set forth in this subsection. For purposes of this Act or any other Federal law, regulations, or executive order, the relevant school boards of the Bureau funded schools on the reservation may, by mutual consent, establish the relevant attendance areas for Bureau funded schools. Such provisions may be amended or revoked at any time. Nothing in this Act shall require termination of the status of any facility which does not comply with such provisions and which is in use on the date of the enactment of the No Child Left Behind Act of 2001.

(B) COMPLIANCE PLAN.—At the time that the annual budget request for Bureau educational programs is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all facilities covered under subsection (a) of this section into compliance with the standards established under this section. Such plan shall include detailed information on the status of each facility's compliance with any such provisions.

SEC. 1125. FACILITIES CONSTRUCTION.

The Secretary shall establish, by regulation, separate geographical attendance areas for each Bureau funded school unless the tribal governing body or the local school board concerned (if so designated by the tribal governing body) has been afforded at least 6 months notice of the intention of the Bureau to revise or establish such attendance area; and

(B) the opportunity to propose alternative boundaries.

Any tribe may petition the Secretary for revision of existing attendance area boundaries. The Secretary shall accept such proposed alternative boundaries unless the Secretary finds, after consultation with the affected tribe or tribes, that such revised boundaries do not reflect the needs of the Indian students to be served, or do not equally serve all of the affected programs. The Secretary shall cause such revisions to be published in the Federal Register.

SEC. 1126. BOUNDARIES.

The Secretary shall not deny funding to a Bureau funded school for any eligible Indian student attending the school solely because that student's home is located off the reservation. Any such decision or executive decision (as accepted by the tribe) of the reservation served, and those students residing near the reservation shall also receive services from such programs.

SEC. 1127. FACILITIES CONSTRUCTION.

The Secretary shall immediately begin to bring all schools, dormitories, and other Indian education-related facilities operated by the Bureau or under contract or grant with the Bureau into compliance with all applicable Federal, State, or local health and safety standards, whichever provides greater protection (except that the tribal standards to be applied shall be no greater than any otherwise applicable Federal or State standards), with section 504 of the Rehabilitation Act of 1973, and with the Americans with Disabilities Act of 1990. Nothing in this section shall require termination of the operations of any facility which does not comply with such provisions and which is in use on the date of the enactment of the No Child Left Behind Act of 2001.

(B) the opportunity to propose alternative boundaries.
such standards, specific cost estimates for meeting such standards at each school, and specific timelines for bringing each school into compliance with such standards.

(6) acceptances of gifts and bequests.

(a) factors considered; revision to reflect standards—

(1) formula.—The Secretary shall establish, by regulation adopted in accordance with section 553 of title 5, United States Code, a formula for determining the minimum annual amount of funds necessary to sustain each Bureau funded school. The formula shall include:

(1) number of eligible Indian students served and total student population of the school;

(2) special cost factors, such as

(3) the isolation of the school; and

(b) program for operation and maintenance—

(1) establishment.—The Assistant Secretary shall establish a program, including the distribution of appropriated funds, for the operation and maintenance of education facilities.

(2) program and priority of facilities repair and maintenance.—The Assistant Secretary shall establish a program, including the distribution of appropriated funds, for the operation and maintenance of education facilities. Such program shall include:

(1) no reduction in federal funding.—Nothing in this section shall be construed to diminish any Federal funding due to the receipt by the school of funds for facility improvement or construction from a State or any other source.

(2) effect on other list.—Nothing in this section shall be construed as interfering with or changing in any way the construction priority list as of the date of the enactment of the No Child Left Behind Act of 2001.

(3) hazardous condition at bureau school.—

(1) closure or consolidation.—A Bureau funded school may be closed or consolidated, and the programs of a Bureau funded school may be substantially curtailed by reason of plant conditions that constitute an immediate hazard to health and safety only if a health and safety officer of the Bureau determines that such conditions exist at the Bureau funded school.

(2) inspection.—(A) after making a determination described in paragraph (1), the Bureau health and safety officer shall conduct an inspection of such plant and prepare a report for the Assistant Secretary, the Chairman of the House Committee on Appropriations, the Appropriations Committees of the Senate and House of Representatives, and the States. The inspection shall be completed by not later than 30 days after the date on which the action described in paragraph (1) is taken. No further negative action may be taken unless the findings are concurred in by the second, non-Bureau of Indian Affairs inspector. The health and safety condition shall be rechecked at least once a year until the Bureau determines that the conditions no longer exist.

(B) if a Bureau funded school is temporarily closed or consolidated, the programs of a Bureau funded school shall be reconstituted, as appropriate, after the date on which the school is opened, without regard to the period during which the school was closed or consolidated.

(C) if a Bureau funded school is permanently closed or consolidated, the programs of a Bureau funded school shall be eliminated at the end of the fiscal year in which such closure or consolidation is implemented.
(iii) food and housing costs;  
(iv) maintenance and repair costs associated with the physical condition of the educational facilities;  
(v) special transportation and other costs of isolated and small schools;  
(vi) the costs of home-living (dormitory) arrangements, where determined necessary by a tribal governing body or designated school board;  
(vii) costs associated with greater lengths of service by education personnel;  
(viii) special costs to develop therapeutic programs for students requiring such programs; and  
(ix) special costs for gifted and talented students;  
(3) the cost of providing academic services which are at least equivalent to those provided by public schools in the State in which the school is located; and  
(D) such other relevant factors as the Secretary determines are appropriate.

(2) REVISION OF FORMULA.—Upon the establishment of the standards required in sections 1121 and 1122, the Secretary shall revise the formula established under this subsection to reflect the cost of funding such standards. Not later than January 1, 2003, the Secretary shall review the factors under this subsection which shall take such steps as are necessary to increase the availability of counseling and therapeutic programs for students in off-reservation home-schools and other Bureau operated residential facilities. Concurrent with such action, the Secretary shall review the standards established under section 1122 to be certain that adequate provision is made for parental notification regarding, and consent for, such counseling and therapeutic programs.

(b) PRO RATA ALLOTMENT.—Notwithstanding any provision of law, Federal funds appropriated for the general local operation of Bureau funded schools shall be allotted pro rata in accordance with the formula established under this subsection.

(c) ANNUAL ADJUSTMENT; RESERVATION OF AMOUNT FOR SCHOOL BOARD ACTIVITIES.—

(1) ANNUAL ADJUSTMENT.—For fiscal year 2003, and for each subsequent fiscal year, the Secretary shall adjust the formula established under subsection (a) to ensure that the formula does the following:

(A) Uses a weighted unit of 1.2 for each eligible Indian student enrolled in the seventh and eighth grades of the school in considering the number of eligible Indian students served by the school.

(B) Considers a school with an enrollment of less than 50 eligible Indian students as having an average daily attendance of 50 eligible Indian students for purposes of implementing the adjustment factor for small schools.

(C) Takes into account the provision of residential services on less than a 9-month basis at a school when the school board and supervisor of the school determine that a less than 9-month basis is necessary to implement this provision.

(D) Uses a weighted unit of 2.0 for each eligible Indian student that—

(i) is gifted and talented; and  
(ii) is enrolled in the school on a full-time basis, in considering the number of eligible Indian students served by the school.

(E) Uses a weighted unit of 0.25 for each eligible Indian student who is enrolled in a year-long credit course in an Indian or Native language as part of the regular curriculum of a school, in considering the number of eligible Indian students served by such school. The adjustment required under this subparagraph shall be used for such school after—

(i) the certification of the Indian or Native language program by the school board of such school to the Secretary, together with an estimate of the number of full-time students expected to be enrolled in the curriculum in the second school year for which the certification is made; and  
(ii) the funds appropriated for allotment under this subsection are designated by the appropriations Act appropriating such funds as the amount necessary to implement such adjustment at such school without reducing allotments made under this provision to any school by virtue of such adjustment.

(2) RESERVATION OF AMOUNT.—

(A) IN GENERAL.—From the funds allotted in accordance with paragraph (a)(1) and (2) the Secretary shall make grants under subsection (a) for each Bureau school, the local school board of such school may reserve an amount which does not exceed the greater of—

(i) $8,000; or  
(ii) 1 percent of such allotted funds, for school board activities for such school, including (notwithstanding any other provision of law) meeting expenses and the cost of membership in, and support of, organizations engaged in activities on behalf of Indian education.

(B) TRAINING.—Each school board shall see that each new member of the school board receives, within 12 months of the individual’s assuming a position on the school board, 40 hours of training on the individual’s service on the board. Such training may include legal issues pertaining to schools funded by the Bureau, the responsibilities pertaining to school board ethics, and other topics deemed appropriate by the school board.

(3) RESERVATION OF AMOUNT FOR EMERGENCIES.—The Secretary shall reserve from the funds available for distribution for each fiscal year under this section an amount which, in the aggregate, shall equal 1 percent of the funds available for that fiscal year. Such funds shall be used, at the discretion of the Director of the Office of Indian Education Programs, to meet emergencies and unforeseen contingencies affecting the education programs funded under this section. Funds reserved under this subsection may only be expended for education services or programs, including emergency repairs of educational facilities, at a schoolsite (as defined by section 200(c)(2) of the Tribally Controlled Schools Act of 1988). Funds reserved under this subsection shall remain available for expenditure for that fiscal year until expended. However, the aggregate amount available from all fiscal years may not exceed 1 percent of the current year funds. Whenever, at the Secretary’s discretion, the Secretary determines that the aggregates reserved under this subsection are needed, the Secretary shall report the action to the appropriate committees of Congress within the annual budget submission.

(c) ADJUSTMENT OF FORMULA.—Supplemental appropriations enacted to meet increased pay costs attributable to school level personnel shall be distributed under this section.

(d) RESERVATION OF AMOUNT FOR EMERGENCIES.—For the purpose of this section, the term ‘eligible Indian student’ means a student who—

(1) is a member of or is at least one-fourth degree Indian blood descending from an Indian tribe which is eligible for the special programs and services provided by the United States through the Bureau because of their status as Indians;  
(2) resides on or near an Indian reservation or meets the criteria for attendance at a Bureau off-reservation home-living (dormitory) school;  
(3) Tuition and other educational services—

(1) IN GENERAL.—An eligible Indian student may not be charged tuition for attendance at a Bureau school or contract or grant school. A student who is a student under paragraph (2)(C) may not be charged tuition for attendance at such a school.

(2) ATTENDANCE OF NON-INDIAN STUDENTS AT CONTRACT AND GRANT SCHOOLS.—The Secretary may permit the attendance at a Bureau school of a student who is not an eligible Indian student if—

(1) the certification of the Indian or Native language program by the school board of such school to the Secretary, together with an estimate of the number of full-time students expected to be enrolled in the curriculum in the second school year for which the certification is made; and  
(2) the funds appropriated for allotment under this subsection are designated by the appropriations Act appropriating such funds as the amount necessary to implement such adjustment at such school without reducing allotments made under this provision to any school by virtue of such adjustment.

“(A) the Secretary determines that the student’s attendance will not adversely affect the school’s program for eligible Indian students because of cost, overcrowding, or violation of standards or accreditation;  
(B) the school board consents;  
(C) the student is a dependent of a Bureau, Indian Health Service, or tribal government program who lives on or near the reservation; and  
(D) a tuition is paid for the student that is not more than that charged by the nearest public school district for out-of-district students, and shall be in addition to the school’s allocation under this section.

(2) ATTENDANCE OF NON-INDIAN STUDENTS AT CONTRACT AND GRANT SCHOOLS.—The Secretary shall take such steps as are necessary to implement this provision.

(3) TUITION.—A school when the school board and supervisor of the school determine that a less than 9-month basis is necessary to implement this provision.

“(A) students at Richfield Dormitory, Richfield, Utah.—Tuition for out-of-State Indian students in home-living (dormitory) arrangements at the Richfield dormitory in Richfield, Utah, who attend Sevier County high schools in Richfield, Utah, shall be paid from the Indian school equalization program funds appropriated under this subsection, provided that the rate not to exceed the amounts per weighted student unit for that year for the instruction of such students. No additional administrative cost shall be added to these amounts.

‘SEC. 1128. ADMINISTRATIVE COST GRANTS.

(1) GRANTS; EFFECT UPON APPROPRIATED AMOUNTS.—

(1) GRANTS.—Subject to the availability of appropriated funds, the Secretary shall provide grants to each tribe or tribal organization operating a contract school or grant school in the area served by the tribe, to the extent determined by the Secretary in accordance with this section and section 1207 at a rate not to exceed the amounts per weighted student unit for that year for the instruction of such students. No additional administrative cost shall be added to these amounts.

From the funds allotted in fiscal year 2003, the Secretary shall make grants under this subsection to the tribe or tribal organization for the purpose of paying the administrative and indirect costs incurred in operating contract or grant schools to serve eligible Indian students. A grant provided as a stand-alone institution shall receive less than $200,000 per year for these purposes, in order to encourage tribes and tribal organizations operating such schools, without reducing direct program services to the beneficiaries of the program, to provide all related administrative overhead services and operations necessary to meet the requirements of law and prudent management practice; and

 ‘(B) carry out other necessary support functions which would otherwise be performed by the Secretary or other Federal officers or employees, from resources other than direct program funds, in support of comparable Bureau operated programs.

‘(2) EFFECT UPON APPROPRIATED AMOUNTS.—Amounts appropriated to fund the grants provided under this section shall be in addition to, and shall not reduce, the amounts appropriated for the program being administered by the contract or grant school.

‘(B) DETERMINATION OF GRANT AMOUNT.—

(1) IN GENERAL.—The amount of the grant provided to each tribe or tribal organization under this section for each fiscal year shall be determined by applying the administrative cost rate of the Bureau, as determined by the Secretary, to the aggregate of the Bureau elementary and secondary functions operated by the tribe.
or tribal organization for which funds are re-
ceived from or through the Bureau. The admin-
istrative cost percentage rate determined un-
der subsection (c) does not apply to other programs
operated by the tribe or tribal organization.

"(2) DIRECT COST BASE FUNDS.—The Secretary
shall—

(A) reduce the amount of the grant deter-
mined under paragraph (1) to the extent that
payments for administrative costs are actually
received by an Indian tribe or tribal organiza-
tion under any Federal education program in-
cluded in the direct cost base of the tribe or trib-
al organization; and

(B) take such actions as may be necessary to
be reimbursed by the department or agen-
cy of the Federal Government for the portion of
grants made under this section for the costs of
administering any program for Indians that is
funded by other appropriations made to such other
department or agency.

"(c) ADMINISTRATIVE COST PERCENTAGE
RATE.

"(1) IN GENERAL.—For purposes of this sec-
tion, the administrative cost percentage rate for a
contract or grant school for a fiscal year is equal
to the percentage determined by dividing

(A) the sum of—

(ii) the amount equal to—

(I) the standard direct cost base, multiplied
by

(II) the minimum base rate; plus

(ii) the amount equal to—

(I) the standard direct cost base; multiplied
by

(II) the maximum base rate; by

(B) the sum of—

(i) the direct cost base of the tribe or tribal
organization for the fiscal year, plus

(ii) the standard direct cost base.

"(2) Rounding.—The administrative cost per-
centage rate shall be determined to the nearest
decimal point.

"(d) COMBINING FUNDS.

"(1) IN GENERAL.—Funds received by a tribe or
contract or grant school as grants under this
section for tribal elementary or secondary edu-
cational programs may be combined by the tribe
or contract or grant school into a single admin-
istrative cost account without the necessity of
maintaining separate funding source account-
ing.

"(2) INDIRECT COST FUNDS.—Indirect cost
funds for programs at the school which share
common administrative costs with tribal ele-
mentary or secondary educational programs
may be included in the administrative cost ac-
count described in paragraph (1).

"(e) TREATMENT OF FUNDS.—Funds received
as grants under this section with respect to trib-
al elementary or secondary education programs
shall remain available to the contract or grant
school without fiscal year limitation and with-
out diminishing the amount of any grants other-
wise payable to the school under this section for
any fiscal year beginning after the fiscal year for
which the grant is provided.

"(f) TREATMENT OF FUNDS.—Funds received
as grants under this section for Bureau funded
programs operated by a tribe or tribal organiza-
tion which are part of a contract or agreement shall not
be taken into consideration for purposes of indirect
cost under recovery and over recovery determina-
tions by any Federal agency for any other funds,
from whatever source derived.

"(g) TREATMENT OF ENTITY OPERATING OTHER
PROGRAMS.—In applying this section and sec-
tion 105 of the Indian Self-Determination and
Education Assistance Act with respect to an In-
dian tribe or tribal organization that—

(1) receives funds under this section for ad-
mnistration in operating a contract or
grant school or a school operated under
the Tribally Controlled Schools Act of 1988; and

(2) operates one or more other programs
under any Federal department or agency
that provided under the Indian Self-Determination and Education As-

"(h) Administrate the Secretary shall ensure that the Indian tribe
or tribal organization is provided with the full
amount of the administrative costs that are as-
sociated with operating the contract or grant
school. MDN. OF THE BUREAU — The Bureau, funds for major subcontracts, construc-
tion, and other major capital expenditures, and unexpended funds carried over from prior years) shall
cover administrative costs of functions, that are operated directly by a tribe or
tribal organization under a contract, grant, or agreement with the Bureau.

"(8) STUDIES FOR DETERMINATION OF FACTORS
AFFECTING COSTS; BASE RATE LIMITS; STAND-
ARD DIRECT COST BASE; REPORT TO CONGRESS.—

"(1) STUDIES.—Not later than 120 days after
the enactment of the Native American Indian
Education Programs Act of 2001, the Director of the Office of
Intramuscle Education Programs shall—

(A) conduct a study to determine—

(i) a maximum base rate which ensures that
the amount of the grants provided under this
section will provide adequate (but not excessive) funding of the administrative costs of the smallest
tribal elementary or secondary educational programs;

(ii) a minimum base rate which ensures that
the amount of the grants provided under this
section will provide adequate (but not excessive) funding of the administrative costs of the largest
tribal elementary or secondary educational programs;

(iii) a standard direct cost base which is the
average direct cost funding level for which the
percentage determined under subsection (c) will

"(2) GUIDELINES.—The studies required under paragraph (1) shall—

(A) be conducted in full consultation (in
accordance with section 1137) with the
tribes and tribal organizations that are
affected by the application of the formula
set forth in subsection (c); and

(B) be conducted as guidelines for

(i) all national and regional Indian organi-
izations which are common and tribal organi-
izations are typically membership;

(ii) conduct a study of the sample of the tribal elementary or sec-

(iii) take into the availability of the

(iv) be conducted with a representa-

(v) be conducted with the availability

(vi) identify any other incremental cost
factors substantially affecting the costs
of required
administrative cost functions at any of the tribal elementary or secondary educational programs studied and determine whether the factors are of general applicability to other such programs, the Bureau may effectively be incorporated into such formula.

(3) Consultation with Inspector General.—In carrying out the studies required under subsection (b) for such fiscal year by an appropriation to carry out this paragraph, the Director shall, at the input of, and afford an opportunity to participate to, the Inspector General of the Department of the Interior.

(4) Proportion of costs.—The Secretary shall include in the Bureau's justification for each appropriations request beginning in the fiscal year after the completion of the studies conducted under paragraph (1), a proportion of the overall costs associated with the formula set forth in subsection (c) for all tribal elementary or secondary education programs which the Secretary expects to be funded in the fiscal year for which the appropriations are sought.

(5) Determination of program size.—For purposes of section 1126, the size of tribal elementary or secondary education programs which the Secretary expects to be funded in the fiscal year for which the appropriations are sought.

(6) Proportion of costs.—The Secretary shall include in the Bureau's justification for each appropriations request beginning in the fiscal year after the completion of the studies conducted under paragraph (1), a proportion of the overall costs associated with the formula set forth in subsection (c) for all tribal elementary or secondary education programs which the Secretary expects to be funded in the fiscal year for which the appropriations are sought.

(7) Determination of program size.—For purposes of section 1126, the size of tribal elementary or secondary education programs which the Secretary expects to be funded in the fiscal year for which the appropriations are sought.

(8) Proportion of costs.—The Secretary shall include in the Bureau's justification for each appropriations request beginning in the fiscal year after the completion of the studies conducted under paragraph (1), a proportion of the overall costs associated with the formula set forth in subsection (c) for all tribal elementary or secondary education programs which the Secretary expects to be funded in the fiscal year for which the appropriations are sought.

(b) Establishment of system and formula for direct funding and support.

(1) In general.—The Secretary shall establish, by regulation adopted in accordance with section 1138, a system for the direct funding and support of all Bureau funded schools. Such system shall include in the input of, and afford an opportunity to participate to, the Inspector General of the Department of the Interior.

(2) Availability of funds.—For the purposes of affording adequate notice of funding available pursuant to the allotments made under section 1127 for any fiscal year, the amounts appropriated in accordance with this paragraph shall become available for obligation by the affected schools on July 1 of the fiscal year in which such appropriation becomes available and without further action by the Secretary, and shall remain available for obligation through the succeeding fiscal year.

(3) Limitation.—(A) Notwithstanding any other provision of law or regulation, the supervisor of a Bureau funded school may expend an aggregate of not more than $50,000 of such appropriated funds to meet needs not foreseen at the time of preparation of the financial plan.

(4) The Secretary shall, on the basis of the amount appropriated in accordance with this paragraph,

(i) publish, not later than July 1 of the fiscal year for which the funds are appropriated, allotments to each affected school made under section 1127 of 85 percent of such appropriation; and

(ii) publish, not later than September 30 of such fiscal year, the allotments to be made under section 1127 of the remaining 15 percent of such appropriation as required to reflect the actual student attendance.

(B) In the case of all Bureau operated schools, allotted funds shall be expended on the basis of financial plans for expenditure of funds which ensure meeting the accreditation requirements.

(C) The Director shall be responsible for delivering the amounts determined under subsection (b) for such fiscal year by an appropriation to carry out this paragraph, and shall be responsible for the provision of guidelines on the use of such funds.

(5) Use of funds.—The Secretary shall use the annual report required by subsection (c) when preparing their annual budget submissions.

(6) Annual reports.—Not later than the date that the Assistant Secretary for Indian Affairs makes the annual budget submission, for each fiscal year after the date of the enactment of the No Child Left Behind Act of 2001, the Director of the Office shall submit to the appropriate committees of Congress (including the Appropriations committees), all Bureau funded schools, and the tribal governing bodies of such schools, a report which shall contain—

(1) projections, based upon the information gathered pursuant to subparagraph (b) and any other relevant information, of amounts necessary to provide Indian students in Bureau funded schools the educational program set forth in this paragraph, and

(2) a description of the methods and formulas used to calculate the amounts projected pursuant to paragraph (1); and

(3) such other information as the Director of the Office considers appropriate.

(7) Use of reports.—The Director of the Office and the Assistant Secretary for Indian Affairs shall use the annual report required by subsection (c) when preparing their annual budget submissions.

SEC. 1130. UNIFORrn DIRECT FUNDING AND SUPPORT.

(1) Establishment of system and formula for direct funding and support.

(a) In general.—The Secretary shall establish, by regulation adopted in accordance with section 1138, a system for the direct funding and support of all Bureau funded schools. Such system shall include an input of, and afford an opportunity to participate to, the Inspector General of the Department of the Interior.

(b) Availability of funds.—For the purposes of affording adequate notice of funding available pursuant to the allotments made under section 1127 for any fiscal year, the amounts appropriated in accordance with this paragraph shall become available for obligation by the affected schools on July 1 of the fiscal year in which such appropriation becomes available and without further action by the Secretary, and shall remain available for obligation through the succeeding fiscal year.

(c) Limitation.—(A) Notwithstanding any other provision of law or regulation, the supervisor of a Bureau funded school may expend an aggregate of not more than $50,000 of such appropriated funds to meet needs not foreseen at the time of preparation of the financial plan.

(B) The Secretary shall, on the basis of the amount appropriated in accordance with this paragraph,

(i) publish, not later than July 1 of the fiscal year for which the funds are appropriated, allotments to each affected school made under section 1127 of 85 percent of such appropriation; and

(ii) publish, not later than September 30 of such fiscal year, the allotments to be made under section 1127 of the remaining 15 percent of such appropriation as required to reflect the actual student attendance.

(C) The Director shall be responsible for delivering the amounts determined under subsection (b) for such fiscal year by an appropriation to carry out this paragraph, and shall be responsible for the provision of guidelines on the use of such funds.

(d) Use of reports.—The Director of the Office and the Assistant Secretary for Indian Affairs shall use the annual report required by subsection (c) when preparing their annual budget submissions.

(2) Use of reports.—The Director of the Office and the Assistant Secretary for Indian Affairs shall use the annual report required by subsection (c) when preparing their annual budget submissions.

(3) Limitation.—(A) Notwithstanding any other provision of law or regulation, the supervisor of a Bureau funded school may expend an aggregate of not more than $50,000 of such appropriated funds to meet needs not foreseen at the time of preparation of the financial plan.

(B) The Secretary shall, on the basis of the amount appropriated in accordance with this paragraph,

(i) publish, not later than July 1 of the fiscal year for which the funds are appropriated, allotments to each affected school made under section 1127 of 85 percent of such appropriation; and

(ii) publish, not later than September 30 of such fiscal year, the allotments to be made under section 1127 of the remaining 15 percent of such appropriation as required to reflect the actual student attendance.

(C) The Director shall be responsible for delivering the amounts determined under subsection (b) for such fiscal year by an appropriation to carry out this paragraph, and shall be responsible for the provision of guidelines on the use of such funds.

(D) The Secretary shall use the annual report required by subsection (c) when preparing their annual budget submissions.

(4) Use of reports.—The Director of the Office and the Assistant Secretary for Indian Affairs shall use the annual report required by subsection (c) when preparing their annual budget submissions.

(5) Use of reports.—The Director of the Office and the Assistant Secretary for Indian Affairs shall use the annual report required by subsection (c) when preparing their annual budget submissions.

(6) Use of reports.—The Director of the Office and the Assistant Secretary for Indian Affairs shall use the annual report required by subsection (c) when preparing their annual budget submissions.

(7) Use of reports.—The Director of the Office and the Assistant Secretary for Indian Affairs shall use the annual report required by subsection (c) when preparing their annual budget submissions.

(8) Use of reports.—The Director of the Office and the Assistant Secretary for Indian Affairs shall use the annual report required by subsection (c) when preparing their annual budget submissions.

(9) Use of reports.—The Director of the Office and the Assistant Secretary for Indian Affairs shall use the annual report required by subsection (c) when preparing their annual budget submissions.

(10) Use of reports.—The Director of the Office and the Assistant Secretary for Indian Affairs shall use the annual report required by subsection (c) when preparing their annual budget submissions.
Bureau unless such services are provided in accordance with a plan, agreed to by the tribe or tribes affected and the Bureau, under which control of education programs is intended to be transferred to the Bureau. Such agreement shall not be construed so as to require equal expenditures or result in any other provision of law, funds authorized under this Act, or funds received by a Bureau funded school under this Act, to result in that position remaining vacant.

"(B) that a local school board shall have the authority to waive on a case-by-case basis, any formal education or degree qualifications established by any other provision of law, funds authorized under this Act, or funds received by a Bureau funded school under this Act, if the school board finds that such a person might be beneficial to the Bureau and to the education program of the Bureau, or that such a person would be beneficial to the Bureau and to the education program of the Bureau, or that such a person might be beneficial to the education program of the Bureau.

"(C) that it shall not be a prerequisite to the employment of an individual under this Act, that the individual meet any education qualifications established by any other provision of law, funds authorized under this Act, or funds received by a Bureau funded school under this Act.

"(D) that before an individual may be employed in an education position in a school under this Act, the agency superintendent for education shall require the individual to meet any education qualifications established by any other provision of law, funds authorized under this Act, or funds received by a Bureau funded school under this Act.

Any individual who applies to the Bureau for an education position shall be required to meet any education qualifications established by any other provision of law, funds authorized under this Act, or funds received by a Bureau funded school under this Act, if the school board finds that such a person might be beneficial to the Bureau and to the education program of the Bureau, or that such a person would be beneficial to the Bureau and to the education program of the Bureau, or that such a person might be beneficial to the education program of the Bureau.

The Secretary may authorize the agency superintendent for education to authorize the employment of an individual under this Act, if the agency superintendent for education finds that the individual meets any education qualifications established by any other provision of law, funds authorized under this Act, or funds received by a Bureau funded school under this Act, if the school board finds that such a person might be beneficial to the Bureau and to the education program of the Bureau, or that such a person would be beneficial to the Bureau and to the education program of the Bureau, or that such a person might be beneficial to the education program of the Bureau.

The Secretary may authorize the agency superintendent for education to authorize the employment of an individual under this Act, if the agency superintendent for education finds that the individual meets any education qualifications established by any other provision of law, funds authorized under this Act, or funds received by a Bureau funded school under this Act, if the school board finds that such a person might be beneficial to the Bureau and to the education program of the Bureau, or that such a person would be beneficial to the Bureau and to the education program of the Bureau, or that such a person might be beneficial to the education program of the Bureau.

Any individual who applies to the Bureau for an education position shall be required to meet any education qualifications established by any other provision of law, funds authorized under this Act, or funds received by a Bureau funded school under this Act, if the school board finds that such a person might be beneficial to the Bureau and to the education program of the Bureau, or that such a person would be beneficial to the Bureau and to the education program of the Bureau, or that such a person might be beneficial to the education program of the Bureau.

Any individual who applies to the Bureau for an education position shall be required to meet any education qualifications established by any other provision of law, funds authorized under this Act, or funds received by a Bureau funded school under this Act, if the school board finds that such a person might be beneficial to the Bureau and to the education program of the Bureau, or that such a person would be beneficial to the Bureau and to the education program of the Bureau, or that such a person might be beneficial to the education program of the Bureau.

The Secretary may authorize the agency superintendent for education to authorize the employment of an individual under this Act, if the agency superintendent for education finds that the individual meets any education qualifications established by any other provision of law, funds authorized under this Act, or funds received by a Bureau funded school under this Act, if the school board finds that such a person might be beneficial to the Bureau and to the education program of the Bureau, or that such a person would be beneficial to the Bureau and to the education program of the Bureau, or that such a person might be beneficial to the education program of the Bureau.
(D) The establishment of rates of basic compensation and annual salary rates under subparagraphs (B) and (C) shall not affect the continued employment or compensation of an educator employed in such school on October 31, 1979, and who did not make an election under subsection (p) in effect on January 1, 1990.

(3) INDIAN PREFERENCE LAW DEFINED.—The term ‘Indian preference laws’ means section 12 of the Act of June 18, 1934 (25 U.S.C. 1311), or any other provision of law granting a preference to Indians in promotions and other personnel actions. Such term shall not include section 7(b) of the Indian Self-Determination and Education Assistance Act.

(4) COMPENSATION OR ANNUAL SALARY.—(1) IN GENERAL.—(A) Except as otherwise provided in this section, the Secretary shall set the basic compensation for educators and education positions at rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5, United States Code, is applicable or on the basis of the Federal Wage System schedule in effect for the locality, and, if applicable, the rates of compensation in effect for the senior executive service.

(B) The Secretary shall establish the rate of basic compensation, or annual salary rates, for the positions of teachers and counselors (including dormitory counselors and home-living counselors) at the rates of basic compensation applicable (as determined by the Secretary) from the Act of November 28, 1970 (the ‘Indian Child Left Behind Act of 1970 and thereafter’) to comparable positions in the overseas schools under the Defense Department Overseas Teachers Pay Act. The Secretary shall allow the local school boards authority to implement only the aspects of the Defense Department Overseas Teachers Pay Act considered essential for recruitment and retention. Implementation of such provisions shall not be construed to require the implementation of the Act in its entirety.

(C)(i) Beginning with the fiscal year following the date of the enactment of the No Child Left Behind Act of 2001, each school board may set the rate of compensation or annual salary rate for teachers and counselors (including academic counselors) who are new hires at the school and who have not worked at the school over a period of probation or this provision, at rates consistent with the rates paid for individuals in the same positions, with the same tenure and training, in any other school within the same school district, or, in instances where the adoption of such rates cause a reduction in the payment of compensation from that which was in effect for the fiscal year following the date of the enactment of the No Child Left Behind Act of 2001, the new rate may be applied to the compensation of employees of the school who worked at the school on or before the date that the new rate is to take effect, provided that the Secretary, after considering the rates established under this paragraph, determines that the new rate would encourage the implementation of the Act in its entirety.

(ii) The Secretary or the supervisor of a Bureau school may discontinue or decrease a post-differential rate not to exceed 5 percent and affects the recruitment or retention of employees at the school if—

(II) less than 5 percent and affects the recruitment or retention of employees at the school if—

(1) The local school board requests that such differential be discontinued or decreased;

(II) The Secretary or the supervisor determines that the establishment of rates or revisions of those reasons) that certain of the requests post-differentials should be disapproved or decreased because there is no disparity of compensation for the involved employees or positions in the Bureau school, as compared with the nearest public school, that is—

(1) at least 5 percent and affects the recruitment or retention of employees at the school if—

(ii) Beginning with the fiscal year following the date of the enactment of the No Child Left Behind Act of 2001, each school board may set the rate of compensation or annual salary rate for teachers and counselors (including academic counselors) who are new hires at the school and who have not worked at the school over a period of probation or this provision, at rates consistent with the rates paid for individuals in the same positions, with the same tenure and training, in any other school within the same school district, or, in instances where the adoption of such rates cause a reduction in the payment of compensation from that which was in effect for the fiscal year following the date of the enactment of the No Child Left Behind Act of 2001, the new rate may be applied to the compensation of employees of the school who worked at the school on or before the date that the new rate is to take effect, provided that the Secretary, after considering the rates established under this paragraph, determines that the new rate would encourage the implementation of the Act in its entirety.

(iii) The Secretary or the supervisor of a Bureau school may discontinue or decrease a post-differential rate not to exceed 5 percent and affects the recruitment or retention of employees at the school if—

(1) The local school board requests that such differential be discontinued or decreased;

(II) The Secretary or the supervisor determines that the establishment of rates or revisions of those reasons) that certain of the requests post-differentials should be disapproved or decreased because there is no disparity of compensation for the involved employees or positions in the Bureau school, as compared with the nearest public school, that is—

(1) at least 5 percent and affects the recruitment or retention of employees at the school if—

(iv) On or before February 1 of each year, the Secretary shall submit to Congress a report describing the requests and grants of authority under this subparagraph during the previous year and listing the positions contracted under those grants of authority.

(3)(II) the increase is applied in three equal instalments.

(ii) the increase occurs in its entirety; or

(IV) the increase is applied in three equal instalments.

(II) The establishment of rates of basic compensation and annual salary rates under subparagraphs (B) and (C) shall not affect the continued employment or compensation of an educator employed in such school on October 31, 1979, and who did not make an election under subsection (p) in effect on January 1, 1990.

(5) INELIGIBILITY FOR EMPLOYMENT OF VOLUNTARILY TERMINATED EDUCATORS.—An educator who voluntarily terminates his employment with the Bureau before the expiration of the existing employment contract between such educator and the Bureau shall not be eligible to be employed in another education position with the Bureau during the remainder of the term of such contract.
(k) DUAL COMPENSATION.—In the case of any educator employed in an education position described in subsection (l)(1)(A) who—

(1) is employed at the close of a school year;

(2) elects to be employed at the time the Bureau posts a vacancy in such position for the next school year; and

(3) is employed in another position during the recess period immediately preceding such next school year, such educator shall receive additional compensation referred to in section 5333 of title 5, United States Code, relating to dual compensation.

(b) MPRATION OF PAY.—

(1) ELECTION OF EMPLOYEE.—Notwithstanding any other provision of law, including laws authorizing compensation for educators paid at the same rate, the school at the election of the employee, shall prorate the salary of an employee employed in an education position for the academic school year of such school year. Each educator employed for the academic school year shall annually be paid on a 12-month basis or for those months while school is in session.

(2) CHANGE OF ELECTION.—During the course of such year the employee may change election once.

(c) LUMP SUM PAYMENT.—That portion of the employee's pay which would be paid between academic school years may be paid in a lump sum at the election of the employee.

(4) DEFINITIONS.—For purposes of this subsection, the terms "educator" and "education position" have the meanings contained in paragraphs (1) and (2) of subsection (a). This subsection shall apply only to individuals employed under the provisions of section 1132 of this title or title 5, United States Code.

(n) EXTRACURRICULAR ACTIVITIES.—Notwithstanding any other provision of law, the Secretary may, for Bureau employees, provide educational or other instructional programs, because of such election. If an employee elects not to be compensated under section 1132 of this title or title 5, United States Code, and chapter 171 of title 5, United States Code, the appropriate provisions of title 5, United States Code, and chapter 171 of title 5, United States Code, shall apply.

(3) APPLICABILITY OF SUBSECTION.—This subsection shall apply with respect to any educator hired after November 1, 1979, and to any educator who elected for coverage under that provision after November 1, 1979, and to the position in which such individual is employed. The enactment of this section shall not affect the continued employment of an individual employed on October 31, 1979 in an education position, or such person's right to receive the compensation attached to such position.

SEC. 1133. COMPUTERIZED MANAGEMENT INFORMATION SYSTEM.

(a) ESTABLISHMENT OF SYSTEM.—Not later than July 1, 2003, the Secretary shall establish within the Office, a computerized management information system, which shall provide processing and information to the Office. The information provided shall include information regarding—

(1) student enrollment;

(2) curriculum;

(3) staffing;

(4) facilities;

(5) community demographics;

(6) student assessment information;

(7) information on the administrative and program costs attributable to each Bureau program, divided into discreet elements;

(8) relevant reports;

(9) personnel records;

(10) finance and payroll; and

(11) such other items as the Secretary deems appropriate.

(b) IMPLEMENTATION OF SYSTEM.—Not later than July 1, 2003, the Secretary shall complete implementation of such a system at each field office and Bureau funded school.

SEC. 1134. UNIFORM EDUCATION PROCEDURES AND PRACTICES.

"The Secretary shall cause the various divisions of the Bureau to formulate uniform procedures and practices with respect to such concerns of divisions as relate to education, and shall report such practices and procedures to the Congress."

SEC. 1135. RECRUITMENT OF INDIAN EDUCATORS.

"The Secretary shall institute a policy for the recruitment of qualified Indian educators and a detailed plan to promote employees from within the Bureau. Such plan shall include opportunities for acquiring work experience prior to actual work assignment."

SEC. 1136. BIENNIAL REPORT; AUDITS.

(a) BIENNIAL REPORTS.—The Secretary shall submit to each appropriate committee of Congress, all Bureau funded schools, and the tribal governing bodies of such schools, a detailed biennial report on the state of education within the Bureau. Such report shall include information on such topics as Indian self-determination, the extent of Indian education during the 2-year period covered by the report, and the extent of Indian education facilities.

(b) AUDITS.—The various divisions of the Bureau and the tribes shall conduct such audits as are necessary to ensure the accuracy and completeness of such reports.

SEC. 1137. RIGHTS OF INDIAN STUDENTS.

"The Secretary shall prescribe such rules and regulations as are necessary to ensure the protection of the legal rights and civil liberties of students attending Bureau funded schools, including such students' right to privacy under the laws of the United States, their rights to freedom of religion, and such students' right to due process in connection with disciplinary actions, suspensions, and expulsions."

SEC. 1138. REGULATIONS.

(a) IN GENERAL.—The Secretary is authorized to issue only such regulations as are necessary to ensure compliance with the specific provisions of this Act. The Secretary is authorized to publish proposed regulations in the Federal Register, shall provide a period of not less than 90 days for public comment thereon, and shall place in parentheses after each regulatory section the citation to any statutory or other legal authority upon which authorization is based.

SEC. 1138A. REGIONAL MEETINGS AND NEGOTIATED RULEMAKING.

(a) MEETINGS.—

(1) IN GENERAL.—The Secretary shall provide for a representative discussion and exchange of information concerning the implementation of this part and theTribe ally Controlled Schools Act of 1978 through such mechanisms as regional meetings.

(b) ISSUES.—The Secretary shall provide for a representative discussion and exchange of information concerning the implementation of this part and the Triibally Controlled Schools Act of 1978 through such mechanisms as regional meetings. The Secretary shall take into account the information received through such mechanisms in the

SEC. 1139. WITNESS OF INDIAN STUDENTS.

"The Secretary shall prescribe such rules and regulations as are necessary to ensure the protection of the legal rights and civil liberties of students attending Bureau funded schools, including such students' right to privacy under the laws of the United States, their rights to freedom of religion, and such students' right to due process in connection with disciplinary actions, suspensions, and expulsions."

SEC. 1138. REGULATIONS.

(a) IN GENERAL.—The Secretary is authorized to issue only such regulations as are necessary to ensure compliance with the specific provisions of this Act. The Secretary is authorized to publish proposed regulations in the Federal Register, shall provide a period of not less than 90 days for public comment thereon, and shall place in parentheses after each regulatory section the citation to any statutory or other legal authority upon which authorization is based.

SEC. 1138A. REGIONAL MEETINGS AND NEGOTIATED RULEMAKING.

(a) MEETINGS.—

(1) IN GENERAL.—The Secretary shall provide for a representative discussion and exchange of information concerning the implementation of this part and theTribe ally Controlled Schools Act of 1978 through such mechanisms as regional meetings.

(b) ISSUES.—The Secretary shall provide for a representative discussion and exchange of information concerning the implementation of this part and the Triibally Controlled Schools Act of 1978 through such mechanisms as regional meetings. The Secretary shall take into account the information received through such mechanisms in the
development of proposed regulations and shall publish a summary of such information in the Federal Register together with such proposed regulations.

(b) Final Regulations.

(1) IN GENERAL.—After obtaining the advice and recommendations described in subsection (a), the Secretary shall prepare final regulations implementing this part and the Tribally Controlled Schools Act of 1968 and shall submit such regulations to a negotiated rulemaking process. Participants in the negotiations process shall be chosen by the Secretary from individuals nominated by the entities described in subsection (a)(1). To the maximum extent possible, the Secretary shall ensure that the tribal representative membership chosen pursuant to the preceding sentence reflects the proportionate share of students from tribes served by the Bureau funded school system. The negotiation process shall be conducted in a timely manner in order that the final regulations may be issued by the Secretary no later than 18 months after the enactment of this section.

(2) NOTIFICATION TO CONGRESS.—If draft regulations implementing this part and the Tribally Controlled Schools Act of 1968 that are promulgated after the date of enactment of this section shall be subject to a negotiated rulemaking process (including the selection of the regulations to be negotiated), unless the Secretary determines that applying such a requirement with respect to given regulations is impracticable, unnecessary, or contrary to the public interest (within the meaning of section 553(b)(3)(B) of title 5), and publishes the basis for such determination in the Federal Register at the same time as the proposed regulations in question are first published. All published proposed regulations shall conform to agreements resulting from such negotiated rulemaking unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants in such process why the Secretary has decided to depart from such agreement. Such negotiations will be conducted in accordance with the provisions of subsection (a), and the Secretary shall ensure that a clear and reliable record of agreements reached during the negotiation process is maintained.

(c) Applicability of Federal Advisory Committee Act.—The Federal Advisory Committee Act shall apply to activities carried out under this section.

SEC. 1139. EARLY CHILDHOOD DEVELOPMENT PROGRAM.

(a) IN GENERAL.—The Secretary shall provide grants to tribes, tribal organizations, and consortia of tribes and tribal organizations to fund the development of early childhood programs that are operated by such tribes, organizations, or consortia.

(b) AMOUNT OF GRANTS.—(1) IN GENERAL.—The total amount of the grants provided under subsection (a) with respect to each tribe, tribal organization, or consortium of tribes and tribal organizations shall be equal to the amount which, pursuant to the preceding sentence reflects the proportionate share of students from tribes eligible to receive such funds; or

(ii) by one or more tribes that have a combined total membership of less than 500 members; or

(iii) to any consortium composed of tribes, or tribal organizations authorized by tribes, that have a combined total tribal membership of less than 500 members.

(c) APPLICATION.

(1) IN GENERAL.—A grant may be provided under subsection (a) to any tribe that has less than 500 members;

(B) to any tribal organization which is authorized—

(i) by only one tribe that has less than 500 members; or

(ii) by one or more tribes that have a combined total membership of less than 500 members; or

(iii) to any consortium composed of tribes, or tribal organizations authorized by tribes, that have a combined total tribal membership of less than 500 members.

(d) REQUIREMENT OF PROGRAMS FUNDING.

The early childhood development programs that are funded by grants provided under subsection (a)—

(i) shall coordinate existing programs and may provide services that meet identified needs of parents and children under 6 years of age which are not being met by existing programs, including—

(A) prenatal care;

(B) nutrition education;

(C) health education and screening;

(D) family literacy services;

(E) educational testing; and

(F) other educational programs;

(ii) may include instruction in the language, art, and culture of the tribe; and

(iii) shall provide for periodic assessment of the program.

(e) COORDINATION OF FAMILY LITERACY PROGRAMS.—Family literacy programs operated under this section shall coordinate such programs operated by the Bureau of Indian Affairs shall be coordinated with family literacy programs for Indian children under part B of title I of the Elementary and Secondary Education Act of 1965 in order to avoid duplication and to encourage the dissemination of information on quality family literacy programs serving Indians.

(f) ADMINISTRATIVE COSTS.—The Secretary shall, out of funds appropriated under subsection (g), include in the grants provided under subsection (a) amounts for administrative costs incurred by the tribe, tribal organization, or consortium of tribes in establishing and maintaining the early childhood development program.

(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the provisions of this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003, 2004, 2005, and 2006.

SEC. 1140. TRIBAL DEPARTMENTS OR DIVISIONS.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall provide grants and technical assistance to tribes for the development and operation of tribal departments of education for the purpose of planning and coordinating all educational programs of the tribe.

(b) GRANTS.—Grants provided under this section shall—

(1) be based on applications from the governing body of the tribe;

(2) reflect factors such as geographic and population diversity;

(3) facilitate tribal control in all matters related to the education of Indian children on Indian reservations (and on former Indian reservations in Oklahoma).

(4) provide for the development of coordinated educational programs on Indian reservations (and on former Indian reservations in Oklahoma) (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) by encouraging tribal administrative support of all Bureau funded educational programs as well as encouraging tribal cooperation and coordination with all educational programs receiving financial support from State agencies, other Federal agencies, or private entities;

(5) provide for the development and enforcement of federal, tribal, and local educational policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs; and

(6) otherwise comply with regulations for grants under section 103(a) of the Indian Self- Determination and Education Assistance Act that are in effect on the date that application for such grants are made.

(c) PRIORITIES.

(1) IN GENERAL.—In making grants under this section, the Secretary shall give priority to applications that—

(A) includes assurances from the majority of Bureau funded schools located within the boundaries of the reservation of the applicant that the tribal department of education to be funded under this section will provide coordinating services and technical assistance to all of such schools, including the submission to each applicable agency of a unified application for funding all of such schools which provides that—

(i) no administrative costs other than those attributable to the individual programs of such schools will be associated with the unified application; and

(ii) the distribution of all funds received under the unified application will be equal to the amount of funds provided by the applicable agency to which each of such schools is entitled under such law;

(B) includes assurances from the tribal governing body that the tribal department of education funded under this section will administer all contracts or grants (except those covered by the other provisions of this title and the Tribally Controlled Community College Assistance Act of 1978) for education programs administered by the tribe and will coordinate all of the programs to the greatest extent possible;

(C) includes assurances for the monitoring and auditing by or through the tribal department of education of all contracts or grants (except those covered by the other provisions of this title and the Tribally Controlled Community College Assistance Act of 1978) for education programs administered by the tribe and will coordinate all of the programs to the greatest extent possible;

(D) provides a plan and schedule for—

(i) the assumption over the term of the grant by the tribal department of education of all assets and functions of the Bureau agency office responsible for those responsibilities related to education; and

(ii) the termination by the Bureau of such operations and office at the time of such assurance except that when mutually agreeable between the tribal governing body and the Assistant Secretary, the period in which such assumption is
to occur may be modified, reduced, or extended after the initial year of the grant.

(2) **TIME PERIOD OF GRANT.**—Subject to the availability of appropriated funds, grants provided under this section shall continue for a period of 3 years and the grant may, if performance by the grantee is satisfactory to the Secretary, be renewed for additional 3-year terms.

(b) **IN GENERAL.**—The Secretary shall provide financial assistance for its operation under a contract, grant or agreement with the Bureau under section 202, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act, or under the Tribally Controlled Schools Act of 1988.

(c) **EDUCATION LINE OFFICER.**—The term 'education line officer' means education personnel under the supervision of the Director, whether located in the central, area, or agency offices.

(7) **FAMILY LITERACY SERVICES.**—The term 'family literacy services' has the meaning given that term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8101).

(8) **FINANCIAL PLAN.**—The term 'financial plan' means a plan of services provided by each Bureau school.

(9) **ORGANIZATION.**—The term 'Indian organization' means any group, association, partnership, corporation, or other legal entity owned or controlled by a federally recognized Indian tribe or tribal organization, or an entity serving a substantial number of members of federally recognized tribes.

(10) **LOCAL EDUCATIONAL AGENCY.**—The term 'local educational agency' includes agencies serving a school district located within a State, and includes any State agency which directly operates and maintains facilities for providing free public education.

(11) **LOCAL SCHOOL BOARD.**—The term 'local school board', when used with respect to a Bureau school, means the body chosen in accordance with the laws of the tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that if the school serving a substantial number of students from different tribes, the members shall be appointed by the governing bodies of the tribes affected, and the number of such members shall be determined by the Secretary in consultation with the affected tribes.

(12) **OFFICE.**—The term 'Office' means the Office of Indian Education Programs within the Bureau.

(13) **SECRETARY.**—The term 'Secretary' means the Secretary of the Interior.

(14) **SUPERVISOR.**—The term 'supervisor' means the individual in the position of ultimate authority at a Bureau school.

(15) **TRIBAL GOVERNING BODY.**—The term 'tribal governing body' means, with respect to any school, the tribal governing body, or tribal governing bodies, that represent at least 90 percent of the students served by such school.

(16) **TRIBAL SELF-GOVERNMENT.**—The term 'tribal self-governance' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native entity, that is a government as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided under this part rather than continuing as contract school.

**SEC. 1141. DEFINITIONS.**

For the purposes of this part, unless otherwise specified:

(1) **AGENCY SCHOOL BOARD.**—The term 'agency school board' means a body, the members of which are appointed by all of the school boards of the schools located within an agency, including schools operated under contract or grant, and the number of such members shall be determined by the Secretary in consultation with the affected tribes. In agencies serving a single school, the school board of such school shall fulfill these duties, and in agencies having schools in a school operated under contract or grant, one such member at least shall be from such a school.

(2) **BUREAU.**—The term 'Bureau' means the Bureau of Indian Affairs of the Department of the Interior.

(3) **BUREAU FUNDED SCHOOL.**—The term 'Bureau funded school' means:

(A) a Bureau school;

(B) a contract or grant school; or

(C) a school for which assistance is provided under the Tribally Controlled Schools Act of 1988.

(4) **BUREAU SCHOOL.**—The term 'Bureau school' means a Bureau operated elementary or secondary day or boarding school or a Bureau operated dormitory for students attending a school other than a Bureau school.

(5) **CONTRACT OR GRANT SCHOOL.**—The term 'contract or grant school' means an elementary or secondary school or dormitory which receives financial assistance for its operation under a contract, grant or agreement with the Bureau under section 202, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act, or under the Tribally Controlled Schools Act of 1988.

(6) **EDUCATION LINE OFFICER.**—The term 'education line officer' means education personnel under the supervision of the Director, whether located in the central, area, or agency offices.

(7) **FAMILY LITERACY SERVICES.**—The term 'family literacy services' has the meaning given that term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8101).

(8) **FINANCIAL PLAN.**—The term 'financial plan' means a plan of services provided by each Bureau school.

(9) **LOCAL EDUCATIONAL AGENCY.**—The term 'local educational agency' includes agencies serving a school district located within a State, and includes any State agency which directly operates and maintains facilities for providing free public education.

(10) **LOCAL SCHOOL BOARD.**—The term 'local school board', when used with respect to a Bureau school, means the body chosen in accordance with the laws of the tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that if the school serving a substantial number of students from different tribes, the members shall be appointed by the governing bodies of the tribes affected, and the number of such members shall be determined by the Secretary in consultation with the affected tribes.

(11) **OFFICE.**—The term 'Office' means the Office of Indian Education Programs within the Bureau.

(12) **SECRETARY.**—The term 'Secretary' means the Secretary of the Interior.

(13) **SUPERVISOR.**—The term 'supervisor' means the individual in the position of ultimate authority at a Bureau school.

(14) **TRIBAL GOVERNING BODY.**—The term 'tribal governing body' means, with respect to any school, the tribal governing body, or tribal governing bodies, that represent at least 90 percent of the students served by such school.

(15) **TRIBAL SELF-GOVERNMENT.**—The term 'tribal self-governance' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native entity, that is a government as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided under this part rather than continuing as contract school.
“(2) NONSECTARIAN USE.—Funds provided under any grant made under this part may not be used in connection with religious worship or sectarian instruction.

(3) ADMINISTRATIVE COSTS LIMITATION.—Funds provided under any grant under this part may not be expended for administrative costs (as defined in section 1128(h)(1) of the Education Amendments of 1978) in excess of the amount generated for such costs under section 1128 of such Act.

(4) LIMITATION ON TRANSFER OF FUNDS AMONG SCHOOLS—

“(1) IN GENERAL.—In the case of a grantee that operates schools at more than one schoolsite the Secretary may expend not more than the lesser of—

(A) 10 percent of the funds allocated for such schoolsite under section 1128 of the Education Amendments of 1978; or

(B) $400,000 of such funds, at any other schoolsite.

(2) DEFINITION OF SCHOOLSITE.—For purposes of this subsection, the term ‘schoolsite’ means the physical location and the facilities of an elementary or secondary educational or residential program operated by, or under contract or grant with, the Bureau for which a discrete student count is identified under the funding formula established under section 1127 of the Education Amendments of 1978.

(5) NO REQUIREMENT TO ACCEPT GRANTS.—Nothing in this part may be construed—

“(1) to require a tribe or tribal organization to apply for or accept, a grant under this part to plan, conduct, and administer all of, or any portion of, any Bureau program, such applications and the timing of such applications shall be strictly voluntary.

Nothing in this part may be construed as allowing or requiring any grant with any entity other than in the terms of the grant thereto.

(e) NO EFFECT ON FEDERAL RESPONSIBILITY.—Grants provided under this part shall not terminate, modify, suspend, or reduce the responsibility of the Federal Government to provide a program.

(f) RETROCESSION.—

“(1) IN GENERAL.—Whenever a tribal governing body requests retrocession of any program for which assistance is provided under this part, such retrocession shall become effective upon the date on which the Secretary and the grantee agree that the grant is not later than 120 days after the date on which the tribal governing body requests the retrocession.

A later date as may be specified if mutually agreeable to the Secretary and the tribal governing body. If such a program is retroceded, the Secretary shall provide to any Indian tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of funding provided under this part prior to the retrocession.

“(2) TRANSFER AFTER RETROCESSION.—The tribe requesting retrocession shall specify whether the retrocession is to status as a Bureau operated school or as a school operated under contract under title XI of the Education Amendments of 1978.

(3) TRANSFER OF EQUIPMENT AND MATERIALS.—Except as otherwise determined by the Secretary, the tribe or tribal organization operating the program to be retroceded must transfer to the Secretary (or to the tribe or tribal organization which will operate the program as a contract school) all the existing equipment and materials which were acquired—

“(A) with assistance under this part; or

(B) as a result of the operation of the program under this part if the school was a Bureau funded school under title XI of the Education Amendments of 1978 before receiving assistance under this part.

(g) PROHIBITION OF TERMINATION FOR ADMINISTRATIVE CONVENIENCE.—Grants provided under this part may not be terminated, modified, suspended, or reduced solely for the convenience of the administering agency.

SEC. 5205. COMPOSITION OF GRANTS.

“(a) IN GENERAL.—The grant provided under this part to any tribe or tribal organization for any fiscal year shall consist of—

“(1) the total amount of funds allocated for such fiscal year under sections 1127 and 1128 of the Education Amendments of 1978 with respect to the tribally controlled schools eligible for assistance under this part which are operated by such Indian tribe or tribal organization, including, but not limited to, operating costs under such sections, or under any other provision of law, for transportation costs;

“(2) to the extent requested by such Indian tribe or tribal organization, the total amount of funds provided from operations and maintenance accounts and, notwithstanding section 105 of the Indian Self-Determination Act, or any other provision of law, other facilities accounts for such schools for such fiscal year (including but not limited to those referenced under section 1126(d) of the Education Amendments of 1978 or any other law); and

“(3) the total amount of funds that are allocated to such schools for such fiscal year under—

“(A) title I of the Elementary and Secondary Education Act of 1965; or

“(B) the Individuals with Disabilities Education Act; and

“(C) any other Federal education law, that are allocated to such schools for such fiscal year. Moreover, any Federal education law that provides funds for the new construction may be extended upon mutual agreement of the Secretary and the grantee.

“(b) NO EFFECT ON FEDERAL RESPONSIBILITY.—Grants provided under this part shall not terminate, modify, suspend, or reduce the responsibility of the Federal Government to provide a program.

“(c) RETROCESSION.—

“(1) IN GENERAL.—(A) Funds allocated to a tribally controlled school by reason of paragraph (1) or (2) of subsection (a) shall be subject to the provisions of this part and shall not be subject to any additional restriction, priority, or limitation that is imposed by the Bureau with respect to funds provided under—

“(I) title I of the Elementary and Secondary Education Act of 1965; or

“(II) the Individuals with Disabilities Education Act; or

“(III) any Federal education law other than title XI of the Education Amendments of 1978.

“(B) Indian tribes and tribal organizations to which grants are provided under this part, and tribally controlled schools which grants are provided, shall not be subject to any requirements, obligations, restrictions, or limitations imposed by the Bureau that would otherwise apply solely by reason of funds provided under any law referred to in clause (i), (ii), or (iii) of subparagraph (A).

“(2) SCHOOLS CONSIDERED CONTRACT SCHOOLS.—Trially controlled schools for which grants are provided under this part shall be treated as contract schools for the purposes of allocation of funds provided under sections 1126(d), 1127, and 1128 of the Education Amendments of 1978.

“(3) SCHOOLS CONSIDERED BUREAU SCHOOLS.—Trially controlled schools for which grants are provided under this part shall be treated as Bureau schools for the purposes of allocation of funds provided under—

“(I) title I of the Elementary and Secondary Education Act of 1965; or

“(II) the Individuals with Disabilities Education Act; and

“(III) any other Federal education law.

“(d) NO REQUIREMENT TO ACCEPT GRANTS. —Nothing in this part may be construed—

“(1) to require a tribe or tribal organization to apply for or accept, a grant under this part to plan, conduct, and administer all of, or any portion of, any Bureau program, such applications and the timing of such applications shall be strictly voluntary.

Nothing in this part may be construed as allowing or requiring any grant with any entity other than in the terms of the grant thereto.

“(e) NO EFFECT ON FEDERAL RESPONSIBILITY.—Grants provided under this part shall not terminate, modify, suspend, or reduce the responsibility of the Federal Government to provide a program.

“(f) RETROCESSION.—

“(1) IN GENERAL.—(A) Funds allocated to a tribally controlled school by reason of paragraph (1) or (2) of subsection (a) shall be subject to the provisions of this part and shall not be subject to any additional restriction, priority, or limitation that is imposed by the Bureau with respect to funds provided under—

“(I) title I of the Elementary and Secondary Education Act of 1965; or

“(II) the Individuals with Disabilities Education Act; or

“(III) any other Federal education law other than title XI of the Education Amendments of 1978.

“(B) Indian tribes and tribal organizations to which grants are provided under this part, and tribally controlled schools which grants are provided, shall not be subject to any requirements, obligations, restrictions, or limitations imposed by the Bureau that would otherwise apply solely by reason of funds provided under any law referred to in clause (i), (ii), or (iii) of subparagraph (A).

“(2) SCHOOLS CONSIDERED CONTRACT SCHOOLS.—Trially controlled schools for which grants are provided under this part shall be treated as contract schools for the purposes of allocation of funds provided under sections 1126(d), 1127, and 1128 of the Education Amendments of 1978.

“(3) SCHOOLS CONSIDERED BUREAU SCHOOLS.—Trially controlled schools for which grants are provided under this part shall be treated as Bureau schools for the purposes of allocation of funds provided under—

“(I) title I of the Elementary and Secondary Education Act of 1965; or

“(II) the Individuals with Disabilities Education Act; and

“(III) any other Federal education law.

“(g) PROHIBITION OF TERMINATION FOR ADMINISTRATIVE CONVENIENCE.—Grants provided under this part may not be terminated, modified, suspended, or reduced solely for the convenience of the administering agency.

SEC. 5206. ELIGIBILITY FOR GRANTS.

“(a) RULES.—

“(1) IN GENERAL.—A trially controlled school is eligible for assistance under this part if the school—

“(A) on April 28, 1968, was a contract school under title XI of the Education Amendments of 1978 and the trially or tribal organization operating the school submitted a written notice of election to receive a grant under this part;

“(B) was a bureau operated school under title XI of the Education Amendments of 1978 and has met the requirements of subsection (b); or

“(C) is a school for which the Bureau has not provided funds, but which has met the requirements of subsection (c); or

“(D) is a school with respect to which an election has been made under paragraph (2) and which has met the requirements of subsection (b).

“(2) NEW SCHOOLS.—Any application which has been submitted under the Indian Self-Determination and Education Assistance Act that was not in operation on the date of the enactment of the No Child Left Behind Act of 2001 shall be reviewed under the guidelines and regulations for applications submitted under the Indian Self-Determination and Education Assistance Act that were in effect at the time the application was submitted unless the trially or tribal organization elects to have the application reviewed under the provisions of subsection (b).

“(b) ADDITIONAL REQUIREMENTS FOR BUREAU FUNDED SCHOOLS AND CERTAIN ELECTING SCHOOLS.—

“(1) BUREAU FUNDED SCHOOLS.—A school that uses Bureau funded school under title XI of the Education Amendments of 1978 on the date of the enactment of the No Child Left Behind Act of 2001, and any school with respect to which an election is made under subsection (a)(2), meets the requirements of this subsection if—

“(A) the Indian tribe or tribal organization that operates the work covered by the funds received, the Secretary shall provide to any Indian tribe or tribal organization is not already operating the school; and
“(ii) make a determination as to whether the school is eligible for assistance under this part; and

(B) the Secretary makes a determination that the school is eligible for assistance under this part.

(2) Certain electing schools.—(A) By not later than the date that is 120 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine—

(i) the case of a school which is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization; and

(ii) if the school is eligible for assistance under this part.

(B) In considering applications submitted under paragraph (1)(A), the Secretary—

(i) shall transfer operation of the school to the Indian tribe or tribal organization, if the tribe or tribal organization is not already operating the school; and

(ii) shall determine that the school is eligible for assistance under this part, unless the Secretary finds by clear and convincing evidence that the services to be provided by the Indian tribe or tribal organization will be detrimental to the welfare of the Indians served by the school.

(C) In considering applications submitted under this paragraph, the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in operating the school with respect to—

(1) equipment;

(2) bookkeeping and accounting procedures;

(3) ability to adequately manage a school; or

(4) adequately trained personnel.

(3) Additional requirements for a school which is not a Bureau funded school.—

(I) In general.—A school which is not a Bureau funded school under title XI of the Education Amendments of 1978 meets the requirements of this subsection if—

(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting a determination by the Secretary as to whether the school is eligible for assistance under this part; and

(B) the Secretary makes a determination that a school is eligible for assistance under this part.

(II) Deadline for determination by Secretary.—By not later than the date that is 180 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine whether the school is eligible for assistance under this part.

(B) In making the determination under paragraph (A), the Secretary shall give equal consideration to each of the following factors:

(1) with respect to the applicant’s proposal—

(I) the adequacy of facilities or the potential to obtain or provide adequate facilities;

(II) geographic and demographic factors in the affected areas;

(III) adequacy of the applicant’s program plans;

(IV) geographic proximity of comparable public education; and

(V) the needs as expressed by all affected parties, including but not limited to students, families, tribal governments at both the central and local levels, and school organizations; and

(2) with respect to all education services already available—

(I) geographic and demographic factors in the affected areas;

(II) consistency of available programs with tribal education codes or tribal legislation on education; and

(III) the history and success of these services for the proposed population to be served, as determined from all factors including, if relevant, standardized examination performance.

(C) The Secretary may not make a determination under this paragraph that is primarily based upon the geographic proximity of comparable public education.

(D) Applications submitted under paragraph (1)(A) shall include information on the factors described in subparagraphs (B)(i), (B)(ii), and (B)(iii) but the applicant may also provide the Secretary such information relative to the factors described in subparagraph (B)(ii) as the applicant considers appropriate.

(E) If the Secretary fails to make a determination under subparagraph (A) with respect to an application submitted under this paragraph before the date on which the Secretary received the application, the Secretary shall be treated as having made a determination that the tribally controlled school is not eligible for assistance under this part, and the grant shall become effective 18 months after the date on which the Secretary received the application, or on an earlier date, at the Secretary’s discretion.

(3) Filing of applications and reports.—

(I) In general.—All applications and reports submitted to the Secretary under this part, and any amendments to such applications or reports, shall be filed with the education line officer designated by the Director of the Office of Indian Education Programs of the Bureau of Indian Affairs. Such filing shall occur, for purposes of this part, be treated as the date on which the application or amendment was submitted to the Secretary.

(II) Supplementary information.—Any application that is submitted under this chapter shall be accompanied by a document indicating the action taken by the tribal governing body in authorizing such application.

(4) Effective date for approved applications.—Except as provided by subsections (c)(2)(E), (c)(3)(B), and (A)(iii) of section 1121 of the Education Amendments of 1978, and regulations that apply under the Indian Self-Determination and Education Assistance Act, and

(A) the schools in operating the Bureau operation of a Bureau school under subsection (b), shall become effective the academic year succeeding the fiscal year in which the application for the grant or transfer is made, or at an earlier date determined by the Secretary.

(B) the Secretary refuses to approve a grant under this chapter, to transfer operation of a Bureau school under subsection (b), or determines that a school is not eligible for assistance under this part, the Secretary shall—

(1) state the objections in writing to the tribe or tribal organization within the allotted time;

(2) provide an opportunity to appeal the objections;

(3) provide an opportunity to appeal the objection raised.

(II) Timeline for reconsideration of amended application.—The Secretary shall reconsider any amended application submitted under this part within 60 days after the amended application is submitted to the Secretary.

(C) Report.—The Secretary shall submit an annual report to Congress on all applications received, and actions taken (including the costs associated with such actions), under this section at the same time that the President is required to submit to Congress the budget under section 1105 of title 31, United States Code.
years under standards adopted by the contractor under a contract for a school entered into under the Indian Self-Determination and Education Assistance Act (or revisions of such standards by the Secretary and the grantee) prior to the date of the enactment of this Act. If the Secretary and the grantee other than the tribal governing body fail to agree on such an evaluation, the Secretary shall choose the evaluator or perform the evaluation. If the Secretary and a grantee which is the tribal governing body fail to agree on such an evaluation, the Secretary shall make the determination.

(2) The choice of standards employed for the purpose of subparagraph (A)(ii) shall be consistent with section 1121(e) of the Education Amendments of 1978.

(3) NOTICE REQUIREMENTS FOR REVOCATION.—The Secretary shall not revoke a determination that a school is eligible for assistance under this part, or suspend control of a school that was a Bureau school prior to approval of an application submitted under section 5206(b)(1)(A), until the Secretary—

(A) provides notice to the tribally controlled school and the tribal governing body (within the meaning of section 1144(14) of the Education Amendments of 1978) of the tribally controlled school which states—

(i) the specific deficiencies that led to the revocation or resumption determination; and

(ii) the cure that are needed to remedy such deficiencies; and

(B) affords such authority an opportunity to effect the remedial actions.

(4) FEDERAL INTERVENTION.—The Secretary shall provide such technical assistance as is practicable to effect such remedial actions. Such notice and technical assistance shall be in addition to a hearing and appeal to be conducted pursuant to the regulations described in section 5206(11)(C).

(5) APPLICABILITY OF SECTION PURSUANT TO ELECTION UNDER SECTION 5209(b).—With respect to a tribally controlled school which receives assistance under this part pursuant to an election made under section 5209(b)—

(a) subsection (b) of this section shall apply; and

(b) the Secretary may not revoke eligibility for assistance under this part except in conformance with subsection (c) of this section.

SEC. 5208. PAYMENT OF GRANTS; INVESTMENT OF FUNDS.

(a) PAYMENT.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in two payments, of which—

(A) the first payment shall be made not later than July 15 of each year in an amount equal to 75 percent of the amount which the grantee was entitled to receive during the preceding academic year; and

(B) the second payment, consisting of the remainder to which the grantee is entitled for the academic year, shall be made not later than December 1 of each year.

(2) NEWLY FUNDED SCHOOLS.—For any school for which no payment was made in the preceding academic year, full payment of the amount computed for the first academic year of eligibility under this part shall be made not later than December 1 of the academic year.

(3) LATE FUNDING.—With regard to funds for grantees that become available for obligation on October 1 of the fiscal year for which such funds are appropriated, the Secretary shall make payments to grantees not later than December 1 of the fiscal year.

(4) APPLICABILITY OF CERTAIN TITLE III PROVISIONS.—The provisions of chapter 39 of Title 31, United States Code, shall apply to the payments required to be made by paragraphs (1), (2), and (3) of this subsection.

(5) RESTRICTIONS.—Paragraphs (1), (2), and (3) shall be subject to any restriction on amounts of payments under this part that are imposed by a continuing resolution or other Act appropriating the funds involved.

(b) INVESTMENT OF FUNDS.—

(1) IN GENERAL.—No Federal agency for any other funds, from whatever source derived, funds received under this part shall be invested in obligations of the United States, or in obligations or securities that are guaranteed by the United States, or in obligations or securities that are fully collateralized to ensure protection of the funds, even in the event of a bank failure.

(2) EXCEPTIONS.—For the purposes of underwriting or insuring any default or any remedy for default, including any default or remedy for default, in respect of a loan or commitment made under section 5209(b), the Secretary may invest in obligations of the United States, or in obligations or securities that are guaranteed by the United States, or in obligations or securities that are fully collateralized to ensure protection of the funds, even in the event of a bank failure.

(c) NO DUPLICATION.—No funds may be provided for any contract entered into under the Indian Self-Determination and Education Assistance Act to pay any expenses incurred in providing any program or service if a grant has been made under this part to pay such expenses.

(d) TRANSFERS AND CARRYOVERS.—

(1) BUILDINGS, EQUIPMENT, SUPPLIES, MATERIALS.—A tribe or tribal organization assuming the operation of—

(A) a Bureau school with assistance under this part shall be entitled to the transfer or use of buildings, equipment, supplies, and materials to the same extent as if it were contracting under the Indian Self-Determination and Education Assistance Act; and

(B) a contract school with assistance under this part shall be entitled to the transfer or use of buildings, equipment, supplies, and materials that were used in the operation of the contract school to the same extent as if it were contracting under the Indian Self-Determination and Education Assistance Act.

(2) FUNDS.—Any tribe or tribal organization which assumes operation of a Bureau school with assistance under this part shall be entitled to any funds which would carryover from the previous fiscal year as if such school were operated as a contract school.

(3) EXCEPTIONS, PROBLEMS, AND DISPUTES.—Any exception or problem cited in an audit conducted pursuant to section 5207(b)(2), any dispute regarding a grant authorized to be made pursuant to this part, or any amendment to such grant, and any dispute involving an administrative cost grant under section 1128 of the Education Amendments of 1978 shall be administered under the provisions governing such exceptions, problems, or disputes in the case of contracts under the Indian Self-Determination and Education Assistance Act of 1975. The Equal Access to Justice Act shall apply to any administrative appeal filed after September 8, 1988, by grantees regarding a grant under this part, including an administrative cost grant.

SEC. 5210. ROLE OF THE DIRECTOR.

(a) Applications for grants under this part, and all application modifications, shall be reviewed and approved by personnel under the direction of the Director of the Bureau of Indian Education Programs. Required reports shall be submitted to education personnel under the direction and control of the Director of such Office.

(b) SEC. 5211. REGULATIONS.

(a) IN GENERAL.—The Secretary is authorized to issue regulations relating to the discharge of duties specifically provided for in this Act by the Secretary by the Secretary by this Act. In all other matters relating to the details of planning, development, implementing, and evaluating grants under this part, the Secretary shall use the regulations. Regulations issued pursuant to this part shall not have the standing of a Federal statute for the purposes of judicial review.

(b) SEC. 5212. THE TRIBALLY CONTROLLED GRANT SCHOOL ENROLLMENT PROGRAM.

(a) IN GENERAL.—
(1) TRUST FUNDS.—Each school receiving grants under this part may establish, at a Federally insured banking and savings institution, a trust fund for the purposes of this section.

(2) ELIGIBLE INDIAN STUDENT.—The term ‘eligible Indian student’ means the Bureau of Indian Affairs of the Department of the Interior.

(3) INDIAN TRIBE.—The term ‘Indian tribe’ means any Indian tribe, band, nation, or other organized group or community, including Alaska Native regional corporations as defined in or established pursuant to the Alaska Native Claims Settlement Act, which are recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(4) LOCAL EDUCATIONAL AGENCY.—The term ‘local educational agency’ means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, either public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(5) SECRETARY.—The term ‘Secretary’ means the Secretary of the Interior.

(6) TRIBAL ORGANIZATION.—The term ‘tribal organization’ means—

(i) the recognized governing body of any Indian tribe;

(ii) any legally established organization of Indians which—

(I) is controlled, sanctioned, or chartered by such governing body or is democratically elected by the adult members of the Indian community to be served by such organization; and

(II) includes the maximum participation of Indians in all phases of its activities.

(7) INIVEENTIVE PROGRAMS.—The term ‘tribally controlled school’ means a school operated by a tribe or a tribal organization, enrolling students in kindergarten through grade 12, including preschools, which is not a local educational agency which is not separately administered by the Bureau of Indian Affairs.

TITLE IV—PROMOTING INFORMED PARENTAL CHOICE AND INNOVATIVE PROGRAMS

PART A—INNOVATIVE PROGRAMS

SEC. 401. INNOVATIVE PROGRAMS.

Title IV is amended to read as follows:

“(B) children from economically disadvantaged families; and

“(C) children living in sparsely populated areas.

“(2) EXCEPTION.—100 percent of any amount by which the funds paid to a State under this subpart for a fiscal year exceed the amount of such funds paid to the State for fiscal year 2001 shall be distributed to local educational agencies and used locally for innovative assistance described in section 413(b).

“(3) LIMITATION ON USE OF FUNDS FOR ADMINISTRATION.—In each fiscal year, a State may use not more than 25 percent of the funds available for State programs under this subpart for State administration under section 413(a).

“(b) CALCULATION OF ENROLLMENTS.—

“(1) IN GENERAL.—The calculation of relative enrollments under subsection (a)(1) shall be on the basis of the total of—

“(A) the number of children enrolled in public schools; and

“(B) the number of children enrolled in private, nonprofit schools whose parents would like their children to participate in programs or projects assisted under this subpart, for the fiscal year preceding the fiscal year for which the determination is made.

“(2) 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 chapter.

“(3) ADJUSTMENTS.—

“(A) IN GENERAL.—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 number of economically disadvantaged students.

“(B) (i) children living in areas with high concentrations of economically disadvantaged families;

“(C) children from economically disadvantaged families; or

“(iii) children living in sparsely populated areas.

“(B) CRITERIA.—The Secretary shall review criteria submitted by a State 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 sub-paragraph (A).

“(i) PAYMENT OF ALLOCATIONS.—

“(A) DISTRIBUTION.—From the funds paid to a State under this subpart for a fiscal year, a State shall distribute to each eligible local educational agency that has submitted an application as required in section 4133 the amount of such local educational agency’s allocation, as determined under subsection (a).

“(B) ADDITIONAL FUNDS.—

“(A) IN GENERAL.—Additional funds resulting from higher per-pupil allocations provided to a local educational agency on the basis of adjusted enrollments of children described in sub-paragraph (a)(1) may, in the discretion of the local educational agency, be allocated for expenditures to provide services for children enrolled in public and private, nonprofit schools in direct proportion to the number of children described in subsection (a)(1) and enrolled in such schools within the local educational agency.

“(B) EXCEPTION.—In any fiscal year, any local educational agency which elects to allow additional funds in the manner described in subparagraph (A) shall allocate all additional funds to schools within the local educational agency in such manner.

“(C) CONSTRUCTION.—Subparagraphs (A) and (B) may not be construed to require any school
to limit the use of the additional funds described in subparagraph (A) to the provision of services to specific students or categories of students.

**CHAPTER 2—STATE PROGRAMS**

**SEC. 4131. STATE USE OF FUNDS.**

“A State may use funds made available for State programs under this part only for—

(1) State administration of programs under this subpart including—

(A) supervision of the allocation of funds to local educational agencies;

(B) planning, supervision, and processing of State funds; and

(C) monitoring and evaluation of programs and activities under this subpart;

(2) support for planning, designing, and initial implementation of charter schools as described in paragraph B;

(3) statewide education reform and school improvement activities and technical assistance and direct grants to local educational agencies which assist such agencies under section 4131; and

(4) support for arrangements that provide for independent analysis to measure and report on school performance.

**SEC. 4132. STATE APPLICATIONS.**

(a) APPLICATION REQUIREMENTS.—If a State seeks to receive assistance under this subpart, the individual, entity, or agency responsible for public elementary and secondary education policy under the State constitution or State law shall submit to the Secretary an application that—

(1) provides for an annual statewide summary of how assistance under this subpart is contributing toward improving student achievement and that are part of an overall education policy under the State constitution or State law;

(2) provides information setting forth the allocation of such funds required to implement section 4142;

(3) provides that the State will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this section);

(4) provides assurance that, apart from technical and advisory assistance and monitoring compliance with this subpart, the State has not, and will not exercise any influence in the decisionmaking processes of local educational agencies as to the expenditure made under sections 1116 and 1117; and

(5) contains assurances that there is compliance with the specific requirements of this subpart; and

(6) provides for timely public notice and public dissemination of the information provided under paragraph (2).

(b) STATEWIDE SUMMARY.—The statewide summary referred to in subsection (a)(1) shall be submitted to the Secretary and shall be derived from the evaluation information submitted by local educational agencies to the State under section 4133(a)(2)(H). The format and content of such summary shall be in the discretion of the State and may include statistical measures such as the number of students served by each type of innovative assistance described in section 4131(b), including the number of teachers trained.

(c) PERIOD OF APPLICATION.—An application filed by the State under subsection (a) shall be for a period not to exceed 3 fiscal years, and may be amended annually as may be necessary to reflect changes without filing a new application.

(d) Certification.—Each local educational agency receiving less than an average of $5,000 under this subpart may not be audited more frequently than once every 5 years.

**CHAPTER 3—LOCAL INNOVATIVE EDUCATION PROGRAMS**

**SEC. 4131. USE OF FUNDS.**

(a) IN GENERAL.—Funds made available to local educational agencies under section 4112 shall be used for innovative assistance programs described in subsection (b).

(b) INNOVATIVE ASSISTANCE.—The innovative assistance programs referred to in subsection (a) may include—

(1) professional development activities and the hiring of teachers, including activities carried out in accordance with title II, that give teachers, instructional support personnel, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State or local academic content standards and student achievement standards;

(2) technology related to the implementation of school-based reform projects, including professional development to assist teachers, and other school officials, to enhance the learning environment to provide students with the opportunity to meet State and local content standards and meet student achievement standards;

(3) programs for the development or acquisition of instructional and educational materials, including library services and materials (including media materials), academic assessments, reference materials, computer software, and other curricular materials that are tied to high academic standards, that will be used to improve student achievement, and that are part of an overall education policy under the State constitution or State law; and

(4) promising education reform projects, including effective schools and magnet schools;

(5) programs to improve the academic skills of disadvantaged elementary and secondary school students and to prevent students from dropping out of school;

(6) programs to provide for the educationally gifted and talented children;

(7) programs to provide for the educational needs of gifted and talented children;

(8) planning, designing, and initial implementation of charter schools as described in paragraph 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 savings, investing, and entrepreneurship;

(12) programs to promote, implement, or expand public school nutrition programs;

(13) programs to hire and support school nurses;

(14) expanding and improving school-based mental health services, including early identification of drug use and violence, assessment, and direct individual or group counseling services provided to students, parents, and school personnel by qualified school based mental health services personnel; and

(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.

**SEC. 4132. ADMINISTRATIVE AUTHORITY.**

“In order to conduct the activities authorized by this subpart, each State or local educational agency under this subpart may seek allocations under this subpart to make grants to, and to enter into contracts with, local educational agencies, institutions of higher education, libraries, museums, and other public and private nonprofit educational agencies, organizations, and institutions, including religious organizations.

**SEC. 4133. LOCAL APPLICATIONS.**

(a) Certification.—(1) In GENERAL.—A local educational agency or a consortium of such agencies may receive an allocation of funds under this subpart for any program which the agency or consortium submits an application under this section that is certified by the State to meet the requirements of this section.

(2) CONTENTS OF APPLICATION.—The State shall certify each application that—

(A) describes locally identified needs relative to the implementation of the State’s innovative assistance described in section 4131(b); and

(B) describes how the assistance under this subpart will contribute to improving student achievement;

(C) provides a description of the program or project and specifies such requirements for fiscal and program evaluation as may be reasonably required for fiscal audit and program evaluation, consistent with the responsibilities of the State under this subpart; and

(D) provides assurances of compliance with the provisions of this subpart, including the participation of students enrolled in private, nonpublic schools in accordance with section 4141.

(3) FUNDING SECURITY.—(A) In general.—Each State or local educational agency under this subpart must secure all funds that the agency intends to support;

(B) planning, supervision, and processing of State funds; and

(C) monitoring and evaluation of programs and activities under this subpart; and

(D) support for arrangements that provide for independent analysis to measure and report on school performance.

(b) INNOVATIVE ASSISTANCE PROGRAMS.

(1) General.—Each local educational agency or a consortium of such agencies may receive an allocation of funds under this subpart for any program which the agency or consortium submits an application under this section that is certified by the State to meet the requirements of this section.

(2) CONTENTS OF APPLICATION.—The State shall certify each application that—

(A) describes locally identified needs relative to the implementation of the State’s innovative assistance described in section 4131(b); and

(B) describes how the assistance under this subpart will contribute to improving student achievement;

(C) provides a description of the program or project and specifies such requirements for fiscal and program evaluation as may be reasonably required for fiscal audit and program evaluation, consistent with the responsibilities of the State under this subpart; and

(D) provides assurances of compliance with the provisions of this subpart, including the participation of students enrolled in private, nonpublic schools in accordance with section 4141.

**SEC. 4141. MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY.**

(a) MAINTENANCE OF EFFORT.—Federal funds supplementary to any funds made available under this chapter carry out the purposes of this subchapter.

(b) IN GENERAL.—Except as provided in paragraph (2), a State is entitled to receive its full
allocation of funds under this subpart for any fiscal year only if the Secretary determines that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the fiscal year that is 2 fiscal years before the fiscal year for which the determination is made.

(2) REDUCTION OF FUNDS.—The Secretary shall reduce the amount of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the fiscal year that is 2 fiscal years before the fiscal year for which the determination is made.

(3) WAIVER.—The Secretary may waive, for 1 fiscal year only, the requirements of this section if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster, war, or unforeseen decline in the financial resources of the State.

(b) FEDERAL FUNDS SUPPLEMENTARY.—A State or local educational agency may use and allocate funds under this subpart to supplant and, to the extent practical, to increase the level of funds that would, in the absence of Federal funds made available under this subpart, be available from other Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

SEC. 4142. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

(a) Participation on Equitable Basis.—

(1) the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this subpart or which serves the area in which a program or project assisted under this subpart is located, and

(2) the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this subpart or which serves the area in which a program or project assisted under this subpart is located,

(b) Equal Expenditures.—The Federal funds made available for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this subpart by a State or local educational agency.

(2) Concentrated Programs.—Taking into account, among other factors, the number of children in the school district of a local educational agency.

(3) Waiver.—The Secretary may make, 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, war, or unforeseen decline in the financial resources of the State.

(4) Provision of Services.—The provision of services pursuant to this subpart shall be provided so as to supplant funds from non-Federal sources.

(5) Provision of Services.—The provision of services pursuant to this subpart or which serves the area in which a program or project assisted under this subpart is located, or which serves the area in which a program or project assisted under this subpart is located.

(6) Waiver.—If the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster, war, or unforeseen decline in the financial resources of the State.

(7) State Prohibition Waiver.—If by reason of the provision of any law, a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, the Secretary shall waive such requirement and shall arrange for the provision of services to such children through arrangements which shall include equitable participation in the programs and projects carried out under this subpart by a State or local educational agency.

(8) Provision of Services.—The provision of services pursuant to this subpart shall be provided so as to supplant funds from non-Federal sources.

(9) Withholding of Allocation.—Pending final resolution of any constitutional or complaint that could result in a waiver under subsection (d), the Secretary may withhold the allocation of funds under this subpart for the fiscal year for which the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

(10) Term of Determinations.—The term 'school-age population' means the population aged 5 through 17.

(11) State.—The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(12) Authorization of Appropriations.—There are authorized to be appropriated to carry out this subpart $450,000,000 for each of fiscal years 2003 through 2006.
"Subpart 2—Arts Education"

SEC. 4151. ASSISTANCE FOR ARTS EDUCATION.

(a) FINDINGS.—The Congress finds that—

(1) every student can benefit from an education in the arts;

(2) a growing body of research indicates that education in the arts may provide cognitive benefits and bolster academic achievement, beginning at an early age and continuing through secondary school;

(3) qualified arts teachers and a sequential curriculum are the basis and core for substantive arts education for students;

(4) the arts should be taught according to rigorous academic standards under arts education programs that provide mechanisms under which educators are accountable to parents, school systems, and communities;

(5) opportunities to participate in the arts have enabled individuals with disabilities of all ages to participate more fully in school and community activities; and

(6) arts education is a valuable part of the elementary and secondary school curriculum.

(b) PURPOSES.—The purposes of this subpart are to—

(1) support systemic education reform by strengthening arts education as an integral part of the elementary and secondary school curriculum;

(2) help ensure that all students meet challenging State academic content standards and challenging local, State, and national student achievement standards in the arts;

(c) AUTHORITY.—In accordance with this subpart, the Secretary may make grants to, or enter into contracts or cooperative agreements with, eligible entities described in subsection (d).

(d) ELIGIBLE ENTITIES.—The Secretary may make assistance available under subsection (c) to each of the following entities:

(1) States;

(2) Local educational agencies;

(3) Institutions of higher education;

(4) Museums or other cultural institutions;

(5) Any other public or private agencies, institutions, and organizations;

(e) USE OF FUNDS.—Assistance made available under this subpart may be used only for—

(1) research on arts education;

(2) planning, developing, acquiring, expanding, improving, or disseminating model school-based and community programs;

(3) the development of model State arts education assessments based on State academic standards;

(4) the development and implementation of curriculum frameworks for arts education;

(5) the development of model inservice professional development programs for arts educators, personnel involved in the education of gifted and talented students, and in the use, where appropriate, of curriculum and instructional materials designed or developed to ensure that there is a national capacity to educate students who are gifted and talented in the 21st century;

(6) Many State and local educational agencies lack the specialized resources and trained personnel necessary to consistently plan and implement effective programs for the identification of gifted and talented students and for the provision of educational programs appropriate for the needs of such students.

(7) Because gifted and talented students are generally more advanced academically, are generally able to learn more quickly, and generally study in more depth and complexity than others their age, they require educational opportunities and experiences that are different from those usually available to all students.

(8) A typical elementary school student who is academically gifted and talented has already mastered 35 to 50 percent of the content to be learned in several subjects in any school year before that year begins. Without an advanced and challenging curriculum, such a student may lose motivation and develop poor study habits that are difficult to correct as the student progresses from school to school.

(9) Classes in elementary and secondary schools in the United States consist of students with a wide variety of traits, characteristics, and needs. Although most teachers receive some training to meet the needs of students with limited English proficiency, students with disabilities, and students from diverse cultural and racial backgrounds, few receive training to meet the needs of students who are gifted and talented.

(b) PURPOSE.—The purpose of this subpart is to initiate a coordinated, comprehensive, scientifically based research, demonstration projects, innovative strategies, and similar activities designed to build and enhance the ability of educators and students to carry out 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 services available under Federal, State, and local sources for the activities assisted under this subpart.

(c) CONSIDERATION.—In carrying out this part, the Secretary shall consult with Federal agencies and other appropriate organizations (including professional arts education associations), and organizations representing the arts including State and local arts agencies involved in arts education.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for this subpart such sums as may be necessary for the fiscal years 2006 through 2010.

"Subpart 3—Gifted and Talented Children"

SEC. 4161. SHORT TITLE.

"This subpart may be cited as the 'Jacob K. Javits Gifted and Talented Students Education Act of 2001'.

SEC. 4162. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) While the families and communities of some gifted and talented students can provide private educational programs with appropriate and challenging curricula and educational offerings, most gifted and talented students, especially those from inner cities, rural communities, or low-income families, must rely on their schools for educational opportunities in public schools. In order to ensure that there are equal educational opportunities for all gifted and talented students in the United States, the public schools should provide gifted and talented education programs carried out by qualified professionals.

(2) Due to the wide dispersal of students who are gifted and talented and the national interest in a well-educated populace, it is the Federal Government that can most effectively and appropriately conduct scientifically based research and development to ensure that there is a national capacity to educate students who are gifted and talented in the 21st century.

(3) Many State and local educational agencies lack the specialized resources and trained personnel necessary to consistently plan and implement effective programs for the identification of gifted and talented students and for the provision of educational programs appropriate for the needs of such students.

(4) Because gifted and talented students are generally more advanced academically, are generally able to learn more quickly, and generally study in more depth and complexity than others their age, they require educational opportunities and experiences that are different from those usually available to all students.

(5) A typical elementary school student who is academically gifted and talented has already mastered 35 to 50 percent of the content to be learned in several subjects in any school year before that year begins. Without an advanced and challenging curriculum, such a student may lose motivation and develop poor study habits that are difficult to correct as the student progresses from school to school.

(6) Classes in elementary and secondary schools in the United States consist of students with a wide variety of traits, characteristics, and needs. Although most teachers receive some training to meet the needs of students with limited English proficiency, students with disabilities, and students from diverse cultural and racial backgrounds, few receive training to meet the needs of students who are gifted and talented.

(b) PURPOSE.—The purpose of this subpart is to initiate a coordinated, comprehensive, scientifically based research, demonstration projects, innovative strategies, and similar activities designed to build and enhance the ability of educators and students to carry out 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 services available under Federal, State, and local sources for the activities assisted under this subpart.

(c) CONSIDERATION.—In carrying out this part, the Secretary shall consult with Federal agencies and other appropriate organizations (including professional arts education associations), and organizations representing the arts including State and local arts agencies involved in arts education.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for this subpart such sums as may be necessary for the fiscal years 2006 through 2010.
and agencies and other public or private agencies and organizations, for the purpose of carrying out activities described in paragraph (1) of subsection (b).

(2) DIRECTOR.—The National Center established under paragraph (1) shall be headed by a Director. The Secretary may authorize the Director to carry out such functions of the National Center agreed upon through arrangements with institutions of higher education, State or local educational agencies, or other public or private agencies and organizations.

(3) LIMITATION.—Not more than 30 percent of the funds available in any fiscal year to carry out programs and projects authorized by this section may be used to conduct activities pursuant to subsection (b)(1) or subsection (c).

(e) COORDINATION.—Scientifically based research activities supported under this subsection—

(1) shall be carried out in consultation with the Office of Educational Research and Improvement to ensure that such activities are coordinated with and enhance the research and development activities supported by such Office; and

(2) may include collaborative scientifically based research activities which are jointly funded and carried out with such Office.

§ 4165. 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 who may not be identified and served through traditional assessment methods (including economically disadvantaged individuals, individuals with limited English proficiency, and individuals with disabilities).

(b) SERVICE PRIORITY.—In approving applications for assistance under section 4164(a)(2), the Secretary shall ensure that in each fiscal year not less than 50 percent of the applications approved under such section address the priority described in subsection (a)(2) of this section.

§ 4166. GENERAL PROVISIONS.

(a) PARTICIPATION OF PRIVATE SCHOOL CHILDREN AND TEACHERS.—In making grants and entering into contracts under this subpart, the Secretary shall ensure that participation is made for the equitable participation of students and teachers in private nonprofit elementary and secondary schools, including the participation of teachers and other personnel in professional development programs serving such children.

(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 and 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 8651, both 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 the Congress not later than 2 years after the date of the 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 in the field of gifted and talented education 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; and

(3) assist the Secretary of the Office of Educational Research and Improvement in identifying research priorities which reflect the needs of gifted and talented students.

§ 4167. LIMITATION ON AMOUNTS.

There are authorized to be appropriated to carry out this subpart such sums as may be necessary for each of fiscal years 2002 through 2006.

§ 4201. CONTINUATION OF AWARDS.

Notwithstanding any other provision of this Act, any grant awarded under part B or D of title X (20 U.S.C. 8031 et seq.; 8001 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 until the date on which the award period terminates under such terms.

PART B—PUBLIC CHARTER SCHOOLS

§ 4201. PUBLIC CHARTER SCHOOLS.

(b) PURPOSE.

(1) enhancement of parent and student involvement, and evaluation by the authorized public charter school, schools-within-schools, can help reduce school size, and this reduction can have a significant effect on student achievement;

(2) the Federal Government should test, evaluate, and disseminate information on a variety of charter school models in order to help demonstrate the benefits of this promising educational reform; and

(3) there is a strong documented need for cash-flow assistance to charter schools that are starting up, because development and operating revenue streams are not immediately available.

(b) PURPOSE.—It is the purpose of this part to increase national understanding of the charter schools movement, and to—

(1) providing financial assistance for the planning, program design and initial implementation of charter schools;

(2) evaluating the effect of such schools, including the effects on students, student achievement, staff, and parents; and

(3) establishing a network of high-quality charter schools available to students across the Nation.
of charter schools that are operating, or are approved to open, in the State.

SEC. 4203. APPLICATIONS.

(a) APPLICATIONS FROM STATE AGENCIES.—Each State educational agency desiring a grant from under this part shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

(b) CONTENTS OF A STATE EDUCATIONAL AGENCY APPLICATION.—Each application submitted pursuant to subsection (a) shall—

(1) describe the objectives of the State educational agency’s charter school grant program and how such objectives will be fulfilled, including steps taken by the State educational agency to inform, and solicitation from the Secretary under this part shall submit a description of how such funds will be used to support the activities described in subparagraph (C)(ii);

(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, 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 in the State; and

(i) 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 degree of flexibility afforded by the State statutory or regulatory requirements; and

(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 authority, the charter school and the authorized public chartering agency;

(G) a description of how the school has met the objectives described in subparagraph (C)(i);

(G) a request and justification for waivers of any Federal statutory or regulatory provisions that the applicant believes are necessary for the successful operation of the charter school, and a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school;

(H) a description of how the subgrant funds or grant would be used; and

(I) descriptions 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 with such information as the Secretary may require to determine if the charter school is making satisfactory progress toward achieving the objectives described in subparagraph (C)(ii);

(K) an assurance that the applicant will cooperate with the Secretary and the State educational agency in evaluating the program assisted under this part;

(L) a description of how a charter school that is considered a local educational agency under State law and which is in which a charter school is located, will comply with sections 613(a)(5) and 613(e)(1)(B) of the Individuals with Disabilities Education Act;

(M) if the eligible applicant desires to use subgrant funds for dissemination activities under section 4202(c)(2)(C), a description of how such activities and how those activities will involve charter schools and other public schools, local educational agencies, developers, and potential developers; and

(N) the information and assurances described in subparagraph (C)(iii) and 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;

(3) 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 achieving the objectives described in subparagraph (C)(i); and

(C) will disseminate best or promising practices of charter schools and other public schools, local educational agencies, developers, and potential developers;

(4) 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;

(5) an assurance that such information as the Secretary and the State educational agency such information as the Secretary may require.

(b) SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.—Each application submitted pursuant to subsection (a) shall—

(1) the information and assurances described in subparagraph (A) of section 4203(b); and

(2) the degree of flexibility afforded by the State statutory or regulatory requirements.

(c) PEER REVIEW.—The Secretary, and each State educational agency receiving a grant under this part, shall establish a peer review process to review applications for assistance under this part.

(d) DIVERSITY OF PROJECTS.—The Secretary and each State educational agency receiving a grant under this part shall ensure that grants under this part are distributed throughout different areas of the Nation and each State, including urban and rural areas; and

(e) USE OF FUNDS.—Each State educational agency receiving a grant under this part shall use such grant funds to support subgrants to one or more eligible applicants in the State to enable such applicant to plan and implement a charter school in accordance with this part, except that the State educational agency may reserve not more than 10 percent of the Federal funds for dissemination activities described in paragraph (6).
SEC. 4206. NATIONAL ACTIVITIES.

(a) In general.—The Secretary shall reserve for each fiscal year the greater of 5 percent or $5,000,000 of the amount appropriated to carry out this part for all chartered schools. The total amount so reserved exceeds $8,000,000, to carry out the following activities:

(1) To provide charter schools, either directly or through States or localities, 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 in 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 part;

(B) assistance to applicants for assistance under this part with the preparation of applications under section 4203;

(C) assistance in the planning and startup of charter schools;

(D) training and technical assistance to existing charter schools; and

(E) for the dissemination to other public schools of best or promising practices in charter schools.

(4) To provide (including through the use of one or more contracts that use a competitive bidding process) for the collection of information regarding the financial resources available to charter schools, including access to private capital, and to widely disseminate to charter schools any such relevant information and model descriptions of successful programs.

(b) Construction.—Nothing in this section shall be construed to authorize charter schools to collect any data described in subsection (a).

(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 are consulted in the development of any rules or regulations required to implement this part, as well as in the development of any rules or regulations relevant to charter schools that are required to implement part A of title I, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), or any other program administered by the Secretary that provides education funds to charter schools or regulates the activities of charter schools.

SEC. 4208. RECORDS TRANSFER.

State educational agencies and local educational agencies, to the extent practicable, shall ensure that a student’s records and, if applicable, a student’s individualized education program as defined in section 618(11) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(11)), are transferred to a charter school upon the transfer of the student from an existing charter school, to another public school, to a private school upon the transfer of the student from a charter school to another public school, or to a private school upon the transfer of the student from a charter school to a private school (with the written consent of the appropriate school district).

SEC. 4209. PAPERWORK REDUCTION.

To the extent practicable, the Secretary and each authorized public chartering agency shall ensure that implementation of this part results in a minimum of paperwork for any eligible applicant or charter school.

SEC. 4210. DEFINITIONS.

As used in this part:

(1) The term ‘‘charter school’’ means a public school that—

(A) in accordance with a specific State statute authorizing the granting of charters to public schools, is exempted from any 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 part;

(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 authorizing public chartering agency;

(D) provides a program of elementary or secondary education, or both;

(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

(F) does not charge tuition;


(H) is a school to which parents choose to send their children, and that admits students on the basis of a lottery, or in another nondiscriminatory manner consistent with State law, if more students apply for admission than can be accommodated;
“(1) agrees to comply with the same Federal and State audit requirements as do other elementary and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;”

“(2) meets all applicable Federal, State, and local health and safety requirements;”

“(3) operates in accordance with State law; and”

“(4) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student academic performance will be measured in charter schools pursuant to State academic assessments that are required of other schools and pursuant to any other assessments mutually agreed upon by the authorized public chartering agency and the charter school.”

“(2) The term ‘developer’ means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out.”

“(3) The term ‘eligible applicant’ means a developer that has—”

“(A) an authorized public chartering authority; and”

“(B) provided adequate and timely notice to that authority under section 4203(d)(3).”

“(4) The term ‘fully chartering agency’ means a State educational agency, local educational agency, or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a charter school.”

“SEC. 4211. AUTHORIZATION OF APPROPRIATIONS.

“For the purpose of carrying out this part, there are authorized to be appropriated $225,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.”

“SEC. 4212. CONTINUATION OF AWARDS.

“Notwithstanding any other provision of this Act, any person or agency that was awarded a grant or subgrant under subpart 1 of part C of title X of the Act, prior to the date of the enactment of this Act shall continue to receive funds in accordance with the terms of such award until the date on which the award period terminates under such terms.”

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

SEC. 4211. MAGNET SCHOOLS ASSISTANCE.

“Title IV, as amended by sections 401 and 411, is further amended by adding at the end the following:

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

“Subpart 1—Magnet Schools Assistance

“SEC. 4301. FINDINGS.

“The Congress finds as follows:

“(1) Magnet schools are a significant part of the Nation’s efforts to achieve voluntary desegregation in our 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 magnet schools and 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 quality education that will prepare them to function well in a highly competitive economy;”

“(C) to maximize the ability of local educational agencies to plan, develop, implement, and continue effective and innovative magnet schools that contribute to State and local systems reform;

“(D) to ensure that grant recipients provide adequate data that demonstrate an ability to improve student academic achievement.

“SEC. 4302. STATEMENT OF PURPOSE.

“The purpose of this part is to assist in the desegregation of schools served by local educational agencies by providing financial assistance to eligible local educational agencies for—”

“(1) the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority students;

“(2) the development and implementation of magnet school projects that will assist local educational agencies in achieving systemic reforms and providing all students the opportunity to meet challenging State 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 and secondary schools and educational programs; and

“(4) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational and technical skills of students attending such schools.

“SEC. 4303. PROGRAM AUTHORIZED.

“The Secretary, in accordance with this part, is authorized to make grants to eligible local educational agencies or consortium 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. 4304. DEFINITION.

“For the purpose of this part, the term ‘magnet school’ means a public elementary or secondary school or public elementary or secondary education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.”

“SEC. 4305. ELIGIBILITY.

“A local educational agency, or consortium of such agencies where appropriate, is eligible to receive assistance under this part to carry out the purpose of this part if such agency or consortium—”

“(1) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State or local or other competent jurisdiction, that requires the desegregation of minority-group-segregated children or faculty in the elementary and secondary schools of such agency; or

“(2) without having been required to do so, has adopted and is implementing, or will, if assistance is made available to such local educational agency or consortium of such agencies, under this part, adopt and implement a plan that has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority-group-segregated children or faculty in such schools.

“SEC. 4306. APPLICATIONS AND REQUIREMENTS.

“(a) APPLICATIONS.—An eligible local educational agency, or consortium of such agencies, desiring to receive assistance under this part shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

“(b) INFORMATION AND ASSURANCES.—Each such application shall include—”

“(1) a description of—”

“(A) how assistance made available under this part will be used to promote desegregation, including how the proposed magnet school project will increase meaningful interaction among students of different social, economic, ethnic, and racial backgrounds;

“(B) the manner and extent to which the magnet school project will increase student academic achievement in the instructional area or areas offered by the school;

“(C) how an applicant will continue the magnet school project after assistance under this part is no longer available, including, if applicable, an explanation of why magnet schools established or supported by the applicant with funds under this part cannot be continued without the use of funds under this part;

“(D) how funds under this part will be used to improve student academic performance for all students attending the magnet schools; and

“(E) the criteria to be used in selecting students to attend the proposed magnet school projects; and

“(2) assurances that the applicant will—”

“(A) use funds under this part for the purpose specified in section 4302;

“(B) fully qualify 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 agency or other personnel for whom the agency has any administrative responsibility;

“(ii) the assignment of students to schools, or to courses of instruction within the school, of such agency, except to carry out the approved plan; and

“(iii) designing or operating extracurricular activities for students;

“(D) carry out a high-quality education program that will encourage greater parental decisionmaking and involvement; and

“(E) give students residing in the local attendance area of the proposed magnet school projects equitable consideration for placement in those projects.

“SEC. 4307. PRIORITY.

“In approving applications under this part, the Secretary shall give priority to applicants that—”

“(1) demonstrate the greatest need for assistance, based on the expense or difficulty of effectively carrying out an approved desegregation plan and the projects for which assistance is sought;

“(2) propose to carry out new magnet school projects, or significantly revise existing magnet school projects; and

“(3) propose to select students to attend magnet school projects by methods such as lottery, rather than through academic examination.

“SEC. 4308. USE OF FUNDS.

“(a) In General.—Grants funds made available under this part may be used by an eligible local educational agency or consortium of such agency—”

“(1) for planning and promotional activities directly related to the development, expansion, continuation, or enhancement of academic programs and services offered at magnet schools;

“(2) for the acquisition of books, materials, and equipment, including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools; and

“(3) for the payment, or subsidization of the compensation, of elementary and secondary school teachers who are fully qualified, and recognized full-time staff where applicable, who are necessary for the conduct of programs in magnet schools;
“(4) with respect to a magnet school program offered to less than the entire student population of a school, for instructional activities that—

(A) are designed to make available the special curriculum that is offered by the magnet school project to students who are enrolled in the school but who are not enrolled in the magnet school project;

(B) further the purpose of this part; and

(5) for activities, which may include professional development, that will build the recipient's capacity to operate magnet school programs once the grant period has ended.

(b) SPECIAL RULE.—Grant funds under this part shall be distributed in accordance with paragraphs (2) and (3) of subsection (a) only if the activities described in such paragraphs are directly related to improving the students' academic performance based on the State's challenging academic content standards and student academic achievement standards or directly related to improving the students' reading skills or knowledge of mathematics, science, history, geography, English, foreign languages, art, or music, or to improving vocational and technical skills.

SEC. 4309. PROHIBITIONS.

(a) TRANSPORTATION.—Grants under this part may not be used for transportation or any activity that does not augment academic improvement.

(b) PLANNING.—A local educational agency shall not expend funds under this part after the third year that such agency receives funds under this part for a magnet school project.

SEC. 4310. LIMITATIONS.

(a) DURATION OF AWARDS.—A grant under this part shall be awarded for a period that shall not exceed three fiscal years.

(b) LIMITATION ON PLANNING FUNDS.—A local educational agency may expend for planning not more than 50 percent of the funds received for the first year of the project, 15 percent of such funds for the second such year, and 10 percent of such funds for the third such year.

(c) AMOUNT.—No local educational agency or consortium awarded a grant under this part shall receive more than $4,000,000 under this part for any project.

(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. 4311. EVALUATIONS.

(a) RESERVATION.—The Secretary may reserve not more than 2 percent of the funds appropriated under section 4321(a) for an fiscal year to carry out evaluation, technical assistance, and dissemination projects with respect to magnet school projects and programs assisted under this part.

(b) CONTENTS.—Each evaluation described in subsection (a), at a minimum, shall address—

(1) how and the extent to which magnet school projects and programs lead to educational quality and improvement;

(2) the extent to which magnet school programs enhance student access to quality education;

(3) the extent to which magnet school programs lead to the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority students; and

(4) the extent to which magnet school programs differ from other school programs in terms of the organizational characteristics and resource allocations of such magnet school programs.

SEC. 4312. AUTHORIZATION OF APPROPRIATIONS; RESERVATION.

(a) AUTHORIZATION.—For the purpose of carrying out this part, there are authorized to be appropriated funds for fiscal years 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(1) 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 reduce the amounts in excess of $75,000,000 to award grants to local educational agencies or consortia of such agencies that did not receive a grant under this part in the preceding fiscal year.

(b) GRANT AWARDS.—The Secretary shall award grants for any fiscal year under this part for such project.

(c) EVALUATION AND DISSEMINATION.—Section 4327(a)(3) of this Act is amended by striking ‘‘(3) in fiscal year 1998.” and inserting ‘‘(3) in fiscal year 1999.”

(d) AMOUNTS.—For fiscal year 2002, and for each of the 4 succeeding fiscal years, for national programs under part 3.

Subpart 1—Safe Schools

SEC. 5111. RESERVATIONS AND ALLOTMENTS.

(a) RESERVATIONS.—From the amount made available under section 5003(1) to carry out this subpart for each fiscal year, the Secretary—

(1) shall reserve 1 percent or $4,750,000 (whichever is greater) of such amount for grants to Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with the Secretary of Education’s determination of their respective needs and to carry out programs described in this subpart;

(2) shall reserve 1 percent or $4,750,000 (whichever is greater) of such amount for the Secretary of the Interior to carry out programs described in this subpart for Indian youth;

(3) shall reserve 0.2 percent of such amount for Native Hawaiians to be used to carry out programs described in this subpart;

(4) notwithstanding section 3 of the Leave No Child Behind Act of 2001, shall reserve an amount necessary for make-down grants to grantees under part 1 of title X of this Act (under the terms of those grants), as such part existed on the day before the effective date of the Leave No Child Behind Act of 2001; and

(5) notwithstanding section 3 of the Leave No Child Behind Act of 2001, shall reserve an amount necessary for make-down grants to grantees under the Safe Schools/Healthy Students initiative (under the terms of those grants), as it existed on the day before the effective date of the Leave No Child Behind Act of 2001.

(b) STATE ALLOTMENTS.—Excess funds as provided in paragraph (2), the Secretary, for each fiscal year, shall allocate among the States—

(1) a one-half of the remainder not reserved under this paragraph and totaling to the ratio between the school-aged population of each State and the school-aged population of all the States; and

(2) a one-half of such remainder according to the ratio between the amount each State received under part A of title I for the preceding year and the sum of such amounts received by all the States.

(c) MINIMUM.—For any fiscal year, no State shall be allotted under this subpart an amount that is less than 1 percent of the total amount allotted to all the States under this subpart.

(d) REALLOCATION OF UNUSED FUNDS.—If any State does not apply for an allotment under this subpart for a fiscal year, the Secretary shall reallocate the amount of the State’s allotment to the remaining States in accordance with this section.

(e) DEFINITION.—For the purposes of this section, the term ‘‘Native Hawaiian’’ means any individual of whose ancestors were native Hawaiians prior to 1778, of the area which now comprises the State of Hawaii.

SEC. 5112. RESERVATION OF STATE FUNDS FOR SAFE SCHOOLS.

(a) STATE RESERVATION FOR THE GOVERNOR.—
“(1) In GENERAL.—The chief executive officer of a State may reserve not more than 20 percent of the total amount allocated to a State under section 511(b) for each fiscal year to award competitive grants to local educational agencies, community-based organizations, and other public entities and private organizations for programs or activities to support community involvement and cooperation to local educational agencies described in section 515. Such officer shall award grants based on—

(A) the quality of the activity or program proposed;

(B) how the program or activity is aligned with the appropriate principles of effectiveness described in section 511(a).

“(2) AWARD OF GRANTS.—In awarding funds under subparagraph (A), a chief executive officer shall give special consideration to grants that—

(A) support a comprehensive approach to drug and violence prevention by providing and incorporating mental health services in their programs;

(B) ADMINISTRATIVE COSTS.—The chief executive officer of a State may use not more than 1 percent of the amount described in subparagraph (A) for the administrative costs incurred in carrying out the duties of such officer under this section.

“(b) STATE FUNDS.—

(1) ADDITIONAL RESERVATIONS.—Each State shall set aside not more than 15 percent of the amount made available under subsection (a) for State activities described in section (c).

(2) STATE ACTIVITIES.—A State may use not more than 4 percent of the total amount available under subsection (a) for State activities described in subsection (c).

(3) STATE ADMINISTRATION.—A State may use not more than 15 percent of the amount made available under subsection (a) for the administrative costs of carrying out its responsibilities under this subpart.

“IN GENERAL.—A State shall use a portion of the funds described in subsection (b)(2), either directly, or through grants and contracts, to plan, develop, and implement capacity building, technical assistance, evaluation, program improvement services, and coordination activities for local educational agencies, community-based organizations, and other public entities, and private organizations that are designed to support the implementation of programs and activities under this subpart.

(A) STATISTICS.—A State may use a portion of the funds, not to exceed 20 percent, described in subsection (b)(2), either directly or through grants and contracts, to establish and implement a statewide system of collecting data regarding statistics on—

(i) truancy rates; and

(ii) student attendance, retention, and incarceration rates; and

incidence of violence and drug related offenses resulting in suspensions and expulsions in elementary and secondary schools.

(B) COMPILATION OF STATISTICS.—The statistics shall be compiled in accordance with definitions as determined in the State criminal code, but shall not identify victims of crimes or persons accused of crimes. The collected data shall include, incident reports by school officials, anonymous student surveys, and anonymous teacher surveys.

(C) REPORTING.—Such data and statistics shall be reported to the public and shall be reported on a school-by-school basis.

“IN GENERAL.—The chief executive officer of a State shall be required to carry out the provisions of this subpart. The activities and programs of the local educational agencies described in this subpart shall be carried out by the chief executive officer of a State under section 511(b) for each fiscal year, and in carrying out the duties of such officer under this section, the chief executive officer shall give special consideration to grants that—

(1) describes the activities to be funded under section 5112(c);

(2) describes how activities funded under this subpart will support academic achievement standards in accordance with section 1111;

(3) describes funds under this subpart will be coordinated with programs under this Act, and other programs, as appropriate, in accordance with the provisions of section 8306;

(4) provides an assurance that the application was developed in consultation and coordination with the applicant and others, including the chief executive officer, the chief State school officer, the head of the State alcohol and drug abuse agency, the heads of the State health and mental health agencies, the head of the State criminal justice planning agency, the head of the State child welfare agency, the head of the State board of education, or their designees, and representatives of parents, students, and community-based organizations;

(5) provides an assurance that the State shall cooperate with, and assist, the Secretary in conducting data collection as required by section 5116(a);

(6) provides an assurance that the local educational agencies in the State will comply with the provisions of section 8503 pertaining to the participation private school children and teachers in the programs and activities under this subpart;

(7) provides an assurance that funds under this subpart will be used to increase the level of Federal funds, local, and other non-Federal funds that would, in the absence of funds under this subpart, be available for programs and activities authorized under this subpart, and in no case supplement such State, local, and other non-Federal funds;

(8) describes the results of the State’s needs and resources assessment for violence and illegal drug use prevention, and illegal drug use prevention which shall be based on the results of on-going evaluation (which may include data on the incidence and prevalence, age of onset, perception of health risk and perception of disapproval of violence and illegal drug use by youth in schools and communities and the prevalence of risk and protective factors or other scientifically based research variables in the school and family).

(9)(A) provides a statement of the State’s performance measures for drug and violence prevention programs and activities to be funded under this subpart that shall be developed in consultation between the State and local officials and that consist of—

(i) performance indicators for drug and violence prevention programs and activities; and

(ii) levels of performance for each performance indicator;

(B) a description of the procedures the State will use to assessing and publicly reporting progress toward meeting those performance measures; and

(C) a plan for monitoring the implementation of, and progress toward, reducing, drug use prevention which shall include—

(1) a description of the State’s performance measures for drug and violence prevention programs and activities to be funded under this subpart that shall be developed in consultation between the State and local officials and that consist of—

(i) performance indicators for drug and violence prevention programs and activities; and

(ii) levels of performance for each performance indicator;

(2) a description of the procedures the State will use to assessing and publicly reporting progress toward meeting those performance measures; and

(3) a plan for monitoring the implementation of, and progress toward, reducing, drug use prevention which shall include—

(i) a description of the State’s performance measures for drug and violence prevention programs and activities to be funded under this subpart that shall be developed in consultation between the State and local officials and that consist of—

(ii) performance indicators for drug and violence prevention programs and activities; and

(iii) levels of performance for each performance indicator;
consult with such representatives and organizations in order to seek advice regarding how best to coordinate such agency’s activities under this subpart with other related strategies, programs, and activities being conducted in the community.

"(2) DESIGN AND DEVELOPMENT.—To ensure timely and meaningful consultation, a local educational agency established at the initial stages of design and development of a program or activity shall consult, in accordance with this subpart, with appropriate entities and persons regarding the design and development of the program or activity, including efforts to meet the principles of effectiveness described in section 5115(a).

(3) CONTENTS OF APPLICATION.—

(I) In General.—An application submitted by a local educational agency under this section shall—

(A) an assurance that the activities or programs to be funded support State academic achievement goals in accordance with section 111;

(B) a detailed explanation of the local educational agency’s comprehensive plan for drug and violence prevention, which shall include a description of—

(1) how the plan will be coordinated with programs under this Act, other Federal, State, and local programs for drug and violence prevention in accordance with the provisions of section 8306;

(ii) the local educational agency’s performance measures for drug and violence prevention programs and activities that shall consist of—

(i) performance indicators for drug and violence prevention programs and activities; and

(ii) level of performance for each performance indicator;

(iii) such other information and assurances as the State may reasonably require.

(iv) a description of the mechanisms used to provide effective notice to the community of an application and any waiver request will be available for public review after submission of the application; and

(v) other scientifically based research that provides evidence that the program or activity will reduce violence and illegal drug use.

(B) community-wide strategies for reducing drug and violence prevention and education programs and activities, that shall consist of—

(i) establishing and maintaining peer mediators and a designated faculty supervisor and purchasing necessary materials to facilitate training and the mediation process;

(ii) counseling, mentoring, and referral services, and other scientifically based research variables in the school and community, the findings of such assessments;

(D) an assurance that funds under this subpart will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this subpart, be made available to pay for programs or services under this subpart, and in no case supplant such State, local, and other non-Federal funds;

(E) a description of the mechanisms used to provide effective notice to the community of an intention to submit an application under this title;

(F) an assurance that drug prevention programs supported under this part convey a clear and consistent message that the illegal use of drugs is wrong and harmful.

(G) an assurance that the local educational agency has established and implemented a student code of conduct policy that clearly states responses of students, teachers, and administrators in maintaining a classroom environment that allows a teacher to communicate effectively with all students in the class, that allows all students in the class to learn, has consequences that are fair and appropriate for violations, and is enforced equitably;

(H) (i) the application and any waiver request will be available for public review after submission of the application; and

(ii) such other information and assurances as the State or local educational agency has established and implemented a student code of conduct policy that clearly states responses of students, teachers, and administrators in maintaining a classroom environment that allows a teacher to communicate effectively with all students in the class, that allows all students in the class to learn, has consequences that are fair and appropriate for violations, and is enforced equitably;

(I) (1) In General.—For a program or activity developed pursuant to this subpart to meet the principles of effectiveness, such program or activity shall—

(A) be based upon an assessment of objective data regarding the incidence of violence and illegal drug use in youth in schools and communities to be served, including an objective analysis of the current conditions and consequences of violence and illegal drug use, including delinquency and serious discipline problems, among students who attend such schools (including private school students who participate in the drug and violence prevention program) that is based on ongoing local assessment or evaluation activities; and

(B) be based upon an established set of performance measures aimed at ensuring that the elementary and secondary schools and communities to be served by the program have a drug-free, safe, and orderly learning environment;

(C) be based upon scientifically based research that provides evidence that the program to be used will reduce violence and illegal drug use.

(2) Periodic Evaluation.—The program or activity shall undergo a periodic evaluation to assess its progress toward reducing violence and illegal drug use, and to refine the program or activities that are coordinated with other school and community-based programs and services, that shall—

(A) the program will be evaluated on the basis of performance measures described in section 5114(d)(1);

(B)(ii) the local educational agency or community shall be provided information about the local educational agency and evaluate comprehensive programs and activities, which are coordinated with other school and community-based services and programs, that shall—

(A) to the extent that expenditures do not exceed 20 percent of the amount made available to a local educational agency under this subpart, improve, strengthen, and refine programs and activities.

(D) counseling, mentoring, and referral services, and other scientifically based research variables in the school and community, the findings of such assessments;

(E) an assurance that funds under this subpart will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this subpart, be made available to pay for programs or services under this subpart, and in no case supplant such State, local, and other non-Federal funds;

(F) a description of the mechanisms used to provide effective notice to the community of an intention to submit an application under this title;

(G) an assurance that drug prevention programs supported under this part convey a clear and consistent message that the illegal use of drugs is wrong and harmful.

(H) an assurance that the local educational agency has established and implemented a student code of conduct policy that clearly states responses of students, teachers, and administrators in maintaining a classroom environment that allows a teacher to communicate effectively with all students in the class, that allows all students in the class to learn, has consequences that are fair and appropriate for violations, and is enforced equitably;

(I) (i) the application and any waiver request will be available for public review after submission of the application; and

(ii) such other information and assurances as the State or local educational agency has established and implemented a student code of conduct policy that clearly states responses of students, teachers, and administrators in maintaining a classroom environment that allows a teacher to communicate effectively with all students in the class, that allows all students in the class to learn, has consequences that are fair and appropriate for violations, and is enforced equitably;

(I) (1) In General.—For a program or activity developed pursuant to this subpart to meet the principles of effectiveness, such program or activity shall—

(A) be based upon an assessment of objective data regarding the incidence of violence and illegal drug use in youth in schools and communities to be served, including an objective analysis of the current conditions and consequences of violence and illegal drug use, including delinquency and serious discipline problems, among students who attend such schools (including private school students who participate in the drug and violence prevention program) that is based on ongoing local assessment or evaluation activities;

(B) be based upon an established set of performance measures aimed at ensuring that the elementary and secondary schools and communities to be served by the program have a drug-free, safe, and orderly learning environment; and

(C) be based upon scientifically based research that provides evidence that the program to be used will reduce violence and illegal drug use.

(2) Periodic Evaluation.—The program or activity shall undergo a periodic evaluation to assess its progress toward reducing violence and illegal drug use, and to refine the program or activities that are coordinated with other school and community-based programs and services, that shall—

(A) the program will be evaluated on the basis of performance measures described in section 5114(d)(1);

(B)(ii) the local educational agency or community shall be provided information about the local educational agency and evaluate comprehensive programs and activities, which are coordinated with other school and community-based services and programs, that shall—

(A) to the extent that expenditures do not exceed 20 percent of the amount made available to a local educational agency under this subpart, improve, strengthen, and refine programs and activities.

(D) counseling, mentoring, and referral services, and other scientifically based research variables in the school and community, the findings of such assessments;

(E) an assurance that funds under this subpart will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this subpart, be made available to pay for programs or services under this subpart, and in no case supplant such State, local, and other non-Federal funds;

(F) a description of the mechanisms used to provide effective notice to the community of an intention to submit an application under this title;

(G) an assurance that drug prevention programs supported under this part convey a clear and consistent message that the illegal use of drugs is wrong and harmful.

(H) an assurance that the local educational agency has established and implemented a student code of conduct policy that clearly states responses of students, teachers, and administrators in maintaining a classroom environment that allows a teacher to communicate effectively with all students in the class, that allows all students in the class to learn, has consequences that are fair and appropriate for violations, and is enforced equitably;

(I) (i) the application and any waiver request will be available for public review after submission of the application; and

(ii) such other information and assurances as the State or local educational agency has established and implemented a student code of conduct policy that clearly states responses of students, teachers, and administrators in maintaining a classroom environment that allows a teacher to communicate effectively with all students in the class, that allows all students in the class to learn, has consequences that are fair and appropriate for violations, and is enforced equitably;
that address the legal, health, personal, and so-
cial consequences of illegal drug use and violent and disruptive behavior and that include activities
designed to help students develop a sense of individual responsibility and respect for the
rights of others, and to resolve conflicts without violence;
(K) providing guidance to students that en-
courage healthy choices and safe behavior and to
avoid threats of violence, or actual violence and to
confide in a trusted adult regarding an uncom-
fortable or threatening situation;
(L) establishing and implementing a system for
assisting students who are experiencing problems,
that disrupted the learning environment;
(M) testing students for illegal drug use or
conducting student locker searches for illegal
drugs or drug paraphernalia consistent with the
4th amendment to the Constitution;
(N) emergency intervention services fol-
looding traumatic crisis events, such as a shoot-
ing, which have a direct relationship with an issue
that has disrupted the learning environment;
(O) collecting and disseminating data on the fre-
quency, seriousness, and incidence of illegal
drug use by youth in schools and the community and
the progression of the local educational agency to-
ward meeting its performance measures. The re-
port shall be available to the public upon request,
with public notice of such availability provided.

"Subpart 2—21st Century Schools"

SEC. 5121. STATE ALLOTMENTS FOR 21ST CENT-
URY SCHOOLS.

(a) STATE ALLOTMENTS.

(1) IN GENERAL.—Except as provided in para-
graph (2), from the amount made available under section 5003(g) to carry out this subpart for each
fiscal year, the Secretary shall allocate among
the States:

(A) one-half of such amount according to the
ratio between the school-aged population of
each State and the school-aged population of
all the States; and
(B) one-half of such amount according to the
ratio between the total amount allotted to all the
States under subsection (a) for the administration
of programs assisted under this subpart; and
(C) a description of how the activity will be
available under subsection (a) for the adminis-
tration of programs assisted under this subpart;
and
(D) a description of the performance indica-
tors and performance measures that will be
used to evaluate programs and activities; and
(E) public dissemination of the evaluations of
programs and activities assisted under this
subpart.

(2) REIMBURSEMENT OF UNUSED FUNDS.—If
Any State does not apply for an allotment under this
subpart for a fiscal year, the Secretary shall re-
port the amount of the State’s allotment to
the remaining States in accordance with this
section.

(b) STATE FUNDS.

(1) IN GENERAL.—Each State that receives a
grant under this subpart shall reserve an
amount equal to the amount allotted to such
State under subsection (a), less the amount re-
erved under paragraphs (2) and (3) of this sub-
section, for each fiscal year for its local
educational agencies.

(2) STATE ADMINISTRATION.—A State may use
not more than 4 percent of the amount made
available under subsection (a) for the adminis-
trative costs of carrying out its responsibilities
under this subpart.

(3) STATE ACTIVITIES.—A State may use
more than 4 percent of the amount made avail-
able under subsection (a) for the following ac-
tivities:

(A) Monitoring and evaluation of programs and
activities assisted under this subpart.
(B) Providing capacity building, training, and
technical assistance under this subpart.

(c) DISAPPROVAL.—The Secretary shall not
finally disapprove a State application, except
after giving the State notice and opportunity for
a hearing.

SEC. 5122. STATE APPLICATION.

(a) IN GENERAL.—To be eligible to receive a sub-
grant under this subpart, an eligible entity shall sub-
mit an application (including its location) to the
community learning center and back
pating in the center will travel safely to and from school, including pedestrian and bi-
cycle safety education; and
(v) the development and implementation of
classroom and training programs that reflect values, that take into account the views of
parents or guardians of the student for whom
the program is intended, which may include
honesty, helpfulness, courage, justice, respect,
personal responsibility, and trustworthiness;
(W) establishing and maintaining a school vi-
lence free zone;
(X) activities to ensure students’ safe travel to
and from school, including pedestrian and bi-
cycle safety education; and
(Y) the evaluation of any of the activities
authorized in this subsection and the collect-
ion of any data required by this part.

SEC. 5116. EVALUATION AND REPORTING.

(a) DATA COLLECTION.—

(1) IN GENERAL.—The National Center for
Education Statistics shall report, and when ap-
propriate, collect data to determine the fre-
quency, seriousness, and incidence of illegal
drug use by youth in schools and communities in the
States, using if appropriate, data submitted by the States pursuant to
subsection (b).

(2) REPORT.—The Secretary shall submit to
the Congress a report on the data collected under
this subsection.

(b) STATE REPORT.

(1) IN GENERAL.—Not later than October 1,
2004, and every third year thereafter, the chief
executive officer of a State, in consultation with the
State educational agency, shall submit to the
Secretary a report on the implementation of
and effectiveness of State and local programs
under this subpart.

(2) SPECIAL RULE.—The report required by
this section shall:

(A) based on the State’s ongoing evaluation
activities, and shall include data on the preva-
ience of violence and illegal drug use by youth
in schools and communities; and
(B) made available to the public upon re-
quest, with public notice of such availability
provided.

(c) LOCAL EDUCATIONAL AGENCY REPORT.—
Each local educational agency receiving funds
under this subpart shall submit to the State
such information, and at such intervale for
the State reasonably requires to complete the State
report required by subsection (b), information on
the prevalence of violence and illegal drug use
by youth in schools and the community and
the progress of the local educational agency to-
ward meeting its performance measures. The re-
port shall be available to the public upon request,
with public notice of such availability provided.

SEC. 5112. SUPPORT FOR LOCAL EDUCATIONAL
AGENCIES.

(a) IN GENERAL.—In order to receive an
alotment under section 5121(a) for any fiscal
year, a State shall submit to the Secretary, at
such time as may be required by the Secretary, an
application that—

(1) designates the State educational agency as
the agency responsible for the administration
and supervision of programs assisted under this
subpart;
(2) describes the competitive procedures and
criteria the State will use to ensure that grants
under this subpart support quality extended
learning opportunities;
(3) an assurance that the program will pri-
marily target schools eligible for schoolwide pro-
grams under part A of title I of the

SEC. 5113. COMPETITIVE GRANT PROGRAM.

(a) IN GENERAL.—A State that receives funds
under this subpart shall provide the amount
available under subparagraph (E) of this section
for 21st century community learning pro-
grams in accordance with this subpart.

(b) ELIGIBILITY.—To be eligible to receive a
subgrant under this subpart, an eligible entity
desiring a subgrant shall submit an application
to the State that contains—

(1) IN GENERAL.—An application to the
Secretary that a subgrant is desired;
(2) a description of the before and after
school activity to be funded including—

(i) an assurance that the program will take
place in a safe and easily accessible facility;
(ii) a description of how students partici-
pating in the center will travel safely to and
from the community learning center and back
home; and
(iii) a description of how the eligible appli-
cant will disseminate information about the
project (including its location) to the community
in a manner that is understandable and acces-
sible;

(B) a description of how the activity is ex-
pected to improve student academic perform-
ance; and
(C) a description of how the activity will
meet the principles of effectiveness described in
section 5124;
“(D) an assurance that the program will primarily target students who attend schools eligible for schoolwide programs under section 1114; (E) provides an assurance that funds under this subpart will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this subpart, be made available for programs and activities that are targeted to meet the needs of students in elementary and secondary schools, and in no case supplant such State, local, and other non-Federal funds; (F) a description of the partnership with local educational agencies, a community-based organization, and another public entity or private organization or a consortium of two or more of such groups; (G) a meaningful assessment has been conducted to determine community needs, available resources and capacity in the findings of such assessments, and a description of the procedures used to provide notice to the community of an intention to submit an application under this subpart; (H) a description of the applicants experience, or promise of success, in providing educational or related activities that will complement and enhance the student’s academic achievement; (I) an assurance that the applicant will develop a plan to continue the activity after funding under this subpart ends; (J) an assurance that the application and any required supplements shall be available for public review after submission of the application; and (K) such other information and assurances as the State may reasonably require.

(2) ELIGIBLE ENTITY.—An eligible entity under this subpart is a local educational agency, a community-based organization, and other public entity or private organization or a consortium of two or more of such groups.

(3) PEER REVIEW.—In reviewing local educational agencies under this section, a State shall use a peer review process in reviewing applications for funds made available to the State under this subpart, except that such match may not exceed the amount of the grant award.

(a) PRINCIPLES OF EFFECTIVENESS.—(1) IN GENERAL.—A State may require an eligible entity to obtain an assurance from the community learning center that—

(A) the community learning center has in place a local educational agency, a community-based organization, and other public entity or private organization or a consortium of two or more of such groups; (B) the eligibility of the eligible entity to obtain a grant is based upon an assessment of the effectiveness of the program or activity developed pursuant to this subpart to meet the principles of effectiveness, such program or activity is consistent with the requirements of subsections (c) and (d); and (C) if appropriate, be based upon scientifically based research that provides evidence that the program or activity is consistent with the requirements of subsections (c) and (d).

(b) DEFINITION.—For the purpose of this section, ‘community learning center’ is an entity that assists students to meet State and local performance standards in core academic subjects, such as reading and mathematics, by providing them with quality extended learning opportunities and related activities (such as drug and violence-prevention programs, arts and music programs, technology education programs, recreational activities, and character education programs) that are linked to, and reinforce, the regular academic programs of schools attended by the students served and is operated by a local educational agency, a community-based organization, other public entity or private organization or a consortium of two or more such groups. Community learning centers shall operate outside school hours, such as before or after school or when school is not in session.

(b) AUTHORIZED ACTIVITIES.—(1) providing assistance to students who attend low-performing schools, to meet State and local student performance standards in the core academic subjects, such as reading and mathematics; and (2) programs that promote parental involvement; and (D) provide assistance to students who attend low-performing schools, to meet State and local student performance standards in the core academic subjects, such as reading and mathematics.

(c) AUTHORIZED ACTIVITIES.—(1)每個 eligible entity that receives a subgrant under this subpart may use such funds to carry out activities, such as—

(a) PRINCIPLES OF EFFECTIVENESS.—(1) IN GENERAL.—Each eligible entity shall be subject to such rules or regulations as the State may reasonably require.

(b) ENSURE ADEQUATE FUNDING.—An eligible entity that receives a subgrant under this subpart may use such funds to carry out activities, such as—

(A) programs that promote parental involvement; and (B) programs that provide assistance to students who have been absent, suspended, or expelled from school to improve their academic achievement; and (C) expanded library service hours; and (D) programs that promote public involvement; and (E) programs that provide assistance to students who are at risk of expulsion, or who have been absent, suspended, or expelled from school to improve their academic achievement; and (F) programs that promote parental involvement; and (G) provide assistance to students who attend low-performing schools, to meet State and local student performance standards in the core academic subjects, such as reading and mathematics.

(c) AUTHORIZED ACTIVITIES.—(1)每个 eligible entity that receives a subgrant under this subpart may use such funds to carry out activities, such as—

(a) PRINCIPLES OF EFFECTIVENESS.—(1) IN GENERAL.—Each eligible entity that receives a subgrant under this subpart may use such funds to carry out activities, such as—

(b) ENSURE ADEQUATE FUNDING.—An eligible entity that receives a subgrant under this subpart may use such funds to carry out activities, such as—

(a) PRINCIPLES OF EFFECTIVENESS.—(1) IN GENERAL.—Each eligible entity that receives a subgrant under this subpart may use such funds to carry out activities, such as—

(c) AUTHORIZED ACTIVITIES.—(1)每个 eligible entity that receives a subgrant under this subpart may use such funds to carry out activities, such as—

(a) PRINCIPLES OF EFFECTIVENESS.—(1) IN GENERAL.—Each eligible entity that receives a subgrant under this subpart may use such funds to carry out activities, such as—

(c) AUTHORIZED ACTIVITIES.—(1)每个 eligible entity that receives a subgrant under this subpart may use such funds to carry out activities, such as—

The information provided in this document is not entirely legible due to the quality of the image. It appears to be a legislative text related to educational programs, funding requirements, and evaluation criteria for local educational agencies. The text mentions principles of effectiveness, authorized activities, and funding mechanisms, indicating a focus on improving student outcomes through various educational programs, especially for students in low-performing schools.
"(b) the number of students expelled from such school for firearm possession; and "(c) the type of firearm concerned."

"SEC. 5125. MESSAGE AND MATERIALS. —
\(a\) D RUG.—Drug prevention programs supported under this title shall convey a clear and consistent message that the illegal use of drugs is wrong and harmful. "(b) The Secretary shall not prescribe the use of specific curricula for programs supported under this part.

"SEC. 5133. PARENTAL CONSENT. —
Upon receipt of written notification from the parents or legal guardians of a student, the local educational agency shall withdraw such student from any program or activity funded under this title. The local educational agency shall make reasonable efforts to inform parents or legal guardians of the content of such programs or activities under this title, other than classroom instruction."

"SEC. 5154. PROHIBITED USES OF FUNDS. —
No funds under this part may be used for— "(1) construction (except for minor remodeling needed to accomplish the purposes of this part); or "(2) medical services, drug treatment or rehabilitation, except for pupil services or referral to treatment for students who are victims of, or witnesses to, use of drugs or crime."

"PART B—ENHANCING EDUCATION THROUGH TECHNOLOGY"

"SEC. 5201. SHORT TITLE. —This part may be cited as the ‘Enhancing Education Through Technology Act of 2001’."

"SEC. 5202. PURPOSES. —The purposes of this part are as follows: "(1) To provide assistance to States and localities for implementation of technology initiatives that lead to increased student academic achievement and that may be evaluated for effectiveness and replicated if successful. "(2) To encourage or expansion of initiatives, including those involving public-private partnerships, designed to increase access to technology, particularly in high-need local educational agencies. "(3) To assist States and localities in the acquisition, development, interconnection, implementation, improvement, and maintenance of an effective educational technology infrastructure in a manner that expands access to technology for students (particularly for disadvantaged students) and teachers. "(4) To promote initiatives that provide school teachers, principals, and administrators with the capacity to effectively integrate technology into curriculum that is aligned with challenging State academic content and student academic achievement standards, through such means as high quality professional development programs. "(5) To enhance the ongoing professional development of teachers and administrators by providing constant access to updated research in teaching and learning via electronic means. "(6) To support the development of electronic networks and other innovative methods, such as distance learning, of delivering challenging courses and curriculum for students who would otherwise have limited access to such courses and curriculum, particularly in geographically remote regions. "(7) To support the rigorous evaluation of programs funded under this part, particularly the impact of such initiatives on student academic performance, and ensure that timely information on the results of such evaluations is widely accessible through electronic means. "(8) To support local efforts for the use of technology to promote parent and family involvement in education and communication among students, parents, teachers, principals, and administrators.

"SEC. 5203. AUTHORIZATION OF APPROPRIATIONS; FUNDING RULES. —
(a) In General.—There are authorized to be appropriated— "(1) to carry out subparts 1 and 2 of this part— "(A) $1,000,000,000 for fiscal year 2002; and "(B) such sums as may be necessary for each of fiscal years 2003 through 2006; and "(2) to carry out subpart 3 of this part— "(A) $24,000,000 for fiscal year 2002; and "(B) such sums as may be necessary for each of fiscal years 2003 through 2006."

"(b) ALLOCATION OF FUNDS BETWEEN NATIONAL AND STATE AND LOCAL INITIATIVES.—The amount of funds made available under subpart (a) shall be allocated as follows: "(1) Not less than 50 percent shall be made available for State and local technology initiatives under subpart 1. "(2) Not more than 5 percent may be made available for activities of the Secretary under subpart 2, of which not more than $15,000,000 may be used for the study required by section 5221(a)(1)."

"SEC. 5204. DEFINITIONS. —In this part:
\(a\) The term ‘distance learning’ means the transmission of educational or instructional programs and services to geographically dispersed individuals and groups via telecommunications. "(b) The term ‘eligible local entity’ means— "(A) a high-need local educational agency; or "(B) an eligible local partnership. "(c) The term ‘eligible local partnership’ means a partnership that includes at least one high-need local educational agency and at least one— "(1) local educational agency that can demonstrate that teachers in schools served by that agency are effectively integrating technology and proven teaching practices into instruction, based on scientifically based research, that result in improvement in classroom instruction in the core academic subject areas; and "(ii) the preparation of students to meet challenging State academic content and student academic achievement standards; "(2) institution of higher education that is in full compliance with the reporting requirements of section 207(f) of the Higher Education Act of 1965 (20 U.S.C. 1027(f)) and that has not been identified by its State as low-performing under section 208 of such Act (20 U.S.C. 1028). "(3) nonprofit organization that develops, designs, manufactures, or produces technology products or services, or has substantial expertise in the application of technology; or "(D) public or private nonprofit organization with demonstrated experience in the application of educational technology. "(3) The term ‘high-need local educational agency’ means a local educational agency that— "(A) is among the local educational agencies in the State with the highest numbers or percentages of children from families with incomes below the poverty line, as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), includes one or more schools identified under section 1116; and "(C) has a substantial need for assistance in acquiring and using technology."

"SEC. 5211. DETERMINATION OF AMOUNT OF STATE ALLOTMENT. —
(a) In General.—Except as otherwise provided in this subpart, each State shall be entitled to receive a grant under this subpart for a fiscal year in an allotment determined as follows: "(1) 50 percent shall bear the same relationship to the amount made available under section 5203(b)(1) for such year as the amount such State received under part A for title I for such year bears to the amount received for such year under part A by all States. "(2) 50 percent shall be determined on the basis of the State’s relative population of individuals not 5 through 18, as determined by the Secretary on the basis of the most recent satisfactory data. "(b) RESERVATION OF FUNDS FOR BUREAU OF INDIAN AFFAIRS AND OTHER ORGANIZATIONS.—Of the amount made available to carry out this subpart under section 5203(b)(1) for a fiscal year—
“(1) The Secretary shall reserve 1⁄2 of 1 percent for the Secretary of the Interior for programs under this subpart for schools operated or funded by the Bureau of Indian Affairs;

“(2) To provide 1⁄2 of 1 percent to provide assistance under this subpart to the outlying areas.

“(c) MINIMUM ALLOTMENT.—The amount of any State’s allotment under subsection (a) for any fiscal year may not be less than 1⁄2 of 1 percent of the amount made available under section 5203(b)(1) for such year.

“(d) REALLOCATION OF UNUSED FUNDS.—If any State does not apply for an allotment under this subpart for a fiscal year, or does not use its entire allotment for that fiscal year, the Secretary may reallocate the amount of the State’s allotment, or the unused portion thereof, to the remaining States in accordance with this section.

§5212. USE OF ALLOTMENT BY STATE.

“(a) IN GENERAL.—Of the amount provided to a State from its allotment under section 5211—

“(1) the State may use not more than 5 percent to carry out activities under section 5215; and

“(2) subject to subsection (b), not less than 95 percent shall be distributed by the State as follows:

“(A) 60 percent of such amount shall—

“(i) be awarded to local educational agencies that have submitted applications to the State under section 5214 (which, in the case of an eligible local entity that is a local educational agency, may be combined with an application for funds awarded under subparagraph (B)), in an amount that bears the same relationship to the amount made available under section 5212(a) for such year as the amount such local educational agency received under part A of title I for such year bears to the amount received for such year under such part by all local educational agencies within the State; and

“(ii) be used for the activities described in section 5216;

“(B) 40 percent of such amount shall be awarded through a State-determined competitive process to eligible local entities that have submitted applications to the State under section 5214 (which, in the case of an eligible local entity that is a local educational agency, may be combined with an application for funds provided under part A of title I for such year), to be used for the activities described in section 5216;

“(b) CONTINUATION OF AWARDS.—Notwithstanding the limitation in section 2002(b) of the No Child Left Behind Act of 2001, a State shall make continuation awards on multiyear grants awarded by the State under section 5212(a)(2) (as in effect on the date of enactment of such Act) from the funds described in subsection (a)(2) for the shorter of—

“(1) the duration of the original grant period; or

“(2) two years after the date of enactment of such Act.

§5213. STATE APPLICATIONS.

“(a) IN GENERAL.—To be eligible to receive a grant under this subpart, a State shall submit an application to the Secretary containing a new or updated statewide, long-range strategic educational technology plan (which shall consider the educational technology needs of local educational agencies), and such other information as the Secretary may reasonably require, at such time and in such manner as the Secretary may specify.

“(b) CONTENTS.—Each State application submitted under this section shall include the following:

“(1) A description of how the State will use funds provided under this subpart to improve the academic achievement of all students and to improve the capacity of all teachers to provide instruction in the State through the use of education technology.

“(2) A description of the State’s goals for using advanced technology to improve student achievement aligned to challenging State academic content and student academic achievement standards.

“(3) A description of how the State will take steps (including through public and private partnerships) to train teachers in the State, particularly those residing or teaching in districts served by high-need local educational agencies, have increased access to educational technology.

“(4) A description of—

“(A) how the State will ensure that ongoing integration of technology into instructional strategies is occurring in schools in the State so that technology will be fully integrated into those schools by December 31, 2006; and

“(B) the process and accountability measures the State will use for the evaluation of such integration, including whether such integration has increased the ability of teachers to teach effectively; and

“(ii) has enabled students to meet challenging State academic achievement standards.

“(5) A description of how the State will ensure that grant funds under this subpart will be computer-literate and proficient (as determined by the State) by December 31, 2006.

“(6) A description of how the State will use funds under this subpart to improve financial assistance provided under this subpart, not supplant, State and local funds.

“(7) A description of how the State will ensure that every teacher and principal within a school funded under this subpart will be computer-literate and proficient (as determined by the State) by December 31, 2006.

“(8) A description of how the State will ensure that each grant under section 5212(a)(2)(B) to an eligible local applicant is of sufficient duration, size, scope, and quality to carry out the purposes of this part effectively.

“(9) A description of how the State educational agency will provide technical assistance to eligible local applicants, and its capacity for providing such assistance, including developing public and private partnerships under this part.

“(10) DEEMED APPROVAL.—A State application submitted to the Secretary under this section shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the start of the fiscal year that begins on the date the Secretary receives the complete application, that the application does not reasonably meet the purposes of this subpart.

“(d) DISAPPROVAL.—The Secretary may issue a final disapproval of a State’s application under this subpart only after giving the State notice and an opportunity to be heard.

“(e) DISSEMINATION OF INFORMATION ON STATE APPLICATIONS.—The Secretary shall make information on State applications under this subpart widely available to schools and the general public, including through dissemination on the Internet, in a timely and user-friendly manner.

§5214. LOCAL APPLICATIONS.

“(a) IN GENERAL.—An applicant seeking to receive funds from a State under this subpart shall submit to the State an application containing a new or updated long-range strategic educational technology plan (which shall consider the educational technology needs of local educational agencies), and such other information as the Secretary may reasonably require, at such time and in such manner as the Secretary may specify.

“(b) CONTENTS.—Each local application described in this section shall include the following:

“(1) A description of how the applicant will use Federal funds provided under this subpart to improve the academic achievement of all students and to improve the capacity of all teachers to provide instruction through the use of education technology.

“(2) A description of the applicant’s specific goals for using advanced technology to improve student achievement aligned to challenging State academic content and student academic achievement standards.

“(3) A description of how the applicant will take steps to ensure that all students and teachers in schools served by the local educational agency (particularly those in high-poverty and high need schools) have increased access to educational technology.

“(4) A description of how the applicant will use funds provided under this subpart to improve the academic achievement for such students.

“(5) The utilization of teaching strategies and curricula, as defined by the Secretary, which effectively integrate technology into instruction, leading to improvements in student academic achievement as measured by challenging State academic content and student academic achievement standards; and

“(B) sustained and intensive, high-quality professional development under section 2002 (as applicable), based on scientifically based research, which increases teacher and principal capacity to create improved learning environments through the integration of technology into instruction through proven strategies and improved content as described in subparagraph (A).

“(6) A description of how the applicant will integrate technology across the curriculum and a time line for such integration, including a description of how the applicant will make effective use of new and emerging technologies and teaching practices that are linked to such emerging technologies to provide challenging content and improved classroom instruction.

“(7) A description of how the applicant will coordinate education technology activities funded under this subpart, including professional development, with any such activities provided under other Federal, State, and local programs, including those authorized under title I, title II, title IV, and the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); and

“(a) the utilization of strategies to ensure that all students and teachers in schools operated or funded by the State so that technology will be fully integrated into those schools by December 31, 2006; and

“(b) how such technology will be used to improve the academic achievement for such students.

“(8) A description of how the applicant will coordinate education technology activities funded under this subpart, including professional development, with any such activities provided under other Federal, State, and local programs, including those authorized under title I, title II, title IV, and the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

“(9) A description of the accountability measures the State will use for the evaluation of the extent to which funds provided under this subpart were effective in integrating technology into school curriculum, increasing the ability of teachers to teach, and enabling students to meet challenging State academic content and student academic achievement standards.

“(10) A description of how the applicant will evaluate the development and utilization of innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of distance learning, particularly for those areas that would not otherwise have access to such courses and curricula due to geographical isolation or insufficient resources.

“(11) A description of what steps the applicant has taken, or will take, to comply with section 5212.

“(12) If requested by the State—

“(a) a description of how the applicant will use funds provided under this subpart in a manner that is consistent with any statewide education technology priorities that may be established by the State consistent with this subpart; and

“(b) an assurance that any technology obtained with funds provided under this subpart will have compatibility and interconnectivity.
with technology obtained with funds provided previously under title III (as in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001), as appropriate.

**SEC. 5215. ACTIVITIES.**

(a) In general.—From funds made available under section 5212(a)(1), a State shall carry out activities and assist local efforts to carry out the purposes of this subpart, which may include the following:

(1) Developing, or assisting applicants in the development and utilization of, innovative strategies or programs to enhance access to new learning environments, including professional development in the use of technology to:

(i) access data and resources to develop curricula and instructional materials;

(ii) to use the Internet to communicate with parents, other teachers, principals, and administrators; and

(iii) to retrieve Internet-based learning resources; and

(3) lead to improvements in classroom instruction in the core academic subject areas, which effectively prepare students to meet challenging State academic content and student academic achievement standards.

(b) Waiver.—If the Secretary determines that a State has been successful in integrating into teaching strategies and school curriculum, has increased the ability of teachers to teach, and has enabled students to meet challenging State academic content and student academic achievement standards.

(1) In general.—Funds made available under section 5212(a)(2)(A) shall be used to carry out activities consistent with this subpart, particularly in determining the effectiveness of education technology programs funded under this subpart, as specified in paragraph (3).

(2) In determining the effectiveness of education technology programs funded under this subpart, as specified in paragraph (3), the Secretary shall:

(i) a detailed description of the project proposed to be carried out with the grant or contract and how the recipient will carry out the purposes of subsection (a)(2); and

(ii) a detailed description of the project proposed to be carried out with the grant or contract and how the recipient will carry out the purposes of subsection (a)(2); and

iii. shall—

(A) conduct an independent, long-term study, utilizing scientifically based research methods and control groups, on the effectiveness of education technology on improving student academic achievement;

(B) include in the study an identification of uses of educational technology (including how teachers can integrate emerging technologies into curriculum) that have a measurable positive impact on student achievement;

(C) establish an independent review panel to advise the Secretary on methodological and other issues that arise in conducting this long-term study; and

(D) submit to the Congress interim reports, when appropriate, and a final report, to be submitted not later than 6 months before the end of fiscal year 2006, on the findings of the study;

iv. may fund national technology initiatives that are supported by scientifically based research and utilize technology in education, through the competitive award of grants or contracts, pursuant to a peer review process, to States, local educational agencies, eligible local entities, institutions of higher education, public agencies, and private nonprofit or for-profit agencies; and

v. may provide technical assistance (directly or through the competitive award of grants or contracts) to States, local educational agencies, and recipients of funds under subsection (a)(2) to assist such States, local educational agencies, and other recipients to achieve the purposes of this part.

**B. NATIONAL TECHNOLOGY INITIATIVES.**

(1) Use of funds.—In funding national technology initiatives under subsection (a)(2), the Secretary shall:

(A) select a priority on projects that—

(i) develop innovative tools using electronic networks or other forms of distance learning to provide challenging content to other students that are otherwise not readily available to students in other schools, particularly rural areas; or

(ii) increase access to technology to students served by high-need local educational agencies and

(B) shall, in order to identify effective uses of educational technology that have a measurable positive impact on student achievement and as specified in paragraph (3)—

(i) develop tools and provide resources and support, including technology, to recipients of funds under subsection (a)(2) to effectively evaluate their activities; and

(ii) disseminate the evaluations made under paragraph (2)(A).

(2) Requirements for recipients of funds.—

(A) Application.—In order to receive a grant or contract under subsection (a)(2), an entity shall submit an application to the Secretary (at such time and in such form as the Secretary may require), and shall include in the application

(i) a description of the project proposed to be carried out with the grant or contract and how the recipient will carry out the purposes of subsection (a)(2); and

(ii) a detailed description of the project proposed to be carried out with the grant or contract and how the recipient will carry out the purposes of subsection (a)(2); and

(iii) a detailed description of the project proposed to be carried out with the grant or contract and how the recipient will carry out the purposes of subsection (a)(2); and

(B) Non-federal share.—

(C) In general.—Subject to clauses (ii) and (iii), the Secretary may require any recipient of a grant or contract under subsection (a)(2) to share in the cost of the activities assisted under such grant or contract, which may be in the form of cash or in-kind contributions, fairly valued.

(D) Increase.—The Secretary may increase the non-Federal share required of a recipient of...
a grant or contract under subsection (a)(2) after the first year such recipient receives funds under such grant or contract. 

(iii) MAXIMUM.—The non-Federal share required under this subsection may not exceed 5 percent of the cost of the activities assisted under a grant or contract under this subsection.

(iv) NOTICE.—The Secretary shall publish, in the Federal Register, a summary of applications for a Federal share under this section required under this subparagraph.

(3) EVALUATION AND DISSEMINATION.—The Secretary shall make information on each project approved for a grant or contract under subsection (a)(2) widely available to schools and the general public, including through dissemination on the Internet, in a timely and user-friendly manner.

This information shall, at a minimum, include—

(A) upon the awarding of such a grant or contract under subsection (a)(2), the identification of the grant or contract recipient, the amount of the grant or contract, the stated goals of the grant or contract, the methods by which the grant or contract will be evaluated in meeting such goals, and the timeline for meeting such goals;

(B) not later than 3 months after the completion of a grant or contract, a description of the extent to which the stated goals have been reached, and the results (or progress of) the evaluation of the project;

(C) not later than 3 months after the completion of a grant or contract, a description of the project (and updated thereafter as appropriate), a follo\textsuperscript{-}up to the information described in subparagraph (B).

**Subpart 3—Ready to Learn, Ready to Teach**

**SEC. 5231. READY TO LEARN TELEVISION.**

(a) IN GENERAL.—The Secretary shall award grants to or enter into contracts or cooperative agreements with eligible entities described in paragraph (1) to—

(A) develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents in order to facilitate student academic achievement;

(B) facilitate the development (directly or through contracts with producers of children and family television programming) of educational programming for preschool and elementary school children and accompanying support services that directly promote the effective use of such programming;

(C) facilitate the development of programmatic and digital content especially designed for national education and family television networks to deliver educational programming and resources for parents and caregivers;

(D) enable such entities to contract with other entities (such as public telecommunication entities) so that programs under this section are disseminated and distributed by the most effective and efficient technological means possible; and

(E) develop and disseminate training and support materials, including interactive programs and programs adaptable to distance learning technologies which are designed to—

(i) promote school readiness; and

(ii) improve the use of programming developed under subparagraphs (B) and (C) among parents, Head Start providers, Early Start and providers of family literacy services, child care providers, child care teachers, family childcare provider personnel, and elementary school teachers, public libraries, and after school program personnel caring for preschool and elementary school children.

(2) AVAILABILITY.—In making grants, contracts, or cooperative agreements under this sub-section, the Secretary shall ensure that recipients increase the effective use of the programming under this section by making it widely available with support materials, as appropriate, to early childhood, child care, and family caregivers, Head Start providers, Early Start and providers of family literacy services.

(2) ELIGIBLE ENTITY.—In this section, an ‘eligible entity’ means a nonprofit entity (including a public telecommunications entity) which is able—

(A) to demonstrate a capacity for the development and national distribution of educational and instructional television programming of high quality which is accessible by a large majority of preschool and elementary school children; and

(B) to demonstrate—

(i) a capacity to contract with the producers of children’s television programming for the purpose of developing educational television programming of high quality which is accessible by a large majority of preschool and elementary school children; and

(ii) consistent with the entity’s mission and nonprofit nature, a capacity to negotiate such contracts in a manner that is consistent either to the entity an appropriate share of any ancillary income from sales of any program-related products;

(3) ELIGIBLE ENTITIES DESCRIBED.—An entity seeking a grant or cooperative agreement from the Secretary under this subsection shall—

(A) upon the awarding of such a grant or contract under subsection (a)(2), the identification of the grant or contract recipient, the amount of the grant or contract, the stated goals of the grant or contract, the methods by which the grant or contract will be evaluated in meeting such stated goals, and the timeline for meeting such goals;

(B) not later than 3 months after the completion of a grant or contract, the identification of the recipient in carrying out the grant or contract, and the manner in which outreach has been developed using funds provided under this section, the manner in which such materials have been distributed, the percentage of the amounts authorized to be appropriated under section 5232 for any fiscal year shall be used to carry out subparagraphs (B) and (C) of subsection (a)(1).

**SEC. 5232. TELECOMMUNICATIONS PROGRAM.**

(a) IN GENERAL.—The Secretary may carry out any of the following activities:

(1) Awarding grants to nonprofit telecommunications entities (or a partnership of such entities) for the purpose of carrying out a national telecommunications-based program to improve the teaching of core academic subjects for elementary and secondary school teachers in preparing all students to achieve State academic content standards.

(2) Awarding grants to or entering into contracts or cooperative agreements with eligible entities described in paragraph (1) to develop, produce, and distribute educational and instructional video programming which is designed for use by elementary and secondary school students, created for or adaptable to State academic content standards, and capable of distribution through digital broadcasting and school digital networks.

(b) APPLICATIONS.—

(1) IN GENERAL.—Any telecommunications entity or partnership of such entities desiring a grant under this section shall submit an application to the Secretary.

(2) SPECIFIC REQUIREMENTS FOR NATIONAL TELECOMMUNICATIONS-BASED PROGRAM.—Each application for a grant under subsection (a)(1) shall—

(A) demonstrate that the applicant will use the telecommunication infrastructure, the Internet, and school digital networks (where available) to deliver video, voice, and data in an integrated service to train teachers in the use of learning technologies for achieving State academic content standards;

(B) assure that the program for which assistance is sought will be conducted in cooperation with States as appropriate, local educational agencies, and State or local nonprofit public telecommunication entities;

(C) contain such additional assurances as the Secretary may reasonably require.

(c) APPROVAL OF APPLICATIONS; NUMBER OF DEMONSTRATION SITES.—In approving applications under this section, the Secretary shall—

(1) the national telecommunications-based program under subsection (a)(1) is conducted at least 15 States; and

(2) grants under subsection (a)(2) are awarded on a competitive basis and for a period of 3 years to entities which—

(A) enter into multipurpose collaborative arrangements for content development with State
educational agencies, local educational agencies, institutions of higher education, businesses, or other agencies and organizations, and
(2) contribute non-Federal matching funds (including in-kind contributions) to the activities assisted with the grant in an amount not less than 100 percent of the amount of the assistance.

**PART C—CHARACTER EDUCATION**

**SEC. 5301. CHARACTER EDUCATION PROGRAM.**

(a) PROGRAM AUTHORIZED.—
(1) IN GENERAL.—The Secretary may make grants to schools, school districts, local educational agencies, or consortia of such agencies for the design and implementation of character education programs that
(A) are designed to be taught under the program for which the assistant is sought; and
(B) can be taught in conjunction with other educational reform efforts.
(2) DURATION.—Each grant under this section shall be for a period not to exceed 5 years, and such the grant recipient may not use more than 1 year for planning and program design.

(b) CONTRACTS UNDER PROGRAM.—
(1) IN GENERAL.—Each agency or consortium receiving assistance under this section may contract with outside sources, including institutions of higher education and private and nonprofit organizations (including religious organizations), for the purposes of
(A) evaluating the program for which the assistance is made available;
(B) measuring the impact 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 agency or consortium receiving assistance under this section may contract with outside sources, including institutions of higher education and private and nonprofit organizations (including religious 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 curriculum and teaching methods of schools where the program is carried out.
(c) ELEMENTS OF CHARACTER.
(1) SELECTION.—
(A) IN GENERAL.—Each agency or consortium receiving assistance under this section may select the elements of character that will be taught under the program for which the assistance is made available.
(B) CONSIDERATION OF VIEWS.—In selecting elements of character under paragraph (1), the agency or consortium shall consider the views of the parents or guardians of the students to be taught under the program.

**PART D—ELEMENTARY AND SECONDARY SCHOOL COUNSELING PROGRAMS**

**SEC. 5401. ELEMENTARY AND SECONDARY SCHOOL COUNSELING PROGRAMS.**

(a) FINDINGS.—Congress finds as follows:
(1) The Surgeon General reported in January 2001 that 1 in 10 children suffer from mental illnesses severe enough to impair development and fewer than 1 in 5 children get treatment for mental illnesses.
(2) The Surgeon General reported that the burden of suffering by children with mental health needs and their families has created a health crisis in this country. Growing numbers of children are suffering needlessly because their emotional, behavioral, and developmental problems are not met by the systems and services that were created to take care of them.
(3) As a result of the concern about the failure of the healthcare system to take care of children and adolescents with mental illnesses, there is currently great interest in developing new models for the delivery of mental health and counseling services that can reach underserved groups efficiently.
(4) Schools are a sensible point of intervention because of their central position in many children’s lives and development, especially when families are unable to assume a leading role.
(5) School-based mental health and counseling services allow for the identification of children in need of treatment much earlier in their development.
(6) Establishing mental health and counseling services in schools provides access to underserved youth with or at risk of emotional or behavioral problems.
(7) The Surgeon General’s 2000 report on youth violence concluded that youth violence treatment can divert a significant proportion of delinquent and violent youths from future violence and crime.
(8) Mental health and counseling services can play an important role in violence prevention on all levels, including preventing problem behaviors from developing; identifying and serving specific, at-risk populations; and reducing the deleterious effects of violence on victims and witnesses.
(9) An evaluation of the model program for the elementary and secondary school counseling program established pursuant to this section prior to the date of enactment of the Elementary and Secondary Counseling Improvement Act of 2001 found that the number of referrals to the principal’s office decreased by nearly half, the use of force, weapons, and threatening of others also decreased, school suspensions were reduced, and student felt safer.
(10) The report produced by the Institute of Medicine, *Schools and Health: Our Nation’s Investment*, recommended a student-to-school counseling ratio of 25:1, student-to-school psychologist ratio of 10:1, and a student-to-school social worker ratio of 600:1. The United States average student-to-counselor ratio is 551:1. Ratios indicated at student-to-school counselor; and
(11) In general, the number of referrals to the principal’s office decreased by nearly half, the use of force, weapons, and threatening of others also decreased, school suspensions were reduced, and students felt safer.

**GRANTS AUTHORIZED.—**
(1) IN GENERAL.—The Secretary may make grants to local educational agencies to establish or expand elementary and secondary school counseling programs which meet the requirements of subsection (c).
(2) PRIORITY.—In awarding grants under this section, the Secretary shall give special consideration to applications that describe programs which
(A) demonstrate the greatest need for new or additional counseling services among children in the schools served by the applicant, 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 identifying and 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 urban, suburban, and rural local educational agencies.
“(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 program shall not exceed $400,000 for any fiscal year.

“(6) SUPPLEMENT.—Assistance made available under this section shall be used to supplement, and not to replace, other Federal, State, or local funds for providing school-based counseling and mental health services to students.

“(c) REQUIREMENTS FOR COUNSELING PROGRAMS.—Each program funded under this section shall:

“(1) be comprehensive in addressing the counseling and educational needs of all students;

“(2) use a developmental, preventive approach to counseling;

“(3) increase the range, availability, quantity, and quality of counseling services in the elementary and secondary schools of the local educational agency;

“(4) expand counseling services through qualified school counselors, school psychologists, school social workers, and child and adolescent psychiatrists;

“(5) 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 interactions;

“(6) provide counseling services in settings that meet the range of needs of students;

“(7) include in-service training, including training in appropriate identification and intervention techniques for disciplining and teaching students at risk of violent behavior, by school counselors, school psychologists, school social workers, and child and adolescent psychiatrists;

“(8) involve parents of participating students in the design, implementation, and evaluation of a counseling program;

“(9) involve community groups, social service agencies, or other public or private entities in collaborative efforts to enhance the program;

“(10) evaluate annually the effectiveness and outcomes of the counseling services and activities assisted under this section;

“(11) ensure a team approach to school counseling in the elementary and secondary schools of the local educational agency by working toward ratios recommended by the American School Counselor Association of one school counselor to 250 students, one school social worker to 800 students, and one school psychologist to 1,000 students; and

“(12) ensure that school counselors, school psychologists, school social workers, or child and adolescent psychiatrists paid from funds made available under this section spend a majority of their time at the school in activities directly related to the counseling process.

“(d) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 3 percent of the amounts made available under this section in any fiscal year may be used for administrative costs to carry out this section.

“(e) DEFINITIONS.—For purposes of this section—

“(1) the term ‘school counselor’ means an individual who has documented competence in counseling children and adolescents in a school setting and who—

“(A) possesses State licensure or certification granted 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 on Accreditation of Counseling and Related Educational Programs or the equivalent;

“(2) the term ‘school psychologist’ means an individual who—

“(A) possesses a minimum of 60 graduate semester hours in school psychology from an institution of higher education and has completed at least 1,200 clock hours in a supervised school psychology internship, of which 600 hours shall be in the school setting;

“(B) possesses State licensure or certification in 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;

“(3) 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) is licensed or certified by the State in which services are provided; or

“(C) 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; and

“(4) the term ‘child and adolescent psychiatrist’ means an individual who—

“(A) possesses State medical licensure; and

“(B) has completed residency training programs in general and child and adolescent psychiatry.

“(f) REPORT.—Not later than 1 year after assistance is made available under this section, the Secretary shall make publicly available the information from applicants regarding the ratios of students to school counselors, students to school social workers, and students to school psychologists.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2002 through 2006.

“PART E—MENTORING PROGRAMS

“SEC. 5501. DEFINITIONS.

“In this part, the following definitions apply:

“(1) CHILD WITH GREATEST NEED.—The term ‘child with greatest need’ means a child at risk of educational failure, dropping out of school, or involvement in criminal or delinquent activities, or that has lack of strong positive adult role models.

“(2) MENTOR.—The term ‘mentor’ means an individual who 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 will improve the child’s ability to become a responsible adult.

“(3) STATE.—The term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“SEC. 5502. PURPOSES.

“The purposes of this part are to make assistance available to promote mentoring programs for children with greatest need—

“(1) to assist such children in receiving support and guidance from a caring adult;

“(2) to improve the academic performance of such children;

“(3) to improve interpersonal relationships between such children and their peers, teachers, other adults, and family members; and

“(4) to reduce the dropout rate of such children; and

“(5) to reduce juvenile delinquency and involvement in gangs by such children.

“SEC. 5503. GRANT PROGRAM.

“(a) In accordance with this section, the Secretary may make grants to eligible entities to assist such entities in establishing and supporting mentoring programs and activities that—

“(1) are designed to link children with greatest need (particularly such children living in rural areas, high crime areas, or troubled home environments, or such children experiencing educational failure) with responsible adults, who—

“(A) have received training and support in mentoring;

“(B) have been screened using appropriate reference checks, child and domestic abuse record checks, and criminal background checks; and

“(C) are interested in working with youth; and

“(2) are intended to achieve 1 or more of the following goals:

“(A) Provide general guidance to children with greatest need;

“(B) Promote personal and social responsibility among children with greatest need.

“(C) Increase participation by children with greatest need in programs to enhance their ability to benefit from, elementary and secondary education.

“(D) Discourage illegal use of drugs and alcohol, violence, use of dangerous weapons, promiscuous behavior, and other criminal, harmful, or potentially harmful activity by children with greatest need.

“(E) Encourage children with greatest need to participate in community service and community activities.

“(F) Encourage children with greatest need to seek employment for themselves or to plan for their futures, including encouraging such children to make graduation from secondary school a goal and to make plans for postsecondary education or alternative educational programs.

“(G) Discourage involvement of children with greatest need in gangs.

“(b) ELIGIBLE ENTITIES.—Each of the following is an entity eligible to receive a grant under subsection (a):

“(1) A local educational agency.

“(2) A nonprofit, community-based organization.

“(3) A partnership between an agency referred to in paragraph (1) and an organization referred to in paragraph (2).

“(c) USE OF FUNDS.—

“(1) IN GENERAL.—Each entity receiving a grant under this section shall use the grant funds for activities that establish or implement a mentoring program, including—

“(A) hiring of mentoring coordinators and support staff;

“(B) establishing for the professional development of mentoring coordinators and support staff;

“(C) recruitment, screening, and training of adult mentors;

“(D) reimbursement of schools, if appropriate, for the use of school materials or supplies in carrying out the program;

“(E) dissemination of outreach materials;

“(F) evaluation of the program using scientifically based methods; and

“(G) such other activities as the Secretary may reasonably prescribe by rule.

“(d) PROHIBITED USES.—Notwithstanding paragraph (1), an entity receiving a grant under this section may not use the grant funds—

“(A) to directly compensate mentors;

“(B) to obtain educational or other materials or equipment that would otherwise be used in the ordinary course of the entity’s operations;

“(C) to support litigation of any kind; or

“(D) for any other purpose reasonably prohibited by the Secretary by rule.

“(e) TERM OF GRANT.—Each grant made under this section shall be available for expenditure for a period of 3 years.

“(f) APPLICATION.—Each eligible entity seeking a grant under this section shall submit to the Secretary an application that includes—

“(1) a description of the mentoring plan the applicant proposes to carry out with such grant; or

“(2) a description of the mentoring plan the child and family expected to be served by the mentoring program for which such grant is sought.
“(3) a description of the mechanism that applicant will use to match children with mentors based on the needs of the children;

“(4) an assurance that no mentor will be assigned to children that the assignment would undermine either the mentor’s ability to be an effective mentor or the mentor’s ability to establish a close relationship (a one-on-one relationship, where practicable) with each mentored child;

“(5) an assurance that mentoring programs will provide children with a variety of experiences including—

“(A) emotional support;

“(B) academic assistance; and

“(C) opportunities to develop experiences that children might otherwise encounter on their own;

“(6) an assurance that mentoring programs will be monitored to ensure that each child assigned to a mentor will not be removed from that assignment and that there will be a provision for the assignment of a new mentor if the relationship between the original mentor is not beneficial to the child;

“(7) information on the method by which mentors and children will be recruited to the mentor program;

“(8) information on the method by which prospective mentors will be screened;

“(9) information on the training that will be provided to mentors; and

“(10) information on the system that the applicant will use to manage and monitor information relating to the program’s reference checks, child and domestic abuse record checks, and criminal background checks and to its procedure for matching children with mentors.

“(f) SELECTION.—In selecting grant recipients under paragraph (1), the Secretary shall give priority to those applications for emergency grants which—

“(1) are based on the needs of the children;

“(2) provide for matching children with mentors; and

“(3) propose a mentoring program under which each mentor will be assigned to not more than five children within a community or an urban and rural location;

“(g) USE OF INFORMATION.—The Secretary shall use information contained in the report referred to in subsection (b)—

“(1) to improve the quality of existing mentoring programs assisted under this part and other mentoring programs assisted under this Act; and

“(2) to develop models for new programs to be assisted or carried out under this Act.

“SEC. 5504. STUDY BY GENERAL ACCOUNTING OFFICE.

“(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study to identify successful school-based mentoring programs and the elements, policies, or procedures of such programs that can be replicated.

“(b) REPORT.—Not later than 3 years after the date of enactment of the Mentoring for Success Act, the Comptroller General shall submit a report to the Secretary, which shall include the results of the study conducted under this section.

“SEC. 5505. MAXIMUM AMOUNTS FOR LOCAL EDUCATIONAL AGENCIES.

“The Secretary shall award an assurance that mentoring programs assisted under this subsection only if—

“(1) the Secretary determines that the emergency grant under this subsection only if—

“(1) the Secretary determines that the emergency grant under this subsection only if—

“(a) the applicant is a local educational agency;

“(b) the amount of the grant is less than the average per pupil expenditure of all the States;

“(c) the amount of the grant is at least the amount equal to 25 percent of the total grant application for each fiscal year from all local educational agencies;

“(d) the amount of the grant is at least the amount equal to 50 percent of the total grant application for each fiscal year from all local educational agencies.

“SEC. 5506. PAYMENTS FOR 1995 RECIPIENTS.

“(a) IN GENERAL.—From the amount appropriated for that fiscal year from funds appropriated for that section for fiscal year 1995, the Secretary shall give priority to applications for emergency grants under this section to local educational agencies to carry out the modernization of school facilities.

“(b) PAYMENTS FOR 1996 RECIPIENTS.

“(1) IN GENERAL.—From the amount appropriated for that fiscal year from funds appropriated for that section for fiscal year 1996, the Secretary shall give priority to applications for emergency grants under this section to local educational agencies to carry out emergency repairs of school facilities.

“(2) PAYMENTS FOR 1997 RECIPIENTS.

“(1) PAYMENTS TO LOCAL EDUCATIONAL AGENCIES.—From the amount appropriated for that fiscal year from funds appropriated for that section for fiscal year 1997, the Secretary shall—

“(A) award emergency grants in accordance with this subsection to local educational agencies to enable the agencies to carry out the modernization of school facilities;

“(B) award grant modernization grants in accordance with this subsection to local educational agencies to enable the agencies to carry out emergency repairs of school facilities; and

“(C) award grant modernization grants in accordance with this subsection to local educational agencies to enable the agencies to carry out the modernization of school facilities.

“(2) PAYMENTS FOR 1998 RECIPIENTS.

“(1) IN GENERAL.—From the amount appropriated for that fiscal year from funds appropriated for that section for fiscal year 1998, the Secretary shall—

“(A) award grant modernization grants in accordance with this subsection to local educational agencies to enable the agencies to carry out the modernization of school facilities; and

“(B) award grant modernization grants in accordance with this subsection to local educational agencies to enable the agencies to carry out emergency repairs of school facilities.

“(2) PAYMENTS FOR 1999 RECIPIENTS.

“(1) IN GENERAL.—From the amount appropriated for that fiscal year from funds appropriated for that section for fiscal year 1999, the Secretary shall give priority to applications for emergency grants and, among such applications for emergency grants, shall give priority to those applications of local educational agencies based on the security of the emergency.

“(3) ELIGIBILITY REQUIREMENTS.—

“(A) EMERGENCY GRANTS.—A local educational agency is eligible to receive an emergency grant under this section only if—

“(i) the agency (or in the case of a local educational agency that does not have the authority to tax or issue bonds, the agency’s fiscal agent) meets the requirements of subclauses (I) and (II) but is not eligible to receive funds under section 8003(b)(2) for the fiscal year that includes the fiscal year for which the application was made;

“(ii) the agency is eligible to receive assistance under subsection (a) for the fiscal year and has a school facility emergency, as determined by the Secretary, that poses a health or safety hazard to the students and school personnel assigned to the school facility.

“(B) MODERNIZATION GRANTS.—A local educational agency is eligible to receive a modernization grant under this subsection only if—

“(i) the agency (or in the case of a local educational agency that does not have the authority to tax or issue bonds, the agency’s fiscal agent) meets the requirements of subclause (I), (II), or (III) of subparagraph (A)(ii); and

“(ii) the agency is eligible to receive assistance under subsection (a) for the fiscal year and has an assessed value of real property per student that may be taxed for school purposes that is less...
than the average of the assessed value of real property per student that may be taxed for school purposes in the State in which the local educational agency is located.

(11) in-kind contributions.—A local educational agency may accept in-kind contributions to meet the matching requirement of a project.

(12) Prohibitions on use of funds.—A local educational agency may not use funds provided under an emergency grant or modernization grant awarded under this subsection for:

1. A program or activity for which the agency does not have full title or other interest;
2. A program or activity primarily for which the agency intends to use the Federal funds.

(13) Rule of construction.—For purposes of subparagraph (A)(i), a local educational agency:

(A) may be taxed for school purposes is less than $25,000,000 but not more than $50,000,000.

(B) may be taxed for school purposes at the rate of $25,000,000; and

(C) may be taxed for school purposes is less than the average of the assessed value of real property per student that may be taxed for school purposes in the State in which the agency is located.

(D) Of the facility to be modernized was completed.

(E) Such other information and assurances as the Secretary may require.

(F) Such other information and assurances as the Secretary may require.

(G) Such other information and assurances as the Secretary may require.

(H) Such other information and assurances as the Secretary may require.

(I) Such other information and assurances as the Secretary may require.

(J) Such other information and assurances as the Secretary may require.

(K) Such other information and assurances as the Secretary may require.

(L) Such other information and assurances as the Secretary may require.

(M) Such other information and assurances as the Secretary may require.

(N) Such other information and assurances as the Secretary may require.

(O) Such other information and assurances as the Secretary may require.

(P) Such other information and assurances as the Secretary may require.

(Q) Such other information and assurances as the Secretary may require.

(R) Such other information and assurances as the Secretary may require.

(S) Such other information and assurances as the Secretary may require.

(T) Such other information and assurances as the Secretary may require.

(U) Such other information and assurances as the Secretary may require.

(V) Such other information and assurances as the Secretary may require.

(W) Such other information and assurances as the Secretary may require.

(X) Such other information and assurances as the Secretary may require.

(Y) Such other information and assurances as the Secretary may require.

(Z) Such other information and assurances as the Secretary may require.

(a) in-kind contributions to meet the matching requirement of a project.

(b) shall not exceed $3,000,000 during any 5-year period.

(c) shall not exceed $3,000,000 during any 5-year period.

(d) shall not exceed $3,000,000 during any 5-year period.

(e) shall not exceed $3,000,000 during any 5-year period.

(f) shall not exceed $3,000,000 during any 5-year period.

(g) shall not exceed $3,000,000 during any 5-year period.

(h) shall not exceed $3,000,000 during any 5-year period.

(i) shall not exceed $3,000,000 during any 5-year period.

(j) shall not exceed $3,000,000 during any 5-year period.

(k) shall not exceed $3,000,000 during any 5-year period.

(l) shall not exceed $3,000,000 during any 5-year period.

(m) shall not exceed $3,000,000 during any 5-year period.

(n) shall not exceed $3,000,000 during any 5-year period.

(o) shall not exceed $3,000,000 during any 5-year period.

(p) shall not exceed $3,000,000 during any 5-year period.

(q) shall not exceed $3,000,000 during any 5-year period.

(r) shall not exceed $3,000,000 during any 5-year period.

(s) shall not exceed $3,000,000 during any 5-year period.

(t) shall not exceed $3,000,000 during any 5-year period.

(u) shall not exceed $3,000,000 during any 5-year period.

(v) shall not exceed $3,000,000 during any 5-year period.

(w) shall not exceed $3,000,000 during any 5-year period.

(x) shall not exceed $3,000,000 during any 5-year period.

(y) shall not exceed $3,000,000 during any 5-year period.

(z) shall not exceed $3,000,000 during any 5-year period.

(aa) shall not exceed $3,000,000 during any 5-year period.
“(A) on the assessments administered by the State under section 1111; and

“(B) beginning in the 2002-2003 school year, on assessments of 4th and 8th grade reading and mathematics related

“(i) the State assessments carried out as part of the National Assessment of Educational Progress under section 411 of the National Edu-

administration of the State formula grant programs authorized by this Act if the Secretary determines that, for 2 consecutive

“(A) the State’s students from economically disadvantaged families and students from racial and ethnic minority groups failed to make ade-

“(2) the overall improvement in the achievement of all of the State’s students, as measured by—

“(1) failure to make progress.

“(IV) is developed by an entity independent from each State and local government agency in the State in a manner that protects against any conflict of interest;

“(V) has no test questions that are identical to the test questions used by the assessment used to meet the State assessment requirements under section 1111;

“(VI) provides results in such a form that they may be disaggregated, at a minimum, ac-

“(1) I N GENERAL.

“(A) may be awarded only to offset the costs of a single administration of an assessment de-

“(2) LIMITATIONS.—Grants made by the Sec-

“(II) yields high quality data that are valid and reliable;

“(III) meets widely recognized professional and technical standards, including specific and rigorous test security procedures;

“(2) USE BY SCHOOLS.

“(1) I N GENERAL.

“(A) Peer Review.—In selecting States for awards under subsection (a), the Secretary shall

“(B) developing academic content and achievement standards and aligned assessments in other subjects not required by Section 1111;

“(B) develops assessments of English lan-

“(C) assuring the continued validity and reli-

“(VII) provides results in such a form that

“(II) shall use the proceeds of such award at the

“(I) may be awarded only to offset the costs of a single administration of an assessment de-

“(a) AUTHORIZATION OF APPROPRIATIONS.

“(d) other considerations.—In judging a State’s progress under subsection (a), the Sec-

“(2) FURTHER REDUCTIONS.—In each of the

“(2) the progress of the State in increasing the percentage of students who graduate from sec-

“(2) L IMITATIONS.

“(VII) is administered to all students or to a rep-

“(1) failure to make progress.—

“(1) I N GENERAL.

“(A) developing academic content and

“(d) amount.—The Secretary shall determine the amount of an award under subsection (a) based on—

“(2) the degree of progress shown by a State

“(2) B ONUSES.

“(1) awards and bonus payments.—For the purposes of making awards under section 7101 and bonus payments under section 7103(b), there

“(1) to target Federal funds to Federal pro-

“(1) in general.—The Secretary shall require

“(1) in general.—A State receiving a financial

“(1) to target Federal funds to Federal pro-

“(II) yields high quality data that are valid and reliable;

“(II) shall use the proceeds of such award at the

“(I) to pay the costs of the development of the

“—

“(I) to target Federal funds to Federal pro-

“(1) in general.—The Secretary shall allocate to

“(2) further reductions.—In each of the

“(1) the progress of the State in increasing the percentage of students who graduate from sec-

“(3) FUTURE ENHANCEMENT OF THE PRO-

“(A) may be awarded only to offset the costs of a single administration of an assessment de-

“(A) on the assessments administered by the State under section 1111; and

“SEC. 7103. DEVELOPMENT OF STATE STANDARDS AND ASSESSMENTS.

“(a) in general.—The Secretary shall make financial awards to States to enable the States—

“(2) failure to make the progress referred to in section 7101(b)(1)(B)(i), there

“(1) to target Federal funds to Federal pro-

“(2) in general.—The Secretary shall make financial awards to States to enable the States—

“(1) in general.—The Secretary shall allocate to

“(2) failure to make progress.—

“(2) L IMITATIONS.

“(G) expanding the range of accommodations available to students with limited English pro-

“(I) improving the dissemination of informa-

“(A) on the assessments administered by the State under section 1111; and

“(1) I N GENERAL.

“(2) bonuses.—The Secretary shall make a

“(C) other considerations.—In a State’s progress under subsection (a), the Secretary may also consider—

“(b) allocation of appropriated funds.

“(II) shall use the proceeds of such award at the

“(1) in general.—The purpose of this part is to allow States

“(1) 50 percent allocated equally among the

“SEC. 7102. STATE SANCTIONS.

“(A) amount of an award under subsection (a)

“(1) in general.—The Secretary shall reduce, by 30 percent, the

“(1) to pay the costs of the development of the

“(2) bonuses.—The Secretary shall make a

“(2) B ONUSES.

“(II) yields high quality data that are valid and reliable;

“(II) shall use the proceeds of such award at the

“(2) LIMITATIONS.

“(B) developing assessments of English lan-

“(B) the State’s students from economically
disadvantaged families and students from racial and ethnic minority groups failed to make ade-

“(V) no test questions that are identical to the test questions used by the assessment used to meet the State assessment requirements under section 1111; and

“(III) is developed by an entity independent from each State and local government agency in the State in a manner that protects against any conflict of interest;

“(IV) is developed by an entity independent from each State and local government agency in the State in a manner that protects against any conflict of interest;
H2506

CONGRESSIONAL RECORD — HOUSE

May 22, 2001

SEC. 7203. TRANSFERABILITY OF FUNDS.

(a) TRANSFERS BY STATES.—

(1) IN GENERAL.—In accordance with this part, a State may transfer up to 50 percent of the nonfederal matching funds allocated to the State for use for State-level activities under each of the following provisions to 1 or more of the State’s allocations under any other of such provisions:

(A) Part A of Title II.

(B) Subpart I of part A of title IV.

(C) Title V or section 5212(2)(A).

(2) SUPPLEMENTAL FUNDS FOR TITLE I.—In accordance with this part, a State may transfer any funds allocated to the State under a provision listed in paragraph (1) to its allocation under title I.

(b) TRANSFERS BY LOCAL EDUCATIONAL AGENCIES.—

(1) AUTHORITY TO TRANSFER FUNDS.—

(A) IN GENERAL.—In accordance with this part, a local educational agency identified for improvement under section 1116(c)(2) or subject to corrective action under section 1116(c)(9) may transfer not more than 50 percent of the funds allocated to it under each of the provisions listed in paragraph (2) to 1 or more of its allocations for such fiscal year under any other provision listed in paragraph (2).

(B) AGENCIES IDENTIFIED FOR IMPROVEMENT.—A local educational agency identified for improvement under section 1116(c)(2) may transfer in accordance with this part not more than 50 percent of the funds allocated to it under each of the provisions listed in paragraph (2) to its allocation under title I.

(2) APPLICABLE PROVISIONS.—A local educational agency may transfer funds under subparagraph (A) or (B) from allocations made under each of the following provisions:

(A) Title II.

(B) Subpart I of part A of title IV.

(C) Title V or section 5212(2)(A).

(D) No TRANSFER OF TITLE I FUNDS.—A State or a local educational agency may not transfer under this part to any other program any funds allocated under title I.

(e) MODIFICATION OF PLANS AND APPLICATIONS; NOTIFICATION.—

(1) STATE TRANSFERS.—Each State that makes a transfer of funds under this section shall—

(A) modify to account for such transfer each State plan, or application submitted by the State, to which such funds relate;

(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the Secretary; and

(C) not later than 30 days before the effective date of such transfer, notify the Secretary of such transfer.

(2) LOCAL TRANSFERS.—Each local educational agency that makes a transfer under this section shall—

(A) modify to account for such transfer each local plan, or application submitted by the agency, to which such funds relate;

(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the State; and

(C) not later than 30 days before the effective date of such transfer, notify the State of such transfer.

SEC. 7204. GENERAL PROVISIONS.

SEC. 801. GENERAL PROVISIONS.

The Elementary and Secondary Education Act of 1965, as amended by this Act, is further amended by adding at the end of title VII the following:

TITLE VIII—GENERAL PROVISIONS

SEC. 801. GENERAL PROVISIONS.

(a) IN GENERAL.—In accordance with this part, a State may transfer up to 50 percent of the funds allocated to it under each of the provisions listed in paragraph (1) to 1 or more of the State’s allocations under any other of such provisions:

(A) Part A of Title II.

(B) Subpart I of part A of title IV.

(C) Title V or section 5212(2)(A).

(D) No TRANSFER OF TITLE I FUNDS.—A State or a local educational agency may not transfer under this part to any other program any funds allocated under title I.

(e) MODIFICATION OF PLANS AND APPLICATIONS; NOTIFICATION.—

(1) STATE TRANSFERS.—Each State that makes a transfer of funds under this section shall—

(A) modify to account for such transfer each State plan, or application submitted by the State, to which such funds relate;

(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the Secretary; and

(C) not later than 30 days before the effective date of such transfer, notify the State of such transfer.

(6) APPLICABLE RULES.—

(1) IN GENERAL.—Except as otherwise provided in this part, funds transferred under this section are subject to each of the rules and requirements applicable to the funds allocated by the Secretary under the provision to which the transferred funds are transferred.

(b) LOCAL TRANSFERS.—Each State educational agency or local educational agency that transfers funds under this section shall conduct consultations in accordance with section 8363(c), if such hearings are required by other laws or regulations that provide for the participation of students, teachers, or other educational personnel, from private schools.
(i) Strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving.

(ii) Marshall Island—An environment that promotes the acquisition of basic and advanced academic skills.

(iii) A safe and orderly school environment that allows teachers and pupils to focus on their education and learning.

(iv) Continuous review of students and programs to evaluate the effects of instruction.

(17) 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.

(18) ESSENTIAL COMPONENTS OF READING INSTRUCTION.—The term ‘essential components of reading instruction’ means explicit and systematic instruction in:

(A) phonemic awareness;

(B) phonics;

(C) vocabulary development;

(D) reading fluency, and

(E) reading comprehension strategies.

(19) FAMILY LITERACY SERVICES.—The term ‘family literacy services’ means services provided to participants on a voluntary basis that are of 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.

(20) FREE PUBLIC EDUCATION.—The term ‘free public education’ means education that is provided—

(A) at public expense, under public supervision and direction, and without tuition charge; and

(B) as elementary or secondary school education as determined under applicable State law, except that such term does not include any education provided beyond grade 12.

(21) FULLY QUALIFIED.—The term ‘fully qualified’—

(A) when used with respect to a public elementary or secondary school teacher means that the teacher has obtained State certification as a teacher (including certification obtained through alternative routes to certification) and passed the State teacher licensing exam and holds a license to teach in such State, except that when used with respect to any teacher teaching in a public charter school, means that the teacher meets the requirements set forth in the State’s public charter school law; and

(B) when used with respect to—

(i) an elementary school teacher, means that the teacher holds a bachelor’s degree and demonstrates knowledge and teaching skills in reading, writing, mathematics, science, and other areas of the elementary school curriculum; and

(ii) a middle or secondary school teacher, means that the teacher holds a bachelor’s degree and demonstrates a high level of competency in all subject areas in which he or she teaches through—

(I) a passing level of performance on a rigorous State or local academic subject area test; or

(II) completion of an academic major in each of the subject areas in which he or she provides instruction.

(22) GIFTED AND TALENTED.—The term ‘gifted and talented’, when used with respect to students, children or youth, means students, children, or youth who evidence an advanced and exceptional education, creative, artistic, or leadership capacity, or in specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities.

(23) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ has the meaning given that term in section 101 of the Higher Education Act of 1965.

(24) LINGUISTICALLY AND CULTURALLY APPROPRIATE.—The term ‘linguistically and culturally appropriate’—

(A) who—

(i) was not born in the United States or whose native language is a language other than English;

(ii) is a Native American or Alaska Native, or a native resident of the outlying areas; and

(iii) comes from an environment where a language other than English has had a significant impact on such individual’s level of English language proficiency;

(B) who has sufficient difficulty speaking, reading, writing, or understanding the English language, and whose difficulties may deny the individual—

(i) the ability to meet the State’s proficient level of performance on State assessments described in section 1111(b)(4) in core academic subjects; or

(ii) the opportunity to participate fully in society.

(25) LOCAL EDUCATIONAL AGENCY.—The term ‘local educational agency’ means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary school district, or political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

(26) MENTORING.—The term ‘mentoring’ means a program in which an adult works with an at-risk child to establish a supportive relationship, providing academic assistance, and introducing the child or youth to new experiences that enhance the child or youth’s ability to excel in school and become a responsible citizen.

(27) NATIVE AMERICAN AND NATIVE AMERICAN LANGUAGE.—The terms ‘Native American’ and ‘Native American language’ mean the terms given such terms in section 103 of the Native American Languages Act of 1990.

(28) OTHER STAFF.—The term ‘other staff’ means any non-certified individuals who provide paraprofessional and related services personnel, librarians, parents and their children.

(29) OUTLIER.—The term ‘outlier’ is defined to be an individual, or group of individuals, that includes students who—

(A) are not eligible for an education, as determined under State law, except that such term does not include any education beyond grade 12.

(B) are enrolled in a school for inhabitants of an isolated geographical area, or located in any other area that is smaller than the student population of the school in another provision of law and such school makes such school eligible for programs for small schools or rural schools.

(C) come from an environment where a language other than English is dominant; and

(D) who has sufficient difficulty speaking, reading, writing, or understanding the English language, and whose difficulties may deny the individual—

(i) the ability to meet the State’s proficient level of performance on State assessments described in section 1111(b)(4) in core academic subjects; or

(ii) the opportunity to participate fully in society.

(30) PARENT.—The term ‘parent’ includes—

(A) legal guardian, or

(B) a grandparent or other related individual who has legal responsibility for the child’s welfare.

(31) PUPIL SERVICES PERSONNEL; PUPIL SERVICES.—The term ‘pupil services personnel’ means school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, counseling, educational, vocational, therapeutic, and other necessary services (including related services as such term is defined in section 602(22) of the Individuals with Disabilities Education Act) as part of a comprehensive program to meet student needs.

(32) READING.—The term ‘reading’ means a complex system of deriving meaning from print that requires all of the following:

(A) Skills and knowledge to understand how phonemes, or speech sounds are connected in print.

(B) Ability to decode unfamiliar words.

(C) Ability to read fluently.

(D) Sufficient background information and vocabulary to foster reading comprehensions.

(33) RIGOROUS DIAGNOSTIC READING AND SCREENING ASSESSMENT TOOLS.—The term ‘rigorous diagnostic reading and screening assessment tools’ means a diagnostic reading assessment that—

(A) is valid, reliable, and grounded on scientifically based reading research.

(B) measures progress in developing phonemic awareness and phonics skills, vocabulary, reading fluency, and reading comprehension.

(C) identifies students who may be at risk for reading failure or who are having difficulty reading; and

(D) are used to improve instruction.

(34) SCIENTIFICALLY BASED RESEARCH.—The term ‘scientifically based research’—

(A) means the application of rigorous, systematic, and objective procedures to obtain valid knowledge relevant to education activities and programs; and

(B) shall include research that—

(i) employs systematic, empirical methods that draw on observational research;

(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

(iii) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations;

(iv) was evaluated using randomized experiments in which individuals, entities, programs, or activities are randomly assigned to different variations (including a control condition) to compare the relative effects of the variations; and

(v) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a rigorously rigorous, objective, and scientific review.

(35) SECONDARY SCHOOL.—The term ‘secondary school’ means a secondary school, that provides secondary education, as determined under State law, except that such term does not include any education beyond grade 12.

(36) SECRETARY.—The term ‘Secretary’ means the Secretary of Education.
The term ‘State educational agency’ means the agency primarily responsible for the State supervision of public elementary and secondary schools. The term ‘technology’ means the latest state-of-the-art technology products and services.

**SEC. 5102. APPLICABILITY OF TITLE.**

Part D of this title does not apply to title VI of this Act.

**SEC. 8103. APPICLIVITY TO BUREAU OF INDIAN AFFAIRS OPERATED SCHOOLS.**

For purposes of any competitive program under this Act, a consortium of schools operated by the Bureau of Indian Affairs, a school operated under a contract or grant with the Bureau of Indian Affairs in consortia with another contract or grant school or tribal or community organization, or a Bureau of Indian Affairs school in consortia with an institution of higher education, a contract or grant school and tribal or community organization shall be given the same consideration as a local educational agency.

**PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS**

**SEC. 8201. CONSOLIDATION OF STATE ADMINISTRATIVE FUNDS FOR ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.**

(a) Consolidation of Administrative Funds.

(1) In general.—A State educational agency may consolidate the amounts specifically made available to such agency for State administration under one or more of the programs under paragraph (2) if such State educational agency can demonstrate that the majority of such agency’s resources are derived from non-Federal sources.

(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 Consolidated State application 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 effectiveness and coordinated use of funds under programs included in the Consolidated State application under subsection (a), such as—

(A) the coordination of such programs with other Federal and non-Federal programs;

(B) the establishment and operation of peer-review mechanisms under this Act;

(C) the administration of this title;

(D) the dissemination of information regarding model programs and practices;

(E) technical assistance under any program under this Act;

(F) State level activities designed to carry out this title;

(G) training personnel engaged in audit and other oversight activities; and

(H) implementation of the Cooperative Audit Resolution and Oversight Initiative of the Department of Education.

(2) 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 such programs included in the Consolidated State application under this Act.

(b) General Authority.—The Secretary shall transfer to the Department of the Interior, as a consolidated amount for covered programs, the Indian education programs described in paragraph (1), the Consolidated State application is consolidated under this section for administration, such agency may use such funds.

(2) CONSOLIDATED APPLICATIONS AND PLANS.

(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 section 8201(b)(2), of the Consolidated State application for the local educational agency under such programs.

(b) State Procedures.—Within one-year from the date of enactment of the No Child Left Behind Act of 2001, a State educational agency shall, in collaboration with local educational agencies in the State, establish procedures for responding to requests from local educational agencies to consolidate administrative funds under subsection (a) and for establishing limitations on the amount of funds under such programs that may be used for administration on a consolidated basis.

(c) Conditions.—A local educational agency that consolidates administrative funds under this section for any fiscal year shall not use any other funds under the programs included in the consolidation for administration for that fiscal year.

(d) USES OF ADMINISTRATIVE FUNDS.—A local educational agency that consolidates administrative funds under this section may use such consolidated funds for the administration of such programs provided in this section, except that the percentage of the Consolidated State application for the local educational agency under such programs included in the Consolidated State application under this Act shall not be required to keep separate records, by individual program, to account for costs relating to the administration of such programs included in the Consolidated State application under this Act.

**SEC. 8204. CONSOLIDATED SET-ASIDE FOR DEPARTMENT OF THE INTERIOR FUNDS.**

(a) General Authority.

(1) Transfer.—The Secretary shall transfer to the Department of the Interior, as a consolidated amount for covered programs, the Indian education programs described in paragraphs (i) and (j) of section 8201(b) of this title, and the education for homeless children and youth program under subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act, the amounts allotted to the Department of the Interior under those programs.

(2) Agreement.—(A) The Secretary and the Secretary of the Interior shall enter into an agreement establishing the amounts of the programs specified in paragraph (1), for the distribution and use of such programs under this Act.

(B) The agreement shall—

(i) set forth the plans of the Secretary of the Interior for the use of the amount transferred; and

(ii) be developed in consultation with Indian tribes.

(2) Administration.—The Department of the Interior may use not more than 1.5 percent of the funds consolidated under this section for such department’s costs related to the administration of the funds transferred under this section.

**PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS**

**SEC. 8301. PURPOSE.**

The purposes of this part are to improve teaching and learning by strengthening the coordination between programs and to provide greater flexibility to States and local authorities by allowing the consolidation of State and local plans and applications.

**SEC. 8302. OPTIONAL CONSOLIDATED STATE PLANS OR APPLICATIONS.**

(a) General Authority.

(1) In general.—In order to simplify application requirements and reduce the burden for States under this Act, the Secretary, in accordance with subsection (b), shall establish procedures and criteria under which a State educational agency, in consultation with the State’s Governor, may submit a consolidated State plan or a consolidated State application meeting the requirements of this Act—

(A) any programs under this Act in which the State participates; and

(B) such other programs as the Secretary may designate.

(2) Consolidated Applications and Plans.—A State educational agency, in consultation with the State’s Governor, that submits a consolidated State plan or a consolidated State application under this section shall not be required to submit a separate State plan or application for a program included in the consolidated State plan or application.

(b) Collaboration.

(1) In general.—Establishing criteria and procedures under this section, the Secretary shall collaborate with Governors, State educational agencies and, as appropriate, with other State agencies, local educational agencies, public and private 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 the Act to which this section applies, the descriptions, information, assurances, and other materials that are absolutely necessary for the consideration of the consolidated State plan or consolidated State application.

(c) Necessary Materials. —The Secretary shall require only descriptions, information, assurances, and other materials that are absolutely necessary for the consideration of the consolidated State plan or consolidated State application.

**SEC. 8303. CONSOLIDATED REPORTING.**

In order to simplify reporting requirements and reduce reporting burdens, the Secretary shall establish procedures and criteria under which a State educational agency, in consultation with the State’s Governor, may submit a consolidated State annual report. Such report shall describe how such agency will eliminate duplication of budgets and costs relating to the administration of those programs included in the report, including the State’s performance under those programs, and other matters as the Secretary determines, such as monitoring activities. Such a report shall include a separate report of annual fund transfers and shall take the place of separate annual individual reports for the programs subject to it.

**SEC. 8304. GENERAL APPLICABILITY OF STATE EDUCATIONAL AGENCY ASSURANCES.**

(a) Assurances. —A State educational agency, in consultation with the State’s Governor, that submits a consolidated State plan or a consolidated State application under this Act, whether separately or under section 8302, shall
have on file with the Secretary a single set of assurances, applicable to each program for which such plan or application is submitted, that provides that—

(1) each educational program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

(2) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency, in a nonprofit private agency, institution, organization, or Indian tribe if the law authorizing the program provides for assistance to such entities; and

(3) the State will adopt and use proper methods of administering each such program, including—

(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program;

(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation; and

(C) the adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of such programs;

(4) The State 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. 8305. CONSOLIDATED LOCAL PLANS OR APPLICATIONS.**

(a) GENERAL AUTHORITY.—A local educational agency receiving funds under more than one program under this Act may submit plans or applications to the Governor and State educational agency under such programs on a consolidated basis.

(b) REQUIRED CONSOLIDATED PLANS OR APPLICATIONS.—A State that has an approved consolidated State plan or application under section 8302 may require local educational agencies in the State receiving funds under more than one program included in the consolidated State plan or application to submit consolidated local plans or applications under such programs, but may not require such agencies to submit separate plans.

(c) COLLABORATION.—A Governor and State educational agency shall collaborate with local educational agencies in the State in establishing procedures for the consideration of the consolidated State plans or consolidated State applications under this section.

(d) NECESSARY MATERIALS.—The State shall require only descriptions, information, assurances, and other material that are absolutely necessary for the consideration of the local educational agency plan or application.

**SEC. 8306. OTHER GENERAL ASSURANCES.**

(a) ASSURANCES.—Any applicant other than a State that submits a plan or application under this Act, shall have on file with the State a single set of assurances, applicable to each program for which a plan or application is submitted, that provides that—

(1) each such educational program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to such entities; and

(B) the public agency, nonprofit private agency, institution, organization, or Indian tribe will administer such funds and property to the extent required by the authorizing law;

(3) the State will adopt and use proper methods of administering each such program, including—

(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and

(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation; and

(c) C OLLABORATION.—(b) R EQUIRED CONSOLIDATED PLANS OR APPLICATIONS.—A State that has an approved consolidated State plan or application under section 8302 may require local educational agencies in the State receiving funds under more than one program under this Act may submit plans or applications to the Governor and State educational agency under such programs on a consolidated basis.

**PART D—WAIVERS**

**SEC. 8401. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.**

(a) IN GENERAL.—In general, the Secretary may waive statutory or regulatory requirements of this Act if the Secretary determines that—

(1) such a waiver is in the public interest;

(2) such waiver will not affect the administration of other Federal programs or other Federal activities; and

(3) such waiver will not result in a violation of any other applicable statute, regulation, or order.

(b) REQUEST FOR WAIVER.—A local educational agency may request a waiver of a statutory or regulatory requirement of this Act if the local educational agency determines that—

(1) such a waiver is necessary to carry out the purpose of this Act; and

(2) such waiver is not inconsistent with the public interest.

(c) DURATION AND EXTENSION OF WAIVER.—The Secretary may extend the period described in paragraph (1) if the Secretary determines that—

(1) the waiver has been effective in enabling the agency or school for which the waiver was requested and the waiver has contributed to improved student performance; and

(2) such extension is in the public interest.

(d) REPORTS.—(1) LOCAL WAIVER.—A local educational agency that receives a waiver under this section shall submit a report to the Secretary that describes the purpose and overall expected results of waiving such requirement; and

(2) ROUTE.—The Secretary shall prescribe the form and content of such report.

**SEC. 8402. WAIVERS OF REGULATORY REQUIREMENTS.**

(a) IN GENERAL.—The Secretary may waive, in whole or in part, any rule, regulation, requirement, or standard promulgated under an Act that the Secretary determines is unnecessary or inappropriate for the purpose of carrying out any program authorized under such Act.

(b) NECESSARY DETERMINATIONS.—The Secretary may not waive, in whole or in part, any rule, regulation, requirement, or standard promulgated under an Act if the Secretary determines that—

(1) such waiver will have an adverse impact on the administration of other Federal programs or other Federal activities; and

(2) such waiver will result in a violation of any other applicable statute, regulation, or order.

(c) GENERAL REQUIREMENTS.—(b) NECESSARY DETERMINATIONS.—(1) In general.—(A) The Secretary shall prescribe the form and content of such report.

(2) DURATION AND EXTENSION OF WAIVER.—(A) The Secretary may extend the period described in paragraph (1) if the Secretary determines that—

(1) the waiver has been effective in enabling the agency or school for which the waiver was requested and the waiver has contributed to improved student performance; and

(2) such extension is in the public interest.

(d) REPORTS.—(1) LOCAL WAIVER.—A local educational agency that receives a waiver under this section shall submit a report to the Secretary that describes the purpose and overall expected results of waiving such requirement; and

(2) ROUTE.—The Secretary shall prescribe the form and content of such report.
“(C) evaluates the progress of such agency and of schools in improving the quality of instruction or the academic performance of students.

(2) STATE WAIVER.—A State educational agency that receives reports required under paragraph (1) shall annually submit a report to the Secretary that is based on such reports and contains such information as the Secretary may require.

(3) INDIAN TRIBE WAIVER.—An Indian tribe that receives a waiver under this section shall annually submit a report to the Secretary that is based on such reports and contains such information as the Secretary may require.

(4) REPORT TO CONGRESS.—Beginning in fiscal year 2002 and each subsequent year, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a report:

(A) summarizing the uses of waivers by State educational agencies, local educational agencies, Indian tribes, and schools; and

(B) describing whether such waivers—

(i) increased the quality of instruction to students; or

(ii) improved the academic performance of students.

(5) TERMINATION OF WAIVER.—The Secretary shall terminate a waiver under this section if the Secretary determines, after notice and 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.

(6) PUBLICATION.—A notice of the Secretary’s decision to grant such waiver under subsection (a) shall be published in the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, and the public.

PART E—UNIFORM PROVISIONS

SEC. 8501. MAINTENANCE OF EFFORT.

(a) IN GENERAL.—A local educational agency may receive funds under a covered program for any fiscal year only if the State educational agency funds that either the combined fiscal effort per student or the aggregate expenditures of such agency and the State with respect to the provision of free public education by such agency for the preceding fiscal year was not less than the lesser of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

(b) REDUCTION IN CASE OF FAILURE TO MEET MAINTENANCE OF EFFORT REQUIREMENT.

(1) IN GENERAL.—The State educational agency shall reduce the amount of the allocation of funds under a covered program in any fiscal year to the extent of such combined fiscal effort per student or aggregate expenditures under paragraph (a) of this section, the Secretary determines that such agency, consortium, or entity disagrees with the views of the private school officials on the provision of contract services through potential third party providers.

(2) DISCUSSION REQUIRED.—If the Secretary determines that such agency, consortium, or entity disagrees with the views of the private school officials on the provision of services through a contract, the agency, consortium, or entity shall provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to use a contractor.

(3) CONSULTATION.—Such consultation shall occur before the agency, consortium, or entity makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act, and shall continue throughout the implementation and assessment of activities under this section.

(4) PUBLIC CONTROL OF FUNDS.—

(1) IN GENERAL.—The control of funds used to provide services under this section shall be—

(i) by employees of a public agency; or

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

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

(C) Funds used to provide services under this section shall not be commingled with non-Federal funds.

SEC. 8505. STANDARDS FOR PROVISION OF SERVICES.

In the provision of any provision of law, a State educational agency, local educational agency, educational service agency, consortium, or other entity of such agencies, is prohibited from providing for the participation of children enrolled in, or teachers or other educational personnel from, private elementary and secondary schools, on an equitable basis, if the Secretary determines that such agency, consortium or entity has substantially failed or is unwilling to provide for such participation, as required by section 8503, the Secretary shall—

(1) require the requirements of that section for such agency, consortium, or entity;

(2) arrange for the provision of equitable services to such children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 8503, 8505, and 8506; and

(3) in making the determination, consider one or more factors, including the quality, size, scope, location of the program and the opportunity of private school children, teachers, and other educational personnel to participate.

SEC. 8506. SPECIAL 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

(b) REVIEW OF SERVICES.—Such consultation 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, and other educational personnel to participate in programs under this Act, and shall continue throughout the implementation and assessment of activities under this section.

(c) FUNDING.—Such consultation shall also include a discussion of funding mechanisms that the agency, consortium, or entity could use to provide equitable services to 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.

SEC. 8502. PROHIBITION REGARDING STATE AID.

A State shall not take into consideration payments under this Act (other than under title VI) in determining the eligibility of any local educational service agency for State aid, or the amount of State aid, with respect to free public education of children.

SEC. 8503. PARTICIPATION BY PRIVATE SCHOOL CHILDREN.

(a) PRIVATE SCHOOL PARTICIPATION.

(1) IN GENERAL.—Except as otherwise provided in this Act, to the extent consistent with the term "eligible children", a State educational agency in such State for State aid, and a public agency shall provide—

(i) a notice of the availability of services under this section;

(ii) a description of the services and other benefits provided under this section;

(iii) a description of the uses of such waiver by such State educational agency, local educational agency, educational service agency, consortium of such agencies, or another entity receiving funding under a program specified in subsection (b), who are enrolled in private elementary and secondary schools in areas served by such agency, consortium or entity;

(iv) the services or benefits addressed by such waiver; and

(v) the amount of State aid, with respect to free public education of children.

(b) APPLICABILITY.—

(1) IN GENERAL.—This section applies to provisions of law that—

(i) provide for the participation of children enrolled in, or teachers or other educational personnel serving such children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.

(2) DISCUSSION REQUIRED.—If the agency, consortium, or entity disagrees with the views of the private school officials on the provision of contract services through potential third party providers.

(3) CONSULTATION.—Such consultation shall occur before the agency, consortium, or entity makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act, and shall continue throughout the implementation and assessment of activities under this section.

(4) PUBLIC CONTROL OF FUNDS.—

(1) IN GENERAL.—The control of funds used to provide services under this section shall be—

(i) by employees of a public agency; or

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

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

(C) Funds used to provide services under this section shall not be commingled with non-Federal funds.

SEC. 8504. STANDARDS FOR PROVISION OF SERVICES.

In the provision of any provision of law, a State educational agency, local educational agency, educational service agency, consortium, or other entity of such agencies, is prohibited from providing for the participation of children enrolled in, or teachers or other educational personnel from, private elementary and secondary schools, on an equitable basis, if the Secretary determines that such agency, consortium or entity has substantially failed or is unwilling to provide for such participation, as required by section 8503, the Secretary shall—

(1) require the requirements of that section for such agency, consortium, or entity;

(2) arrange for the provision of equitable services to such children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 8503, 8505, and 8506; and

(3) in making the determination, consider one or more factors, including the quality, size, scope, location of the program and the opportunity of private school children, teachers, and other educational personnel to participate.

SEC. 8505. STANDARDS FOR PROVISION OF SERVICES OR BENEFITS.

(a) PROCEDURES FOR COMPLAINTS.—The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other
individuals and organizations concerning violations of section 8503 by a State educational agency, local educational agency, educational service agency, consortium of such agencies or entity, or organization. The Secretary may submit such complaint to the Court educational agency for a written resolution by the State educational agency within a reasonable period of time.

(b) PEETION FOR REVIEW.—(1) UNITED STATES COURT OF APPEALS.—If the Secretary shall not file in the court the record of the further proceedings on which the Secretary based the determination under section 8503 within 60 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

(c) APPEALS TO SECRETARY.—Such resolution may be appealed by an interested party to the Secretary not later than 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within a reasonable period of time. Such appeal shall be accompanied by a copy of the State educational agency’s request for a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve such appeal not later than 120 days after receipt of the appeal.

SEC. 8506. BY-PASS DETERMINATION PROCESS.

(1) General.—(A) The Secretary shall not take any final action under section 8504 until the State educational agency, local educational agency, educational service agency, consortium of such agencies or entity affected by such action has had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary to show cause why that action should not be

(B) Pending final resolution of any investigation or complaint that could result in a determination under this section, the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

(2) PETITION FOR REVIEW.—(A) If such affected agency or consortium or entity is dissatisfied with the Secretary’s final action after a proceeding under paragraph (1), such agency or consortium or entity may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action.

(B) A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary.

(C) The Secretary upon receipt of the petition shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2121 of title 28, United States Code.

(3) FINDINGS OF FACT.—(A) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may then make new or modified findings of fact and may modify the Secretary’s previous action, and shall file in the court the record of the further proceedings.

(B) Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(4) JURISDICTION.—(A) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part.

(B) The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(b) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines, in consultation with the affected agency, consortium or entity and representatives of the affected private school children, teachers, or other educational personnel that there will no longer be any failure or inability on the part of such agency or consortium to meet the applicable requirements of section 8503 or any other provision of this Act.

(c) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the affected public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriation or allocation under this Act.

(d) PRIOR DETERMINATION.—Any by-pass determination by the Secretary under this Act as in effect on the day preceding the date of enactment of this Act not in effect shall remain in effect to the extent the Secretary determines that such determination is consistent with the purpose of this section.

SEC. 8507. PROHIBITION AGAINST FUNDS FOR RELIGIOUS WORSHIP OR INSTRUCTION.

"‘(a) Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction.

(b) Nothing in this Act shall be construed to authorize or to permit Federal Governments to direct, review, or control the education of any State, local educational agency, or school’s curriculum or program of instruction, orallocation of State or local resources, or mandating a State or any subdivision thereof to spend any funds or in any way to control or encourage, whether directly or indirectly, religious worship or instruction within any school.”

SEC. 8508. APPLICABILITY.

"‘(a) Nothing in this Act shall be construed to affect any home school or any school that is treated as a home school or a private school under State law (consistent with section 8504), nor shall any home school student be required to participate in any assessment referenced in this Act.

(b) The Secretary shall not take any final action under this Act until the Secretary, in consultation with the Governor of the State in which such home school is located, determines that the home school is in compliance with the applicable requirements of section 8504.

(c) When the Secretary arranges for services pursuant to this Act, the Secretary shall report to the Congress on all services assisted under this Act and the extent to which there was compliance with the applicable requirements of section 8504 under this Act.

SEC. 8509. PRIVATE SCHOOLS.

"‘(a) Nothing in this Act shall be construed to affect any private school that does not receive funds or services under this Act or that any student who attends a private school that does not receive funds under this Act be required to participate in any assessment referenced in this Act.

SEC. 8510. PRIVACY OF ASSESSMENT RESULTS.

"‘Any results from individual assessments referenced in this Act which become part of the education records of the student shall have the protections as provided in section 444 of the General Education Provisions Act. Nothing in this Act shall be construed to authorize any officer or employee of the Federal Government to direct, review, or control a State, local educational agency, or school’s curriculum or program of instruction as a condition of eligibility to receive funds under this Act.

SEC. 8511. GENERAL PROVISION REGARDING NONRECIPIENT NONPUBLIC SCHOOLS.

"‘Nothing in this Act, or any other Act administered by the Secretary, shall be construed to authorize any Federal government to direct, review, or control a State, local educational agency, or school’s curriculum or program of instruction as a condition of eligibility to receive funds under this Act.

SEC. 8512. SCHOOL PRAYER.

"‘As a condition for receipt of funds under this Act, a local educational agency shall certify in writing to the Secretary that no policy of the agency prevents or otherwise denies participation in constitutionally protected prayer in public schools.

SEC. 8513. GENERAL PROHIBITIONS.

(a) PROHIBITION.—None of the funds authorized under this Act shall be used to—1. to provide sex education or HIV prevention education in schools unless such instruction is age appropriate and emphasizes the health benefits of abstinence; or

2. to provide sex education or HIV prevention education in schools unless such instruction is age appropriate and emphasizes the health benefits of abstinence; or

3. to provide education or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;

4. to provide services to students with disabilities or

5. 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 direct, review, or control the curriculum of any local educational agency, or school’s instructional content, curriculum, and related activities;

2. limit the application of the General Educational Provisions Act (20 U.S.C.A. 1221 et seq.); or

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. 8514. PROHIBITION ON FEDERAL MANDATES, DIRECTION, AND CONTROL.

(a) GENERAL PROHIBITION.—Nothing contained in this Act shall be construed to authorize an officer or employee of the Federal Government to direct, review, or control a State, local educational agency, or school’s curriculum or program of instruction, or allocation of State or local resources, or mandating a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

(b) PROHIBITION OF FEDERAL MANDATES, DIRECTION, OR CONTROL.—Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school’s curriculum or program of instruction as a condition of eligibility to receive funds under this Act.

(c) EQUALIZED SPENDING.—Nothing in this Act shall be construed to mandate equalized per pupil spending for a State, local educational agency, or school.

(d) BUILDING STANDARDS.—Nothing in this Act shall be construed to mandate national school building standards for a State, local educational agency, or school.

SEC. 8515. 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. 8516. REPORT.

The Secretary shall report to the Congress not later than 180 days after the date of enactment of the No Child Left Behind Act of 2001 regarding how the Secretary shall ensure that audits conducted by Department employees of activities assisted under this Act with changes to this Act made by the No Child Left Behind Act of 2001, particularly with respect to permitting children with similar educational needs to be served in the same educational settings, where appropriate.

SEC. 8517. REQUIRED APPROVAL OR CERTIFICATION PROHIBITED.

(a) IN GENERAL.—Notwithstanding any other provision of Federal law, no State shall be required to have academic content standards or student academic achievement standards approved or certified by the Federal Government, in order to receive assistance under this Act.

(b) CONSTRUCTION.—Nothing in this section shall be construed to affect requirements under the law of this Act.

SEC. 8518. PROHIBITION ON ENDORSEMENT OF CURRICULUM.

"‘Notwithstanding any other provision of Federal law, no funds provided to the Department of Education to assist or require any State, local educational agency, or school to endorse any curriculum designed to be used in an elementary or secondary school.

SEC. 8519. RULE OF CONSTRUCTION ON PERSONALLY IDENTIFIABLE INFORMATION.

"‘Nothing in this Act shall be construed to permit the development of a national database of personally identifiable information on individuals involved in studies or in data collection efforts under this Act.

May 22, 2001 CONGRESSIONAL RECORD—HOUSE H2111
“SEC. 8502. SEVERABILITY.

“If any provision of this Act is held invalid, the remainder of this Act shall be unaffected thereby.

PART F—SENSE OF CONGRESS

SEC. 8601. PAPERWORK REDUCTION.

“(a) FINDINGS.—The Congress finds that—

“(1) instruction and other classroom activities provide the greatest opportunity for students, especially at-risk and disadvantaged students, to attain high standards and achieve academic success;

“(2) one of the greatest obstacles to establishing an effective, classroom-centered education system is the cost of paperwork compliance;

“(3) paperwork places a burden on teachers and administrators who must complete Federal and State forms to apply for Federal funds and absorbs time and money which otherwise would be spent on students;

“(4) the Education at a Crossroads Report released in 1998 by the Education Subcommittee on Oversight and Investigations states that requirements by the Department of Education result in more than 48,600,000 hours of paperwork per year; and

“(5) paperwork distracts from the mission of schools, encumbers teachers, and administrators with nonacademic responsibilities, and competes with teaching and classroom activities which promote learning and achievement.

“(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal and State educational agencies should reduce the paperwork requirements placed on schools, teachers, principals, and other administrators.

SEC. 8602. PROHIBITION ON MANDATORY NATIONAL CERTIFICATION OF TEACHERS AND PARAPROFESSIONALS.

“(a) PROHIBITION ON MANDATORY TESTING OR CERTIFICATION.—Notwithstanding any other provision of law, the Secretary is prohibited from using Federal funds to plan, develop, implement, or administer any mandatory national teacher or paraprofessional test or certification.

“(b) PROHIBITION ON WITHHOLDING FUNDS.—The Secretary is prohibited from withholding funds from any State or local educational agency if such State or local educational agency fails to adopt a specific method of teacher or paraprofessional certification.

SEC. 8603. PROHIBITION ON FEDERALLY SPONSORED TESTING.

“Notwithstanding any other provision of Federal law, no funds provided under this Act to the Secretary or to the recipient of any award may be used to develop, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

SEC. 8604. SENSE OF CONGRESS REGARDING MEMORIALS.

“It is the sense of Congress that—

“(1) participation in a ceremony, the reading of a scripture, or the performance of religious music, as part of a memorial service that is held on the campus of a public elementary or secondary school, on the memory of any person slain on that campus is not objectionable under this Act; and

“(2) the design and construction of any memorial which includes religious symbols, motifs, or sayings that is placed on the campus of a public elementary or secondary school in order to honor the memory of any person slain on that campus is not objectionable under this Act.

PART G—EVALUATIONS

SEC. 8651. 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 national or regional 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 programs or projects;

“(2) to evaluate the aggregate short- and long-term costs and cost efficiencies across Federal programs administered 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 improvement of the program or project by improving the quality, timeliness, efficiency, and utilization of the evaluation 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 such program or project.

SEC. 802. COMPREHENSIVE REGIONAL ASSISTANCE CENTERS.

“(a) IN GENERAL.—Part A of title XII (20 U.S.C. 8621 et seq.)—

“(1) is transferred to the end of title VIII, as amended by section 801; and

“(2) is redesignated as part H.

“(b) REDESIGNATION OF SECTIONS.—Sections 13101 through 13155 are redesignated as sections 8701 through 8755, respectively.

“(c) CONFORMING AMENDMENTS.—

“(1) REQUIREMENTS.—Section 8702(a) (as redesignated by subsection (b)) is amended—

“(A) by striking “section 13101(a)” and inserting “section 8701”;

“(B) in paragraph (7), by striking “section 13201” and inserting “section 8751”;

“(C) in paragraph (8), by striking “section 13202” and inserting “section 8752”; and

“(D) in paragraph (9), by striking “section 13203” and inserting “section 8753”.

“(2) MAINTENANCE OF SERVICE.—Section 8702(b) (as redesignated by subsection (b)) is amended—

“(A) by deleting “for a State” and inserting “for a participating State”;

“(B) in paragraph (1), by striking “section 13102” and inserting “section 8702”; and

“(C) in paragraph (2), by striking “section 13104” and inserting “section 8704”.

“(3) TRANSITION.—Section 8704(b)(1) (as redesignated by subsection (b)) is amended—

“(A) in subsection (c), by striking “under part C” and inserting “under part F”; and

“(B) in subsection (d), by striking “section 13401” and inserting “section 8651”.

SEC. 803. NATIONAL DIFFUSION NETWORK.

“(a) IN GENERAL.—Part B of title XII (20 U.S.C. 8651 et seq.)—

“(1) is transferred to the end of title VIII, as amended by section 802; and

“(2) is redesignated as part I.

“(b) REDESIGNATION OF SECTIONS.—Sections 13201 and 13202 are redesignated as sections 8751 and 8752, respectively.

“(c) CONFORMING AMENDMENT.—Section 8751 (as redesignated by subsection (b)) is amended—

“(1) in subsection (c), by striking “under part C” through the end thereof and inserting “under part F”; and

“(2) in subsection (f), by striking “section 13401” and inserting “section 8651”.

SEC. 804. EISENHOWER REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIA.

“(a) IN GENERAL.—Part C of title XII (20 U.S.C. 8671 et seq.)—

“(1) is transferred to the end of title VIII, as amended by section 803; and

“(2) is redesignated as part J.

“(b) REDESIGNATION OF SECTIONS.—Sections 13301 through 13308 are redesignated as sections 8801 through 8808, respectively.

“(c) CONFORMING AMENDMENTS.—

“(1) GRANT AUTHORIZATION.—Section 8801(a)(3) (as redesignated by subsection (b)) is amended by striking “section 13308” and inserting “section 8808”.

“(2) USE OF FUNDS.—Section 8802 (as redesignated by subsection (b)) is amended—

“(A) by striking “section 13304” and inserting “section 8804”;

“(B) in paragraph (2), by striking “13301(a)(1)” and inserting “8804(a)(1)”; and

“(C) in paragraph (3), by striking “13301(a)(1)” and inserting “8804(a)(1)”.

“(3) PAYMENTS.—Section 8805 (as redesignated by subsection (b)) is amended in each of subsections (a) and (c) by striking “section 13302” and inserting “section 8803”.

“(4) EVALUATION.—Section 8806(a) (as redesignated by subsection (b)) is amended by striking “section 13302” and inserting “section 8803”.

“(5) DEFINITIONS.—Section 8807(4) (as redesignated by subsection (b)) is amended by striking “section 13301” and inserting “section 8801”.

SEC. 805. TECHNOLOGY-BASED TECHNICAL ASSISTANCE.

“(a) IN GENERAL.—Part D of title XIII (20 U.S.C. 8701)—

“(1) is transferred to the end of title VIII, as amended by section 804; and

“(2) is redesignated as part K.

“(b) REDESIGNATION OF SECTIONS.—Section 13401 is redesignated as section 8851.

SEC. 806. REGIONAL TECHNICAL SUPPORT AND PROFESSIONAL DEVELOPMENT.

“(a) IN GENERAL.—Part E of title XIII (20 U.S.C. 8681 et seq.)—

“(1) is transferred to the end of title VIII, as amended by section 804; and

“(2) is redesignated as part L.

“(b) REDESIGNATION OF SECTIONS.—Section 3141 is redesignated as section 8901.

“(c) CONFORMING AMENDMENTS.—Section 8901 (as redesignated by subsection (b)) is amended by striking “part C of title XIII” and inserting “part L”.

TITLE IX—MISCELLANEOUS PROVISIONS

PART A—AMENDMENTS TO OTHER ACTS

Subpart 1—National Education Statistics Act

SEC. 901. AMENDMENT TO NESA.

Section 411 of the National Education Statistics Act of 1994 (20 U.S.C. 9010) is amended—

“(1) by amending subsection (b)(2) to read as follows:

“(2) STATE PARTICIPATION.—(A) The Commissioner, in carrying out the National Assessment

“(B)(i) Except as provided in clause (ii), a participating State shall review and give permission for the release of results from any test of its students administered as a part of a State assessment prior to the release of the data. Refusal by a State to release its data shall not restrict the release of data from other States that have approved the release of such data.

“(ii) A State participating in the annual State assessments of its students in reading and mathematics in grades 4 and 8 shall be deemed to have given its permission to release its data if it has an approved plan under section 1111 of the Elementary and Secondary Education Act of 1965; and

“(3) by amending subsection (d) to read as follows:

“(4) PARTICIPATION.—(1) NATIONAL OR REGIONAL PARTICIPATION.—Participation in the national and regional assessments by State and local educational agencies shall be voluntary.

“(2) STATE PARTICIPATION.—Participation in assessments made on a State basis shall be voluntary.”.
Subpart 2—Homeless Education

SEC. 911. SHORT TITLE.

This subpart may be cited as the “McKinney-Vento Homeless Education Assistance Improvement Act of 2001.”

SEC. 912. FINDINGS.

Congress makes the following findings:

(1) An estimated 1,000,000 children in the United States will experience homelessness in 2001.

(2) Homelessness has a devastating impact on the educational opportunities of children and youth. Homeless children and youth need to ensure that they are afforded the same free, public education as provided to other children and youth; and

(a) general authority. The Secretary is authorized to make grants to States in accordance with the provisions of this section to enable such States to carry out the activities described in subsections (d), (e), (f), and (g).

(b) application. No State may receive a grant under this section unless the State educational agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

(c) allocation and reservations.—

(1) in general. Subject to paragraph (2) and subsection (e), funds appropriated for each fiscal year under section 726, the Secretary is authorized to allot to each State an amount that bears the same ratio to the amount appropriated for such year under section 726 as the amount allocated under section 1122 of the Elementary and Secondary Education Act of 1965 to the State for that year bears to the total amount allocated under section 1122 of such Act to all States for that year, except that no State shall receive less than $125,000 or 1/2 of 1 percent of the amount appropriated for such year under section 726, whichever is greater.

(2) reservation. The Secretary is authorized to reserve 0.1 percent of the amount appropriated for each fiscal year under section 726 to be used by the Secretary on the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, according to their respective need for assistance under this subtitle, as determined by the Secretary.

(d) functions of the office of coordinator. The Coordinator of Education of Homeless Children and Youth established in section 726(b)(4) shall—

(1) to carry out the policies set forth in this subtitle in assisting homeless children and youth and their families; and

(2) to develop and carry out the State plans described in subsection (g).

SEC. 722. STATEMENT OF POLICY.

The purpose of this subpart is to strengthen subpart B of title VI of Public Law 100-77 (42 U.S.C. 11413 et seq.) by amending it—to include innovative practices, proven to be effective in helping homeless children and youth attend school, to succeed in school, and to help ensure that all children and youth are afforded the same opportunities as their non-homeless peers.

SEC. 723. STATE DEFINED.—As used in this subpart, the term ‘State’ shall include the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 724. STATE AGENCY.—Each State shall—

(1) to carry out the policies set forth in section 722 in the State;

(2) to provide activities for, and services to, homeless children, including preschool-aged homeless children, and youth that enable such children and youth to enroll in, attend, and succeed in school, or, if appropriate, in pre-school programs;

(3) to establish or designate an Office of Coordinator of Education of Homeless Children and Youth in the State educational agency in accordance with subsection (f);

(4) to prepare and carry out the State plan described in subsection (g); and

(5) to develop and implement professional development programs for school personnel to enhance their effectiveness, and to respond to, specific problems in the education of homeless children and youth.

SEC. 725. STATE PLANS.—

(a) minimum disbursements by States. From the sums made available each year to carry out this subpart, the State educational agency shall disburse not less than 75 percent in grants to local educational agencies for the purposes of carrying out section 723, except that State educational agency may use funds made available for State use under this subtitle to conduct activities under subsection (f) directly through grants.
with the requirements of paragraphs (3) through (7) of subsection (g). (g) STATE PLAN.—

**In general.—** Each State shall submit to the Secretary a plan for the education of homeless children and youth within the State, which plan shall—

(i) provide an appropriate staff person, who may also be a State and local educational agency for other Federal programs, as a liaison between the school and origin is located.

(ii) designate the procedures for school personnel (including principals, attendance officers, teachers, enrollment personnel, and pupil services personnel) to heighten the awareness of such personnel of the specific needs of runaway and homeless youth;

(iii) describe procedures that ensure that homeless youth who meet the relevant eligibility criteria are able to participate in Federal, State, or local food programs;

(iv) describe procedures that ensure that—

(A) children who have equal access to the same public preschool programs, administered by the State agency, as provided to other children;

(B) describe programs for school personnel and local liaisons established under this subchapter.

(v) uniform or dress code requirements;

(vi) in the case of an unaccompanied youth, access to appropriate secondary education services; and

(vii) contain assurances that—

(A) the local educational agency sends such child or youth to a school other than the school of origin or a school selected by the parent or guardian; and

(B) the child or youth was last enrolled.

(ii) violations of the General Education Provisions Act (20 U.S.C. 1221 et seq.); and

(iii) the State and its local educational agencies shall adopt policies and practices to ensure that homeless children and youth are not segregated solely on the basis of their status as homeless.

(iii) the State and its local educational agencies shall adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth) to and from the school of origin, as determined in paragraph (3)(A), in accordance with the following, as applicable:

(A) the homeless child or youth continues to live in the area served by the local educational agency in which the school of origin is located, the child’s or youth’s transportation to and from the school of origin shall be provided or arranged by the local educational agency in which the school of origin is located.

(B) the homeless child or youth’s living arrangements in the area served by the local educational agency of origin terminate and the child or youth, though continuing his or her education, begins living in the area served by another local educational agency, the local educational agency of origin and the local educational agency in which the homeless child or youth shall agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school or origin. If the local educational agencies are unable to agree upon such method, the responsibility and costs for transportation shall be shared equally.

(ii) the homeless liaison designated by the State, which plan shall

(A) continue the child’s or youth’s education in the school of origin for the duration of homelessness;

(B) continue the child’s or youth’s education in the school of origin, except when doing so is contrary to the wishes of the child’s or youth’s parent or guardian;

(C) provide a written explanation, including a statement regarding the right to appeal under subparagraph (D), the local educational agency sends such child or youth to a school other than the school of origin or a school selected by the parent or guardian; and

(D) the child or youth was last enrolled.

If a dispute is raised over school selection or enrollment in a school—

(i) the child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute;

(ii) the parent or guardian of the child or youth shall be provided with a written explanation of the school selection or enrollment, including the rights of the parent, guardian, or youth to appeal the decision;

(iii) the child, youth, parent, or guardian shall be referred to the local liaison designated under paragraph (1)(J)(ii), who shall carry out the dispute resolution process as described in paragraph (1)(J)(ii) as expeditiously as possible after receiving notice of the dispute; and

(iv) in the case of an unaccompanied youth, the homeless liaison shall ensure that the youth receives necessary immunizations or immunization or medical records.

(2) ENSURE DISCONTINUED.—In this paragraph, the term ‘school of origin’ means the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled.

(i) the school selected in accordance with this paragraph shall immediately enroll pursuant to section 725 of the homeless child or youth, even if the child or youth is unable to provide documentation required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation;

(ii) the enrollment school shall immediately contact the school last attended by the child or youth to obtain relevant academic and other records;

(iii) if the child or youth needs to obtain immunizations or immunization or medical records, the enrolling school shall immediately refer the parent or guardian of the child or youth to the local educational agency in which the school of origin is located.

(3) STATE PLAN.—In this paragraph, ‘accompanied’ youth includes a child or youth who is living with a nonhomeless parent or guardian of a nonhomeless child.

(i) comply with the requirements of paragraphs (3) through (7).

(ii) establish and maintain a written plan to coordinate education in the school of origin, which plan shall

(A) demonstrate that the State educational agency will comply with the requirements of paragraph (1)(J)(ii), who shall carry out the dispute resolution process as described in paragraph (1)(J)(ii) as expeditiously as possible after receiving notice of the dispute and

(B) ensure that the homeless liaison designated by the State shall be provided services comparable to services offered to other students under paragraph (3), including—

(A) transportation services;

(B) educational services for which the child or youth meets the eligibility requirements for services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, educational programs for children with disabilities, and educational programs for students with limited English proficiency;

(C) programs in vocational and technical education;

(D) programs for gifted and talented students; and

(E) school nutrition programs.

(4) COORDINATION.—In general.—Each local educational agency serving homeless children and youth that receives assistance under this subtitle shall coordinate with—

(i) the State and local social services agencies and other agencies or programs providing services to homeless children and youth and their families, in accordance with the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.); and

(ii) with other local educational agencies on interdistrict issues, such as transportation or transfer of school records.

(5) HOUSING ASSISTANCE.—If applicable, each State and local educational agency that receives assistance under this subtitle shall coordinate with State and local housing agencies responsible for developing the comprehensive
housing affordability strategy described in section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) to minimize educational disruption for children and youth who are homeless.

"(c) COORDINATION PURPOSE.—The coordination required under subparagraphs (A) and (B) shall be designed to
(i) ensure that homeless children and youth who have access and reasonable proximity to available education and related support services; and
(ii) increase the awareness of school personnel and service providers of the effects of short-term stays in a shelter and other challenges associated with homelessness.

"(d) LOCAL AGENCY.—(A) DUTIES.—Each local liaison for homeless children and youth, designated under paragraph (b) and under section 722(e), shall coordinate and collaborate with State coordinators whose duties under subsection (d) and local educational agencies to be at risk of failing in, or dropping out of, schools.

"(E) the extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youth; and

"(F) such other measures as the State educational agency considers indicative of a high-quality program.

"(4) DURATION OF GRANTS.—Grants awarded under this section shall be for terms not to exceed 3 years.

"(5) AUTHORIZED ACTIVITIES.—A local educational agency may use funds awarded under this section for activities to carry out the purposes of this subtitle, including but not limited to, the following:
(i) the provision of tutoring, supplemental instruction, and enriched educational services that are linked to the achievement of the same challenging State student academic achievement standards the State establishes for other children and youth;
(ii) the provision of expedited evaluations of the strengths and needs of homeless children and youth, including needs and eligibility for programs and services (such as educational programs for gifted and talented students, children with disabilities, and students with limited-English proficiency), services provided under title I of the Elementary and Secondary Education Act of 1965 or under State or local programs, programs in vocational and technical education, and school nutrition programs; (iii) the extent to which the applicant complies with, or will use requested funds to comply with, paragraphs (1) through (7) of section 722(g)(7); and
(iv) such other activities as the State educational agency may reasonably require.
where necessary to enable students to attend the school selected under section 722(g)(3);

(6) the provision of developmentally appropriate early childhood education programs, not otherwise funded through Federal, State, or local funding, for preschool-aged children;

(7) the provision of services and assistance to attract, engage, and retain homeless youth (as described in (1) and (2) of section 725) in public school programs and services provided to nonhomeless youth;

(8) the provision for homeless children and youth not in the physical custody of a parent or guardian, including Head Start grantees, Health Care for Children and Families grantees, Emergency Food and Shelter grantees, and subgrantees of the Homeless Grants Program, and summer programs in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities;

(9) if necessary, the payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll homeless children and youth in school, including birth certificates, immunization or medical records, academic records, guardianship records, and evaluations for special programs or services;

(10) the provision of education and training to the parents of homeless children and youth about the rights of, and resources available to, such children and youth;

(11) the development of coordination between schools and agencies providing services to homeless children and youth, as described in section 722(g)(5);

(12) the provision of pupil services (including violence prevention counseling) and referrals for such services;

(13) activities to address the particular needs of homeless children and youth that may arise from domestic violence;

(14) the adaptation of space and purchase of supplies for nonschool facilities made available under subsection (a)(2) to provide services under this subsection;

(15) the provision of school supplies, including those to be distributed at shelters or temporarily furnished facilities, or other appropriate locations; and

(16) the provision of other extraordinary or emergency assistance needed to enable homeless children and youth to attend school.

SEC. 724. SECRETARIAL RESPONSIBILITIES.

(a) REVIEW OF PLANS.—In reviewing the State plan submitted by a State educational agency under section 722(g), the Secretary shall use a peer review process and shall evaluate the agency under section 722(g), the Secretary shall, either directly or through grants, contracts, or cooperative agreements, periodically collect and disseminate data and information regarding—

(A) the number and location of homeless children and youth;

(B) the education and related services such children and youth receive;

(C) the extent to which such needs are being met; and

(D) such other data and information as the Secretary determines necessary and relevant to carry out this subtitle.

(2) COORDINATION.—The Secretary shall coordinate such collection and dissemination with the actions of the Department and the effective and efficient administration of programs under this subtitle.

(b) REPORT.—Not later than 4 years after the date of the enactment of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, the Secretary shall prepare and submit to the President and the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the status of education of homeless children and youth, which shall include information on—

(1) the education of homeless children and youth; and

(2) the actions of the Department and the effectiveness of the programs supported under this subtitle.

SEC. 725. DEFINITIONS.

In this subtitle—

(1) the term ‘homeless children and youth’ includes individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 106(a)(1));

(2) includes—

(i) children and youth who are living in doubled-up accommodations sharing the housing of another person due to economic hardship or a similar reason, are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations, are living in emergency or transitional shelters, are abandoned in hospitals, or are awaiting foster care placement;

(ii) individuals who have a primary nighttime residence that is provided through Federal, State, or local funding, for the Homeless grantees, Emergency Food and Shelter grantees, and emergency assistance programs administered by the Department of Housing and Urban Development;

(3) does not include migratory children (as such term is defined in section 122(f)(2) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 103 of the bill), unless such children are staying in accommodations not fit for habitation;

(4) the term ‘unaccompanied youth’ includes youth not in the physical custody of a parent or guardian;

(5) the term ‘enroll’ and ‘enrollment’ include within their meaning the right to attend classes and to participate fully in school activities.

(6) The terms ‘local educational agency’ and ‘State educational agency’ have the meanings given to such terms in section 602 of the Elementary and Secondary Education Act of 1965.

(7) The term ‘Secretary’ means the Secretary of Education.

SEC. 726. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $60,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003 through 2006.

SEC. 915. TECHNICAL AMENDMENT.

(a) In General.—Section 1 of Public Law 106–400 (42 U.S.C. 13101) is amended by striking “Section 1 of” and inserting “Section 101 of”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be deemed to be effective on the date of enactment of Public Law 106–400.

PART B—REPEALS

SEC. 921. REPEALS.

The following provisions are repealed:


(3) ESEA—

(A) Title IX, relating to Indian, Native Hawaiian, and Alaska Native education.

(B) Parts A, B, C, D, F, G, I, J, L, of title X, relating to programs of national significance.

(C) Title XI, relating to coordinated services.

(D) Title XII, relating to education infrastructure.

(E) The title heading of title XIII and sections 13001 and 13002.

(F) Title XIV, relating to general provisions.

The CHAIRMAN. No amendment to that amendment is in order except those printed in House Report 107–69. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be the order read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. BOEHNER.

Mr. BOEHNER. Mr. Chairman, pursuant to the rule, I offer an amendment. The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. BOEHNER: In section 1003(b) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 103 of the bill, strike “amount of State funds” and all that follows through “the preceding fiscal year” and inserting the following: “amount of funds each local educational agency receives under subpart 3 below the amount received by such agency under such subpart in the preceding fiscal year”.

In section 1111 of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 104 of the bill, add at the end the following:
"(J) Special Rule With Respect to Bureau Funded Schools.—In determining the assessments to be used by each Bureau funded school receiving funds under this part, the following shall apply:

(1) Each Bureau funded school which obtains accreditation by the State in which it is operating shall utilize the assessments the State has developed and determined to meet the requirements of this section, or such other appropriate assessment as approved by the Secretary of the Interior.

(2) Each Bureau funded school which obtains accreditation by a regional accrediting organization shall adopt an appropriate assessment, in consultation and with the approval of the Secretary of the Interior, consistent with assessments adopted by other schools in the same State or region, that meets the requirements of this section.

(3) Each Bureau funded school which obtains accreditation 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 Interior shall ensure that such assessment meets the requirements of this section.

In section 3122(b)(10)(B) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 104 of the bill, strike ‘‘section 401 of the bill’’ and insert ‘‘section 411 of the bill’’.

In section 1116 of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 106 of the bill, add at the end the following:

'(f) Treatment of Bureau Funded Schools.—For the purposes of applying the requirements of subsection (b) to schools funded by the Bureau of Indian Affairs, the Secretary of Interior shall implement such measures as the Secretary determines to be appropriate to treat such schools as if they were operated by a Federal agency.

(1) In section 5214(b) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 210 of the bill, strike the following:

"(5) in paragraph (6), insert "eligibility for title I of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 106 of the bill;" and

(2) in subsection (e), strike "title I of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 106 of the bill;" and insert "(1) in paragraph (6), insert "eligibility for title I of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 106 of the bill; and"

(3) in subsection (f), strike "title I of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 106 of the bill;" and insert "(1) in paragraph (6), insert "eligibility for title I of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 106 of the bill; and"

SEC. 315. ACCOUNTABILITY FOR BUREAU FUNDED SCHOOLS.

Notwithstanding the provisions of section 7102 of the Elementary and Secondary Education Act of 1965, the Secretary shall limit any reduction of administrative funding for the Bureau of Indian Affairs up to a maximum of $10,000 for each section to not more than 50 percent of the amount that may be reserved for administration under such Act.

In section 2101(c) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 401 of the bill—

(1) in paragraph (14), strike ‘‘and’’ at the end; and

(2) in paragraph (15), strike the period at the end and insert a semicolon; and

(3) add at the end the following:

'(3) In section 1116(d) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 501 of the bill, insert ‘‘academic’’ before ‘‘achievement’’.

SEC. 5212(a)(3) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 501 of the bill, insert ‘‘students who attend’’ before ‘‘target’’.

In section 5214 of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 501 of the bill—

(1) in paragraph (a), strike paragraph (3); and

(2) in paragraph (c)(1), insert ‘‘including services for Bureau school programs’’ after ‘‘school activities’’; and

In section 5214(b)(1)(A) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 501 of the bill, insert ‘‘and harassment’’ after ‘‘weapons’’.

In section 4131(b) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 501 of the bill, insert ‘‘to training’’ after ‘‘constant access’’.

In section 5212(b)(4)(A) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 501 of the bill, insert ‘‘or Bureau—’’ before ‘‘that is being reviewed’’ and insert a comma before ‘‘so that’’.

In section 5212(b) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 501 of the bill—

(1) in paragraph (5), insert ‘‘including software and other electronically delivered learning materials’’ after ‘‘will integrate technology’’; and

(2) in paragraph (10)(B)—

(A) strike ‘‘an assurance that’’ and insert ‘‘a description of how’’; and

(B) strike ‘‘have compatibility and interconnectivity with technology obtained and be integrated’’.

In section 5212(a)(2) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 501 of the bill, insert a comma after ‘‘reduced-cost loans’’.

In section 5212 of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 501 of the bill, strike ‘‘TELECOMMUNICATIONS PROGRAM’’ in the section heading and insert ‘‘READY TO TEACH’’.

In section VI of the bill, insert after section 602 the following:

SEC. 603. ELIGIBILITY UNDER SECTION 8003 FOR CERTAIN HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.

(a) Eligibility.—Section 8003(b)(2)(C) (20 U.S.C. 7707(b)(2)(C)) is amended—

(1) in clauses (i) and (ii) by inserting after ‘‘Federal military installation’’ each place it appears the following: ‘‘or the agency is a certified local educational agency as described in clause (iv)’’; and

(2) by adding at the end the following:

'(iv) Qualified Local Educational Agencies—

A qualified local educational agency described in this clause is an agency that meets the following requirements:

(1) The Agency is a local educational agency that is operating a school serving a high poverty area, in accordance with the definition in section 8003(b)(2)(C)(iv)(I) (including the requirement that the student poverty rate is at least 50 percent). The Agency is at least 50 percent white and 50 percent black, but not more than 2 percent from any other racial or ethnic group; and

(2) The Agency is in a high poverty area, as determined by—

(A) the definition in section 8003(b)(2)(C)(iv)(II) (including the requirement that the student poverty rate is at least 50 percent); and

(B) the definition in section 8003(b)(2)(C)(iv)(III) (including the requirement that the student poverty rate is at least 50 percent).

The Agency is in a high poverty area, as determined by—

(A) the definition in section 8003(b)(2)(C)(iv)(II) (including the requirement that the student poverty rate is at least 50 percent); and

(B) the definition in section 8003(b)(2)(C)(iv)(III) (including the requirement that the student poverty rate is at least 50 percent).'
Mr. GEORGE MILLER of California. Mr. Chairman, I ask unanimous consent to claim the time otherwise reserved for the opposition.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. BOEHNEN). Mr. BOEHNEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, from the time the committee marked up H.R. 1 until today, I have been working with the ranking member, the gentleman from California (Mr. GEORGE MILLER) and many other Members from both sides of the aisle to resolve a number of issues. Those issues that we have resolved have been included in this manager’s amendment, and I wish to thank all of the Members for their cooperation.

In addition, there are several technical and conforming changes that have been included in this amendment as well. In title I, we have made several changes. First, we have made it clear that transportation is to be provided for public school choice when a school is designated as low performing.

Second, we have clarified the role of parents in developing a school’s restructuring plan.

Third, we have made clarifications on the assessments used by Bureau of Indian Affairs clear and made it clear that tribal organizations operating Bureau of Indian Affairs schools are to be treated as local educational agencies for purposes of implementing school improvement and corrective action programs.

In title II, we have made technical changes regarding State activities and local uses respecting the teacher advancement initiatives and pay differentiation.

In title III, part B, we have made changes concerning the accountability of the Secretary of the Interior for the improvement of schools funded or operated by the Bureau of Indian Affairs.

Under the innovative education block grant in title IV, we have added two items to the local uses of funds at the school district level. First, we have included activities to enhance or establish prekindergarten programs for 3-, 4-, and 5-year-old children. Second, we have included academic intervention programs for students most at risk of not meeting State academic achievement standards as a use of funds, as well as programs for students not completing secondary school.

In title V, part B, we have clarified that one of the purposes of the technology grants is to provide training in the use of technology as a part of ongoing professional development.

With respect to title VI and Impact Aid, we have added a provision that clarifies that school districts which have no tax base and whose boundaries are held in trust by the Federal Government are considered heavily impacted and therefore eligible for payments under the program.

In the 21st Century Schools program, we have made a technical correction regarding the transferability of funds at the local level.

In title VIII, we have made technical changes regarding local consolidation plans. Finally, in title VIII, we have added a study on the effects of testing on children.

Mr. Chairman, I wish to thank my ranking member, the gentleman from California (Mr. GEORGE MILLER) and other Members from both sides of the aisle for their cooperation in working out the matters.

Mr. Chairman, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Ohio (Mr. BOEHNEN), the chairman of the Committee on Education and the Workforce, to engage in a brief colloquy.

Mr. Chairman, as the gentleman from Ohio knows, part D, section 5401 of this legislation deals with elementary and secondary school counseling programs and authorizes grants for local school boards to establish or expand counseling programs in the school.

Before coming to Congress, I spent 23 years as a practicing clinical psychologist; and I want to thank the gentleman from Ohio (Mr. BOEHNEN) and members of the Committee on Education and the Workforce for including this element of the bill. Our kids deserve to get high-quality counseling, and this bill provides the means for more schools to reach these children more effectively.

However, I am concerned that this important and well-meaning provision could be misunderstood by States and local school boards with respect to clinical psychologists. While the distinction between a school psychologist and a clinical psychologist is subtle, it is an important difference. Clearly there are cases that would be better handled by a school psychologist, and there are others in which a clinical psychologist may be better suited to counsel a particular child. But as I read the bill now, it may not be apparent that a school could utilize the services of a clinical psychologist. I would hate to see a child who needed a certain level of care was unable to receive that level of care.

We would all agree to seek to include the words “clinical psychologist,” to insert those words in this section once the bill goes to conference.
Mr. BOEHNER. Mr. Chairman, will the gentleman yield?

Mr. BAIRD. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, I think the gentleman raises an important concern. I agree with him that all of our children deserve the most appropriate level of care that can be offered. Therefore, I will commit to work with the gentleman from Washington (Mr. BAIRD) when we get to conference on trying to ensure that his concern is addressed in the final version of the bill.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. BAIRD. I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Chairman, as the gentleman knows, I have worked hard to include school-based mental health services in this bill. I presented it, and I am happy to know of the gentleman's professional concern. I certainly agree with the gentleman's desire to ensure that our students receive the mental health services appropriate and from qualified providers. I do not know if the gentleman realizes it, but a member of my family, namely my husband, is a psychiatrist, so I know what we are talking about here.

Mr. Chairman, I look forward to working with the gentleman from Washington. There is nothing in this bill, or certainly in my amendment that would prohibit his proposal here. In fact, I think it would underscore the importance of what the gentleman has stated. And so I look forward to working together to address these concerns in the conference. I am happy to hear from the gentleman from Ohio (Mr. BOEHNER), the chairman's support for that as well.

Mr. BAIRD. Mr. Chairman, I thank the gentlewoman from New Jersey and the gentleman from Ohio, and I commend them for their leadership on this issue and thank them for their consideration for children in need.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield back the balance of my time.

Mr. BOEHNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. BOEHNER), the chairman of the committee.

AMENDMENT NO. 2 OFFERED BY MRS. CAPPS

Mrs. CAPPS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mrs. CAPPS:

In subsection (b) of section 4131 of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 401 of the bill—

(1) strike “and” at the end of paragraph (14);

(2) strike the period at the end of paragraph (15) and insert “; and”; and

(3) add at the end the following:

‘(16) programs for cardiopulmonary resuscitation (CPR) training in schools.

The CHAIRMAN. Pursuant to House Resolution 143, the gentlewoman from California (Mrs. CAPPS) and the gentleman from Indiana (Mr. SOUDER) each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Chairman, I yield myself such time as I may consume.

I am pleased to offer this amendment to provide funding for CPR training in schools on behalf of myself, the gentlewoman from Maryland (Mrs. MORELLA), and the gentleman from Florida (Mr. FOLEY). This is a simple amendment. It would allow funds in title IV, the block grant provision of the bill, to be used to teach our kids CPR in schools. This amendment is based on legislation which I introduced earlier this year with the gentleman from Florida (Mr. FOLEY) and the gentlewoman from Maryland (Mrs. MORELLA) and others to encourage CPR in public schools. It has been endorsed by the American Heart Association, the National Education Association, and the American Red Cross, among others.

Mr. Chairman, heart disease is the leading cause of death in the United States with 220,000 Americans dying each year of sudden cardiac arrest. But according to the Heart Association, 50,000 cardiac victims could be saved each year by initiating a chain of survival. This includes an immediate call to 911, early CPR and defibrillation, and early advanced life support. The Congress has recently taken action to enhance our 911 system and encourage automated external defibrillators to be placed in public buildings. Encouraging more of our citizens to know CPR is clearly the next step as we continue strengthening this chain of survival. Teaching our kids this skill gives them the ability to assist cardiac victims, and it is incredibly important to be prepared to help their fellow citizens in time of need. It also encourages the development of heart-healthy habits, diet, exercise, avoiding smoking. These are good things to learn at an early age.

Mr. Chairman, this bill grew out of my experience as a school nurse in California where I began a CPR curriculum. I saw a need to teach students these life-saving skills. The strength of this amendment is that it encourages coordination with local schools and community organizations such as the Red Cross and the Heart Association.

Mr. Chairman, I urge my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SOUDER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me first point out that I am not against CPR. My father died at age 55, as did his two brothers, of a heart attack. So did my grandfather on both sides die of heart attacks. I agree CPR is needed. I agree that education on what you can eat, and exercise exercise is needed.

Mr. Chairman, I rise in opposition to this amendment because quite frankly, any reform bill that is a thousand pages long has a fundamental problem at the beginning. In trying to find out where this amendment is, title IV has between 90 and 100 pages in it. It has allowable uses, so to speak, coming out of one's ears. It is not clear that they cannot already use these funds for CPR. It is kind of a pattern that we have in Washington that we think if we do not put in the bill that they can use dollars for CPR to work among the schools and school districts, that somehow the local educators might not realize that CPR is important.

Mr. Chairman, throughout the whole bill we have this assumption that unless we specifically write it in and tell them, or, kind of write it in Indiana and California and other parts of the country what they can and cannot do, that we have failed as congressmen.

I yield very few schools that do not do CPR training, but I do not believe that it is essential to put that in this bill. In Title IV, Federal funds are used rather than local health departments, or local fire departments and ambulance departments which frequently do CPR training, these funds would come directly out of teacher training and the programs that we are doing to help the schools at risk. Federal programs should be tightly targeted to those in need, not necessarily towards a broad, sweeping program where there are plenty of avenues to fund them at the local level.

Mr. Chairman, I reserve the balance of my time.

Mrs. CAPPS. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. BOEHNER), the chairman of the committee.

Mr. BOEHNER. Mr. Chairman, I thank the gentlewoman from California for yielding me this time.

I think that title IV is a block grant that allows school districts to do all types of activities. Certainly I think CPR training is an appropriate activity for the use of Federal funds. And I absolutely see no reason why we should not include this to the laundry list, as the gentleman from Indiana is opposing the amendment pointed out.

I do not do, that we have failed as congressmen.

I yield back the balance of my time.
Mr. GEORGE MILLER of California. Mr. Chairman, I ask unanimous consent to claim the time otherwise reserved for the opposition.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. Graves).

Mr. GRAVES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have no problem with sense of the Congress amendment on this matter offered by the gentleman from Missouri (Mr. Graves). This has obviously been a matter that has been of growing concern in the Congress to make sure that we, in fact, have the ability to drive every dollar possible to the classroom, to the local level, where the decision-making that is on a day-to-day basis for the well being of our children is made and that they have the resources that we have dedicated for that purpose.

I would say, however, that I find this somewhat in conflict with those who will support the States that A's proposal because, in fact, the Straight A proposal allows 8 percent of the title I money to be held at the State level and 10 percent of the money on everything else to be held at the State level. This is something that a State would hold onto itself, and in many instances we know that that is really about the bureaucracy funding itself, a State bureaucracy funding itself, with Federal dollars. Whether that in some cases is legal or not, make sure of the matter is that is what happens.

So we support this resolution because we strongly believe that we should be driving these dollars to the classroom. We also strongly believe that we should increase the flexibility at the local level, and we have done that in this legislation. That is why later on we will be opposing the proposal on the Straight A's.

Mr. BOEHNER. Mr. Chairman, will the gentleman yield?

Mr. GEORGE MILLER of California. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, I thank the gentleman from California (Mr. GEORGE MILLER) for yielding.

Mr. Chairman, I, too, support the resolution offered by the gentleman from Missouri (Mr. Graves). If we look at the bill that we have before us, we will see that local districts have far more flexibility over how they use Federal funds than at any time in any Federal education program.

We also believe that to the extent possible, we ought to continue to work at reducing the paperwork requirements for States and others, so, in fact, more of these funds actually get to the classroom and can get to the children who most need it.

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the chairman for his comments. I think clearly this amendment is consistent with what we said we want to do in this legislation, and we have no opposition.
Mr. Chairman, I yield back the balance of my time.

Mr. GRAVES. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PITTS), who has been a tireless advocate on behalf of sending Federal education dollars back to the classroom.

Mr. PITTS. Mr. Chairman, I rise in support of the Graves amendment. Since I came to Congress, I have been working to promote this idea of getting 95 cents out of every Federal education tax dollar to the classrooms of America. I applaud my friend from Missouri (Mr. GRAVES) for offering this amendment today, an amendment that puts children first in education.

Several States have reported that, although they receive less than 10 percent of their education funding from the Federal Government, more than 50 percent of their paperwork is associated with those Federal dollars.

In 1998, the Department of Education paperwork and data reporting requirements totaled 40 million “burden hours,” the equivalent of 19,300 people working 40 hours a week for a year just to comply with Federal programs.

Instead of spending money on bureaucracy, I believe that Federal dollars are better spent on children first in education. They can respond directly with proven methods of instruction. This amendment removes Federal education dollars back to the classroom. It allows schools to use Federal dollars the way they want to with the guidance of children and children learn.

Local schools are best suited to make decisions about allocating resources. They understand their students’ backgrounds. They can respond to them most directly with proven methods of instruction. This amendment sets a standard to reduce bureaucracy and ineffective spending, getting more money into the hands of a person who knows a child’s name.

We must prioritize the way we spend our education tax dollars and put children first. I urge support for this amendment.

Mr. BOEHNER. Mr. Chairman, will the gentleman yield?

Mr. PITTS. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. PITTS) for yielding and I also thank him for his tireless efforts on this project.

Over the last 4 years, 5 years, he has worked at trying to ensure that more of these Federal education dollars get back to the classroom. I can say we would not be talking about this issue today still if it had not been for the tenacity of the gentleman from Pennsylvania (Mr. PITTS), Congratulations.

Mr. GRAVES. Mr. Chairman, I yield myself with the time I may consume.

Mr. Chairman, this is a simple amendment, and it does empower local schools.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. GRAVES).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. GRAVES. Mr. Chairman, I demand a recorded vote, and pending that, I make a point of order that a quorum is not present.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Missouri (Mr. GRAVES) will be postponed.

The point of no quorum is considered withdrawn.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 2 offered by the gentlewoman from California (Mrs. CAPPS) and amendment No. 4 offered by the gentleman from Missouri (Mr. GRAVES).

The Chair will reduce to 5 minutes the time for the second electronic vote.

AMENDMENT NO. 2 OFFERED BY MRS. CAPPS

The CHAIRMAN. The pending business is the consideration of the amendment offered by the gentlewoman from California (Mrs. CAPPS) on which further proceedings were postponed on the amendment offered by the gentleman from Missouri (Mr. GRAVES).

The Clerk redesignates the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.
May 22, 2001

H2522

CONGRESSIONAL RECORD — HOUSE

Ms. SOLIS changed her vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

—

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time during which a vote by electronic device will be taken on the second amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 4 OFFERED BY MR. GRAVES

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Missouri (Mr. GRAVES) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk redesignates the amendment.

The Clerk redesignates the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 422, noes 0, not voting 10, as follows:

(ROLL NO. 129)

AYES—422

Mr. HILL. Mr. Chairman, I offer an amendment made in order under the rule.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. HILL:

In section 401 of the bill, at the end of section 431(b) of the Elementary and Secondary Education Act of 1965 (as proposed to be amended by such section 401) add the following:

"(15) programs to establish smaller learning communities.

The CHAIRMAN. Pursuant to House Resolution 145, the gentleman from Indiana (Mr. HILL) and a Member opposed will each control 5 minutes.

Mr. DUNCAN. Mr. Chairman, I ask unanimous consent to be given the time normally reserved for those in opposition.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. HILL).

Mr. HILL. Mr. Chairman, I yield myself ½ minutes.

Mr. Chairman, when I was growing up in Jackson County, Indiana, there were more high schools than there are today. In towns like Tampico and Clear Spring and Cortland, there were high schools that local kids attended and local families supported. These schools brought people together and helped keep their towns strong and vital places to live. They were the heartbeats of their communities.

When school consolidation forced high schools to close, it tore the hearts of communities and places to lives. They were the heartbeats of their communities.
right out of these communities. These high schools, along with thousands of other small schools around America, were closed because for many years educators followed a rule that bigger schools are better. For a long time, we all assumed that bigger schools were better, and could offer more courses, more extracurricular activities, and could save schools money.

We need to rethink our assumptions about larger schools. New research shows that achievement levels in smaller schools are higher, especially among children from disadvantaged backgrounds who need extra help to succeed.

Mr. Chairman, my amendment would not authorize a separate program. Title IV of the bill includes a list of innovative options that local schools can explore. My amendment would simply add smaller learning communities to that list. My amendment would simply allow school districts to judge for themselves whether a smaller learning community program is the best strategy for helping students and teachers.

Mr. Chairman, I reserve the balance of my time.

Mr. DUNCAN. Mr. Chairman, I yield myself such time as I may consume. (Mr. DUNCAN asked and was given permission to revise and extend his remarks.)

Mr. DUNCAN. Mr. Chairman, I first would like to thank the gentleman from Indiana (Mr. HILL) for his leadership in the movement to reverse the size of the growth in our schools.

He and I and our staffs have worked together for the last 2 years to obtain funding within the Department of Education for the smaller schools initiative program, a very, very important program within our Department of Education.

At a smaller school, a young person has a better chance to make a sports team, serve on the student council, lead a club, be a cheerleader, or excel or stand out in some other way. Also, a student at a smaller school can get more individual attention and not feel just like a number in some education factory.

Actually, very large schools, large high schools, sometimes breed very dangerous types of situations because, while most students can handle very big schools, a few always feel alienated and feel like they have to resort to strange or dangerous behavior to get noticed.

I was very shocked, for instance, when I read that the principal at the Columbine High School had never even heard of the Trench Coat Mafia, even though the group’s picture had been published in the school yearbook.

Agusta Kappner, a former U.S. assistant secretary of education, wrote recently in USA Today that “good things happen” when large schools are remade into smaller ones. She said, “Incidents of violence are reduced; students’ performance, attendance, and graduation rates improve; disadvantaged students significantly outperform those in large schools on standardized tests; students of all social classes and races are treated more equally; teachers, students, and the local community prefer them.”

I will say it again, too many schools are going to smaller schools. Mr. Chairman, even in older buildings, as long as they are clean and safe and well-lit, than they are going to large, very centralized high schools, even in brand new buildings.

We have done a good job of reducing class sizes in most places, but too often we are making a very bad mistake in making students go to very large high schools. Just yesterday I had one of my constituents tell me that at her small community high school she knew everyone there, even in the lower grades, but at the large, centralized high school which her daughter attended, she did not even know two-thirds of the people to her.

I remember several years ago reading that the largest high school in New York City had 3,500 students, and when they broke it up into five separate high schools, their drug and discipline problems went way down. I feel very strongly about this issue, and I could go on at length. But I want to emphasize briefly four main points why we need to pass the Hill amendment.

One, educational experts are increasingly rejecting the “bigger is better” approach to schools. In the smaller schools, obviously students can get more individualized attention.

Secondly, research is finding that smaller schools especially help minority and disadvantaged students.

The third point, more and more high school principals have criticized “big schools. The Association of Secondary School Principals recommended in 1999 that high schools change their structure to limit enrollments to schools of no more than 600 students in size.

Fourth, smaller schools reduce violence and criminality.

In summary, the Hill amendment is very simple. It lets local school districts use the local innovative programs to reduce the size of their schools as they feel that that action would improve school quality. This is a very good amendment.

Mr. Chairman, I am proud to join the gentleman from Indiana (Mr. HILL) in supporting this amendment.

Mr. DUNCAN, Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Chairman, I want to thank the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Ohio (Mr. BOEHNER) for their words and their strong support on this.

Mr. Chairman, I yield 2 minutes to the gentleman from the State of Washington (Mr. BAIRD), my good friend.

Mr. BAIRD. Mr. Chairman, I thank the gentleman from Indiana (Mr. HILL) for yielding the time to me.

Mr. Chairman, I want to also thank the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce, for their support of this initiative, and I rise in strong support of the amendment.

This amendment allows local school districts to use innovative funds authorized to create smaller learning communities in their schools.

When I was growing up, as with other Members of this body, our schools were a manageable size where you knew the teachers, the teachers knew who the kids were, and we all knew each other. Communities were proud of their schools. The schools brought people together and helped keep their towns strong and vital places to live.

But the Nationwide trends towards consolidation in larger schools has brought ever-increasing problems. Since 1930, the number of high schools in the U.S. has declined 70 percent from 262,000 schools to 88,000 in 1996. In 1930, the average school had 100 students. In 1996, the average school had 510 students.

It is unbelievable that America’s grown by 100 million people, yet the number of schools has declined by almost two-thirds.

I will say it again, too many schools are simply too big today. Yet, research tells us from many studies that smaller schools are more moral, less bureaucratic, show fewer inequities in student achievement, have higher attendance rates, higher participation in school activities, and violence and criminality are significantly reduced.

In addition, studies show that smaller schools perform better in the core subjects of reading, math, history, and science.
Think about it for just a second. No matter how big or small your school is, there are only nine folks who play on the baseball team. Kids in smaller schools have more opportunities to participate and more opportunities to be involved, and that makes better schools and better education.

Shortly after the Columbine tragedy, the gentleman from Indiana (Mr. HILL) and I talked about that and what could be done. We discussed bullying and we discussed this problem of school size. We said, what could be done, and I commend with all of my heart the gentleman from Indiana (Mr. HILL) for his initiative and the gentleman from Ohio (Chairman BOEHNER) and the gentleman from Tennessee (Mr. DUNCAN) in proposing this amendment.

It is the right thing to do to move from these massive schools to smaller schools where faculty know the kids and families know the faculty. This amendment will improve our schools.

Mr. DUNCAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will simply say this, the school superintendent in my home county of Knox County, Tennessee, told me that the school system he moved from in South Carolina a couple of years ago was the largest high school, it had 3500 students but it was going to 3800 students. That is a trend that we see all over this Nation.

It is a bad trend for the youth of America. We need to do whatever we can to reverse that trend, and that is why I strongly support the Smaller Schools Initiative that the gentleman from Indiana (Mr. HILL) and I have worked on within the Department of Education and why this amendment, I think, should be supported by all Members.

Mr. Chairman, I appreciate very much the good words spoken by the gentleman from Ohio (Mr. Boehner), chairman of the Committee on Education and the Workforce, and for his support of this amendment.

Once again, I commend the gentleman from Indiana (Mr. HILL) for his leadership on this issue.

Mr. Chairman, I yield back the balance of my time.

Mr. HILL. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California (Ms. SANCHEZ).

Ms. SANCHEZ. Mr. Chairman, I am pleased to speak in support of this amendment, because it is a school safety measure. School safety is not just about metal detectors or locker checks.

Safe schools mean that the faculty and administrators can know their students and they can watch for the warning signs of any impending violence. This is a very difficult time when most of our high schools, especially in the area I represent, have enrollments of 2,000 to 3,000 students. This is also a matter of common sense.

Students feel less alienated and more connected to caring adults when they are in a smaller school. Smaller schools mean that there is improved morale. There is higher participation by the students, higher attendance, lower dropout rates, less crime, violence, alcohol, tobacco problems, fewer behavior and discipline problems.

There is higher achievement in smaller schools and closer teacher-student relations. Overall, smaller schools mean safer schools. Including real support for smaller schools in the ESEA will show a commitment to providing safer and better learning communities for all of our students.

Mr. Chairman, I urge my colleagues to support smaller learning communities and prove this commitment.

Mr. Chairman, I thank the gentleman from Indiana (Mr. HILL) for yielding me the time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. HILL). The amendment was agreed to.

The CHAIRMAN. Pursuant to the order of the House of today, it is now in order to consider amendment No. 3 printed in the House Report 107–69.

AMENDMENT NO. 3 OFFERED BY MS. DUNN

Ms. DUNN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. DUNN

In section 502 of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 501 of the bill, strike subparagraph (D) and insert the following:

"(D) to the extent that expenditures do not exceed 20 percent of the amount made available to a local educational agency under this subpart (except that this subparagraph shall not apply to the hiring and training of school resource officers pursuant to clause (ii), law enforcement and security activities, including the hiring of school resource officers.

Our amendment lifts this cap and it gives local educational agencies the option to spend any portion of their Federal funds on hiring school resource officers.

Mr. Chairman, our Nation's schools should be safe places. We must provide an atmosphere where teachers feel safe to teach and students feel safe enough to learn.

School resource officers are an important part of any school safety plan, and every effort should be made at the Federal level to give schools greater flexibility to hire these officers as a violence prevention measure.

Mr. Chairman, I urge my colleagues to support this important amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. FROST. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to offer this important school safety amendment with the gentlewoman from Washington (Ms. DUNN), my friend and fellow cochair of the Bipartisan Task Force on Youth Violence.

After the Columbine school shootings, our Youth Violence Task Force heard from parents, teachers, police, counselors, and other experts about
The perception that schools are unsafe, however, creates a huge uneasiness and anxiety among our children that they need not feel, but it is up to us and a responsibility of ours and an opportunity of ours here in Congress to do those things that are positive steps towards reducing youth violence in schools around the country and towards reassuring youngsters that schools are safe places to be.

Mr. FROST. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment demonstrates that Democrats and Republicans can work together. We had an excellent youth violence task force, made a number of recommendations. I can tell my colleagues that I consulted students, teachers, administrators throughout my congressional district in Texas. We have a program that has been in place in a number of our school districts, in Grand Prairie, Arlington, and other parts of the areas that I represent. This program works. This is a program that must be adequately funded.

Mr. Chairman, I yield back the balance of my time.
the best way to evaluate their students.

Second of all, the bill does not provide for punitive results of poor performance on the test. Instead, the test is diagnostic in nature as designed by the States. It is designed to identify those schools and those children that have significant learning needs and difficulties and to empower educators with the tools and strategies necessary to address those deficiencies.

I think the greatest risk of passing this amendment is it means it will never get to the standard that so many people rhetorically agree that we need to get to. Federal investment in education must produce results. People agree with that. One cannot measure results unless one tests and evaluates, and most people agree with that. But they say not this test, not this time, and not this way.

I fear that we will never get to the test, we will never get to the time, we will never get to the standard that people can agree is necessary to meet the rhetorical principle that we have set forth.

This bill provides for state-guided testing. It provides for remediation, not punishment, for those who do not measure up. The bill deserves the support of both parties here in the House. I urge my colleagues to reject and defeat this amendment.

Mr. HOEKSTRA. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. FRANK) in recognition of the bipartisan nature of this amendment.

Mr. FRANK. Mr. Chairman, the gentleman from New Jersey (Mr. ANDREWS), the preceding speaker, kept stressing the virtue of letting the States make a decision. He stressed that this leaves it up to the States. Well, I would like to learn the logic of this. I agree, the States are the ones who should be making these decisions. Why then mandate as a part of a Federal bill as a condition of getting the Federal money that the States have to test the students in five grades every year? I want to be clear this is not an argument about testing. This is an argument about the Federal Government deciding today that every school has to test students. Now, yes, the States get some flexibility, but within a very rigid mandate.

There was a problem about whether or not we are ready to do this testing. I read in the New York Times that some of the testing entities pay $9 an hour for people to grade essay tests. I want to say to my colleagues, pass a law now whereby the Federal Government mandates that every State get into the testing business, ready or not, and the results will be so unpleasant into the testing business, ready or not, the results will be so unpleasant that pretty soon my colleagues will be saying to their kids, that pretty soon my colleagues will be saying to their staff who answer those angry letters more than $9 an hour, because they are going to be difficult letters to answer.

Mr. BOEHRNER. Mr. Chairman, I yield 1 minute to the gentleman from San Diego, California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, I rise in opposition to the amendment. The gentleman from Michigan (Mr. HOEKSTRA) has done some marvelous things in education. He has identified multiple programs, and he has got my utmost respect. But I think the gentleman is wrong on this particular issue.

I have talked to the superintendents in San Diego. They are opposed to the amendment. They want the flexibility to test. I spoke to a group in New York that were against it; and basically, they were from an affluent school, and they wanted their students to be able to go on to Harvard and Yale and those things; and they thought that a higher level of testing would limit them from doing that.

We want to be able to judge. We put billions of dollars, which my colleague has fought against education without accountability. This is one way that we feel that, if we put the money in, we hold the schools and raise the bar, because if one lowers the bar, that is going to lower the standards. The only real way to see that is with this quality standards.

I laud the gentleman from Michigan (Mr. HOEKSTRA) for his effort in education, but I do oppose the amendment.

Mr. HOEKSTRA. Mr. Chairman, just in response, I stress to students back home like controlling their own schools. They are not looking for another Federal mandate.

Mr. Chairman, I yield 2 minutes to the gentleman from Colorado (Mr. SCHAFER).

Mr. SCHAFER. Mr. Chairman, I thank the gentleman from Michigan for yielding me this time.

Mr. Chairman, I, too, am one who finds myself in rare disagreement with the previous gentleman speaks actually in favor of the amendment, I would think.

Flexibility is the desire here. The amendment certainly achieves more of it rather than less of it in relation to the rest of the bill. Flexibility, Mr. Chairman, should be something upon which we all insist here in this Chamber. Flexibility was the cornerstone of the President’s plan when he first introduced it, the Leave No Child Behind proposal. I think that we have all worked off of. The document looks just like this. It is a brilliant agenda for America’s schools. But this plan has been left behind by the Committee on Education and the Workforce and in the bill that is before us.

What I mean by that is the flexibility component, what is called Straight A’s, or as the President referred to it, Charter States, was taken out of this bill. The flexibility provisions are essentially gone. There was another provision for the predictability of title I funds, that the President mentions in his plan and that Secretary Paige forcefully advocated before the committee. But that provision was taken out in the first amendment that the committee considered.

So at this point, the question becomes, how can we as a legislative body here on the floor reinstate flexibility for our children? The amendment is one answer in that regard.

If one holds up all 1,000 pages of the bill that we are considering today, one finds that the word “require” appears 11 times; the word “shall” appears 477 times; and that word “shall” appears in this bill 123 times.

Now, I would submit that, by the time the day is over, we should be able to come together on a flexibility amendment of some sort. The gentleman from Michigan (Mr. HOEKSTRA) has proposed one when it comes to the testing provisions.

I would ask my colleagues to consider this new testing requirement that is in the bill within the following context. For the first time, this Congress, through this legislation, will attach Federal cash to testing.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 2½ minutes to the gentleman from Indiana (Mr. ROE默), a member of the committee.

Mr. ROE默. Mr. Chairman, I thank the gentleman from California for yielding me this time.

Mr. Chairman, it seems to me that so many Members here arguing to rip out the testing proposals in this bill are for the status quo. They are happy with the fact that 60 percent of kids in the inner city cannot read at a fourth grade level, six out of 10. So we are going to continue the same policies that we have had up to this date. That is unacceptable. We have got to change the status quo.

I was in some schools up in New York visiting. Eighty percent of some of those children are having trouble passing. Is that acceptable? And I must change the status quo with new ideas and with resources to remediate and help these children.

Now, all of us have problems and reservations with tests. A test done right is not a high-stake test. It is a diagnostic tool combined with a host of other things to determine whether or not that child goes to the next grade or graduates. It is not the sole indicator. The other point is in this bill, in this legislation, Indiana will continue to say and pick and determine what kind of tests they develop. Whether we have the ISTEP+, or the Iowa, or the Stanford, or the TerraNova, or a combination, that is our decision under this bill. We made that.

But the deal in this bill is there is accountability and there is resources. We are going to help those children. We are going to help those children that cannot read at fourth grade reading and to get tutoring for them, and we are going to get after-school programs for them and summer school programs.
This committee is going to work directly with the appropriators to see that these authorization levels are put into law.

I would end on this note: we have many Republicans standing up saying that they will not vote for this President's bill. If this amendment passes, this amendment guts the heart and the soul from the President's bill, and I understand he will veto this bill if this amendment passes. So defeat this amendment. Keep this bipartisan proposal going forward in conference.

Mr. BOEHNER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New Jersey (Mrs. ROUKEMA).

(Mrs. ROUKEMA asked and was given permission to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Chairman, I want to associate my remarks with the remarks from the gentleman from Indiana (Mr. BOEENER), my colleague on the committee, and rise in strong opposition to this amendment. Testing is the centerpiece of the President's education plan! Why in the world would we want to associate my remarks with the President's plan?

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me this time. I thank the gentleman from Ohio (Mr. ROEGER), I thank the gentleman from California (Mr. GEORGE MILLER), and I thank the President of the United States because they have come up with a plan which might finally change education and improve education opportunities for kids in our country.

One of the sponsors of this bill, the gentleman from Michigan (Mr. HOEKSTRA), has said earlier the rule will allow us to vote on amendments which will restore the President's plan.

This will gut the President's plan. This amendment would absolutely gut, go to the very heart of what the President is trying to do. For 35 years, we in the Federal Government have tried, with a lot of money, to help kids, particularly lower-income kids, because that is the obligation which we have assumed, to be able to be educated better. It is fairly flat-lined, as far as that improvement throughout education is concerned, and we have to do something different in order to do this. To do that, we do need to have the standards and the assessments, and part of the assessments is the testing. And that is something we absolutely need to go forward with.

Annual testing will produce more accurate and timely disaggregated data to determine not just overall progress, but progress in narrowing the stubbornly persistent achievement gap between all students. Tests do put pressure on children to perform. We all understand that. We went through it. But I also believe it is important to identify academic weaknesses early. This allows districts to intervene in a timely manner. That has not happened before. After all, we are not focusing on input, such as books or paper work, but the result, real student learning, and that is what education is all about.

Without annual tests, student achievement data will not be comparable from year to year, the value added by a school or teacher will be hard to calculate, and the State-wide reporting requirements. Federal results by race and income, will be unworkable. The entire system of accountability will be undermined. If we are serious about education reform, we need to know the unvarnished facts about where our children stand against standards, and we need to help diagnose problems and design remedies to improve student achievement.

While nothing will give us an ironclad guarantee for success, one thing is certain, more of the same will guarantee the same failure. And that is exactly what the Hoekstra-Frank amendment gives us. We all should oppose this amendment.

Mr. HOEKSTRA. Mr. Chairman, I yield 1 minute to the gentleman from Arizona (Mr. SHADEEG).

Mr. SHADEEG. Mr. Chairman, I rise in strong support of the Hoekstra-Frank amendment. I rise in support of it at least this amendment. Number one, we already test too much. Federal law mandates three tests already, and this bill doubles that requirement. I hope my colleagues understand that. The Hoekstra-Frank amendment simply says we will continue with the tests that are currently mandated but do not double the number of tests that are required.

Now, how do I come to that conclusion? Well, my wife is a teacher, both of my children have teachers, and my niece is a teacher, and I have talked to them about this bill extensively, over and over and again, and not a single one of them says that either they or their peers believe that teaching will be benefitted by more tests.

As the gentleman from Virginia just pointed out, you do not fatten the pig by weighing the pig. You do not improve education merely by giving tests. So I support this amendment for the following reasons:

First, there is already, in current law, provision for adequate testing. Only 11 States are in compliance with this requirement, and States spent over $400 million last year alone trying to come into compliance with the current law involving testing. Second, the new test requirements in H.R. 1 will cost substantially more than what we are providing for in the bill. A recent USA Today article reported, and I quote, "fulfilling President Bush's proposal to test every student in grades 3 through 8 could cost States as much as $7 billion over the next 7 years, the National Association of School Boards of Education says."

Chairman, first, let's address the potential inappropriate use of the tests: By using them to make high-stake decisions to punish students. Two recent New York Times articles documented that schools and localities are increasingly using tests for purposes for which they are not designed and making high-stake decisions to punish students based on one single test. Tests will be given, but there is nothing in H.R. 1 to prohibit inappropriate use of those tests.

For those reasons, Mr. Chairman, I urge my colleagues to support the amendment.

Mr. HOEKSTRA. Mr. Chairman, I yield 1 minute to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me this time. I thank the gentleman from California (Mr. MILLER), I thank the Chairman of the United States because they have come up with a plan which might finally change education and improve education opportunities for kids in our country.

One of the sponsors of this bill, the gentleman from Michigan (Mr. HOEKSTRA), has said earlier the rule will allow us to vote on amendments which will restore the President's plan.
courts have already reported on this. There is too much testing at this point. The President is right, we should have accountability; he was wrong, we should mandate a doubling of the number of tests.

Mr. BOEHNER. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. McKEON), a subcommittee chairman on the Committee on Education and the Workforce.

Mr. McKEON. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in strong opposition to this amendment offered by the gentleman from Michigan (Mr. HOEKSTRA) and the gentleman from Massachusetts (Mr. FRANK) to remove the annual testing provisions in H.R. 1.

The gentleman who spoke just before me is right, we do test. We test in the third grade and we test in the eighth grade. But what happens in those years in between? We test our President, and more importantly, the children of this country.

Mr. HOEKSTRA. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Ms. McCOLLUM), Ms. McCOLLUM. Mr. Chairman, I thank the gentleman for yielding me this time.

As a mother, I held my children accountable; as a former teacher, I was held accountable; as a Member of Congress, Minnesota schools have accountability. I do support fair, accurate, and reasonable testing, but I oppose the testing in H.R. 1.

This provision is an unfunded mandate. The funding authorized will not even cover the cost of current testing. Last year, we had problems with testing in Minnesota. 336 high school seniors were denied diplomas on graduation day because of a vendor error. Minnesota expects a testing program that is accountable and is funded, with control at the local level. I oppose any new unfunded mandated testing, and I urge my colleagues to support this amendment. We can do better for our schools and for our children.

Mr. HOEKSTRA. Mr. Chairman, how much time is left?

The CHAIRMAN. The gentleman from Michigan (Mr. HOEKSTRA) has 7 minutes remaining, the gentleman from Ohio (Mr. BOEHNER) has 2½ minutes remaining, and the gentleman from California (Mr. GEORGE MILLER) has 9½ minutes remaining.

Mr. HOEKSTRA. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding me this time, and I urge my colleagues to vote for the Hoekstra-Frank amendment.

The portion of the bill that we are debating now represents, in my judgment, the quintessential example of the principle of unintended consequences. Teaching to the test has become the norm in many States. It definitely has become the norm in the State of Maryland.

In a system where high stakes and dollars are involved, this is almost always the inevitable consequence. We do not want to build on the current system because the current system of testing our children is failing. H.R. 1 would buttress a system that is falling, further erode creativity and diversity in the classroom, it would literally turn that law on its head.

I oppose any new unfunded mandated testing for diagnosis purposes, and saw the ability to raise expectations of all children. I oppose this amendment and support the President’s plan.

As one who believes that if we do the same thing over and over again, it is unrealistic to expect any other result, I show my colleagues this graph. This is $120 billion in 35 years doing the same thing in title I over and over again. And average reading scores of title I students remain today where they were 35 years ago, at the lowest 35th percentile.

Do not be fooled by those who oppose this amendment. The heart of the President’s proposal is to hold us accountable for the investment of our taxpayers’ dollars and the achievement of our children. If this amendment fails, the President’s proposal will have failed and we will continue to do what we have always done and have less than satisfactory results. I encourage my colleagues to oppose the amendment.

Mr. HOEKSTRA. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Chairman, for the last several months I have gotten an earful from parents, students, and teachers in Florida who are concerned that standardized educational testing has run amuck there. Today, on behalf of hundreds of thousands of school children in Florida, I rise in support of this amendment.

I am not opposed to testing students every year, but I believe the principal purpose of testing should be diagnostic. Testing should determine where my third grader is at the beginning of the year and what he needs to do to get to where he needs to be at the end of the school year. Testing should tell my child, my wife and I, and the teacher, what my child’s needs are and how to help meet those needs.

I also support accountability. I want to know how my child’s schools are doing in relation to other schools. In the Florida legislature, I chaired a subcommittee that wrote our accountability law. But, unfortunately, through the FCAT standardized test in Florida, the governor and the legislature have turned that law on its head and are using testing as a public relations tool.

Florida already tests reading and math in the third through the tenth grades. However, teachers, principals, and students receive no information that helps them identify the needs of children and what they need to help those children learn. Teachers and students in Florida are not stupid. They have figured out this testing system does nothing to help teachers teach and children learn. They have figured out this is testing designed by the politicians for the politicians. Teachers set their lesson plans and teach the test to help their schools earn the financial reward and to avoid the stigma of being graded as a failing school.
Last week, Florida reached a new inevitable low in testing run amuck. Two Hernando County middle schools bribed their students by offering up to $150 each for a high standardized test score. As one of the principals pointed out, the State is using this same form of bribery with the schools that the schools are now using with the children. One of the student recipients of this financial reward said, it may be a small bribe, but at least it is something for going through the test.

Mr. SOUDER. Mr. Chairman, for six years this Congress has insisted and held firm that there should be no national test. We have heard it said that the heart of the President's proposal was to find a national test. I do not believe it. One of the things the President's proposal is this: Find out what schools were performing, then provide assistance for two to three years to help them improve. Then if they did not improve, give the parents and the children flexibility to find a school that does improve.

Mr. Chairman, we have taken out the final thing, which was the heart of the proposal, to give the parents flexibility. Now we say if your school is failing, you are trapped. Furthermore, there is nothing to say that the State tests and the local tests are not sufficient to know whether the schools are accountable.

This amendment says we trust the local teachers, principals, and school boards. We trust our governors. We do not need a national test coming out of Washington, which is one national standard that potentially will reach into every school, into private schools and home schools.

Mr. Chairman, we heard it is only reading and math. But the truth is it can go anywhere. It can be anything because once Washington gets control of this test, we do not know where it is going to go. We will no longer have the local control that we currently have.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, what this legislation says is that we shall annually measure the proficiency of students in the academic subjects in which States have adopted challenging academic content and student performance and standards.

We shall try and make a determination of how the students are doing in meeting that academic standard and come to the point where we can make a choice. We can do business as usual, hold onto the status quo and we can just continue to see a system that has passed children from grade to grade, not knowing whether or not those children can read, not knowing whether they can compute, not knowing whether those children can reason or whether they have mastered the language arts. Social promotion.

Mr. Chairman, the gentleman from Nebraska (Mr. OSBORNE), a former coach, talked about in his remarks. He found as he looked at his new recruits, even though they had a diploma and grades, they could not master the work in college.

We know it from our own school districts. We know it from parents that have talked to us. I teach in a continuation high school, and I see children which have been passed through from grade to grade. We want to stop that.

We owe it to those children and parents to stop that. We owe it to the taxpayers of this Nation to stop that.
The role of the Federal Government should be to audit the results. We should not mandate on a yearly basis what will be going on in our local school districts.

Our local school districts have had enough of unfunded Federal mandates: IDEA, unfunded. Testing, underequipped. Testing is not yet ready for prime time.

Mr. Chairman, I encourage my colleagues to support this amendment and stick with the agreement in the mandate that we put in place for 2001. Let us not pull the rug out from under that mandate and create a new mandate.

Mr. BOEHNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, Members know we have worked hand in glove across the aisle since January to produce the bill that we have on the floor before us today. This is a very good bill. But we have all known at the essence of it, the core of this bill is to require real accountability every school in America that gets Federal dollars.

We have spent $120 billion over the last 35 years, and we have not gotten results. We have spent $80 billion over the last 10 years in the heart of the school reform movement and have gotten no results. How many more hundreds of billions of dollars are we going to spend here in Washington without asking our schools to give us real results?

What do we say to the lost generation of Americans that we have over the last 25 years because we passed them through grade after grade, year after year, and never asked whether they could read or write? Is that fair? No.

And to my African American colleagues in this Chamber and to my Hispanic colleagues in this Chamber, and to my colleagues in this Chamber who represent low-income communities, they should be demanding more than any of us that we have testing year by year because it is the students in those schools who get short-changed year after year because no one knows what is really happening.

Mr. Chairman, I would say to all of my colleagues, it is time to have accountability. It is time to stand up and show the courage that it takes to bring real results to our schools and to take our heads out of the sand and quit ignoring incompetence and quit ignoring the fact that some of our kids, and too many of them, are not learning.

Mr. DAVIS of Florida. Mr. Chairman, for the last several months, I have been getting an earful from parents, teachers and students who are concerned that the standardized educational testing in Florida has run amuck. Today, on behalf of hundreds of thousands of Florida public school students subjected to these tests, I rise in support of the Hoekstra/Frank amendment.

I am not opposed to testing our students every year, but I believe the principle purpose of testing should be diagnostic. Testing should determine where my child is at the beginning of the school year and what he needs to work on to get where he should be at the end of that school year. Testing should tell my child, his teacher, my wife and me what we need to know to help him improve as a student.

I also support accountability. I want to know how my child’s school is doing in comparison to other schools. In fact, while serving in the Florida House of Representatives, I chaired the Subcommittee that wrote Florida’s Accountability law. Unfortunately, the Governor has turned that initial law on its head and is now using testing as a public relations tool rather than a true measure of students’ academic abilities.

As many of you know, Florida is already testing students in grades three through eight in reading and math. The Florida Comprehensive Assessment Test, FCAT, also tests writing in grades four, eight and ten. Unfortunately, as I stated above, the purpose of the FCAT is to grade our schools and implement high stakes penalties or rewards based on their scores, NOT to see where our students need help to boost their performance.

That’s right. Under the FCAT, teachers, principals and parents get no information from the test identifying the needs of individual students and how to help them improve.

Teachers and students in Florida aren’t stupid. They have figured out that this testing system is not designed to help them learn. It is, instead, testing by the politicians, for the politicians with an end result of pitting school against school.

In response, teachers set aside their lesson plans and teach to the test to help their school earn a high test score in hopes of earning financial rewards and avoiding the stigma of being labeled a failing school.

As a result, last week in Florida, we reached the inevitable new low in testing run amuck. In Hernando County, Florida, two middle schools are paying kids for good scores on the FCAT. That’s right. These schools are bribing their students with up to $150 for high scores on the reading, math or writing portions of the FCAT. Again, the FCAT is not designed to help students.

Because the test does not motivate students to learn, these schools feel they have no alternative but to use financial rewards to encourage students to do well on the FCATs. The Principal of one of these middle schools pointed out that the State is using this same type of bribe to help the schools perform better on the tests, and the school has merely passed that bribe on to its students. As this Principal asked the Governor, “What’s the difference?”

One of the student recipients of a monetary reward said the following, “I thought it was pretty good. It’s a little bribe. That way, it’s not just a pain-in-the-butt test, you actually have something.”

The reaction of Florida’s Commissioner of Education to the bribe was, “. . . I don’t have a problem with it. . . . It’s legal, it’s not unethical.”

Well, I disagree completely with the Commissioner. The last time I checked, bribery was illegal. This is wrong, and it should be halted now.

The standardized testing situation in Florida is a growing disgrace. If we allow it to continue and spread to other states, it will be a national disgrace for which this Congress will be responsible. Worse yet, by allowing standardized testing to run amuck, we will only aggravate the increasing teacher shortage that is currently plaguing our schools. Over the next decade our nation’s schools will lose more than 65 percent of their teaching faculty. This percentage can only increase if we do not address these testing problems.

This bill must be rewritten to clearly state that the principal purpose of standardized testing should be diagnostic—to help teachers teach and children learn. Because this bill is silent on this point, I urge my colleagues to support the Hoekstra amendment.

Mr. BAIRD. Mr. Chairman, I rise today to express a number of serious reservations about the testing provisions of HR 1.

I commend the committee chair, the ranking member, and all those who have worked in a truly bipartisan basis to bring this legislation to the floor today, but I am afraid that some provisions of the bill as written have the potential to harm, rather than improve, our educational system.

The problem to which I am referring is the mandate for annual testing. I know that many of those who support annual testing do so because they believe we must set high standards in order to motivate our students, faculty, and administrators to achieve. I strongly agree with that goal, but I also disagree with how this legislation seeks to accomplish it.

As a licensed clinical psychologist before coming to Congress, I may bring a unique perspective to this debate. In addition to administering, scoring and interpreting hundreds of tests in my own practice, I also taught graduate level courses dealing with the design, uses, and potential abuses of tests and test results. So I know something about the matter of testing.

Based on that experience, and a careful reading of this legislation, let me raise the following concerns:

First, this legislation represents an enormous unfunded mandate with absolutely no information provided regarding the cost of implementation or the benefits that are promised to other options. I find it surprising that those who so often complain about unfunded federal mandates and bureaucracy elsewhere in our government so enthusiastically support legislation that even by a conservative estimate will require hundreds of millions of dollars of expenditures every year. It is true that this legislation authorizes money to help states design their testing, but the legislation before us includes nothing to fund the annual testing that it requires.

If there is no money in this bill or in the budget to fund the testing process itself, we must ask ourselves how these costs will be borne by our states and local school districts. How many teachers or teachers aides could be hired for the same amount of money?

What level of school repair or numbers of textbooks will go unrenewed because of the money spent on testing? How might those alternative expenditures benefit students more than the money to be spent on testing?

And, finally, what is the opportunity cost to our children if we spend time and resources preparing for the tests rather than engaging in other valuable educational activities?
Secondly, while the legislation purports to require standards, it is clear that there really is no consistent or common standard required. In fact, by leaving the proposed achievement standards up to the states, albeit with some level of federal review, it is quite possible that schools will meet these standards to the letter, while others will fail, but the standards that are met may be entirely different from state to state. This leaves open the possibility that federal dollars will be restricted from some schools where there is actually higher progress, and others where internal achievement is lower but the state standards are also lower. As I read this legislation, there will be every incentive for schools to set low standards on their tests in order to meet the federal requirements and not lose funding. Isn’t this precisely what the authors of the legislation hoped to avoid? And isn’t the alternative—the micro-management of state testing by the federal government—equally undesirable?

Third, an additional problem with the standards referred to in the bill is that it seems to be legislating how to test. As mentioned before, Lake Whales, and the like, in which all the students are above average. The legislation requires all students to meet or exceed the “State’s proficient level of academic performance.” But the legislation apparently fails to recognize that proficiency standards can be set in several ways. For example, a standard could be a bare minimum level of competency, or it could be a level set by the average student of a given grade. If the average level of proficiency is taken as the standard, by definition of average, not all students could ever reach it. Conversely, if proficiency is to be set at a relatively high level, which it should be if the term “proficient” is to mean anything important, then we can expect that the natural variations in student skills and development will leave many students coming close to, but not reaching full proficiency.

Like it or not, Congress cannot legislate the repeal of the laws of statistics, and the normal distribution of abilities will be with us regardless of how appealing a law may sound on the surface. This fundamental ambiguity alone should be enough to stop us short of declaring a standard that is impossible to reach short of economic ruin. We simply must be honest about the requirement until we have clear answers to the question of what exactly is meant by the requirement of the legislation.

Fourth, even if the questions addressed above could be answered, the logic of using annual testing to evaluate school performance and compare districts is severely flawed. In my Congressional district some districts have turnover rates higher than 40% per year. In many districts there are literally dozens of different non-English languages spoken in the homes of those students who have received funding levy’s in years. How can any comparison be made between those schools and schools with more homogeneous or stable populations of students or with greater funding resources be meaningful? And how can the yearly progress or lack of progress of a school be meaningful if 40% of the students turnover every year?

One of the most important lessons I used to teach my graduate students was this—tests, per se, cannot be said to be valid or invalid in and of themselves. Rather, validity is a relative term whose meaning depends on the usage to be made of the test. The point made here is that there will be inherent limitations on the meaning of the scores across schools or across years. In other words, tests of individual student achievement may be designed to fairly and accurately assess the achievements of those individuals and to monitor individual student progress, but use of aggregate data to determine overall educational efficacy of a school, in the face of the other variables, the aggregation of scores, is not a valid use. It would not be unlike mixing together the blood samples from many different patients to measure average health. The mixing of samples defeats the purpose and dilutes the meaning of the findings.

As early as the first amendment I have taught or attested, I believe with all my heart in setting high standards for students and faculty and then providing the resources and opportunities to help them succeed. I also believe that when standards are not met, there should be consequences.

But the testing provision in the legislation before us today, however positive its intent, proposes the wrong solution to the right problem. It will be tremendously costly to local schools and communities to fund for the annual testing itself, it offers a false premise as a basis for comparing schools and allocating funding, it includes inherent ambiguities in meaning that will produce unintended and paradoxical consequences, and it may well impede rather than enhance the ability of teachers and schools to help students achieve our overall educational goals.

Mrs. THURMAN. Mr. Chairman, as a math teacher in Dunnellon, Florida when the State of Florida mandated the state assessment tests, I started the first remediation classes for math at the High School. The diagnostic testing that was performed allowed educators to address the weaknesses of students before they progress to a higher grade. Recently, I was at a wedding where one of the students who was in my program came up to me and said that he would not have passed math without the remedial work I did with him.

Mr. Chairman I share this story with the House because it is critical that testing be used as a diagnostic tool to help students in areas where they are underperforming and not just to collect statistics.

Mr. Chairman, we hear constantly about the federal government getting too heavily involved in state matters. I believe this is a priority we should leave to the states. I also wonder why we are using federal money to duplicate programs already being performed by the states when we should be using the Federal dollars to reduce the class size for our children.

Mr. MORAN of Kansas. Mr. Chairman, I support Representative HOEKSTRA’s amendment. The federal government’s role in education should be to support proven state and local reform efforts rather than create additional requirements for our local schools. By mandating new testing requirements on every child, every year from grades 3 through 8, this plan will take teachers and students out of class; take dollars out of state and local education budgets; and undermine successful reform efforts already under way in states like my own.

In Kansas, state assessments already take students away from the classroom 6 to 7 days per year. If the assessment provisions pass as proposed, Kansas would have to add 10 new assessments. As a result, Kansas would be administering 21 assessments on an annual basis. H.R. 1 means even more time testing and less time learning.

These new federal mandates are too expensive at a time when education budgets are already stretched paper-thin. In Kansas, the cost of administering state tests would rise from approximately $1.7 million to $9 million. Before the federal government starts talking on expensive new requirements, it should work to fully fund existing mandates such as special education.

Requiring more tests will interfere with a 10-year educational improvement effort already underway in Kansas. Kansans have established a system that accurately measures yearly progress of our state, our schools, and our students. Our system holds schools accountable and provides reports to parents. Under H.R. 1’s testing requirements, not only will states be required to develop new assessments, but local school districts will have to redesign their curriculums to meet the new assessments. The bottom line: Kansas is making progress, and we should not be forced to abandon a program that is working.

Reform initiatives should come from the parents, teachers and local boards of education, and not be imposed by the federal government on a one-size-fits-all manner. I remain committed in my belief that the educational needs of a community are best known by that community. I urge my colleagues to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. HOEKSTRA). The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HOEKSTRA. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. The Chair announces that, pursuant to clause 6 of rule XVIII, proceedings will resume on amendment No. 3 offered by the gentlewoman from Washington (Ms. DUNN) immediately after this vote and that a vote on amendment No. 3, if ordered, will be reduced to 5 minutes.

The vote was taken by electronic device, and there were—ayes 173, noes 255, not voting 5, as follows:

[Roll No. 130] AYES—173

Ackerman
Akin
Baca
Baird
Balducci
Baldwin
Barton
Bartlett
Barrett
Barton
Barry
Bilirakis
Biagiervich
Bingham
Bonior
Borah
Boswell
Boucher
Bouck
Brady
Brown (FL)
Brown (OH)
Cantore
Capuano
Chabot
Clay
Clayton

Green (TX)
Coble
Conyers
Costello
Coyne
Cummins
Davis (FL)
Davis (IL)
Davis, Jo Ann
DeLauro
DeLauro
DeLay
Dole
Doolittle
Dole
Doyle
Duncan
Evan
Bowman
Parr
Forbes
Filner
Flake
Frank
Frank
Poe
Brown (FL)
Brown (OH)
Cantor
Capuano
Gonzalez
Goode
Graham
Hagedorn
Gutierrez
Gutknecht
Curtis
Hastings (FL)
Hefley
Bill
Billard
Hinojosa
Hoekstra
Holmes
Honda
Hostettler
Hughes
Istook
Jackson (IL)
Jackson Lee
(TX)
Jefferson
Johnson, E. B.
Johnson, Sam
Johnson, C. N.
Jones (OH)
Kaptur
Kearney (MN)
Kerns
Kilpatrick
Kleczka
LaFalce
Lang

AYES—173
Messrs. KIRK, HUNTER and MALONEY of Connecticut changed their vote from "aye" to "no."

So the amendment was voted upon as above reported.

AMENDMENT NO. 3 OFFERED BY MS. DUNN

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlwoman from Washington (Ms. Dunn) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This 5-minute vote was taken by electronic device, and there were—ayes 420, noes 3, not voting 0, as follows:

[Roll No. 131]
Tahrt
Tiberi
Tieney
Tongey
Towns
Traicant
Turner
Uddal
Uddal
Upton
Velasquez
Vinclosky

Johnson, Sam
Schaffer
Souder

Acercombrie
Cubin
Ford

N OT VOTING — 9

G Roberts
Peterson (MN)
Rodriguez
Rogers (KY)

NOES — 3

The CHAIRMAN. Pursuant to House Report 107

Mr. DOOLEY of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Mr. DOOLEY of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. DOOLEY of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. CHAIRMAN. I offer an amendment.

Mr. CHAIRMAN. The Clerk will designate the amendment.

The amendment is as follows:

Amendment No. 7 offered by Mr. DOOLEY of California.

In section 1111(h)(1)(D) of the Elementary and Secondary Education Act of 1965, as amended by section 104 of the bill, after clause (i), insert the following (and redesignate subsequent provisions accordingly):

"(ii) information that provides a comparison between the actual achievement levels of each group of students described in subclauses (I) and (II) of subsection (b)(2)(C) to the State’s annual numerical objectives for each such group of students on each of the academic areas.

In section 1111(h)(1)(D) of the Elementary and Secondary Act of 1965, as amended by section 104 of the bill:

(1) after clause (v), strike “and”; and

(a) strike the end of clause (vi), strike the period and insert “; and”; and

(b) add at the end the following:

“(vi) a concise description of the State’s accountability system, including:

(a) a description of the criteria by which the State establishes the State’s accountability system, including:

(b) the process by which the State evaluates school performance, and the criteria that the State has established, consistent with (b)(2)(B), to determine the status of schools regarding school improvement, corrective action, and reconstitution.

The CHAIRMAN. Pursuant to House Resolution 145, the gentleman from California (Mr. DOOLEY) and a Member opposed will each control 5 minutes.

Mr. BOEHNER. Mr. Chairman, I ask unanimous consent, although I do not oppose the amendment, to claim the time in opposition.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Chairman, I yield myself such time as I may consume.

First off, I want to compliment the gentleman from Ohio (Chairman BOEHNER), the gentleman from California (Mr. GEORGE MILLER), the gentleman from Michigan (Mr. KILDREE), and the gentleman from Indiana (Mr. ROEMER), for the hard work they have done in putting together what I think is truly a bipartisan education reform bill.

I represent a region of California, the Central Valley, which is one of the most low-income areas of the Nation, and are populated by a lot of farm worker families. It is these children that this bill has the greatest promise of helping, because it is important for us to have our schools ensuring that they are providing the academic programs that are ensuring that these students are going to have the skills that allow them to compete and win in our economy and our society today.

Mr. Chairman, this legislation holds a promise, by providing for greater accountability, that will make sure we improve the programs they are providing to enrich the academic performance of their schools.

What is also important for us, and that is the crux of this amendment, is that we ensure that the information that we are gathering, through this accountability process, will be easily understood by parents, teachers, as well as the communities.

The thrust of this legislation is really truth in accountability. We need to be able to assure that we can provide this data and this information in a manner which can be utilized and understood by the families so that they can understand what they have to do to see how they can improve the schools, how they can ensure that they are working together as partners with our teachers and schools.

In many ways, this amendment can also be viewed as a sunshine amendment by ensuring once again that when we ask schools to adopt these accountability standards, that they are providing this information in a manner which is easily understood.

This amendment I think will go a long way to ensure that the thrust and the focus of this legislation, which is to provide greater academic performance in our schools through this greater accountability, that will make sure we can translate this information in a way that will empower parents to have a better understanding of what needs to be done and how their school is actually performing.

Mr. Chairman, I ask all my colleagues to support this.

Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. ROEMER).

Mr. ROEMER. Mr. Chairman, I thank the gentleman for yielding time to me.

First of all, I want to thank my dear friend, the gentleman from California (Mr. DOOLEY), for all his hard work on the education bill, but also in helping the New Democrats up to 2 years ago formulate policy and position and substantially on accountability and flexibility and resources to help these children.

I know the gentleman, with his district and State, is greatly concerned about this for all his students and for his Hispanic population. I just want to thank the gentleman for all his hard work on the education issue. The New Democrats, as he knows, came out with a bill with Senator LIEBERMAN and Senator BAYH a couple of years ago. I think the President saw that bill, saw a good bill, and decided to campaign on it. That is basically the heart and soul of much of the bipartisanship that we form today.

I want to thank the gentleman for his work from the New Democratic position, and as we work through this bill on the floor and into conference, that we continue to work on the things that the New Democrats have seen as vital to reforming education with new ideas since almost 2½ years ago.

I thank the gentleman for his hard work and for his amendment here today. I encourage support for the amendment.

Mr. DOOLEY of California. Mr. Chairman, I reserve the balance of my time.

Mr. BOEHNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me congratulate my good friend, the gentleman from California (Mr. DOOLEY). He and I have sat on the Committee on Agriculture for the last 10 years and worked very closely on agricultural policy and trade policy, as well.

The amendment that he brings forward I think is helpful to the bill, because I think the amendment empowers parents. It gives them information that explains in concise terms the academic accountability system used by the State and the progress in reaching the numeric goals for each of our students.

In order to be effective and credible, accountability systems must be easily understood by parents and educators, and I think this amendment will help ensure that that happens.

Mr. POMEROY. Mr. Chairman, will the gentleman yield?

Mr. BOEHNER. Mr. Chairman, I yield to the gentleman from North Dakota.

Mr. POMEROY. Mr. Chairman, I thank the gentleman for yielding, and for working with us on this matter.

The matter I would like to address in this colloquy involves section 117 of the Carl D. Perkins Act. This section authorizes funding for tribally controlled postsecondary, vocational, and technical institutions.

Under prior law and regulation, the funds under this program were awarded to institutions not authorized to receive assistance under the Tribally Controlled College or University Assistance Act, or the Navajo Community College Act.
Mr. KILDEE. Mr. Chairman, I thank the gentleman for yielding to me. I would like to echo the comments of the gentleman from Ohio (Chairman BOEHNER) regarding this program. Congress did not intend to make eligibility changes to section 117 of the Carl Perkins Act. I will work with my colleagues to address this issue in conference.

Mr. BOEHNER. Mr. Chairman, I yield the balance of my time to my colleague, the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding time to me. Mr. Chairman, I think this is an excellent amendment. I think it is important that we understand that this whole legislation and what we do at the Federal Government is basically aimed at helping children who are having problems, who are disadvantaged in some way or another.

By disaggregating this information, as this amendment does, we really do that. By making it simpler, as this amendment does, we make sure the parents, schools, and students themselves understand exactly what is expected, what they have achieved, and where we are going in the direction of education. That is what it is all about.

Having a rising tide will help all children. I think this amendment does it. I compliment the sponsor of it.

Mr. DOOLEY of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, I thank the gentleman from California for his amendment and applauded him for his efforts. It is an important addition to this bill.

I would also like to commend the chairman and ranking member of the Committee on Education and the Workforce on this landmark legislation. I had intended to offer an amendment that would have helped ensure that children arrive at school with all the tools that they need for success. I will instead engage the gentleman from Ohio (Chairman BOEHNER) and the ranking member, the gentleman from Michigan (Mr. KILDEE), in a colloquy.

On the basis of a growing body of scientific study, there is an increasing recognition that the foundations for learning are laid in a child's earliest years. Both the President's proposal and the bipartisan bill crafted by the committee took notice of this knowledge in providing for the Early Reading First Initiative to help the development of literacy skills in pre-school age children.

My amendment would compliment the Early Reading First Initiative by promoting young children's emotional and social development, as well as their literacy skills, so they will be prepared for success when they begin school.

This approach was recommended by the National Academy of Sciences, and also urged by kindergarten teachers. It is a proven method to reduce special education placements, grade retention, juvenile arrests, and school dropouts.

The CHAIRMAN. The time of the gentleman from California (Mr. DOOLEY) has expired.

Mr. KENNEDY of Rhode Island. Mr. Chairman, I ask unanimous consent for 1 additional minute.

The CHAIRMAN. That request must be for equal time on both sides.

Mr. BOEHNER. Mr. Chairman, I ask unanimous consent that we have 10 additional minutes on this amendment, equally split between both sides.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. KENNY of Rhode Island. Mr. Chairman, will the gentleman yield?

Mr. BOEHNER. I yield to the gentleman from Rhode Island.

Mr. KENNEDY of Rhode Island. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. BOEHNER, Mr. Chairman, this is part of a strategy to improve test scores and academic achievement. It has been proven to work. I know the chairman and ranking member of the Committee share my commitment to ensuring that children enter school with all the tools they need. Their dedication to the educational needs of our youth is evidenced by their hard work on this bill. I would ask if the gentleman from Ohio (Chairman BOEHNER) would be willing to work with me in conference to address the goals of this amendment in the final legislation.

Mr. BOEHNER. Mr. Chairman, will the gentleman yield?

Mr. DOOLEY of California. I yield to the gentleman from Ohio.

Mr. BOEHNER, Mr. Chairman, I thank the gentleman from Rhode Island for his kind words.

Congress has a history of supporting programs that promote school readiness for young children. In the 105th Congress, we reformed the Head Start program to ensure better school readiness programs for pre-schoolers.

We have the Individuals with Disabilities Education Act part C program that provides early intervention services for infants and toddlers with disabilities. Just last year we created a new program for children ages 0 through 3 or 1 year through 6, called Early Learning that addresses these same issues.

I support the goal of this amendment, helping children to be fully ready to enter elementary school and ready to learn. I believe we can best achieve this goal by working within existing programs and systems. We should encourage providers in the existing programs to address all aspects of school readiness.

Mr. BOEHNER. Mr. Chairman, I yield to the gentleman from Rhode Island (Mr. KENNEDY) for his thoughtful addition to this debate. I would be happy to work with him to help achieve this goal.
Mr. KILDEE. Mr. Chairman, will the gentleman yield?

Mr. DOOLEY of California. I yield to the gentleman from Michigan.

Mr. KILDEE. Mr. Chairman, I have spoken with the gentleman from Rhode Island (Mr. GEORGE MILLER) about the amendment before this Subcommittee on the need to address this issue in conference. Mr. Chairman. It is sound policy to help put at-risk children on a healthy trajectory earlier in their lives. Helping families and communities build children’s emotional skills in the early years will lead to increased academic achievement.

This amendment is a strong proposal to do just that, and I will support the efforts of the gentleman from Rhode Island (Mr. KENNEDY) to address this issue in conference.

Mr. KENNEDY of Rhode Island. Mr. Chairman, if the gentleman from California will continue to yield, I thank the gentleman from Michigan.

Mr. DOOLEY of California. Mr. Chairman, I yield myself such time as I may consume.

In closing, I urge all my colleagues to support this amendment. Once again, I want to compliment the gentleman from Ohio (Chairman BOEHNER) and the gentleman from California (Mr. GEORGE MILLER) for their terrific work on this legislation.

Mr. Chairman, I yield back the balance of my time.

Mr. BOEHNER. Mr. Chairman, I urge my colleagues to support the amendment, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DOOLEY).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 107–69.

Mr. VITTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. VITTER:

In part E of title VIII of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 801 of the bill, after section 8531, insert the following (and redesignate succeeding paragraphs, and any cross-references thereto, accordingly):

SEC. 8529. ARMED SERVICES RECRUITING.

"Any secondary school that receives Federal funds under this Act shall permit regular United States Armed Services recruitment activities on school grounds, in a manner reasonably accessible to all students of such school."

The CHAIRMAN. Pursuant to House Resolution 143, the gentleman from Louisiana (Mr. VITTER) and a Member opposed each will control 5 minutes.

Mr. GEORGE MILLER of California. Mr. Chairman, I ask unanimous consent to use the time in opposition.

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. GEORGE MILLER)?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. VITTER).

Mr. VITTER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise today to speak in favor of the Vitter-Sessions amendment to H.R. 1. This amendment will prevent discrimination against armed services recruiters and will simply offer them fair access to secondary schools that accept Federal funding.

Mr. Chairman, top Department of Defense manpower officials, as well as the actual military recruiters on the ground, in the trenches, if you will, face daunting challenges in beefing up our military with good, new, young recruits. That is particularly true in a flourishing economy.

What I find truly dismaying and alarming, however, is that the Pentagon estimates there are some 2,000 schools nationally that actually have policies banning recruiters from their campuses.

Should we discriminate against our national interests of a strong armed services by restricting which youth have access to choose a career in the U.S. military?

Recruiters have stated that in many cases they have been denied access simply and solely because of school administrators’ own personal anti-military bias or lack of familiarity with the positive aspects of military service.

What is going on clearly, Mr. Chairman, is pure, old-fashioned bad political correctness and antimilitary ideology being shoved down the throats of our young people.

This amendment simply states that secondary educational institutions that receive Federal funding must allow the same Armed Forces that are sworn to protect and defend the lives and futures of students and teachers access to students in those educational institutions, just like college recruiters, university recruiters, and employment recruiters are given access on those campuses.

Mr. Chairman, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I know of no real opposition to this amendment. There are some who obviously think that this is a decision school boards ought to be making. They are elected by the people in the community; if that is the view of the people in the communities, then maybe they ought to reflect that. But I know of no real opposition here.

Mr. Chairman, I yield back the balance of my time.

Mr. VITTER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. SESSIONS).

Mr. SESSIONS. Mr. Chairman, I offer an amendment.

Mr. VITTER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. SESSIONS).

Mr. SHIMKUS. Mr. Chairman, I thank the gentleman from Louisiana (Mr. VITTER) for yielding me the time.

Mr. Chairman, this amendment is an amendment to H.R. 1 of allowing the military the opportunity to recruit on school campuses all across America is not only in the best interests of America, but it is in the best interests of every one of our students.

Mr. Chairman, I thank the gentleman from Louisiana (Mr. VITTER) for his leadership.

Mr. VITTER. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Chairman, I want to thank the gentleman from California (Mr. GEORGE MILLER) for his kind words.

Earlier today we debated the World War II memorial and remembered those who served. For schools to accurately depict history, they have to talk about those who served.

Serving in the military is honorable. Military service increases self-esteem, discipline, devotion to duty, selfless service, and love of country. That is not too bad. No recruiters; no money.

Let us open the door to those who serve our young men and women and also those who served this great Nation. We, as a Nation, will not be disappointed.

Mr. VITTER. Mr. Chairman, I yield 30 seconds to the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Mr. Chairman, I enthusiastically support the Vitter-Sessions amendment. It is hard to believe that recruiters do not have access to our young men and women, but this is an opportunity for character education.

It is an opportunity for national security. This brings to our schools, through ROTC, character, honesty, integrity, core values of the military, I
appreciate the gentleman bringing this to our attention, and I strongly support the Vitter-Sessions amendment and recommend my colleagues do the same.

Mr. DEFAZIO. Mr. Chairman, I intend to vote against the Vitter amendment not because I personally believe military recruiters should be excluded from school grounds but because I strongly support the ability of local communities to determine what is best for their schools and their children.

The CHAIRMAN. All time for debate has expired.

The question is on the amendment offered by the gentleman from Louisiana (Mr. VITTER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. VITTER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Louisiana (Mr. VITTER) will be postponed.

The point of no quorum is considered withdrawn.

The CHAIRMAN. It is now in order to consider Amendment Number 9 printed in House Report 107-69.

AMENDMENT NO. 9 OFFERED BY MR. TIBERI

Mr. TIBERI. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. Tiberi:

At the end of the provision proposed to be added by section 701 of the bill, add the following:

PART C—LOCAL FLEXIBILITY DEMONSTRATION

SEC. 7301. SHORT TITLE.

This part may be cited as the “Local Flexibility Demonstration Act”.

SEC. 7302. PURPOSE.

The purpose of this part is to create options for local educational agencies—

(1) to improve the academic achievement of all students, and to focus the resources of the Federal Government upon such achievement;

(2) to improve teacher quality and subject matter mastery, especially in mathematics, reading, and science;

(3) to empower parents and schools to effectively address the needs of their children and students;

(4) to give local educational agencies maximum freedom in determining how to best use Federal funds and implement educational programs that strengthen the academic achievement of all students, especially disadvantaged children; and

(5) to narrow achievement gaps between the lowest and highest performing groups of students so that no child is left behind.

SEC. 7303. AGREEMENTS TO PROVIDE LOCAL FLEXIBILITY.

(a) AUTHORIZATION—Except as otherwise provided in this part, the Secretary shall enter into performance agreements—

(1) with local educational agencies that meet their State’s definition of adequate yearly progress, that submit approvable performance agreement proposals, and that are selected under applicable Federal laws.

(2) under which the agencies may consolidate and use funds as described in section 7304.

(b) SELECTION OF LOCAL EDUCATIONAL AGENCIES—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall enter into performance agreements with local educational agencies under this part that have not more than 100 local educational agencies. Each such local educational agency shall be selected from among those local educational agencies that—

(A) submit a proposed performance agreement to the Secretary and demonstrate, to the satisfaction of the Secretary, that the agreement—

(i) has substantial promise of meeting the requirements of this part; and

(ii) describes a plan to combine and use funds (as authorized under section 7304) under the agreement to meet the State’s definition of adequate yearly progress;

(B) provide information in the proposed performance agreement regarding how the local educational agency has notified the State of the local educational agency’s intent to submit a proposed performance agreement; and

(C) have consulted and involved parents and educators in the development of the proposed performance agreement.

(2) GEOGRAPHIC DISTRIBUTION.—

(A) IN GENERAL.—

(i) INITIAL AGREEMENTS.—During the period of time that expires 3 years after the date of enactment of the No Child Left Behind Act of 2001, the Secretary may enter into not more than 2 performance agreements under this part with local educational agencies in each State.

(ii) SUBSEQUENT AGREEMENTS.—After the expiration of the 3-year period beginning on the date of enactment of the No Child Left Behind Act of 2001, the Secretary may enter into performance agreements under this part with any number of local educational agencies in each State until the total number of such agreements equals 100.

(B) URBAN AND RURAL AREAS.—If more than 2 local educational agencies in a State submit approvable performance agreements under this part, the Secretary shall select local educational agencies for performance agreements under this part in a manner that ensures an equitable distribution among such agencies across urban and rural areas.

(c) APPROVAL.—Each performance agreement entered into with the Secretary under this part shall have each of the following terms:

(1) TERM.—The performance agreement shall be for a term of 5 years.

(2) APPLICATION OF PROGRAM REQUIREMENTS.—The agreement shall provide that no requirements of any program described in section 7304(b) and included by the local educational agency in the scope of the agreement shall apply to the agency, except as otherwise provided in this part.

(3) LIST OF PROGRAMS.—The performance agreement shall list which of the programs described in section 7304(b) are included in the scope of the performance agreement.

(4) USE OF FUNDS TO IMPROVE STUDENT ACHIEVEMENT.—The performance agreement shall contain an assurance that the local educational agency intends to combine and use the funds from programs included in the scope of the performance agreement to improve the academic achievement of students served under the performance agreement.

(d) TERMINATION.—

(1) IN GENERAL.—The Secretary shall terminate the performance agreement if—

(A) the local educational agency fails to satisfy the requirements of this part.

(b) COVERED AMENDMENTS.—Not later than 1 year after the date on which the Secretary enters into the performance agreement, the State seeks to amend the performance agreement or provide the local educational agency with a written determination that such agreement fails to satisfy the requirements of this part.

(e) APPROVAL.—Not later than 60 days after the receipt of a proposed performance agreement submitted by a local educational agency under this part, the Secretary shall approve the performance agreement or provide the local educational agency with a written determination that such agreement fails to satisfy the requirements of this part.

(f) AMENDMENT TO PERFORMANCE AGREEMENT.—Not later than 1 year after entering into the performance agreement, a State seeks to amend the performance agreement to include in its scope any additional program described in section 7304 or any additional achievement indicators for which the State will be held accountable.

(g) APPROVAL OF AMENDMENT.—Not later than 60 days after the receipt of a proposed amendment to the performance agreement submitted by a
local educational agency, the Secretary shall approve the amendment or provide the agency with a written determination that the amendment fails to satisfy the requirements of this part.

(b) **TREATMENT AS APPROVED.—**Each amendment for which the Secretary fails to take the action required in subparagraph (A) in the case described in such subparagraph shall be considered to be approved.

(2) **TREATMENT OF PROGRAM FUNDS WITHDRAWN FROM AGREEMENT.—**Beginning on the effective date of an amendment described in section 3302(b)(1)(A) of this Act, the local educational agency seeking renewal of funds made available under the program will have 60 days from the date of notification by the Secretary to provide the Secretary with any information that has been provided to the State or local educational agency under section 7306(b) and in accordance with this section on which such term ends, the local educational agency seeking renewal must provide to the Secretary all annual performance reports required under the agreement, whichever is later.

**SECTION 7304. CONSOLIDATION AND USE OF FUNDS.**

(a) **IN GENERAL.—**

(1) **AUTHORITY.—**Under a performance agreement entered into under this part, a local educational agency may consolidate, subject to subsection (c), Federal funds made available to the agency under the provisions listed in subsection (b) and use such funds for any educational purpose permitted under this Act.

(2) **PROGRAM REQUIREMENTS.—**Except as otherwise provided in this part, a local educational agency may use funds under paragraph (1) notwithstanding the program requirement that the funds be used under subsection (a) of section 7309 if the agency provides the Secretary with a written notice that describes in substantial detail how the funds will be used.

(b) **ELIGIBLE PROGRAMS.—**Funds made available under programs under each of the following provisions of this Act may be consolidated and used under subsection (a):—

(1) Title II. (2) Part A of title IV. (3) Subpart 1 of part A of title V. (4) Part B of title V.

**SECTION 7305. LIMITATIONS ON ADMINISTRATIVE EXPENDITURES.**

Each local educational agency that has entered into a performance agreement with the Secretary under this part may use for administrative purposes not more than 4 percent of the total amount of funds allocated to the agency under the programs included in the scope of the performance agreement.

**SECTION 7306. PERFORMANCE REVIEW AND PENALTIES.**

(a) **MIDTERM REVIEW.—**The Secretary may not enter into a performance agreement under this part unless the agreement includes a provision for a midterm review of the performance agreement, by the Secretary, not less than 6 months before the end of the original term of the agreement, the achievement of goals contained in the agreement.

(b) **FINAL REVIEW.—**If, at the end of the 5-year term of a performance agreement entered into under this part, a local educational agency that is party to the agreement has met or has substantially met, by the end of the original term of the agreement or on the date on which the local educational agency seeking renewal notifies the Secretary of its intention to renew, the Secretary may renew the agreement.

**SECTION 7307. REMOVAL OF PERFORMANCE AGREEMENT.**

(a) **IN GENERAL.—**Except as provided in section 7306(b) and in accordance with this section, the Secretary may not renew a performance agreement entered into under this part if the State that is party to the agreement has met or has substantially met, by the end of the original term of the agreement, the achievement goals contained in the agreement.

(2) **NOTIFICATION.—**The Secretary may not renew a performance agreement under this part unless, not less than 6 months before the end of the original term of the agreement, the local educational agency seeking renewal notifies the Secretary that the renewal will be effective at the end of the original term of the agreement or on the date on which the local educational agency seeking renewal makes the report required under section 7306(b)(1)(A) of this Act.

(3) **RENEWAL DATE.—**A renewal under this section shall be effective at the end of the original term of the agreement or on the date on which the local educational agency seeking renewal makes the report required under section 7306(b)(1)(A) of this Act.

**SECTION 7308. REPORTS.**

(a) **TRANSMITTAL TO CONGRESS.—**Not later than 15 days after the Secretary receives a report described in section 7306(c)(9) of this Act, the Secretary shall make the report available to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate.

(b) **LIMITATION.—**A State in which a local educational agency that is party to a performance agreement entered into under this part is located may not require such local educational agency to provide any information that is not required to be included in the report described in section 7306(c)(9) of this Act.

**SECTION 7309. DEFINITIONS.**

In this part, the following definitions apply:

(1) **ADEQUATE YEARLY PROGRESS.—**The term ‘adequate yearly progress’ means the adequate yearly progress determined by the Secretary in section 7301(b)(2)c of this Act.

(2) **ALL STUDENTS.—**The term ‘all students’ means all students attending public schools or charter schools that are participating in the State’s accountability and assessment system.

The CHAIRMAN. Pursuant to House Resolution 143, the gentleman from Ohio (Mr. TIBERI) and the gentleman from California (Mr. GEORGE MILLER) will each control 15 minutes.

The Chair recognizes the gentleman from Ohio (Mr. TIBERI).

Mr. TIBERI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am not here today to thank the gentleman from Ohio (Mr. BOEINER), chairman of the Committee on Education and the Workforce, and the gentleman from Delaware (Mr. CASTLE), the chairman of the Subcommittee on Education Reform, for their fine work on this piece of legislation and for their support for the amendment that I am offering at this time.

Mr. Chairman, this amendment expands upon what is already in this bill, which is a good bill; and it will make this bill a better bill.

Under this amendment sponsored by myself and the gentleman from Delaware (Mr. CASTLE), local school districts in such States that provide Federal funds available under the provisions of this Act to States are authorized to use those funds to improve the performance of local schools and school districts.

Only school districts in such States are authorized to use such funds. Any school district that is not a local educational agency under this Act may not use such funds for purposes other than those described in subsection (c).

If a school district is a failing school district, they may not apply. School districts that fail to make progress during the performance agreement contract may not continue to participate, thus the Secretary may cancel the agreement.

This piece of legislation is supported by the National School Boards Association, the Association of School Administrators, and the Council of Great City Schools. It offers local flexibility, local accountability, which will equal results.

Let us pass this amendment. Let us give additional tools to our locally elected school board members, to our local superintendents, so they can help the young men and women in our classroom.

Mr. Chairman, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to this amendment. I think basically the core problem with this amendment is that in fact, the block grant approach in which it is constructed and the accountability that we would, in fact, qualify for it really stands accountability on its head.

In fact, you have the ability of a school district to be failing, if you will, essentially almost 4 years out of 5 years, and at the same time receive the ability to do this.

Mr. Chairman, I realize that the amendment suggested by the Gentleman from Indiana that the inadequate yearly progress, you can then have the block grant approach. But the fact of the matter is, you can fail to meet adequately yearly progress for 2 years, you could meet it a 3rd year or you could be back again in 2 years and you continue to get the block grant approach.

I think that that takes away much of the accountability that we have sought to have in this legislation. I think altogether, in fact, the block grant approach eliminates the very purpose of which we establish these priorities.

Why would we want to have a district eliminating spending on teacher quality when we continue to have large numbers of uncertificated and unqualified teachers? Clearly in the legislation before us, we allow for greater flexibility. We also recognize that there is a purpose and a reason for these priorities. That is why we do not go to a block grant approach.

We try to provide that flexibility, but we also try to make sure that the purposes for which money was sent is maintained by allowing school districts to move some of that money back and forth across those lines, but not too to engage in the block grant approach.

So for those reasons, Mr. Chairman, I oppose this amendment and would ask my colleagues to oppose this amendment.

I think that the arrangement that we have arrived at within the current legislation that is before us, that the gentleman from Indiana (Mr. Roemer) and
others worked on to provide a substantially greater level of flexibility for districts, is a better answer than to provide these block grants.

Mr. Chairman, I reserve the balance of my time.

Mr. TIBERI. Mr. Chairman, I yield 3 minutes to the gentleman from Delaware (Mr. CASTLE), the chairman of the Subcommittee on Education Reform.

Mr. CASTLE. Mr. Chairman, I thank the gentleman from Ohio (Mr. TIBERI), the sponsor of the amendment, for yielding the time to me.

Mr. Chairman, I join in support of it. Before I speak to that, I would like to point out something which is very important. We are actually talking about an amendment to something else that was really created by the gentleman from Ohio (Mr. BOEHNER), the chairman of the Subcommittee on Education Reform.

MR. CASTLE. Mr. Chairman, I thank the gentleman from Ohio (Mr. TIBERI). The gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. CASTLE) for his comments.

But the title I accountability remains and is still part of the underlying concepts of what every school district has to do. The schools must meet the general purposes of the program.

I believe, because of the limitation on it, it is a pilot program, because of the Secretarial approval, because title I is still protected, that giving this extension to those schools who feel they can do this, I am not sure there are that many who feel they can, but up to these 100 districts is worthwhile.

I happen to believe in pilot programs when I think it can extend the good purpose of what the Secretary is asking us to do in education. I believe that is a concept that is encompassing the sub-local flexibility program which we have here before us. Remember, no school has to participate.

So I would encourage everyone to look at it to consider supporting it, hopefully supporting it, and joining in giving us more flexibility as we give more money back to the State and local education areas.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Chairman, I thank the gentleman from California for yielding me this time. I, as a member of the Committee on Education and the Workforce, reluctantly rise in opposition to the amendment.

Mr. Speaker, I have been a strong proponent for greater flexibility at the local school level and in the course of drafting H.R. 1, working in a bipartisan fashion, for the need for greater consolidation of the Federal programs. H.R. 1 contains that consolidation and flexibility.

But with that consolidation comes incredible flexibility already built into the core bill. In fact, between the various titles, excluding title I, the targeted title I, disadvantaged students, the rest of the titles on H.R. 1 have 50 percent flexibility in the transfer of funds from title to title. Therefore, I really do not see the need for this amendment.

Mr. ISAKSON. Mr. Chairman, I thank the gentleman from California (Mr. ISAKSON) for bringing this amendment to the floor. I rise in support of it because I recognize there are unique circumstances where this type of flexibility ought to be available to our systems.

Rather than making a general speech, I would like to use two specific examples, the city of Dalton public schools in Georgia and the city of Gainesville public schools in Georgia.

Ten years ago, both these systems had a Hispanic population that was less than a fraction of a percent. Today, in the city of Dalton, the percentage of Hispanic students is almost 60 percent, as it is in the city of Gainesville.

This amendment recognizes that there are certain circumstances where the uniqueness of challenges confront a system and the need.

To let my colleagues know how pressing that is, in the city of Dalton, a gentleman by the name of Erwin Mitchell, 7 years ago, started something called the Georgia Project, a project that exchanges teachers from Georgia with the University of Minnesota to teach English-speaking teachers Spanish so when they exchange those students, and they
come to Georgia, that we have the ability to train children from their primary language of Spanish to the language of English in a rapid period of time.

This type of a circumstance directly addresses the gentleman’s amendment. Those two systems could apply to the Secretary and say we have unique circumstances to which we aspire to perform. But we must and need to move resources earmarked for one program into our programs to speakers of other language other than English.

It is a 5-year agreement. It is performance based. It allows a system that has very unique circumstances, but circumstances that are entirely troubling, to address them and confront them and use Federal funds to do so.

So I think the gentleman from Ohio (Mr. TIBERI) and the gentleman from Delaware (Mr. CASTLE) have recognized that there are places and there are times where maximum flexibility should and ought to be granted. It should be based on the Department’s willingness to approve the application of the local system and a contract between the two parties to address specifically the problem that they are confronted with.

I think the gentleman from Ohio (Mr. TIBERI) and the gentleman from Delaware (Mr. CASTLE) have recognized we have unique circumstances, that this local flexibility allows us to address those; and I commend the amendment to the body.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 3 minutes to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK of Hawaii. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I had the privilege of serving on the working group. From the moment that the two sides, the majority and minority met, there were two things which we laid on the table and said from the viewpoint of the minority we could not possibly ever accept. One had to do with vouchers and the other had to do with the block grants that we refer to as Straight A’s. There was absolutely no possibility that our position could have been misunderstood.

So as we worked our way through all of the other matters that we were confronting in trying to develop a core bill, to the very end we were absolutely certain that we would not accept a block grant provision.

What has been written into the bill is not a block grant position at all. It has to do with the transferability of funds from one program, keeping the identified program restrictions. One could move from teacher development into technology or into school safety, but if one did transfer the funds from one project to another, one had to be sure that the restrictions were completely adhered to. That is not a block grant. That is not Straight A’s. That was the commitment that we made on both sides in order to dispose of the possibility that we could really engage in a debate on block grants.

Yet, here we are in developing this particular debate today, struck with a block grant provision which is exactly the antithesis of what we said we were going to come out and defend on the floor.

This is a pilot program. Certainly that is what it is. Two school districts in every State is a modest beginning. It is a pilot program. But without question it is a block grant because it completely obliterates the program definitions. One could just take the money and spend it for whatever one wanted to. That certainly obliterates the function of accountability for this Chamber.

We are accountable to taxpayers. It is our job to define what the needs of our school districts are. We have defined it as teacher quality being very, very important, the necessity to upgrade technology or into school safety, but if one did transfer the funds from one program, keeping the identified program restrictions. One could move from teacher development into technology or into school safety, but if one did transfer the funds from one program to another, one had to be sure that the funds could switch that money.

Mr. TIBERI. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. KELLER).

Mr. KELLER. Mr. Chairman, I thank the gentleman for yielding me this time. I rise today in strong support of the Tiberi-Castle amendment.

For many years, the most dreaded words school board members would hear is we are from Washington D.C. and we are here to help you. Why? Because they only get 7 cents on every educational dollar from Washington, D.C., yet over half of the red tape that they have to fill out because of us. They wanted dramatic red-tape relief and flexibility.

Right now, the bill as is is pretty good. They can use up to 50 percent of their non-title I money any way they want, switching it around. But what we are saying in this particular amendment to 100 school districts is we are going to give you a chance to put your money where your mouth is. We are going to give complete flexibility to the first 100 districts who take us up on it, other than their title I money, to use it however they want, however they see fit in exchange for accountability.

That means, if a particular school does not have a problem with teacher development or have a problem with drug prevention, but they do not have computers wired to the Internet, they can switch the money they had from teacher development and wire the computers to the Internet.

Similarly, if another school is completely wired to the Internet, but they do not have enough money to hire new teachers or teacher development, they can switch that money.

Complete flexibility, giving them the opportunity to do what is best. No longer will we have a situation where we are here from Washington and we are here to help. This gives them flexibility. It provides local control. It is a positive step to improving our children’s education.

If a school district does not believe that this is in their best interest, then they certainly do not have to apply for it. I suspect that we will have 100 school districts promptly apply to this.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER asked and was given permission to revise and extend his remarks.

Mr. ROEMER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio (Mr. TIBERI) and do so for three reasons.

One reason is because we are here in this body to legislate and to write substantive legislation in order to improve education for children, not to respond with bumper sticker slogans like Straight A’s that make appeals to politics.

I am afraid that this proposal that we have offered is Straight A’s, plain and simple. It may be camouflage. It may be Straight A’s ultra-lite, but it is block grants.

I encourage my colleagues. I implore my colleagues to read the bill that we have worked on for 5 months. The bill that we have worked on for 5 months sends Federal dollars directly to the classroom. Under this amendment, one could divert up to 4 percent of the money for administrative costs. We want the kids and the teachers getting the money.

Secondly, the priorities are set by the communities, the local community, the LEA, not the State, not a Governor, not a local community.

Thirdly, it targets funds to the students that need it, the poor students, the title I.

Lastly, it provides flexibility and local control.

That is all in the bill. Why do we want to change that for a bumper sticker solution like Straight A’s?

The second reason we should defeat this amendment is because it flies in the face of accountability. Everything we refer to in this bill is trying to attach accountability and better results with flexibility. But under this amendment, one can have a school fail...
to make adequate yearly progress for 4 out of 5 years, that is a failing school; and one still gets rewarded for that failure.

One is still able to divert funds to administrative costs or do other things with the money instead of improving it for those children that are not performing adequately.

Lastly, the Achilles heel of this bill is teacher quality. That is something this system is going to have to continue to work on for a decade to come. I do not think this bill adequately solves and looks in innovative ways to solve that problem. This amendment exacerbates that problem even more by allowing the targeting money out of teacher quality as well, too.

The base bill is strong. It allows transferability of up to 50 percent of funds as one meets adequate yearly progress. It is flexible. It targets money to the poorest kids. It emphasizes teacher quality.

Do not succumb to the bumber-sticker solution to complicated education problems in our communities. Vote down this amendment. Keep with the bipartisan agreement.

Mr. TIBERI. Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Mr. Chairman, I rise in strong support of the Tiberi-Castle amendment.

I visit a school almost every week in my district; and I talk to a lot of teachers, parents, administrators, and, yes, school board officials, too. I have always believed in strong local control, that the folks at the local level know best what they need to do for their students and their teachers and their systems.

This is not a mandate. This amendment allows the school district to participate if they choose to participate. It is their decision, not some boilerplate language that comes down from on high.

Now, as I have been listening to the debate for the last few minutes, I hear a number of Members on the other side of the issue in fact saying these words. They talk about we need to look at and define what the needs of our school districts are; “we” being, I guess, the Federal Government. No, the locals need to decide what is best for the needs of their students, and that is exactly what this amendment does. The school districts themselves determine what their needs are. They alone decide whether they want to participate or not, and whether it be teacher training or the Safe and Drug Free School Act, technology training, or all those things.

No, they cannot steal money from title I, but they can put some of this money into title I to expand that program. The flexibility is there. If my colleagues are for local control, if they want those decisions made at the local level, they need to vote for the Tiberi-Castle amendment.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 3½ minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS asked and was given permission to revise and extend his remarks.

Mr. ANDREWS, Mr. Chairman. I thank the gentleman from California for yielding me this time, and I rise in support of the bipartisan agreement to this bill and in respectful opposition to this amendment.

I understand the rationale of those who support this amendment; that local school decision-makers make more often than not make good decisions on behalf of their students, and I agree with that conclusion. But I believe that the flaw in this amendment is its misunderstanding of the historical reasons why we have separate Federal programs for educational needs. These programs are not borne out of a conclusion that Washington knows best. They are born out of the historical reality that very often States and localities do not address, for a variety of reasons, particular local needs.

Two of the areas in this proposal that are of particular concern are teacher quality and, again, quality. Many of us have read the recent research studies which show that there will be an acute and severe teacher shortage in our country in the years to come. Certainly we do not have all the answers as to how low they will demand for teacher quality, but we do know that very often, teacher quality ranks toward the bottom of concerns of local school districts because of other political considerations that are understandable. If they want to get rid of sabbaticals or summer programs for the teachers, probably no one will show up.

In the area of technology, a similar argument applies. If the school district decides it wants to get rid of the marching band or the drama club, dozens of parents will come out and understandably protest against such a decision; but if there is a decision to cut back on the software contract or a decision not to upgrade the computers in the learning resource center quite as quickly, we very often find no one cares.

So I believe that the importance of defeating this amendment is the recognition of the historical reality that Federal programs here are to serve a discrete and necessary purpose that still compels and demands our support.

For that reason, I would ask my colleagues to join with the bipartisan consensus of this bill and defeat the amendment.

Mr. TIBERI. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Chairman, let me thank my colleague from Ohio and congratulate him on this amendment, along with his partner, the gentleman from Delaware (Mr. CASTLE).

Now, our friends across the aisle, who we have worked closely with through this whole process, are right, they do deserve this, and I do not have Straight A’s in the bill, that is why we do not have 50 States, and that is why we do not have seven States. Now we are down to 100 school districts in America as a demonstration project for that reason, to let ablation shine.

Now, I think all my colleagues understand that title I is protected under this demonstration project. Bilingual education programs are protected. All of the targeting of resources going to school districts is protected. All of the accountability standards that we have in our bill still exist. But what it does say is that for 100 districts in America, two in every State, we are going to give them an opportunity, if they would choose, in exchange for a stronger accountability standard, to have more increased flexibility.

Now, think about this for a moment. What happened in American industry over the last 15 years? These companies began to empower their workers, and as they began to empower their workers, guess what happened? We got all kinds of new productivity in the economy. Every good company in America today does everything they can to empower every one of their workers.

What we are saying with this amendment is let us empower 100 school districts in America to bring to Washington their best ideas about how they can better educate the children in their school district in exchange for more flexibility and more accountability.

I think this is an opportunity to try. This is not the camel’s nose under the tent. This is an opportunity to say let us see what is happening in America. Let us give them an opportunity to see how high they can set the bar and to see what they can accomplish. It is a good amendment and it deserves our support.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield the balance of my time to the gentleman from Oregon (Mr. WU).

The CHAIRMAN. The gentleman from Oregon is recognized for 2½ minutes.

Mr. WU. Mr. Chairman, I want to say that I am truly as happy as possibly can to all my friends in the Chamber. For the folks who just passed a huge, huge mandate on local schools, mandatory national testing, I find this flip-flop of positions absolutely breathtaking. It is one of the striking things we can do in this Chamber.

We debated block grants in the First Congressional District of Oregon, and the decision was pretty darn clear. Not only do Oregonians, and I think most Americans, want some accountability for public dollars spent for public purposes, that is the least that we can do for Federal funds that are spent for identifiable purposes in this bill.
Also, I think Oregonians and most Americans can recognize that block grants are step one of a cynical two-step process. First, you muddy up the waters so that you cannot identify where the money is going anymore; and then the second step is you cut the support. It is like stretching the waters so that you cannot identify where the money is going anymore; and then the chop comes down. You cut the support. It is like stretching the waters so that you cannot identify where the money is going anymore; and then the chop comes down. That was the debate we had in Oregon; I hope it prevails in that debate, and I hope it does today. I urge opposition respectfully to the gentleman's amendment.

Mr. TIBERI. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Ohio is recognized for 2½ minutes.

Mr. TIBERI. Mr. Chairman, in Ohio, we have 611 school districts. Within my Congressional District, I have urban, suburban, and rural public school districts. I know of at least one school district, the one I happened to graduate from, that would not be eligible to even apply for this program.

The problem at hand is, of course, our states and localities more flexibility in the use of federal funds, in return for real accountability, such as the "Straight A's" bill in the last Congress and the President's "Charter States" proposal in the original version of H.R. 2.

I think the Tiberi-Castle amendment is also a step forward in this regard. Building on the "Local A's" provision in the Committee-reported bill, up to 100 school districts can enter into performance agreements with the Secretary of Education and consolidate programs, freeing themselves from requirements, regulations, and paperwork associated with many federal programs, and allowing resources to more closely fit local needs.

Participation is completely voluntary, and no school district will have their federal funding reduced by one penny for participating. This amendment will apply the central premise of charter schools—freedom in return for academic results—to local educational agencies, and I hope it will work. And then the chop comes down. You cut the support. It is like stretching the waters so that you cannot identify where the money is going anymore; and then the chop comes down.
Messrs. GORDON, LARSEN of Washington, and SCHIFF changed their vote from "aye" to "no." Mr. HORN changed his vote from "no" to "aye." So the amendment was agreed to. The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. GRANGER. Mr. Chairman, on roll call Nos. 131 and 132 I was unavoidably detained. Had I been present, I would have voted "aye" on both amendments.

AMENDMENT NO. 8 OFFERED BY MR. VITTER

The CHAIRMAN pro tempore (Mr. LAHOOD). The pending business is the vote on both amendments.

Had I been present, I would have voted "aye" on amendment.

So the amendment was agreed to.

The vote was taken by electronic device, and there were—"aye" 366, noes 57, as above recorded.

ANNOUNCEMENT BY THE SPEAKER

Mr. GILCHREST changed his vote from "aye" to "no."

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair’s prior announcement, proceedings will now resume on the rules on which further proceedings were postponed yesterday.

SMALL BUSINESS LIABILITY PROTECTION ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 1831. The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. GILLMOR) that the House suspend the rules and pass the bill, H.R. 1831, on which the yeas and nays are ordered.