AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

107TH CONGRESS
1ST SESSION

H. R. 1

AN ACT

To close the achievement gap with accountability, flexibility, and choice, so that no child is left behind.

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

SECTION 1. SHORT TITLE.

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

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. Transition.
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 assessment and local educational agency and school improvement.
Sec. 107. State assistance for school support and improvement.
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 recruiting fund.
Sec. 202. National writing project.
Sec. 203. Civic education; teacher liability protection.

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. 311. Elementary and Secondary Education Act of 1965.
Sec. 312. Alaska Native education.
Sec. 313. Amendments to the education amendments of 1978.
Sec. 314. Tribally Controlled Schools Act of 1988.
Sec. 315. Accountability for Bureau funded schools.

TITLE IV—PROMOTING INFORMED PARENTAL CHOICE AND INNOVATIVE PROGRAMS

PART A—INNOVATIVE PROGRAMS

Sec. 401. Promoting informed parental choice and innovative programs.
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. Eligibility under section 8003 for certain heavily impacted local educational agencies.
Sec. 604. Construction.
Sec. 605. State consideration of payments in providing State aid.

Sec. 606. Authorization of appropriations.
Sec. 607. Repeal of existing title VI; transfer and redesignation of program.
Sec. 608. Sense of Congress relating to full funding of the impact aid 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.

SUBPART 3—GENERAL EDUCATION PROVISIONS

Sec. 916. Information access and consent.

PART B—EQUAL ACCESS TO PUBLIC SCHOOL FACILITIES

Sec. 921. Short title.
Sec. 922. Equal access.
Sec. 923. Effective date.

PART C—REPEALS

Sec. 931. Repeals.

SEC. 5. EFFECTIVE DATE.

Except as otherwise specifically provided in this Act, this Act, and the amendments made by this Act, shall take effect on October 1, 2001, or on the date of the enactment of this Act, whichever occurs later.

TITLE I—IMPROVING THE ACADEMIC PERFORMANCE OF THE DISADVANTAGED

PART A—BASIC PROGRAM

SEC. 101. DISADVANTAGED CHILDREN MEET HIGH ACADEMIC STANDARDS.

Section 1001 is amended to read as follows:

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

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

''(1) The Constitution of the United States reserves to the States and to the people the responsibility for the general supervision of public education in kindergarten through the twelfth grade.

''(2) States, local educational agencies and schools should be given maximum flexibility in exchange for greater academic accountability, and be given greater freedom to build upon existing innovative approaches for education reform.

''(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 and responsibility to educate their pupils and

children free of excessive regulation by the Federal Government.

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

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

''(7) High-poverty schools 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 con-

centrations of poverty, where paraprofessionals, uncertified teachers, and teachers teaching out of field frequently provide instructional services.

"(9) Congress and the public would benefit from additional data evaluating the efficacy 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 and States must take significant actions to improve the educational opportunities available to them.

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

"(c) 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, children with limited English proficiency, children of migrant workers, children with disabilities, Indian children, children who are ne-

glected or delinquent, and young children who are in need of reading assistance 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 provide them with a quality education, and are given no alternatives to enable them to receive a quality education.

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

''(5) 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 against common expectations for student academic achievement.

"(6) Federal education assistance is intended not only to increase pupil achievement overall, but also more specifically and importantly, to help ensure that all students, especially the disadvantaged, meet challenging 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 and minority status.".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

Section 1002 is amended to read as follows:

"SEC. 1002. AUTHORIZATION OF APPROPRIATIONS.

"(a) LOCAL EDUCATIONAL AGENCY GRANTS.—For the purpose of carrying out part A, other than section 1120(e), there are authorized to be appropriated $11,500,000,000 for fiscal year 2002, $13,000,000,000 for fiscal year 2003, $14,500,000,000 for fiscal year 2004, $16,000,000,000 for fiscal year 2005, and $17,200,000,000 for fiscal year 2006.

"(b) STUDENT READING SKILLS IMPROVEMENT GRANTS.—

"(1) READING FIRST.—For the purpose of carrying out subpart 1 of part B, there are authorized to be appropriated $900,000,000 for fiscal year

2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

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

"(3) EVEN START.—For the purpose of carrying out subpart 3 of part B, there are authorized to be appropriated $275,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(4) 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.

"(c) 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.

"(d) PREVENTION AND INTERVENTION PROGRAMS FOR YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT RISK OF DROPPING OUT.—For the purpose of carrying

out part D, there are authorized to be appropriated $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

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

"(f) RURAL EDUCATION.—For the purpose of carrying out part G, there are authorized to be appropriated $300,000,000 for fiscal year 2002 and such sums as may be necessary for each of 4 succeeding fiscal years to be distributed equally between subparts 1 and 2.

"(g) CAPITAL EXPENSES.—For the purpose of carrying out section 1120(e), there are authorized to be appropriated $6,000,000 for fiscal year 2002, and such sums as may be necessary for fiscal year 2003.

"(h) FEDERAL ACTIVITIES.—

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

"(B) For the purpose of carrying out section 1502, there are authorized to be appropriated such

sums as may be necessary for fiscal year 2002 and for each of the 4 succeeding fiscal years.

"(2) SECTION 1503.—For the purpose of carrying out section 1503, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and for each of the 4 succeeding fiscal years.

"(i) STATE ADMINISTRATION.—

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

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years for additional State administration grants. Any such additional grants shall be allocated among the States in proportion to the sum of the amounts

received by each State for that fiscal year under parts A, C, and D of this title.

"(3) SPECIAL RULE.—The amount 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.

"(j) ASSISTANCE FOR LOCAL SCHOOL IMPROVEMENT.—

"(1) 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 among States, the Bureau 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.

"(2) REALLOCATIONS.—If a State does not apply for funds under this subsection, the Secretary shall reallocate such funds to other States in the same proportion funds are allocated under paragraph (1).

"(3) STATE APPLICATIONS.—Each State educational agency that desires to receive funds under this subsection shall submit an application to the Secretary at such time, and containing such information as the Secretary shall reasonably require, except that such requirement shall be waived if a State educational agency has submitted such information as part of its State plan under this part. Each State plan shall describe how such funds will be allocated to ensure that the State educational agency and local educational agencies comply with school improvement, corrective action, and restructuring requirements of section 1116.

"(4) 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 two additional 1-year periods if schools are making yearly progress consistent with State and local educational agency plans developed under section 1116.

"(5) PRIORITY.—The State, in awarding such grants, shall give priority to local educational agencies with the lowest achieving schools, that demonstrate the greatest need for such funds, and that demonstrate the strongest commitment to making sure such funds are used to provide adequate resources to enable the lowest achieving schools to meet the yearly progress goals under State and local school improvement, corrective action, and restructuring plans under section 1116.

"(6) ADMINISTRATIVE COSTS.—A State educational agency that receives a grant award under this subsection may reserve not 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

yearly progress goals under State and local school improvement, corrective action, and restructuring plans under section 1116.

"(8) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subsection, 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 subpart 2 of part A for fiscal years 2002 and 2003, and 3 percent of the amount received under such subpart for fiscal years 2004 through 2006, to carry out subsection (b) and to carry out the State's responsibilities under sections 1116 and 1117, including carrying out the State educational agency's statewide system of technical assistance and support for local educational agencies.

"(b) USES.—Of the amount reserved under subsection (a) for any fiscal year, the State educational agency shall 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(b) 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—

"(1) have the lowest achieving schools;

"(2) demonstrate the greatest need for such funds; and

"(3) 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 allocate the excess amount to local educational agencies in accordance with either or both—

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

"(2) section 1126(c).

"(e) SPECIAL RULE.—Notwithstanding any other provision 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 funds each local educational agency receives under subpart 2 below the amount received by such agency under such subpart in the preceding fiscal year.".

SEC. 104. BASIC PROGRAMS.

The heading for part A of title I and sections 1111 through 1115 are 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.—

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

Act, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), the Head Start Act (42 U.S.C. 9831 et seq.), and the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.).

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

"(b) 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 its schools to carry out this part, except that a State shall not be required to submit such standards to the Secretary.

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

"(C) The State shall have such academic standards for all public elementary and secondary school children, including children served under this part, in subjects determined by the State, but including at least mathematics, reading or language arts, and science (beginning in the 2005–2006 school year), which shall include the same knowledge, skills, and levels of achievement expected of all children.

"(D) Academic standards under this paragraph shall include—

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

"(I) specify what children are expected to know and be able to do;

"(II) contain coherent and rigorous content; and

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

"(ii) challenging student academic achievement standards that—

"(I) are aligned with the State's academic content standards;

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

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

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

"(F) Nothing in this part shall prohibit a State from revising any standard adopted under this part before or after the date of enactment of the No Child Left Behind Act of 2001.

"(2) ACCOUNTABILITY.—

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

"(i) be based on the academic standards and academic assessments adopted under paragraphs (1) and (4) and take into account the performance of all public school students;

"(ii) be the same as the accountability system the State uses for all public schools or all local educational agencies in the State, except that public schools and local educational agencies not participating under this part are not subject to the requirements of section 1116; and

"(iii) include rewards and sanctions the State will use to hold local educational agencies and public schools accountable for student achievement and for ensuring that

they make adequate yearly progress in accordance with the State's definition under subparagraph (B).

"(B) ADEQUATE YEARLY PROGRESS.—Each State plan shall demonstrate, based on academic assessments described under paragraph (4), what constitutes adequate yearly progress of the State, and of public schools and local educational agencies in the State, toward enabling all public school students to meet the State's student 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 section 403 of the National Education Statistics Act of 1994 (20 U.S.C. 9002);

"(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 in a category is insufficient to yield statistically reliable information or the results would reveal individually identifiable information about an individual student):

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

"(II) The achievement of—

"(aa) economically disadvantaged students;

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

"(cc) students with disabilities; and

"(dd) students with limited English proficiency;

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

"(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 would otherwise be 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 academic assessment 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) for each year until and including the target year, establishes annual goals for the academic performance of each group of students described in subclauses (I) and (II) of clause (iii) on the State academic assessment that—

"(aa) indicates a minimum percentage of students who must meet the proficient level on the

academic assessment, such that the minimum 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 (I).

"(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 Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(17)(A)) and paragraph (4)(G)(ii), on which adequate yearly progress is based.

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

"(3) STATE AUTHORITY.—If a State educational agency provides evidence, which is satisfactory to the Secretary, that neither the State educational agency nor any other State government offi-

cial, agency, or entity has sufficient authority, under State law, to adopt curriculum content and student academic achievement standards, and academic assessments aligned with such academic standards, which will be applicable to all students enrolled in the State's public schools, then the State educational agency may meet the requirements of this subsection by—

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

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

"(4) ACADEMIC ASSESSMENTS.—Each State plan shall demonstrate that the State has implemented a set of high-quality, yearly student academic assessments that include, at a minimum, academic assessments in mathematics, and reading or language arts, that will be used as the primary means of determining the yearly performance of the State and of each local educational agency and school in enabling all children to meet the State's challenging student academic achievement standards. Such assessments shall—

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

"(B) be aligned with the State's challenging content and student academic achievement standards and provide coherent information about student attainment of such standards;

"(C) be used for purposes for which such assessments are valid and reliable, and be consistent with relevant, recognized professional and technical standards for such assessments;

"(D) for the purposes of this part, be scored to ensure the performance of each stu-

dent is evaluated solely against the State's challenging academic content standards and not relative to the score of other students;

"(E) except as otherwise provided for grades 3 through 8 under subparagraph (G), measure the proficiency of students in, at a minimum, mathematics and reading or language arts, and be administered not less than once during—

"(i) grades 3 through 5;

"(ii) grades 6 through 9; and

"(iii) grades 10 through 12;

"(F) involve multiple up-to-date measures of student achievement, including measures that assess critical thinking skills and understanding;

"(G) beginning not later than school year 2004-2005, measure the performance of students against the challenging State content and student academic achievement standards in each of grades 3 through 8 in, at a minimum, mathematics, and reading or language arts, except that the Secretary may provide the State 1 additional year if the State demonstrates that exceptional or uncontrollable circumstances,

such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State, prevented full implementation of the academic assessments by that deadline and that it will complete implementation within the additional 1-year period;

"(H) provide for—

"(i) the participation in such assessments of all students;

"(ii) the reasonable adaptations and accommodations for students with disabilities defined under 602(3) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(3)) necessary to measure the achievement of such students relative to State content and State student academic achievement standards;

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

"(iv) notwithstanding clause (iii), the academic assessment (using tests written

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

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

''(J) produce individual student reports to be provided to parents, which include academic assessment scores, or other information on the

attainment of student academic achievement standards; and

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

"(L) be tests of objective knowledge, based on measurable, verifiable, and widely accepted professional testing and assessment standards, and shall not assess the personal opinions, attitudes, or beliefs of the student being assessed.

"(5) SPECIAL RULE.—Academic assessment measures in addition to those in paragraph (4) that do not meet the requirements of such paragraph may be included as additional measures, but may not be used in lieu of the academic assessments required in paragraph (4). Results on any additional measures under this paragraph shall not change which schools or local educational agencies would otherwise be subject to improvement or corrective

action under section 1116 if the additional measures were not included.

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

"(7) ACADEMIC ASSESSMENTS OF ENGLISH LANGUAGE PROFICIENCY.—Each State plan shall demonstrate that local educational agencies in the State will, beginning no later than school year 2002–2003, annually assess the English proficiency of all students with limited English proficiency in their schools.

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

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

"(B) how the State educational agency will assist each local educational agency and school affected by the State plan to provide additional educational assistance to individual students assessed as needing help to achieve the State's challenging academic standards.

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

"(9) USE OF ACADEMIC ASSESSMENT RESULTS TO IMPROVE STUDENT ACHIEVEMENT.—Each State plan shall describe how the State will ensure that the results of the State assessments described in paragraph (4)—

"(A) will be provided promptly, but not later than the end of the school year (consistent with 1116, to local educational agencies,

schools, and teachers in a manner that is clear and easy to understand; and

"(B) be used by those local educational agencies, schools, and teachers to improve the educational achievement of individual students.

"(10) TECHNICAL ASSISTANCE ON ACADEMIC ASSESSMENT REQUIREMENTS.—The Secretary shall provide technical assistance to interested States regarding how to meet the requirements of paragraph (4).

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

"(1) the State shall produce, beginning with the 2003–2004 school year, the annual State report cards described in subsection (h)(1);

"(2) the State will participate, beginning in school year 2002–2003, in annual academic assessments of 4th and 8th grade reading and mathematics under—

"(A) the State National Assessment of Educational Progress carried out under section 411(b)(2) of the National Education Statistics Act of 1994 (20 U.S.C. 9010(b)(2)); or

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

"(4)(A) where educational service agencies exist, the State educational agency shall consider providing professional development and technical assistance through such agencies; and

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

"(5) the State educational agency shall notify local educational agencies and the public of the content and student academic achievement standards

and academic assessments developed under this section, and of the authority to operate schoolwide programs, and will fulfill the State educational agency's responsibilities regarding local educational agency improvement and school improvement under section 1116, including such corrective actions as are necessary;

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

''(7) the State educational agency shall inform the Secretary and the public of how Federal laws, if at all, hinder the ability of States to hold local educational agencies and schools accountable for student academic performance;

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

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

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

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

"(12) the State educational agency shall encourage local educational agencies and individual schools participating in a program assisted under this part to offer family literacy services (using funds under this part), if the agency or school determines that a substantial number of students served under this part by the agency or school have parents who do not have a high school diploma or its recognized equivalent or who have low levels of literacy.

"(d) PEER REVIEW AND SECRETARIAL APPROVAL.—The Secretary shall—

"(1) establish a peer review process to assist in the review of State plans;

"(2) approve a State plan within 120 days of its submission unless the Secretary determines that the plan does not meet the requirements of this section;

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

"(4) not decline to approve a State's plan before—

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

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

"(C) providing a hearing; and

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

"(e) DURATION OF THE PLAN.—

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

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

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

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

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

"(f) LIMITATION ON CONDITIONS.—Officers and employees of the Federal Government are prohibited from mandating, directing, or controlling a State, local educational agency, or school's specific instructional content or student academic achievement standards and academic

assessments, curriculum, or program of instruction, as a condition of eligibility to receive funds under this part.

"(g) PENALTIES.—

"(1) FAILURE TO MEET DEADLINES ENACTED IN 1994.—

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

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

"(2) FAILURE TO MEET REQUIREMENTS ENACTED IN 2001.—If a State fails to meet any of the requirements of this section, other than the requirements described in paragraph (1), the Secretary may withhold funds for State administration until the Secretary determines that the State has fulfilled those requirements.

"(h) REPORTS.—

"(1) ANNUAL STATE REPORT CARD.—

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

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

"(i) concise; and

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

"(C) PUBLIC DISSEMINATION.—The State shall widely disseminate the information described in subparagraph (D) to all schools and local educational agencies in the State and

make the information broadly available through public means, such as posting on the Internet, distribution to the media, and distribution through public agencies.

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

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

"(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 assessments required under this part;

''(iii) the percentage of students not tested (disaggregated by the same categories and subject to the same exception described in clause (i));

''(iv) the percentage of students who graduate from high school within 4 years of starting high school;

''(v) the percentage of students who take and complete advanced placement courses as compared to the population of the students eligible to take such courses, and the rate of passing of advanced placement tests;

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

''(vii) such other information (such as dropout and school attendance rates; and

average class size by grade level) as the State believes will best provide parents, students, and other members of the public with information on the progress of each of the State's public schools; and

"(viii) a clear and concise description of the State's accountability system, including: a description of the criteria by which the State evaluates school performance, and the criteria that the State has established, consistent with (b)(2)(B), to determine the status of schools regarding school improvement, corrective action, and reconstitution.

"(2) CONTENT OF LOCAL EDUCATIONAL AGENCY REPORT CARDS.—

"(A) MINIMUM REQUIREMENTS.—The State shall ensure that each local educational agency collects appropriate data and includes in its annual report for each of its schools, at a minimum—

"(i) the information described in paragraph (1)(D) for each local educational agency and school; and

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

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

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

"(II) in the case of a school—

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

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

"(B) OTHER INFORMATION.—A local educational agency may include in its annual reports any other appropriate information wheth-

er or not such information is included in the annual State report.

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

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

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

this Act shall report annually to the Secretary, and make widely available within the State—

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

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

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

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

"(5) PARENTS RIGHT-TO-KNOW.—

"(A) QUALIFICATIONS.—At the beginning of each school year, a local educational agency

that receives funds under this part shall notify the parents of each student attending any school receiving funds under this part that they may request, and shall provide the parents upon request (and in a timely manner), 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 which parents may request under subparagraph (A), a school which receives funds under this part shall provide to each individual parent—

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

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

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

"(6) PLAN CONTENT.—A State shall include in its plan under subsection (b) an assurance that it has in effect a policy that meets the requirements of this section.

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

"(j) SPECIAL RULE 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 implemented 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 accreditation organization shall adopt an appropriate assessment, in consultation and with the approval of the Secretary of Interior and 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 Sec-

retary of Interior shall ensure that such assessment meets the requirements of this section.

"SEC. 1112. LOCAL EDUCATIONAL AGENCY PLANS.

"(a) PLANS REQUIRED.—

"(1) SUBGRANTS.—A local educational agency may receive a subgrant under this part for any fiscal year only if such agency has on file with the State educational agency a plan, approved by the State educational agency, that is coordinated with other programs under this Act, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), the Head Start Act (42 U.S.C. 9831 et seq.), the McKinney-Vento Homeless Assistance Act, and other Acts, as appropriate.

"(2) CONSOLIDATED APPLICATION.—The plan may be submitted as part of a consolidated application under section 8305.

"(b) PLAN PROVISIONS.—In order to help low achieving children achieve high academic standards, each local educational agency plan shall include—

"(1) a description of additional high-quality student academic assessments, if any, other than the academic assessments described in the State plan

under section 1111, that the local educational agency and schools served under this part will use to—

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

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

"(C) determine what revisions are needed to projects under this title so that such children meet the State's student academic achievement standards;

"(2) at the local educational agency's discretion, a description of any other indicators that will be used in addition to the academic assessments described in paragraph (1) for the uses described in such paragraph, except that results on any discretionary indicators shall not change which schools

would otherwise be subject to improvement of corrective action under section 1118 if the additional measures are not included;

"(3) a description of how the local educational agency will provide additional educational assistance to individual students assessed as needing help to achieve the State's challenging academic standards;

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

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

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

"(B) services for children with limited English proficiency or with disabilities, migra-

tory children served under part C, neglected or delinquent youth, Indian children served under part B of title III, homeless children, and immigrant children in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program;

''(6) an assurance that the local educational agency will participate, if selected, in the State National Assessment of Educational Progress in 4th and 8th grade reading and mathematics carried out under section 411(b)(2) of the Education Statistics Act of 1994 (20 U.S.C. 9010(b)(2)), or in another academic assessment pursuant to the State decision under section 7101(b)(1)(B)(ii);

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

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

''(9) a general description of the nature of the programs to be conducted by such agency's schools under sections 1114 and 1115 and, where appro-

priate, educational services outside such schools for children living in local institutions for neglected or delinquent children, for neglected and delinquent children in community day school programs, and for homeless children;

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

"(11) if appropriate, a description of how the local educational agency will use funds under this part to support preschool programs for children, particularly children participating in Early Reading First, or in a Head Start or Even Start program, which services may be provided directly by the local educational agency or through a subcontract with the local Head Start agency designated by the Secretary of Health and Human Services under section 641 of the Head Start Act (42 U.S.C. 9836), agencies operating Even Start programs, Early Reading First, or another comparable public early childhood development program;

"(12) a description of the actions the local educational agency will take to assist its low-performing schools, including schools identified under section 1116 as in need of improvement;

"(13) a description of the actions the local educational agency will take to implement public school choice, consistent with the requirements of section 1116;

"(14) a description how the local educational agency will meet the requirements of section 1119(b)(1); and

"(15) a description of the services the local educational agency will provide homeless children, including services provided with funds reserved under section 1113(f)(3)(A).

"(c) ASSURANCES.—

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

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

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

"(C) work in consultation with schools as the schools develop the schools' plans pursuant to section 1114 and assist schools as the schools implement such plans or undertake activities pursuant to section 1115 so that each school can make adequate yearly progress toward meeting the State student academic achievement standards;

"(D) fulfill such agency's school improvement responsibilities under section 1116, including taking corrective actions under paragraphs (7) and (8) of section 1116(b);

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

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

"(G) in the case of a local educational agency that chooses to use funds under this part to provide early childhood development services to low-income children below the age of compulsory school attendance, ensure that such services comply with the academic achievement standards established under section 641A(a) of the Head Start Act (42 U.S.C. 9836a(a));

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

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

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

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

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

"(B) shall disseminate to local educational agencies the Head Start academic achievement standards as in effect 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 (taking into consideration existing State and local laws, and local teacher contracts), including pursuing the availability of other Federal, State, and local funding sources to assist in compliance with such subparagraph.

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

"(d) PLAN DEVELOPMENT AND DURATION.—

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

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

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

"(e) STATE APPROVAL.—

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

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

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

"(B) meets the requirements of this section.

"(f) PROGRAM RESPONSIBILITY.—The local educational agency plan shall reflect the shared responsibility of schools, teachers, and the local educational agency in making decisions regarding activities under sections 1114 and 1115.

"(g) PARENTAL NOTIFICATION AND CONSENT FOR ENGLISH LANGUAGE INSTRUCTION.—

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

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

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

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

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

"(E) the expected rate of transition from the program into a classroom that is not tailored for limited English proficient children; and

"(F) the expected rate of graduation from high school for students in the program if funds under this part are used for children in secondary schools.

"(2) CONSENT.—

"(A) AGENCY REQUIREMENTS.—

"(i) INFORMED CONSENT.—For a child who has been identified as limited English proficient prior to the beginning of a school year, each local educational agency that receives funds under this part 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 funded under this part if the program does not include classes which exclusively or almost exclusively use the English language in instruction.

''(ii) WRITTEN CONSENT NOT OBTAINED.—If written consent is not obtained, the local educational agency shall maintain a written record that includes the date and the manner in which such informed consent was sought, including the specific efforts made to obtain such consent.

''(iii) PROOF OF EFFORT.—Notice, in an understandable form, of specific efforts made to obtain written consent and a copy of the written record required in clause (ii) shall be mailed or delivered in writing to a parent, parents, or guardian of a child prior to placing the child in a program described in clause (i) and shall include a final request for parental consent for such

services. After such notice has been mailed or delivered in writing, the local educational agency shall provide appropriate educational services.

"(iv) SPECIAL RULE APPLICABLE DURING SCHOOL YEAR.—For those children who have not been identified as limited English proficient prior to the beginning of the school year, the local educational agency shall 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 made to obtain such consent prior to placing the child in a program described in clause (i). After such documentation has been made, the local educational agency shall provide appropriate educational services to such child. The proof of documentation shall be mailed or delivered in writing to a parent or parents of the child in a timely manner and shall include information on how to have their child immediately removed from the program upon their request. Nothing

in this clause shall be construed as exempting a local educational agency from complying with the notification requirements of subsection (g)(1) and the consent requirements of this paragraph.

"(3) PARENTAL RIGHTS.—A parent or the parents of a child participating in an English language instruction program for limited English proficient children assisted under this part shall—

"(A) select among methods of instruction, if more than one method is offered in the program; and

"(B) have the right to have their child immediately removed from the program upon their request.

"(4) RECEIPT OF INFORMATION.—A parent or the parents of a limited English proficient child who is identified for participation in an English language instruction program for limited English proficient children assisted under this part shall receive, in a manner and form understandable to the parent or parents, the information required by this subsection. At a minimum, the parent or parents shall receive—

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

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

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

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

"SEC. 1113. ELIGIBLE SCHOOL ATTENDANCE AREAS.

"(a) DETERMINATION.—

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

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

"(A) the term 'school attendance area' means, in relation to a particular school, the

geographical area in which the children who are normally served by that school reside; and

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

"(3) LOCAL EDUCATIONAL AGENCY DISCRETION.—

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

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

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

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

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

"(I) the school meets the comparability requirements of section 1120A(c);

"(II) the school is receiving supplemental funds from other State or local sources that are spent according to the requirements of section 1114 or 1115; and

"(III) the funds expended from such other sources equal or exceed the amount that would be provided under this part.

"(B) SPECIAL RULE.—Notwithstanding subparagraph (A)(iv), the number of children attending private elementary and secondary

schools who are to receive services, and the assistance such children are to receive under this part, shall be determined without regard to whether the public school attendance area in which such children reside is assisted under subparagraph (A).

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

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

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

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

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

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

"(4) not serve a school described in paragraph (1)(B) before serving a school described in paragraph (1)(A).

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

"(1) ALLOCATION TO PUBLIC SCHOOL ATTENDANCE AREAS.—The local educational agency shall use the same measure of poverty, which measure shall be the number of children ages 5 through 17 in poverty counted in the most recent census data approved by the Secretary, the number of children eligible for free and reduced priced lunches under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), the number of children in families receiving assistance under the State program funded under part A of title IV of the Social Security Act, or the number of children eligible to

receive medical assistance under the Medicaid program, or a composite of such indicators, with respect to all school attendance areas in the local educational agency—

"(A) to identify eligible school attendance areas;

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

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

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

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

"(i) using the same measure of low-income used to count public school children;

"(ii) using the results of a survey that, to the extent possible, protects the identity of families of private school students and allowing such survey results to be extrapolated if complete actual data are not available; or

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

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

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

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

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

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

"(f) ALLOCATIONS.—

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

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

"(B) A local educational agency may reduce the amount of funds allocated under subparagraph (A)

for a school attendance area or school by the amount of any supplemental State and local funds expended in that school attendance area or school for programs that meet the requirements of section 1114 or 1115.

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

"(A) homeless children who do not attend participating schools, including providing educationally related support services to children in shelters and other locations where children may live;

"(B) children in local institutions for neglected children; and

"(C) if appropriate, children in local institutions for delinquent children and neglected or delinquent children in community day school programs.

"(4) SCHOOL IMPROVEMENT RESERVATION.—In addition to the funding a local educational agency receives under section 1003(b), a local educational agency may reserve such funds as are necessary

under this part to meet such agency's school improvement responsibilities under section 1116, including taking corrective actions under paragraphs (7) and (8) of section 1116(b).

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

"SEC. 1114. SCHOOLWIDE PROGRAMS.

"(a) PURPOSE.—The purpose of a schoolwide program under this section is—

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

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

"(b) USE OF FUNDS FOR SCHOOLWIDE PROGRAMS.—

"(1) IN GENERAL.—A local educational agency may consolidate funds under this part, together with other Federal, State, and local funds, in order to upgrade the entire educational program of a school that serves an eligible school attendance area in which not less than 40 percent of the children are from low-income families, or not less than 40 percent of the children enrolled in the school are from such families.

"(2) IDENTIFICATION OF STUDENTS NOT REQUIRED.—

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

"(B) SUPPLEMENT FUNDS.—A school participating in a schoolwide program shall use funds available to carry out this section only to supplement the amount of funds that would, in the absence of funds under this part, be made available from non-Federal sources for the school, including funds needed to provide services that are required by law for children with

disabilities and children with limited English proficiency.

"(3) EXEMPTION FROM STATUTORY AND REGULATORY REQUIREMENTS.—

"(A) EXEMPTION.—Except as provided in subsection (c), the Secretary may, through publication of a notice in the Federal Register, exempt schoolwide programs under this section from statutory or regulatory provisions of any other noncompetitive formula grant program administered by the Secretary (other than formula or discretionary grant programs under the Individuals with Disabilities Education Act, except as provided in section 613(a)(2)(D) of such Act), or any discretionary grant program administered by the Secretary, to support schoolwide programs if the intent and purposes of such other programs are met.

"(B) REQUIREMENTS.—A school that chooses to use funds from such other programs shall not be relieved of the requirements relating to health, safety, civil rights, student and parental participation and involvement, services to private school children, maintenance of effort, uses of Federal funds to supplement, not

supplant non-Federal funds, or the distribution of funds to State or local educational agencies that apply to the receipt of funds from such programs.

"(C) RECORDS.—A school that 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 (c)(1)(D) in accordance with section 1119A for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities.

"(c) COMPONENTS OF A SCHOOLWIDE PROGRAM.—

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

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

"(B) Schoolwide reform strategies that—

"(i) provide opportunities for all children to meet the State's proficient and advanced levels of student achievement described in section 1111(b)(1)(D);

"(ii) use effective methods and instructional strategies that are based upon scientifically based research that—

"(I) strengthen the core academic program in the school;

"(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;

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

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

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

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

"(D) In accordance with section 1119A and subsection (b)(4), high quality and ongoing professional development for teachers and 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.

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

"(F) Strategies to increase parental involvement in accordance with section 1118, such as family literary services.

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

"(H) Measures to include teachers in the decisions regarding the use of academic assessments described in section 1111(b)(4) in order to provide information on, and to improve, the performance of individual students and the overall instructional program.

"(I) Activities to ensure that students who experience difficulty mastering the proficient or advanced levels of academic achievement standards required by section 1111(b) shall be provided with effective, timely additional assistance

which shall include measures to ensure that students' difficulties are identified on a timely basis and to provide sufficient information on which to base effective assistance.

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

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

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

"(C) includes a list of State and local educational agency programs and other Federal programs under subsection (b)(3) that will be consolidated in the schoolwide program.

"(3) PLAN DEVELOPMENT.—The comprehensive plan shall be—

"(A) developed during a 1-year period, unless—

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

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

"(B) developed with the involvement of parents and other members of the community to be served and individuals who will carry out such plan, including teachers, principals, and administrators (including administrators of programs described in other parts of this title), and, if appropriate, pupil services personnel, technical assistance providers, school staff, and, if the plan relates to a secondary school, students from such school;

"(C) in effect for the duration of the school's participation under this part and reviewed and revised, as necessary, by the school;

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

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

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

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

"SEC. 1115. TARGETED ASSISTANCE SCHOOLS.

"(a) IN GENERAL.—In all schools selected to receive funds under section 1113(f) that are ineligible for a

schoolwide program under section 1114, or that choose not to operate such a schoolwide program, a local educational agency may use funds received under this part only for programs that provide services to eligible children under subsection (b) identified as having the greatest need for special assistance.

"(b) ELIGIBLE CHILDREN.—

"(1) ELIGIBLE POPULATION.—(A) The eligible population for services under this section is—

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

"(ii) children who are not yet at a grade level at which the local educational agency provides a free public education.

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

solely on the basis of such criteria as teacher judgment, interviews with parents, and other appropriate measures.

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

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

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

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

''(ii) A child in a local institution for neglected or delinquent children or attending a community day

program for such children is eligible for services under this part.

"(D) A child who is homeless and attending any school in the local educational agency is eligible for services under this part.

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

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

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

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

"(C) use effective methods and instructional strategies that are based upon scientif-

ically based research that strengthens the core academic program of the school and that—

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

"(ii) help provide an accelerated, high-quality curriculum, including applied learning; and

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

"(D) coordinate with and support the regular education program, which may include services to assist preschool children in the transition from early childhood programs such as Head Start, Even Start, Early Reading First or State-run preschool programs to elementary school programs;

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

"(F) in accordance with subsection (e)(3) and section 1119A, provide opportunities for

professional development with resources provided under this part, and, to the extent practicable, from other sources, for teachers, principals, and administrators and other school staff, including, if appropriate, pupil services personnel, who work with participating children in programs under this section or in the regular education program; and

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

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

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

"(B) reviewing, on an ongoing basis, the progress of participating children and revising the targeted assistance program, if necessary, to provide additional assistance to enable such children to meet the State's challenging student academic achievement standards, such as an extended school year, before- and after-school,

and summer programs and opportunities, training for teachers regarding how to identify students that require additional assistance, and training for teachers regarding how to implement student academic achievement standards in the classroom.

"(d) INTEGRATION OF PROFESSIONAL DEVELOPMENT.—To promote the integration of staff supported with funds under this part, public school personnel who are paid with funds received under this part may participate in general professional development and school planning activities.

"(e) SPECIAL RULES.—

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

"(2) COMPREHENSIVE SERVICES.—If medical, nutrition, and other social services are not otherwise available to eligible children in a targeted assistance school and such school, if appropriate, has engaged in a comprehensive needs assessment and established a collaborative partnership with local service pro-

viders, and if funds are not reasonably available from other public or private sources to provide such services, then a portion of the funds provided under this part may be used as a last resort to provide such services, including—

"(A) the provision of basic medical equipment, such as eyeglasses and hearing aids; and

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

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

SEC. 105. SCHOOL CHOICE.

Section 1115A is amended to read as follows:

"SEC. 1115A. SCHOOL CHOICE.

"(a) CHOICE PROGRAMS.—A local educational agency may use funds under this part, in combination with State, local, and private funds, to develop and implement

public school choice programs, for children eligible for assistance under this part, which permit parents to select the public school that their child will attend.

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

"(1) all eligible students 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 its availability to them, and a clear explanation of how the program will operate;

"(4) the program will include charter schools and any other public school and shall not include a school that is or has been identified as a school in

school improvement or is or has been in corrective action for the past 2 consecutive years; and

''(5) such local educational agency will comply with the other requirements of this part.

''(c) TRANSPORTATION.—Transportation services or the costs of transportation may be provided by the local educational agency, except that such agency may not use more than a total of 15 percent of its allocation under this part for such purposes.''.

SEC. 106. ACADEMIC ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT.

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

''SEC. 1116. ACADEMIC ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT.

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

''(1) use the State 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);

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

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

"(b) SCHOOL IMPROVEMENT.—

"(1) IN GENERAL.—

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

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

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

"(B) DEADLINE.—The identification described in subparagraph (A) shall take place not later than the first day of the school year

following such failure to make adequate yearly progress.

"(C) APPLICATION.—This paragraph does not apply to a school if almost every student in the school is meeting the State's advanced level of performance.

"(D) REVIEW.—To determine if an elementary school or a secondary school that is conducting a targeted assistance program under section 1115 should be identified for school improvement under this subsection, a local educational agency may choose to review the progress of only the students in the school who are served, or are eligible for services, under this part.

"(E) PUBLIC SCHOOL CHOICE.—In the case of a school identified for school improvement under subparagraph (A), the local educational agency shall, not later than the first day of the school year following identification, provide all students enrolled in the school with the option to transfer to another public school within the local educational agency, including a public charter school, that has not been identified for school improvement under subpara-

graph (A), unless such an option is prohibited by State law.

"(F) 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.

"(2) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE; TIME LIMIT.—

"(A) IDENTIFICATION.—Before identifying an elementary school or a secondary school for school improvement under paragraph (1), for corrective action under paragraph (7), or for restructuring under paragraph (8), the local educational agency shall provide the school with an opportunity to review the school-level data, including academic assessment data, on which the proposed identification is based.

"(B) EVIDENCE.—If the principal of a school proposed for identification under paragraph (1), (7), or (8) believes, or a majority of the parents of the students enrolled in such school believe, that the proposed identification is in error for statistical or other substantive

reasons, the principal may provide supporting evidence to the local educational agency, which shall consider that evidence before making a final determination.

"(C) FINAL DETERMINATION.—Not later than 30 days after a local educational agency provides the school with the opportunity to review such school level data, the local educational agency shall make public a final determination on the status of the school.

"(3) SCHOOL PLAN.—

"(A) REVISED PLAN.—After the resolution of a review under paragraph (2), each school identified under paragraph (1) for school improvement shall, not later than 3 months after being so identified, develop or revise a school plan, in consultation with parents, school staff, the local educational agency serving the school, 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—

"(i) incorporate scientifically based research strategies that strengthen the core academic subjects in the school and ad-

dress the specific academic issues that caused the school to be identified for school improvement;

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

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

"(I) directly addresses the academic performance problem that

caused the school to be identified for school improvement;

"(II) meets the requirements for professional development activities under section 1119A; 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 (iii) will be used to remove the school from school improvement status;

"(v) establish specific annual, measurable goals for continuous and significant progress by each group of students 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 shall meet the State's proficient level of achievement on the State academic assessment described in section 1111(b)(4) not later than 10 years after the date of enactment of the No Child Left Behind Act of 2001;

"(vi) identify how the school will provide written notification about the identi-

fication to parents of each student enrolled in such school, in a format and, to the extent practicable, in a language the parents can understand;

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

''(viii) incorporate, as appropriate, extended learning time for students, such as before school, after school, during the summer and extension of the school year; and

''(ix) ensure that a mentoring program is available to teachers in the school who have been in the teaching profession for 3 years or less, which provides mentoring to beginning teachers from exemplary veteran teachers with expertise in the same subject matter that the beginning teachers will be teaching, to the extent practicable be school-based, and provides mentors time for activities such as coach-

ing, observing, and assisting the teachers who are mentored.

"(B) CONDITIONAL APPROVAL.—The local educational agency may condition approval of a school plan on—

"(i) inclusion of one or more of the corrective actions specified in paragraph (6)(D)(ii); or

"(ii) feedback on the school improvement plan from parents and community leaders.

"(C) PLAN IMPLEMENTATION.—Except as provided in subparagraph (D), a school shall implement the school plan (including a revised plan) expeditiously, but not later than the beginning of the school year following the school year in which the failure to make adequate yearly progress took place.

"(D) Notwithstanding subparagraph (C), in a case in which a plan is not approved prior to the beginning of a school year, such plan shall be implemented immediately upon approval.

"(E) LOCAL EDUCATIONAL AGENCY APPROVAL.—The local educational agency shall—

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

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

"(4) TECHNICAL ASSISTANCE.—

"(A) IN GENERAL.—For each school identified for school improvement under paragraph (1), the local educational agency serving the school shall provide technical assistance as the school develops and implements the school plan throughout the duration 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 samples of student work, to identify and address instructional problems and solutions;

"(ii) shall include assistance in identifying and implementing professional devel-

opment, instructional strategies, and methods of instruction that are based upon scientifically based research and that have proven effective in addressing the specific instructional issues that caused the school to be identified for school improvement;

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

''(iv) may be provided—

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

''(II) by the State educational agency, an institution of higher education (in full compliance with all the reporting provisions of title II of the Higher Education Act of 1965), a private not-for-profit organization or for-profit organization, an educational service agency, or another entity with

experience in helping schools improve performance.

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

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

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

"(B) the reasons for the identification;

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

"(D) an explanation of what the local 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) Additional notification.—Not less than once each year, each State educational agency shall provide the Secretary with the name of each school identified for school improvement under this subsection.

"(7) CORRECTIVE ACTION.—

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

"(i) substantially and directly responds to—

"(I) the consistent academic failure of a school that caused the local

educational agency to take such action; and

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

"(ii) is designed to increase substantially the likelihood that 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 part meet challenging State academic standards, each local educational agency shall implement a system of corrective action in accordance with subparagraphs (C) through (F) and paragraphs (8) through (10).

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

"(i) after providing public school choice under paragraph (1)(E) and technical assistance under paragraph (4), shall identify for corrective action and take corrective action with respect to any school

served by the local educational agency under this part that—

"(I) fails to make adequate yearly progress, as defined by the State under section 1111(b)(2), at the end of the first full school year following identification under paragraph (1); or

"(II) was in school-improvement status for 2 years or in corrective-action status under this subsection immediately before the effective date of the No Child Left Behind Act of 2001; and

"(ii) shall continue to provide technical assistance consistent with paragraph (4) while instituting any corrective action under clause (i); and

"(D) REQUIREMENTS.—In the case of a school described in subparagraph (C)(i), the local educational agency shall both—

"(i) continue to provide all students enrolled in the school with the option to transfer to another public school within the local educational agency, including a public charter school, that has not been identified

for school improvement under paragraph (1), unless such an option is prohibited by State law; and

"(ii) take at least one of the following corrective actions:

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

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

"(III) Significantly decrease management authority at the school level.

"(IV) Appoint an outside expert to advise the school on its progress toward meeting adequate yearly

progress, based on its school plan under this subsection.

"(V) Extend the school year or school day.

"(VI) Restructure the internal organizational structure of the school.

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

"(F) PUBLICATION AND DISSEMINATION.—The local educational agency shall publish and disseminate information regarding any corrective action the local educational agency takes under this paragraph at a school—

"(i) to the public and to the parents of each student enrolled in the school subject to corrective action;

"(ii) in a format and, to the extent practicable, in a language that the parents can understand; and

"(iii) through such means as the Internet, the media, and public agencies.

"(8) RESTRUCTURING.—

"(A) FAILURE TO MAKE ADEQUATE YEARLY PROGRESS.—If—

"(i) a school is subject to corrective action under paragraph (7) for one full school year, and at the end of such year continues to fail to make adequate yearly progress and students in the school who are from economically disadvantaged families are not making statistically significant progress in the subjects included in the State's definition of adequate yearly progress; or

"(ii) for 2 additional years a school subject to corrective action under paragraph (7) fails to make adequate yearly progress, the local educational agency shall—

"(I) provide all students enrolled in the school with the option to trans-

fer to another public school within the local educational agency, including a public charter school, that has not been identified for school improvement under paragraph (1), unless 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 year in which the local educational agency implements subparagraph (A), the local educational agency shall implement one of the following alternative governance arrangements for the school consistent with State law:

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

"(ii) Replacing the principal and all or most of the school staff that are relevant to the failure to make adequate yearly progress.

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

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

"(C) AVAILABLE RESULTS.—The State educational agency shall ensure that, for any school year in which a school is subject to school improvement under this subsection, the results of State academic assessments for that school are 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 the extent practicable, to participate in developing any plan under subparagraph (A)(ii)(III), and shall provide parents an explanation of the options under subparagraph (A)(i) and (ii).

"(9) TRANSPORTATION.—In any case described in paragraph (1)(E) for schools described in paragraphs (1)(A)(i), (7)(D)(i), and (8)(A)(ii)(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.

"(10) COOPERATIVE AGREEMENT.—In any case described in paragraph (1)(E), (7)(D)(i), or (8)(A)(ii)(I), if all public schools in the local educational agency to which a child may transfer to, are identified for school improvement, the agency shall, to the extent practicable, establish a cooperative agreement with other local educational agencies in the area for a transfer.

"(11) 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 1 year, the local educational agency shall place or continue as appropriate the school in corrective action under paragraph (7).

"(12) STATE RESPONSIBILITIES.—The State shall—

"(A) make technical assistance under section 1117 available to all schools identified for school improvement and restructuring under this subsection;

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

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

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

"(1) IN GENERAL.—A State shall—

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

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

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

"(A) for 2 consecutive years failed to make adequate yearly progress as defined in the State's plan under section 1111(b)(2); or

"(B) was in improvement status under this section as this section was in effect on the day preceding the date of the enactment of the No Child Left Behind Act of 2001.

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

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

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

"(A) REVIEW.—Before identifying a local educational agency for improvement under paragraph (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 30 days after the State educational agency provides the local educational agency with the opportunity to review such data under subparagraph (A).

"(6) NOTIFICATION TO PARENTS.—The State educational agency shall promptly notify parents in a format, and to the extent practicable in a language they can understand, of each student enrolled in a school in a local educational agency identified for improvement, of the results of the review under paragraph (1) and, if the agency is identified as in need of improvement, the reasons for that identification and how parents can participate in upgrading the quality of the local educational agency.

"(7) LOCAL EDUCATIONAL AGENCY REVISIONS.—

"(A) PLAN.—Each local educational agency identified under paragraph (2) shall, not later than 3 months after being so identified, develop or revise a local educational agency

plan, in consultation with parents, school staff, and others. Such plan shall—

"(i) incorporate scientifically based research strategies that strengthen the core academic program in the local educational agency;

"(ii) identify specific goals and objectives the local educational agency will undertake 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; and

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

"(iii) incorporate, as appropriate, extended learning time for students such as

before school, after school, during the summer, and extension of the school year.

"(iv) identify how the local educational agency will provide written notification to parents in a format, and to the extent practicable in a language, that they can understand, pursuant to paragraph (6); and

"(v) specify the responsibilities of the State educational agency and the local educational agency under the plan.

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

"(8) STATE RESPONSIBILITY.—

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

"(i) to develop and implement its revised plan as approved by the State edu-

cational 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 the following:

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

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

"(ii) shall take corrective action with respect to any local educational agency that fails to make adequate yearly progress, as defined by the State, after the

end of the second year following its identification under paragraph (2); and

"(iii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).

"(B) DEFINITION.—As used in this paragraph, the term 'corrective action' means action, consistent with State law, that—

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

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

"(C) CERTAIN LOCAL EDUCATIONAL AGENCIES.—In the case of a local educational agency described in this paragraph, the State educational agency shall take not less than one of the following corrective actions:

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

"(ii) Replace the school district personnel who are relevant to the failure to make adequate year progress.

"(iii) Remove particular schools from the jurisdiction of the local educational agency and establish alternative arrangements for public governance and supervision of such schools.

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

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

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

"(D) HEARING.—Prior to implementing any corrective action, the State educational agency shall provide due process and a hearing to the affected local educational agency, if State law provides for such process and hearing.

"(E) PUBLICATION.—The State educational agency shall publish, and disseminate to parents and the public any corrective action it takes under this paragraph through such means as the Internet, the media, and public agencies.

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

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

"(d) PARENTAL OPTIONS.—

"(1) In any case described in subsection (b)(7)(A)(ii)(II), the local educational agency shall permit the parents of each eligible child to obtain supplemental educational services for such child from a provider, as approved by the State educational agency in accordance with reasonable criteria that it shall adopt. Such criteria shall require a provider to demonstrate a record of effectiveness, or the potential of effectiveness, in providing supplemental instructional services to children, consistent with the instructional program of the local educational agency and the academic standards described under section 1111.

"(2) SELECTION.—In obtaining services under this paragraph, a parent shall select a provider that meets the criteria described under paragraph (1). The local educational agency shall provide assistance, upon request, to parents in the selection of a provider to provide supplemental instructional services.

"(3) CONTRACT.—In the case of the selection of a provider under paragraph (2) by a parent, the local educational agency shall enter into a contract with such provider. Such contract shall—

"(A) 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 timetable for improving achievement;

"(B) provide for the termination of such contract with a provider that is unable to meet such goals and timetables; and

"(C) contain provisions with respect to the making of payments to the provider by the local educational agency.

"(4) ADDITIONAL LOCAL EDUCATIONAL AGENCY RESPONSIBILITIES.—Each local educational 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 those services.

"(5) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—Each State educational agency shall—

"(A) consult with local educational agencies and promote maximum participation by providers to ensure, to the extent practicable,

that parents have as many choices of those providers as possible;

"(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 those 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 the appropriate local educational agency with information on the progress of their children in increasing achievement, in a format and, to the extent practicable, a language such parents can understand.

"(B) Ensure that instruction and content used by the provider is consistent with the instruction and content used by the local educational agency and State.

"(C) Require a provider to meet all applicable Federal, State, and local health, safety and civil rights laws.

"(D) Ensure that all instruction and content under this paragraph shall be secular, neutral, and nonideological.

"(7) COSTS.—

"(A) The costs of administration of this paragraph and the costs of providing such supplemental instructional services shall be limited to the total of 40 percent of the per child allocation under subpart 2 of each school identified under subsection (b)(7)(A)(ii)(II);

"(B) ADDITIONAL FUNDS.—If the allocation under subparagraph (A) is insufficient to provide services for all eligible students that have selected a provider, a local educational agency may use funds under subpart 1 of part A of title IV to pay for additional costs;

"(C) TRANSPORTATION COSTS.—A local educational agency may use up to 15 percent of its allocation under subpart 2 for transportation costs.

"(8) FUNDS PROVIDED BY STATE EDUCATIONAL AGENCY.—Each State educational agency may use funds that it reserves under this part, and subpart 1 of part A of title IV to provide local educational agencies that do not have sufficient funds to provide services under this paragraph for all eligible students requesting such services.

"(9) DURATION.—The local educational agency shall continue to provide supplemental instructional services to enrolled children receiving such services under this paragraph until the child completes the grade corresponding to the highest grade offered at the public school which was identified for restructuring under subsection (b)(7), or until such school, so long as the child attends such school, is not iden-

tified under subsection (b)(1), (b)(6), or (b)(7), whichever comes earlier.

"(10) DEFINITIONS.—As used in this subsection, the term—

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

"(B) 'supplemental instructional services' means tutoring and other supplemental academic enrichment services that are in addition to instruction provided during the school day and are specifically designed to increase the academic achievement of eligible children on the academic assessments required under section 1111; and

"(C) 'provider' means a non-profit or a for-profit entity which has a demonstrated record of effectiveness or the potential of effectiveness—

"(i) in providing supplemental instructional services that are consistent with the instructional program of the local educational agency and the academic standards described under section 1111; and

"(ii) in sound fiscal management;

"(D) 'per child allocation' means an amount that is equal to at least—

"(i) the amount of the school's allocation under subpart 2; divided by

"(ii) the number of children from low-income families enrolled in the school.

"(11) PROHIBITION.—Nothing contained in this subsection shall permit the making of any payment for religious worship or instruction.

"(e) 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 subsection in a manner that treats the appropriate tribe or tribal organization as a local educational agency for the purpose of implementing school improvement, corrective action and restructuring actions. If such tribe or tribal organization does not take the appropriate action required under subsection (b), the Secretary shall take such appropriate action as required under subsection (b) after final notice to such tribe or tribal organization.".

SEC. 107. STATE ASSISTANCE FOR SCHOOL SUPPORT AND IMPROVEMENT.

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.

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

"(1) first, provide support and assistance to local educational agencies subject to corrective action under section 1116 and assist schools, in accordance with section 1116(b)(11), for which a local educational agency has failed to carry out its responsibilities under paragraphs (7) and (8) 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) APPROACHES.—In order to achieve the purpose described in subsection (a), each such system shall provide technical assistance and support through such approaches as—

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

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

"(d) FUNDS.—Each State—

"(1) shall use funds reserved under section 1003(a); and

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

"(e) ALTERNATIVES.—The State may devise additional approaches to providing the assistance described in paragraphs (1) and (2) of subsection (c), such as providing assistance through institutions of higher education and educational service agencies or other local consortia, and private providers of scientifically based technical as-

sistance and the State may seek approval from the Secretary to use funds made available under section 1002(j) for such approaches as part of the State plan.''.

SEC. 108. ACADEMIC ACHIEVEMENT AWARDS PROGRAM.

Sections 1118 through 1127 are amended to read as follows:

''SEC. 1117A. ACADEMIC ACHIEVEMENT AWARDS PROGRAM.

''(a) ESTABLISHMENT OF ACADEMIC ACHIEVEMENT AWARDS PROGRAM.—

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

''(A) significantly closed the achievement gap between the groups of students defined in section 1111(b)(2); or

''(B) exceeded their adequate yearly progress goals, consistent with section 1111(b)(2), for 2 or more consecutive years.

''(2) AWARDS TO TEACHERS.—A State program under paragraph (1) may also recognize and provide financial awards to teachers teaching in a school described in such paragraph whose students consistently make significant gains in academic achieve-

ment in the areas in which the teacher provides instruction.

"(b) FUNDING.—

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

"(2) USE WITHIN 3 YEARS.—Notwithstanding any other provision of law, the amount reserved under paragraph (1) by a State for each fiscal year shall remain available to the State until expended for a period not exceeding 3 years.

"(3) SPECIAL ALLOCATION RULE FOR SCHOOLS IN HIGH-POVERTY AREAS.—

"(A) IN GENERAL.—Each State receiving a grant under this part shall distribute at least 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 quartile of schools statewide in terms of the percentage of children from low income families.

"SEC. 1118. PARENTAL INVOLVEMENT.

"(a) LOCAL EDUCATIONAL AGENCY POLICY.—

"(1) IN GENERAL.—A local educational agency may receive funds under this part only if such agency implements programs, activities, and procedures for the involvement of parents in programs assisted under this part consistent with the provisions of this section. Such activities shall be planned and implemented with meaningful consultation with parents of participating children.

"(2) WRITTEN POLICY.—Each local educational agency that receives funds under this part shall develop jointly with, agree upon with, and distribute to, parents of participating children a written parent involvement policy that is incorporated into the local educational agency's plan developed under section 1112, establishes the expectations for parent involvement, and describes how the local educational agency will—

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

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

"(C) build the schools' and parents' capacity for strong parent involvement as described in subsection (e);

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

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

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

"(3) RESERVATION.—

"(A) IN GENERAL.—Each local educational agency shall reserve not less than 1 percent of such agency's allocation under this part to carry out this section, including family literacy and parenting skills, except that this paragraph shall not apply if 1 percent of such agency's allocation under this part (other than funds allocated under section 1002(g) for the fiscal year for which the determination is made is $5,000 or less.

"(B) PARENTAL INPUT.—Parents of children receiving services under this part shall be involved in the decisions regarding how funds reserved under subparagraph (A) are allotted for parental involvement activities.

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

"(b) SCHOOL PARENTAL INVOLVEMENT POLICY.—

"(1) IN GENERAL.—Each school served under this part shall jointly develop with, and distribute to,

parents of participating children a written parental involvement policy, agreed upon by such parents, that shall describe the means for carrying out the requirements of subsections (c) through (f). Parents shall be notified of the policy in a format, and to the extent practicable in a language they can understand. Such policy shall be updated periodically to meet the changing needs of parents and the school.

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

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

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

"(c) POLICY INVOLVEMENT.—Each school served under this part shall—

"(1) convene an annual meeting, at a convenient time, to which all parents of participating children shall be invited and encouraged to attend, to inform parents of their school's participation under this part and to explain this part, its requirements, and their right to be involved;

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

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

"(4) provide parents of participating children—

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

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

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

"(d) SHARED RESPONSIBILITIES FOR HIGH STUDENT PERFORMANCE.—As a component of the school-level parental involvement policy developed under subsection (b), each school served under this part shall agree with parents of children served under this part regarding how parents, the entire school staff, and students will share the responsibility for improved student achievement and the means by which the school and parents will build and develop a partnership to help children achieve the State's high academic standards.

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

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

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

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

"(4) shall coordinate and integrate parent involvement programs and activities with Head Start, Reading First, Early Reading First, Even Start, the Home Instruction Programs for Preschool Youngsters, the Parents as Teachers Program, and public preschool programs and other programs, to the extent feasible and appropriate;

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

"(6) may involve parents in the development of training for teachers, principals, and other educators to improve the effectiveness of such training in improving instruction and services to the children of such parents in a format, and to the extent practicable, in a language the parent can understand;

"(7) may provide necessary literacy training from funds received under this part if the local educational agency has exhausted all other reasonably available sources of funding for such activities;

"(8) may pay reasonable and necessary expenses associated with local parental involvement activities, including transportation and child care costs, to enable parents to participate in school-related meetings and training sessions;

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

"(10) may arrange for teachers or other educators, who work directly with participating children,

to conduct in-home conferences with parents who are unable to attend such conferences at school;

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

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

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

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

"SEC. 1119. QUALIFICATIONS FOR TEACHERS AND PARAPROFESSIONALS.

"(a) TEACHERS.—

"(1) IN GENERAL.—Each local educational agency receiving assistance under this part shall en-

sure that all teachers hired on or after the effective date of the No Child Left Behind Act of 2001 and teaching in a program supported with funds under this part are fully qualified.

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

"(b) NEW PARAPROFESSIONALS.—

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

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

"(B) have obtained an associate's (or higher) degree; or

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

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

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

"(2) CLARIFICATION.—For purposes of paragraph (1)(C), the receipt of a high school diploma (or its recognized equivalent) shall be necessary but not by itself sufficient to satisfy the requirements of such paragraph.

"(c) EXISTING PARAPROFESSIONALS.—Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired before the date that is 1 year after the effective date of the No Child Left Behind Act of 2001 and working in a program supported with funds under this part shall, not later than 3 years after such effective date, satisfy the requirements of subsection (b).

"(d) EXCEPTIONS FOR TRANSLATION AND PARENTAL INVOLVEMENT ACTIVITIES.—Subsections (b) and (c) shall not apply to a paraprofessional—

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

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

"(e) GENERAL REQUIREMENT FOR ALL PARAPROFESSIONALS.—Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals working in a program supported with funds under this part, regardless of the paraprofessional's hiring date, possess a high school diploma or its recognized equivalent.

"(f) DUTIES OF PARAPROFESSIONALS.—

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

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

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

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

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

"(D) to conduct parental involvement activities;

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

"(F) to act as a translator; or

"(G) to provide instructional services to students.

"(3) ADDITIONAL LIMITATIONS.—A paraprofessional described in paragraph (1)—

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

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

"(g) USE OF FUNDS.—

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

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

"(A) IN GENERAL.—Beginning on and after the effective date of the No Child Left Behind Act of 2001, a local educational agency may not use funds received under this part to fund any paraprofessional hired after such date unless the hiring is to fill a vacancy created by the departure of another paraprofessional funded under this part and such new paraprofessional satisfies the requirements of subsection (b), except as provided in subsection (d).

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

"(h) VERIFICATION OF COMPLIANCE.—

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

"(2) AVAILABILITY OF INFORMATION.—Copies of attestations under paragraph (1)—

"(A) shall be maintained at each school operating a program under section 1114 or 1115 and at the main office of the local educational agency; and

"(B) shall be available to any member of the general public upon request.

"SEC. 1119A. PROFESSIONAL DEVELOPMENT.

"(a) PURPOSE.—The purpose of this section is to assist each local educational agency receiving assistance under this part in increasing the academic achievement

of children served under this part through improved teacher quality.

"(b) PROFESSIONAL DEVELOPMENT ACTIVITIES.—Professional development activities under this section shall—

"(1) give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State or local academic content standards and student academic achievement standards;

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

"(3) advance teacher understanding of effective instructional strategies based on scientifically based research for improving student achievement, at a minimum, in reading or language arts and mathematics;

"(4) be directly related to the curriculum and content areas in which the teacher provides instruction, except this requirement does not apply to activities that instruct in methods of improving student behavior;

"(5) be designed to enhance the ability of a teacher to understand and use the State's academic

standards for the subject area in which the teacher provides instruction;

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

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

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

''(9) be designed to give teachers of limited English proficient children, other teachers, and instructional staff the knowledge and skills to provide instruction and appropriate language and academic support services to such children, including the appropriate use of curriculum and academic assessments;

''(10) to the extent appropriate, provide training for teachers in the use of technology so that technology and its applications are effectively used in the classroom to improve teaching and learning in

the curriculum and academic content areas in which the teachers provide instruction; and

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

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

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

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

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

"(4) the creation of career ladder programs for paraprofessionals (assisting teachers under this part) to obtain the education necessary for such

paraprofessionals to become licensed and certified teachers; and

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

"(d) PROGRAM PARTICIPATION.—Each local educational agency receiving assistance under this part may design professional development programs so that—

"(1) all school staff in schools participating in a schoolwide program under section 1114 can participate in professional development activities; and

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

"(e) PARENTAL PARTICIPATION.—Parents may participate in professional development activities under this part if the school determines that parental participation is appropriate.

"(f) CONSORTIA.—In carrying out such professional development programs, local educational agencies may provide services through consortia arrangements with other local educational agencies, educational service agencies or other local consortia, institutions of higher edu-

cation, or other public or private institutions or organizations.

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

"(h) SPECIAL RULE.—No State educational agency shall require a school or a local educational agency to expend a specific amount of funds for professional development activities under this part, except that this paragraph shall not apply with respect to requirements under section 1116(b)(3)(A)(iii).

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

"(a) GENERAL REQUIREMENT.—

"(1) IN GENERAL.—To the extent consistent with the number of eligible children identified under section 1115(b) in a local educational agency who are enrolled in private elementary and secondary schools, a local educational agency shall, after timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis, special educational services or other benefits under this part (such as dual enrollment, educational radio and television, computer equip-

ment and materials, other technology, and mobile educational services and equipment) that address their needs, and shall ensure that teachers and families of these students participate, on an equitable basis, in services and activities developed pursuant to sections 1118 and 1119A.

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

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

"(4) EXPENDITURES.—Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools, which the local educational agency may determine each year or every 2 years.

"(5) PROVISION OF SERVICES.—The local educational agency shall provide services under this sec-

tion directly or through contracts with public and private agencies, organizations, and institutions.

"(b) CONSULTATION.—

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

"(A) how the children's needs will be identified;

"(B) what services will be offered;

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

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

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

"(F) the method or sources of data that are used under subsection (a)(4) and section 1113(c)(2) to determine the number of children from low-income families in participating school

attendance areas who attend private schools; and

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

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

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

"(3) DISCUSSION.—Such consultation shall include a discussion of service delivery mechanisms a

local educational agency can use to provide equitable services to eligible private school children.

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

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

"(c) PUBLIC CONTROL OF FUNDS.—

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

"(2) PROVISION OF SERVICES.—(A) The provision of services under this section shall be provided—

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

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

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

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

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

"(2) arrange for the provision of services to such children through arrangements that shall be

subject to the requirements of this section and sections 8505 and 8506; and

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

"(e) CAPITAL EXPENSES.—

"(1) IN GENERAL.—(A) From the amount appropriated for this subsection under section 1002(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 private school children who received services under this part in the State in the most recent year for which data satisfactory to the Secretary are available bears to the number of such children in all States in that same year.

"(B) The Secretary shall reallocate any amounts allocated under subparagraph (A) that are not used by a State for the purpose of this subsection to other States on the basis of their respective needs, as determined by the Secretary.

"(2) CAPITAL EXPENSES.—(A) A local educational agency may apply to the State educational

agency for payments for capital expenses consistent with this subsection.

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

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

"SEC. 1120A. FISCAL REQUIREMENTS.

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

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

"(1) IN GENERAL.—A State or local educational agency shall use funds received under this part only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs as-

sisted under this part, and not to supplant such funds.

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

"(c) COMPARABILITY OF SERVICES.—

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

"(B) If the local educational agency is serving all of such agency's schools under this part, such agency may receive funds under this part only if such agency will use State and local funds to provide services that, taken as a whole, are substantially comparable in each school.

"(C) A local educational agency may meet the requirements of subparagraphs (A) and (B) on a

grade-span by grade-span basis or a school-by-school basis.

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

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

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

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

"(B) For the purpose of subparagraph (A), in the determination of expenditures per pupil from State and local funds, or instructional salaries per pupil from State and local funds, staff salary differentials for years of employment shall not be included in such determinations.

"(C) A local educational agency need not include unpredictable changes in student enrollment or personnel assignments that occur after the beginning

of a school year in determining comparability of services under this subsection.

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

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

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

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

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

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

"(B) excess costs of providing services to children with disabilities as determined by the local educational agency.

"(d) EXCLUSION OF FUNDS.—For the purpose of complying with subsections (b) and (c), a State or local educational agency may exclude supplemental State or local funds expended in any school attendance area or

school for programs that meet the intent and purposes of this part.

"SEC. 1120B. COORDINATION REQUIREMENTS.

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

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

"(1) developing and implementing a systematic procedure for receiving records regarding such children transferred with parental consent from a Head Start program or, where applicable, other early childhood development programs such as Early Reading First;

"(2) establishing channels of communication between school staff and their counterparts in such Head Start agencies (including teachers, social workers, and health staff) or other early childhood development programs such as Early Reading First,

as appropriate, to facilitate coordination of programs;

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

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

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

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

"Subpart 2—Allocations

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

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

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

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

"(b) ASSISTANCE TO OUTLYING AREAS.—

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

"(2) COMPETITIVE GRANTS.—For each of fiscal years 2002 and 2003, the Secretary shall carry out the competition described in paragraph (3), except that the amount reserved to carry out such competition shall not exceed the amount reserved under this 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, on a competitive basis, to the outlying areas and freely associated States to carry out the purposes of this part.

"(B) AWARD BASIS.—The Secretary shall award grants under subparagraph (A) on a competitive basis, pursuant to the 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 subparagraph (B).

"(4) SPECIAL RULE.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds 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 payments to the Secretary of the Interior under subsection (a)(2) for any fiscal year shall be, as determined pursuant to criteria established by the Secretary, the amount necessary to meet the special educational needs of—

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

"(B) out-of-State Indian children in elementary and secondary schools in local educational agencies under special contracts with the Department of the Interior.

"(2) PAYMENTS.—From the amount allotted for payments to the Secretary of the Interior under

subsection (a)(2), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this part, with respect to out-of-State Indian children described in paragraph (1). The amount of such payment may not exceed, for each such child, the greater of—

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

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

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

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

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

"(2) an amount equal to the amount appropriated to carry out section 1124A for fiscal year

2001 shall be allocated in accordance with section 1124A; and

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

"(b) ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS.—

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

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

"(c) HOLD-HARMLESS AMOUNTS.—

"(1) AMOUNTS FOR SECTIONS 1124 AND 1125.—For each fiscal year, the amount made available to each local educational agency under each of sections 1124 and 1125 shall be—

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

"(B) not less than 90 percent of the amount made available in the preceding fiscal year if the percentage described in subparagraph (A) is between 15 percent and 30 percent; and

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

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

"(3) PAYMENTS.—If sufficient funds are appropriated, the amounts described in paragraph (2) shall be paid to all local educational agencies that received grants under section 1124A for the preceding fiscal year, regardless of whether the local educational agency meets the minimum eligibility criteria for that fiscal year provided in section 1124A(a)(1)(A) except that a local educational agency that does not meet such minimum eligibility criteria for 4 consecutive years shall no longer be eligible to receive a hold harmless amount referred to in paragraph (2).

"(4) POPULATION DATA.—In any fiscal year for which the Secretary calculates grants on the basis of population data for counties, the Secretary shall apply the hold harmless percentages in paragraphs (1) and (2) to counties, and if the Secretary's allocation for a county is not sufficient to meet the hold-harmless requirements of this subsection for every local educational agency within that county, the State educational agency shall reallocate funds 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.

"(d) RATABLE REDUCTIONS.—

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

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

"(e) DEFINITION.—For the purpose of this section and sections 1124, 1124A, and 1125, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 1124. BASIC GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) AMOUNT OF GRANTS.—

"(1) GRANTS FOR LOCAL EDUCATIONAL AGENCIES AND PUERTO RICO.—Except as provided in paragraph (4) and in section 1126, the grant that a local educational agency is eligible to receive under this section for a fiscal year is the amount determined by multiplying—

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

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

"(2) CALCULATION OF GRANTS.—

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

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

"(ii) paragraph (3) shall apply.

"(B) ALLOCATIONS TO LARGE AND SMALL LOCAL EDUCATIONAL AGENCIES.—(i) For any fiscal year in which this paragraph applies, the

Secretary shall calculate grants under this section for each local educational agency.

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

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

"(I) distribute grants under this 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.

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

"(v) If a small local educational agency is dissatisfied with the determination of its grant

by the State educational agency under clause (iii)(II), it may appeal that determination to the Secretary, who shall respond not later than 45 days after receipt of such appeal.

"(vi) As used in this subparagraph—

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

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

"(3) ALLOCATIONS TO COUNTIES.—

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

"(B) DIRECT ALLOCATIONS.—In any State in which a large number of local educational

agencies overlap county boundaries, or for which the State believes it has data that would better target funds than allocating them by county, the State educational agency may apply to the Secretary for authority to make the allocations under this part for a particular fiscal year directly to local educational agencies without regard to counties.

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

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

"(ii) using data that the State educational agency submits to the Secretary for approval that more accurately target poverty.

"(D) APPEAL.—The State educational agency shall provide the Secretary an assurance that it shall establish a procedure through which a local educational agency that is dissatisfied with its determinations under subpara-

graph (B) may appeal directly to the Secretary for a final determination.

"(4) PUERTO RICO.—

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

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

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

"(B) MINIMUM PERCENTAGE.—The percentage in subparagraph (A)(i) shall not be less than—

"(i) for fiscal year 2002, 77.5 percent;

"(ii) for fiscal year 2003, 80.0 percent;

"(iii) for fiscal year 2004, 82.5 percent; and

"(iv) for fiscal year 2005 and succeeding fiscal years, 85.0 percent.

"(C) LIMITATION.—If the application of subparagraph (B) would result in any of the 50 States or the District of Columbia receiving less under this part than it received under this part for the preceding fiscal year, the percentage in subparagraph (A) shall be the greater of the percentage in subparagraph (A)(i) or the percentage used for the preceding fiscal year.

"(5) DEFINITION.—For purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands.

"(b) MINIMUM NUMBER OF CHILDREN TO QUALIFY.—A local educational agency is eligible for a basic grant under this section for any fiscal year only if the number of children counted under subsection (c) for that agency is both—

"(1) 10 or more; and

"(2) more than 2 percent of the total school-age population in the agency's jurisdiction.

"(c) CHILDREN TO BE COUNTED.—

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

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

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

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

"(2) DETERMINATION OF NUMBER OF CHILDREN.—For the purposes of this section, the Sec-

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

"(3) POPULATION UPDATES.—In fiscal year 2001 and every 2 years thereafter, the Secretary shall use updated data on the number of children, aged 5 to 17, inclusive, from families below the poverty level for local educational agencies or counties, published by the Department of Commerce, unless

the Secretary and the Secretary of Commerce determine that use of the updated population data would be inappropriate or unreliable. If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in this paragraph are inappropriate or unreliable, they shall publicly disclose their reasons. In determining the families which are below the poverty level, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census, in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics.

"(4) OTHER CHILDREN TO BE COUNTED.—For the purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under a State program funded under part A of title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling

the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics. The Secretary shall determine the number of such children and the number of children aged 5 through 17 living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to the Secretary before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to the Secretary at the time of such determination. The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year. For the purpose of this section, the Secretary shall consider all children who are in correctional institu-

tions to be living in institutions for delinquent children.

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

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

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

"(2) the average of—

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

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

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

"(a) ELIGIBILITY FOR AND AMOUNT OF GRANTS.—

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

"(i) 6,500; or

"(ii) 15 percent of the total number of children aged 5 through 17 in the agency.

"(B) Notwithstanding section 1122, no State described in subparagraph (A) shall receive less than the lesser of—

"(i) 0.25 percent of total grants; or

"(ii) the average of—

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

"(II) the greater of—

"(aa) $340,000; or

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

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

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

"(B) the quotient resulting from the division of the amount determined for those 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.

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

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

"(B) For any fiscal year for which the Secretary allocates funds under this section on the basis of counties, a State may reserve not more than 2 percent of its allocation under this section to make grants to local educational agencies that meet the criteria of paragraph (1)(A)(i) or (ii) and are in ineligible counties that do not meet these criteria.

"(b) STATES RECEIVING MINIMUM GRANTS.—In States that receive the minimum grant under subsection (a)(1)(B), the State educational agency shall allocate such funds among the local educational agencies in each State either—

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

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

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

"(a) ELIGIBILITY OF LOCAL EDUCATIONAL AGENCIES.—A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if the number of children in the local educational agency counted under subsection 1124(c), before application of the weighting factor described in subsection (c), is at least 10, and if the number of children counted for grants under section 1124 is at least 5 percent of the total population aged 5 to 17 years, inclusive, in the local educational agency. For each fiscal year for which the Secretary uses county population data to calculate grants, funds made available as a result of applying this subsection shall be reallocated by the State educational agen-

cy to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

"(b) GRANTS FOR LOCAL EDUCATIONAL AGENCIES, THE DISTRICT OF COLUMBIA, AND PUERTO RICO.—

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

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

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

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

"(c) WEIGHTED CHILD COUNT.—

"(1) WEIGHTS FOR ALLOCATIONS TO COUNTIES.—

"(A) IN GENERAL.—For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child

count used to determine a county's allocation under this section is the larger of the 2 amounts determined under clause (i) or (ii), as follows:

"(i) BY PERCENTAGE OF CHILDREN.—This amount is determined by adding—

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

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

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

"(IV) the number of such children constituting more than 24.20 percent, but not more than 29.20 per-

cent, of such population, multiplied by 3.25; and

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

"(ii) BY NUMBER OF CHILDREN.—This amount is determined by adding—

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

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

"(III) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.0;

"(IV) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 2.5; and

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

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

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

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

"(i) BY PERCENTAGE OF CHILDREN.—This amount is determined by adding—

"(I) the number of children determined under section 1124(c) for that local educational agency constituting up to 15.233 percent, inclusive,

of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(II) the number of such children constituting more than 15.233 percent, but not more than 22.706 percent, of such population, multiplied by 1.75;

"(III) the number of such children constituting more than 22.706 percent, but not more than 32.213 percent, of such population, multiplied by 2.5;

"(IV) the number of such children constituting more than 32.213 percent, but not more than 41.452 percent, of such population, multiplied by 3.25; and

"(V) the number of such children constituting more than 41.452 percent of such population, multiplied by 4.0.

"(ii) BY NUMBER OF CHILDREN.—This amount is determined by adding—

"(I) the number of children determined under section 1124(c) constituting up to 710, inclusive, of the

agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

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

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

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

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

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

"(d) CALCULATION OF GRANT AMOUNTS.—Grants under this section shall be calculated in accordance with section 1124(a)(2) and (3).

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

"(1) 0.25 percent of total appropriations; or

"(2) the average of—

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

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

"SEC. 1126. SPECIAL ALLOCATION PROCEDURES.

"(a) ALLOCATIONS FOR NEGLECTED CHILDREN.—

"(1) IN GENERAL.—If a State educational agency determines that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children who are living in institutions for neglected children as described in subparagraph (B) of section 1124(c)(1), the State educational agency shall, if such agency assumes responsibility for the special educational needs of such

children, receive the portion of such local educational agency's allocation under sections 1124, 1124A, and 1125 that is attributable to such children.

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

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

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

"(2) if a local educational agency provides free public education for children who reside in the school district of another local educational agency; or

"(3) to reflect the merger, creation, or change of boundaries of one or more local educational agencies.

"(c) REALLOCATION.—If a State educational agency determines that the amount of a grant a local educational agency would receive under sections 1124, 1124A, and

1125 is more than such local agency will use, the State educational agency shall make the excess amount available to other local educational agencies in the State that need additional funds in accordance with criteria established by the State educational agency.

"SEC. 1127. CARRYOVER AND WAIVER.

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

''(b) WAIVER.—A State educational agency may, once every 3 years, waive the percentage limitation in subsection (a) if—

''(1) the agency determines that the request of a local educational agency is reasonable and necessary; or

''(2) supplemental appropriations for this subpart become available.

''(c) EXCLUSION.—The percentage limitation under subsection (a) shall not apply to any local educational

agency that receives less than $50,000 under this subpart for any fiscal year.

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

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

PART B—STUDENT READING SKILLS IMPROVEMENT GRANTS

SEC. 111. READING FIRST; EARLY READING FIRST.

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

(1) by striking the part heading and inserting the following:

"PART B—STUDENT READING SKILLS IMPROVEMENT GRANTS";

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

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

"Subpart 1—Reading First

"SEC. 1201. FINDINGS.

''The Congress finds as follows:

"(1) The 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, 58 percent of Hispanic Americans, 60 percent of children living in poverty, and 47 percent of children in urban schools scored 'below basic' in reading.

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

"(4) It is estimated that, at a minimum, 10,000,000 children have difficulty learning to read. 10 to 15 percent of those children eventually drop out of high school, and only 2 percent complete a 4-year program at an institution of higher education.

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

"(6) The report issued by the National Reading Panel in 2000 found that the course of reading instruction that obtains maximum benefits for students includes explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency, and reading comprehension strategies.

"SEC. 1202. PURPOSES.

"The purposes of this subpart are as follows:

"(1) To provide assistance to States and local educational agencies in establishing reading programs for students in grades kindergarten through 3 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 the third grade.

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

"(3) To provide assistance to States and local educational agencies in selecting and administering

rigorous diagnostic reading and screening assessment tools that are valid and reliable, document the effectiveness of this subpart in improving the reading skills of students, and improve classroom instruction.

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

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

''SEC. 1203. FORMULA GRANTS TO STATES.

''(a) IN GENERAL.—

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

"(2) DURATION OF GRANTS.—

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

"(B) INTERIM REVIEW.—

"(i) PROGRESS REPORT.—

"(I) 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 Secretary.

"(II) 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 mastery of the essential components of reading instruction. The report shall also in-

clude evidence from the State and its local educational agencies that they have significantly increased the number of students reading at grade level or above, significantly increased the percentages of students in ethnic, racial, and low-income populations who are reading at grade level or above, and successfully implemented this subpart.

''(ii) PEER REVIEW.—The progress report described in clause (i) shall be reviewed by the peer review panel convened under section 1204(c)(2).

''(iii) CONSEQUENCES OF INSUFFICIENT PROGRESS.—After the submission of the progress report described in clause (i), if the Secretary determines that the State is not making significant progress in meeting the purposes of this subpart, the Secretary may withhold from the State, in whole or in part, further payments under this section in accordance with section 455 of the General Education Provisions Act (20 U.S.C. 1234d) or take such other ac-

tion authorized by law as the Secretary deems necessary, including providing technical assistance upon request of the State.

"(b) DETERMINATION OF AMOUNT OF ALLOTMENTS.—

"(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 ½ of 1 percent for allotments for the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be distributed among these outlying areas on the basis of their relative need, as determined by the Secretary in accordance with the purposes of this subpart;

"(B) shall reserve ½ of 1 percent for the Secretary of the Interior for programs under this subpart in schools operated or funded by the Bureau of Indian Affairs;

"(C) shall reserve not more than 3 percent or $30,000,000, whichever is less, to carry out section 1206;

"(D) may reserve not more than 1 percent to carry out section 1207; and

"(E) shall reserve $5,000,000 to carry out section 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 under this section among each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(3) DETERMINATION OF STATE ALLOTMENT AMOUNTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall allot the amount made available under paragraph (2) for a fiscal year among the States 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(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved for the most recent fiscal year for which satisfactory data are available, compared to the number of such

individuals who reside in all such States for that fiscal year.

"(B) EXCEPTIONS.—

"(i) IN GENERAL.—Subject to clause (ii), no State receiving an allotment under subparagraph (A) may receive less than ¼ of 1 percent of the total amount allotted under such subparagraph.

"(ii) PUERTO RICO.—The percentage of the amount allotted under subparagraph (A) that is allotted to the Commonwealth of Puerto Rico for a fiscal year may not exceed the percentage that was received by the Commonwealth of Puerto Rico of the funds allocated to all States under subpart 2 of part A for the preceding fiscal year.

"(4) REALLOTMENT.—If a State described in paragraph (2) does not apply for an allotment under this section for any fiscal year, or if the State's application is not approved, the Secretary shall reallot such amount to the remaining States in accordance with paragraph (3).

"(c) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

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

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

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

"(4) LIMITATION TO CERTAIN LOCAL AGENCIES.—A State receiving a grant under this section may award subgrants under this subsection only to local educational agencies—

"(A) that have the highest percentages of students in grades kindergarten through 3 reading below grade level; and

"(B) that—

"(i) have jurisdiction over—

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

"(II) a significant number of schools that are identified for school improvement under section 1116(b); or

"(ii) are located in areas having the greatest numbers or percentages of children aged 5 through 17 from low-income families.

"(5) STATE REQUIREMENT.—In distributing subgrant funds to local educational agencies under this subsection, a State shall provide funds in sufficient size and scope to enable local educational agencies to improve reading instruction, as determined by rigorous diagnostic reading and screening assessment tools.

"(6) LIMITATION TO CERTAIN SCHOOLS.—In distributing subgrant funds under this subsection, a

local educational agency may provide funds only to schools—

"(A) that have the highest percentages of students in grades kindergarten through 3 reading below grade level; and

"(B) that—

"(i) are identified for school improvement under section 1116(b); or

"(ii) have the greatest numbers or percentages of children aged 5 through 17 from low-income families.

"(7) LOCAL USES OF FUNDS.—

"(A) REQUIRED USES.—Subject to paragraph (8), a local educational agency that receives a subgrant under this subsection shall use the funds provided under the subgrant to carry out the following activities:

"(i) Selecting and administering rigorous diagnostic reading and screening assessment tools.

"(ii) Selecting and implementing a program or programs of classroom reading instruction based on scientifically based reading research that—

"(I) includes the essential components of reading instruction; and

"(II) provides such instruction to all children, including children who—

"(aa) may have reading difficulties;

"(bb) are at risk of being referred to special education based on these difficulties;

"(cc) have been evaluated under section 614 of the Individuals with Disabilities Education Act but, in accordance with section 614(b)(5) of such Act, have not been identified as being a child with a disability (as defined in section 602 of such Act);

"(dd) are being served under such Act primarily due to being identified as being a child with a specific learning disability (as defined in section 602 of such Act) related to reading;

"(ee) are deficient in their phonemic awareness, phonics

skills, vocabulary development, oral reading fluency, or comprehension strategies; or

"(ff) are identified as having limited English proficiency.

"(iii) Procuring classroom instructional materials based on scientifically based reading research.

"(iv) Providing professional development for teachers of grades kindergarten through 3, and special education teachers of grades kindergarten through 12, that—

"(I) will prepare these teachers in all of the essential components of reading instruction;

"(II) shall include—

"(aa) information, instructional materials, programs, strategies, and approaches based on scientifically based reading research, including early intervention and classroom reading materials and remedial programs and approaches; and

"(bb) instruction in the use of rigorous diagnostic reading and screening assessment tools and other procedures that effectively identify students who may be at risk for reading failure or who are having difficulty reading;

"(III) shall be provided by eligible professional development providers; and

"(IV) will assist teachers in becoming fully qualified in accordance with the requirements of section 1119.

"(B) OPTIONAL USES.—Subject to paragraph (8), a local educational agency that receives a subgrant under this subsection may use the funds provided under the subgrant to carry out the following activities:

"(i) Providing training to parents and other individuals who volunteer to be reading tutors in the essential components of reading instruction.

"(ii) Providing family literacy services, especially to parents enrolled in participating schools, through the use of li-

brary materials and reading programs, strategies, and approaches that are based on scientifically based reading research, to encourage reading and support their children's reading development.

"(8) 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 administration.

"(d) OTHER STATE USES OF FUNDS.—

"(1) PROFESSIONAL DEVELOPMENT.—

"(A) IN GENERAL.—A State that receives a grant under this section may expend not more than 15 percent of the amount of the funds provided under the grant—

"(i) to develop and implement a program of in-service professional development for teachers of kindergarten through third grade, and special education teachers of grades kindergarten through 12, that—

"(I) will prepare these teachers in all of the essential components of reading instruction;

"(II) shall include—

"(aa) information on interventions, instructional materials, programs, and approaches based on scientifically based reading research, including early intervention and reading remediation materials, programs, and approaches; and

"(bb) instruction in the use of rigorous diagnostic reading and screening assessment tools and other procedures to improve instruction and effectively identify students who may be at risk for reading failure or who are having difficulty reading; and

"(III) shall be provided by eligible professional development providers;

"(ii) to strengthen and enhance professional development courses for students preparing, at all public institutions of higher education in the State, to teach kindergarten through third grades by—

"(I) reviewing such courses to determine whether their content is consistent with the findings of the most current scientifically based reading research, including findings on the essential components of reading instruction;

"(II) following up such reviews with recommendations to ensure that such institutions offer courses that meet the highest standards; and

"(III) preparing a report on the results of such reviews, submitting it to the reading and literacy partnership for the State established under section 1204(d), and making it available for public review via the Internet; and

"(iii) to make recommendations on how the State's licensure and certification standards in the area of reading might be improved.

"(B) FUNDS NOT USED FOR PROFESSIONAL DEVELOPMENT.—Any portion of the funds described in subparagraph (A) that a

State does not expend in accordance with such subparagraph shall be expended for the purpose of making subgrants in accordance with subsection (c).

"(2) OTHER STATE-LEVEL ACTIVITIES.—A State that receives a grant under this section may expend not more than 3 percent of the amount of the funds provided under the grant for one or more of the following authorized State activities:

"(A) Assisting local educational agencies in accomplishing the tasks required to design and implement a classroom reading program under this subpart, including—

"(i) selecting and implementing a program or programs of classroom reading instruction based on scientifically based reading research;

"(ii) selecting rigorous diagnostic reading and screening assessment tools; and

"(iii) identifying eligible professional development providers to help prepare reading teachers to teach students using the programs and assessments described in clauses (i) and (ii);

"(B) Providing to students in kindergarten through third grades, through appropriate providers, reading instruction that includes—

"(i) rigorous diagnostic reading and screening assessment tools; and

"(ii) as need is indicated by such assessments, instruction based on scientifically based reading research that includes the essential components of reading instruction.

"(3) PLANNING, ADMINISTRATION, AND REPORTING.—

"(A) IN GENERAL.—A State that receives a grant under this section shall expend not more than 2 percent of the amount of the funds provided under the grant for the activities described in this paragraph.

"(B) PLANNING AND ADMINISTRATION.—A State that receives a grant under this section may expend funds described in subparagraph (A) for—

"(i) planning and administration relating to the State uses of funds authorized under this subpart, including administering the distribution of competitive sub-

grants to local educational agencies under this section and section 1205; and

"(ii) assessing and evaluating, on a regular basis, local educational agency activities assisted under this subpart, with respect to whether they have been effective in increasing the number of children in first and second grades served under this subpart who can read at or above grade level.

"(C) ANNUAL REPORTING.—

"(i) IN GENERAL.—A State that receives a grant under this section shall expend funds provided under the grant to provide the Secretary annually with a report on the implementation of this subpart. The report shall include evidence that the State is fulfilling its obligations under this subpart. The report shall include a specific identification of those schools and local educational agencies that report the largest gains in reading achievement.

"(ii) PRIVACY PROTECTION.—Data in the report shall be set forth in a manner that protects the privacy of individuals.

"(iii) CONTRACT.—To the extent practicable, a State shall enter into a contract with an entity that conducts scientifically based reading research, under which contract the entity will produce the reports 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).

"(b) CONTENTS.—An application under this section shall contain the following:

"(1) An assurance that the Governor of the State, in consultation with the State educational agency, has established a reading and literacy partnership described in subsection (d), and a description of how such partnership—

"(A) coordinated the development of the application; and

"(B) will assist in the oversight and evaluation of the State's activities under this subpart.

"(2) An assurance that the State will submit to the Secretary, at such time and in such manner as the Secretary may reasonably require, a State plan containing a description of a process—

"(A) to evaluate programs carried out by local educational agencies under this subpart;

"(B) to assist local educational agencies in identifying rigorous diagnostic reading and screening assessment tools; and

"(C) to assist local educational agencies in identifying interventions, and instructional materials, programs and approaches, based on scientifically based reading research, including early intervention and 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) APPROVAL OF APPLICATIONS.—

"(1) IN GENERAL.—The Secretary, in consultation with the peer review panel convened under paragraph (2), shall approve an application of a State under this section if such application meets the requirements of this section.

"(2) PEER REVIEW.—

"(A) IN GENERAL.—The Secretary, in consultation with the National Institute for Literacy, shall convene a panel to evaluate applications under this section. At a minimum, the panel shall include—

"(i) three individuals selected by the Secretary;

"(ii) three individuals selected by the National Institute for Literacy;

"(iii) three individuals selected by the National Research Council of the National Academy of Sciences; and

"(iv) three individuals selected by the National Institute of Child Health and Human Development.

"(B) EXPERTS.—The panel shall include experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under this section, and experts who provide professional development to teachers of reading to children and adults, and experts who provide professional development to other instructional staff, based on scientifically based reading research.

"(C) RECOMMENDATIONS.—The panel shall recommend grant applications from States under this section to the Secretary for funding or for disapproval.

"(d) READING AND LITERACY PARTNERSHIPS.—

"(1) IN GENERAL.—In order for a State to receive a grant under section 1203, the Governor of the State, in consultation with the State educational agency, shall establish a reading 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 1203.

"(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.

"(3) OPTIONAL PARTICIPANTS.—The reading and literacy partnership may include additional participants, who shall be selected jointly by the Governor and the chief State school officer, and who may include a representative of—

"(A) an institution of higher education operating a program of teacher preparation 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 library 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 sections 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 (1), the Secretary, upon the recommendation of the peer review panel convened under section 1204(c)(2), shall allot 20 percent under this section among the States described in subsection (a)—

"(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 review the

information submitted under this subsection. The panel shall recommend such applications to the Secretary for funding or for disapproval.

"(3) INFORMATION.—The information described in this paragraph is the following:

"(A) An assurance that the State will award competitive subgrants to local educational agencies consistent with subsection (d)(4).

"(B) An assurance that the State will ensure that local educational agencies that receive a subgrant under subsection (d) use the funds provided under the subgrant in accordance with subsection (d)(5).

"(C) Evidence that the State has increased significantly the percentage of students reading at grade level or above.

"(D) Evidence that the State has been successful in increasing the percentage of students in ethnic, racial, and low-income populations who are reading at grade level or above.

"(E) Any additional evidence that demonstrates success in the implementation of this subpart.

"(d) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

"(1) IN GENERAL.—The Secretary may make a grant to a State under this section only if the State agrees to expend 100 percent of the amount of the funds provided under the grant for the purpose of making competitive subgrants in accordance with this subsection to local educational agencies.

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

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

"(4) DISTRIBUTION.—

"(A) IN GENERAL.—A State shall distribute subgrants under this section through a competitive process based on relative need and the evidence described in this paragraph.

"(B) EVIDENCE USED IN ALL YEARS.—For all fiscal years, a State shall distribute sub-

grants under this section based on evidence that a local educational agency—

"(i) satisfies the requirements of section 1203(c)(4);

"(ii) will carry out its obligations under this subpart, particularly paragraph (5); and

"(iii) will work with other local educational agencies in the State that have not received a subgrant under this subsection to assist such non-receiving agencies in increasing the reading achievement of students.

"(C) EVIDENCE USED IN FISCAL YEARS AFTER 2003.—For fiscal year 2004 and subsequent fiscal years, a State shall distribute subgrants under this section based on the evidence described in subparagraph (B) and, in addition, evidence that a local educational agency—

"(i) has significantly increased the percentage of all students reading at grade level or above;

"(ii) has significantly increased the percentage of students in ethnic, racial,

and low-income populations who are reading at grade level or above; and

"(iii) has demonstrated success in the implementation of this subpart.

"(5) LOCAL USES OF FUNDS.—A local educational agency that receives a subgrant under this subsection—

"(A) shall use the funds provided under the subgrant to carry out the activities described in section 1203(c)(7)(A); and

"(B) may use such funds to carry out the activities described in section 1203(c)(7)(B).

"(e) DEFINITION.—For purposes of this section, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 1206. EXTERNAL EVALUATION.

"(a) IN GENERAL.—From funds reserved under section 1203(b)(1)(C), the Secretary shall contract with an independent 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 designing and carrying out an independent evaluation that identifies the effects of specific activities carried out by States and local educational agencies under this

subpart on improving reading instruction. 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.

"(c) 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.

"(5) A measurement of the extent to which specific instructional materials improve reading proficiency.

"(6) A measurement of the extent to which specific rigorous diagnostic reading and screening as-

sessment 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) A measurement of how well students preparing to enter the teaching profession are prepared to teach the essential components of reading instruction.

"(9) An analysis of changes in students' interest in reading and time spent reading outside of school.

"(10) Any other analysis or measurement pertinent to this subpart that is determined to be appropriate by the Secretary.

"(d) PROGRAM IMPROVEMENT.—The findings of the evaluation conducted under this section shall be provided to 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, the Secretary of Health and Human Services, 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 identify 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 reading research, that can lead to improved reading outcomes for children, youth, and adults.

"(b) DISSEMINATION.—

"(1) IN GENERAL.—At a minimum, the National Institute for Literacy shall disseminate such information to—

"(A) recipients of Federal financial assistance under part A of this title, part A of title III, the Head Start Act, the Individuals with Disabilities Education Act, and the Adult Education and Family Literacy Act; and

"(B) each Bureau funded school (as defined in section 1141(3) of the Education Amendments of 1978).

"(2) USE OF EXISTING NETWORKS.—In carrying out this section, the National Institute for Literacy shall, to the extent practicable, utilize existing information and dissemination networks developed and maintained through other public and private entities.

"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;

"(B) phonics;

"(C) vocabulary development;

"(D) oral reading fluency; and

"(E) reading comprehension strategies.

"(3) INSTRUCTIONAL STAFF.—The term 'instructional staff'—

"(A) means individuals who have responsibility for teaching children to read; and

"(B) includes principals, teachers, supervisors of instruction, librarians, library school media specialists, teachers of academic subjects other than reading, and other individuals who have responsibility for assisting children to learn to read.

"(4) READING.—The term 'reading' means a complex system of deriving meaning from print that requires all of the following:

"(A) The skills and knowledge to understand how phonemes, or speech sounds, are connected to print.

"(B) The ability to decode unfamiliar words.

"(C) The ability to read fluently.

"(D) Sufficient background information and vocabulary to foster reading comprehension.

"(E) The development of appropriate active strategies to construct meaning from print.

"(F) The development and maintenance of a motivation to read.

"(5) RIGOROUS DIAGNOSTIC READING AND SCREENING ASSESSMENT TOOLS.—The term 'rigorous diagnostic reading and screening assessment tools' means assessments that—

"(A) are valid, reliable, and based on scientifically based reading research;

"(B) measure progress in developing phonemic awareness and phonics skills, vocabulary, reading fluency, and reading comprehension;

"(C) identify students who may be at risk for reading failure or who are having difficulty reading; and

"(D) are used to improve instruction.

"(6) SCIENTIFICALLY BASED READING RESEARCH.—The term 'scientifically based reading research'—

"(A) means the application of rigorous, systematic, and objective procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading difficulties; and

"(B) shall include research that—

"(i) employs systematic, empirical methods that draw on observation or experiment;

"(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

"(iii) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations; and

"(iv) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

"Subpart 2—Early Reading First

"SEC. 1221. PURPOSES.

''The purposes of this subpart are as follows:

''(1) To improve prereading skills in children aged 3 through 5, particularly children from low-income families, in high-quality oral language and literature-rich environments.

''(2) To provide professional development for early childhood teachers that prepares them with scientific research-based knowledge of early reading development to assist in developing the children's—

''(A) automatic recognition of the letters of the alphabet and letter sounds;

''(B) understanding that spoken words are made up of small segments of speech sounds and that certain letters regularly represent such speech sounds;

''(C) spoken vocabulary and oral comprehension abilities; and

''(D) understanding of semiotic concepts.

''(3) To use scientific research-based screening tools or other appropriate measures to determine whether preschool children are developing the skills identified in this section.

''(4) To identify and provide scientific research-based prereading language and literacy activities and

instructional materials that can be used to assist in the development of prereading skills in children.

"(5) To integrate such scientific research-based instructional materials and literacy activities with existing programs of preschools, child care agencies and programs, and Head Start centers, and with family literacy services.

"SEC. 1222. LOCAL EARLY READING FIRST GRANTS.

"(a) PROGRAM AUTHORIZED.—From amounts appropriated under section 1002(b)(2), the Secretary shall make awards, on a competitive basis and for periods of not more than 5 years, to eligible applicants to enable such applicants to carry out activities that are consistent with the purposes of this subpart.

"(b) DEFINITION OF ELIGIBLE APPLICANT.—In this subpart, the term 'eligible applicant' means—

"(1) a local educational agency;

"(2) one or more public or private organizations or agencies, acting on behalf of one or more programs that serve children aged 3 through 5 (such as a program at a child care agency or program or Head Start center or a family literacy program), which organizations or agencies shall be located in a community served by a local educational agency; or

"(3) one or more local educational agencies in collaboration with one or more organizations or agencies described in paragraph (2).

"(c) APPLICATIONS.—An eligible applicant that desires to receive a grant under this subpart shall submit an application to the Secretary, which shall include a description of—

"(1) the programs to be served by the proposed project, including general demographic and socioeconomic information on the communities in which the proposed project will be administered;

"(2) how the proposed project will enhance the school readiness of children aged 3 through 5 in high-quality oral language and literature-rich environments;

"(3) how the proposed project will provide early childhood teachers with scientific research-based knowledge of early reading development and assist such teachers in developing the children's prereading skills;

"(4) how the proposed project will provide services and utilize instructional materials that are based on scientifically based reading research on early language acquisition, prereading activities, and the development of spoken vocabulary skills;

"(5) how the proposed project will integrate such instructional materials and literacy activities with existing preschool programs and family literacy services;

"(6) how the proposed project will help staff in the programs to meet the diverse needs of children in the community, including children with limited English proficiency and children with learning disabilities;

"(7) how the proposed project will help children, particularly children experiencing difficulty with spoken language, prereading, and early reading skills, to make the transition from preschool to formal classroom instruction in school;

"(8) how the activities conducted under this subpart will be coordinated with the eligible applicant's activities under subpart 1, if the applicant has received a subgrant under such subpart, at the kindergarten through third grade levels;

"(9) how the proposed project will evaluate the success of the activities supported under this subpart in enhancing the early language and reading development of children served by the project; and

"(10) such other information as the Secretary may require.

"(d) APPROVAL OF LOCAL APPLICATIONS.—The Secretary shall select applicants for funding under this subpart based on the quality of the applications and the recommendations of the peer review panel convened under section 1204(c)(2).

"(e) LOCAL USES OF FUNDS.—

"(1) REQUIRED ACTIVITIES.—An eligible applicant that receives a grant under this subpart shall use the funds provided under the grant to carry out the following activities:

"(A) Providing children aged 3 through 5 with high-quality oral language and literature-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 and letter sounds;

"(ii) understanding that spoken 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 semiotic 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 spoken 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 semiotic concepts.

"(2) OPTIONAL ACTIVITIES.—An eligible applicant that receives a grant under this subpart may 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 preschool children are developing the skills identified in this subsection.

"(B) Integrating such instructional materials and literacy activities with programs of existing child care agencies or programs, 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, including information on—

"(1) the research-based instruction, materials, and activities being used in the programs funded under the grant;

"(2) the types of programs funded under the grant and the ages of children served by such programs;

"(3) the qualifications of the program staff who provide early literacy instruction under such programs and the type of ongoing professional development provided to such staff; and

"(4) the curricula, materials, and activities used by the programs funded under the grant to support children's reading development.

"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 $1,000,000 to conduct 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(4), by striking "2252)" and inserting "1209)";

(4) in section 1232—

(A) in subsection (b)—

(i) in paragraph (1)(A), by striking "1209;" and inserting "1239;"; and

(ii) in paragraph (2), by striking "1211(b)" each place such term appears and inserting "1241(b)"; and

(B) in subsection (c)—

(i) by amending paragraph (2)(C) to read as follows:

"(C) COORDINATION WITH SUBPART 1.—The consortium shall coordinate its activities with the activities of the reading 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 "2252)." and inserting "1209).";

(5) in section 1233—

(A) by striking "1202(d)(1)" each place such term appears and inserting "1232(d)(1)"; and

(B) by striking "1210." and inserting "1240.";

(6) in section 1234—

(A) in subsection (b)—

(i) in paragraph (1)(A), by moving the margins of clauses (v) and (vi) 2 ems to the right; and

(ii) in paragraph (3), by striking "1202(a)(1)(C)" and inserting "1232(a)(1)(C)"; and

(B) in subsection (c)—

(i) in paragraph (1)—

(I) by striking ''1203(a),'' and inserting ''1233(a),''; and

(II) by striking ''1203(b)'' and inserting ''1233(b)''; and

(ii) in paragraph (2), by striking ''1210.'' and inserting ''1240.'';

(7) in section 1235—

(A) in paragraph (10), by striking ''2252)'' and inserting ''1209)'';

(B) in paragraph (12), by striking ''2252),'' and inserting ''1209),''; 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 ''1235;''; and

(ii) in subparagraph (F), by striking ''14306;'' and inserting ''8306;''; and

(B) in subsection (d), by striking ''14302.'' and inserting ''8302.'';

(9) in section 1238—

(A) in subsection (a)(1)—

(i) in subparagraph (A)(ii), by striking "1205;" and inserting "1235;"; and

(ii) in subparagraph (F), by striking "1204(b);" and inserting "1234(b);"; and

(B) in subsection (b)—

(i) in paragraph (3)—

(I) by striking "1207(c)(1)(A)" and inserting "1237(c)(1)(A)"; and

(II) by striking "1210." and inserting "1240.";

(ii) in paragraph (4), by striking "1210," and inserting "1240,"; and

(iii) in paragraph (5)(B), by striking "1204(b)." and inserting "1234(b).";

(10) in section 1239—

(A) by striking "1202(b)(1)," and inserting "1232(b)(1),"; and

(B) by striking "1205(10)" and inserting "1235(10)"; and

(11) in section 1241—

(A) in subsection (b)(1)—

(i) by striking "1202(b)(2)," and inserting "1232(b)(2),"; and

(ii) by striking "2252);" and inserting "1209);"; and

(B) in subsection (c), by striking "2258," and inserting "1208,".

SEC. 113. INEXPENSIVE BOOK DISTRIBUTION PROGRAM.

(a) TRANSFER AND REDESIGNATION.—Part E of title X (20 U.S.C. 8131) is transferred and redesignated as subpart 4 of part B of title I. Section 10501 is redesignated as section 1251.

(b) PURPOSE.—Section 1251 (as so redesignated) is amended—

(1) by striking subsection (e);

(2) by redesignating subsection (d) as subsection (g);

(3) by 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, motivational activities, and other essential literacy resources, and shall assign the highest priority to

serving the youngest and neediest children in the United States.''.

(c) AUTHORIZATION.—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.''.

(d) 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''.

(e) 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 programs under this section in low-income communities with a substantial number or percentage of children with special needs, as described in subsection (c)(3), may use funds from other Federal sources to pay the

non-Federal share of the cost of the program, if those funds do not comprise more than 50 percent of the non-Federal share of the funds used for the cost of acquiring and distributing books.

"(2) WAIVER AUTHORITY.—Notwithstanding subsection (c), the contractor may waive, in whole or in part, the requirement in subsection (c)(1) for a subcontractor, if the subcontractor demonstrates that it would otherwise not be able to participate in the program, and enters into an agreement with the contractor with respect to the amount of the non-Federal share to which the waiver will apply. In a case in which such a waiver is granted, the requirement in subsection (c)(2) shall not apply.

"(f) MULTI-YEAR CONTRACTS.—The contractor may enter into a multi-year subcontract under this section, if—

"(1) the contractor believes that such subcontract will provide the subcontractor with additional leverage in seeking local commitments; and

"(2) the subcontract does not undermine the finances of the national program.".

(f) CONTINUATION OF AWARDS.—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 full time and the full-time equivalent of the estimated number of migratory children aged three through 21 who reside in the State part time, as determined in accordance with subsection (d); multiplied by

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

percent, of the average expenditure per pupil in the United States.

"(2) SUBSEQUENT YEARS.—

"(A) BASE AMOUNT.—

"(i) IN GENERAL.—Except as provided in subsection (b) and clause (ii), each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part, for fiscal year 2003 and succeeding fiscal years, an amount equal to—

"(I) the amount that such State received under this part for fiscal year 2002; plus

"(II) the amount allocated to the State under subparagraph (B).

"(ii) NONPARTICIPATING STATES.—In the case of a State (other than the Commonwealth of Puerto Rico) that did not receive any funds for fiscal year 2002 under this part, the State shall receive, for fiscal year 2003 and succeeding fiscal years, an amount equal to—

"(I) the amount that such State would have received under this part for fiscal year 2002 if its application

under section 1304 for the year had been approved; plus

"(II) the amount allocated to the State under subparagraph (B).

"(B) ALLOCATION OF ADDITIONAL AMOUNT.—For fiscal year 2003 and succeeding fiscal years, the amount (if any) by which the funds appropriated to carry out this part for the year exceed such funds for fiscal year 2002 shall be allocated to a State (other than the Commonwealth of Puerto Rico) so that the State receives an amount equal to—

"(i) the sum of—

"(I) the number of identified eligible migratory children, aged 3 through 21, residing in the State during the previous year; and

"(II) the number of identified eligible migratory children, aged 3 through 21, who received services under this part in summer or intersession programs provided by the State during such year; multiplied by

"(ii) 40 percent of the average per-pupil expenditure in the State, except that

the amount determined under this clause may not be less than 32 percent, or more than 48 percent, of the average per-pupil expenditure in the United States.";

(2) by amending subsection (b) to read as follows:

"(b) ALLOCATION TO PUERTO RICO.—

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

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

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

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

"(A) for fiscal year 2002, 77.5 percent;

"(B) for fiscal year 2003, 80.0 percent;

"(C) for fiscal year 2004, 82.5 percent; and

"(D) for fiscal year 2005 and succeeding fiscal years, 85.0 percent.

"(3) LIMITATION.—If the application of paragraph (2) would result in any of the 50 States or the District of Columbia receiving less under this part than it received under this part for the preceding fiscal year, the percentage in paragraph (1) shall be the greater of the percentage in paragraph (1)(A) or the percentage used for the preceding fiscal year."; and

(3) by striking 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(b)) is amended—

(1) in paragraph (1), by striking "addressed through" and all that follows through the semicolon at the end and inserting the following:

"addressed through—

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

"(B) joint planning among local, State, and Federal educational programs serving mi-

grant children, including programs under part A of title III;

"(C) the integration of services available under this part with services provided by those other programs; and

"(D) measurable program goals and outcomes;"; and

(2) in paragraph (5), by striking "the requirements of paragraph (1);" and inserting "the numbers and needs of migratory children, the requirements of subsection (d), and the availability of funds from other Federal, State, and local programs;".

(b) ASSURANCES.—Section 1304(c) (20 U.S.C. 6394(c)) is amended—

(1) in paragraph (1), by striking "1306(b)(1);" and inserting "1306(a);";

(2) in paragraph (2), by striking "part F;" and inserting "part H;"

(3) in paragraph (3)—

(A) by striking "appropriate";

(B) by striking "out, to the extent feasible," and inserting "out"; and

(C) by striking "1118;" and inserting "1118, unless extraordinary circumstances

make implementation consistent with such section impractical;''; and

(4) in paragraph (7), by striking ''section 1303(e)'' and inserting ''paragraphs (1)(A) and (2)(B)(i) of section 1303(a)''.

SEC. 123. AUTHORIZED ACTIVITIES.

Section 1306 (20 U.S.C. 6396) is amended to read as follows:

''SEC. 1306. AUTHORIZED ACTIVITIES.

''(a) IN GENERAL.—

''(1) FLEXIBILITY.—Each State educational agency, through its local educational agencies, shall have the flexibility to determine the activities to be provided with funds made available under this part, except that such funds shall first be used to meet the identified needs of migratory children that result from their migratory lifestyle, and to permit these children to participate effectively in school.

''(2) UNADDRESSED NEEDS.—Funds provided under this part shall be used to address the needs of migratory children that are not addressed by services available from other Federal or non-Federal programs, except that migratory children who are eligible to receive services under part A of this title may receive those services through funds provided

under that part, or through funds under this part that remain after the agency addresses the needs described in paragraph (1).

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

''(c) SPECIAL RULE.—Notwithstanding section 1114, a school that receives funds under this part shall continue to address the identified needs described in subsection (a)(1).''.

SEC. 124. COORDINATION OF MIGRANT EDUCATION ACTIVITIES.

(a) DURATION.—Section 1308(a)(2) (20 U.S.C. 6398(a)(2)) is amended by striking ''subpart'' and inserting ''subsection''.

(b) STUDENT RECORDS.—Section 1308(b) (20 U.S.C. 6398(b)) is amended to read as follows:

''(b) STUDENT RECORDS.—

''(1) ASSISTANCE.—The Secretary shall assist States in developing effective methods for the transfer of student records and in determining the number of migratory children in each State. The Secretary, in consultation with the States, shall deter-

mine the minimum data elements that each State receiving funds under this part shall collect and maintain. The Secretary shall assist States to implement a system of linking their student record transfer systems for the purpose of electronic records maintenance and transfer for migrant students.

"(2) NO COST FOR CERTAIN TRANSFERS.—A State educational agency or local educational agency receiving assistance under this part shall make student records available to another State or local educational agency that requests the records at no cost to the requesting agency, if the request is made in order to meet the needs of a migratory child.".

(c) AVAILABILITY OF FUNDS.—Section 1308(c) (20 U.S.C. 6398(c)) is amended by striking "$6,000,000" and inserting "$10,000,000".

(d) INCENTIVE GRANTS.—Section 1308(d) (20 U.S.C. 6398(d)) is amended to read as follows:

"(d) INCENTIVE GRANTS.—From the amounts made available to carry out this section for any fiscal year, the Secretary may reserve not more than $3,000,000 to award grants of not more than $250,000 on a competitive basis to State educational agencies that propose a consortium arrangement with another State or other appropriate entity that the Secretary determines, pursuant to criteria that

the Secretary shall establish, will improve the delivery of services to migratory children whose education is interrupted.''.

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) SUBGRANTS TO STATE AGENCIES IN PUERTO RICO.—

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

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

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

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

"(A) for fiscal year 2002, 77.5 percent;

"(B) for fiscal year 2003, 80.0 percent;

"(C) for fiscal year 2004, 82.5 percent; and

"(D) for fiscal year 2005 and succeeding fiscal years, 85.0 percent.

"(3) LIMITATION.—If the application of paragraph (2) would result in any of the 50 States or

the District of Columbia receiving less under this part than it received under this part for the preceding fiscal year, the percentage in paragraph (1) shall be the greater of the percentage in paragraph (1)(A) or the percentage used for the preceding fiscal year.''.

SEC. 134. STATE PLAN AND STATE AGENCY APPLICATIONS.

Section 1414 (20 U.S.C. 6434) is amended to read as follows:

''SEC. 1414. STATE PLAN AND STATE AGENCY APPLICATIONS.

''(a) STATE PLAN.—

''(1) IN GENERAL.—Each State educational agency that desires to receive a grant under this part shall submit, for approval by the Secretary, a plan for meeting the educational needs of neglected and delinquent youth, for assisting in their transition from institutions to locally operated programs, and which is integrated with other programs under this Act or other Acts, as appropriate, consistent with section 8306.

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

''(A) describe the program goals, objectives, and performance measures established by the State that will be used to assess the effec-

tiveness of the program in improving academic and vocational and technical skills of children in the program;

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

"(C) contain assurances that the State educational agency will—

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

"(ii) carry out the evaluation requirements of section 1416;

"(iii) ensure that the State agencies receiving subgrants under this subpart comply with all applicable statutory and regulatory requirements; and

"(iv) provide such other information as the Secretary may reasonably require.

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

"(A) remain in effect for the duration of the State's participation under this part; and

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

"(b) SECRETARIAL APPROVAL AND PEER REVIEW.—

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

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

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

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

"(2) provides assurances that in making services available to youth in adult correctional facilities, priority will be given to such youth who are likely to complete incarceration within a 2-year period;

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

"(4) describes how the program will meet the goals and objectives of the State plan under this subpart;

"(5) describes how the State agency will consult with experts and provide the necessary training for appropriate staff, to ensure that the planning and operation of institution-wide projects under section 1416 are of high quality;

"(6) describes how the agency will carry out the evaluation requirements of section 8651 and how the results of the most recent evaluation are used to plan and improve the program;

"(7) includes data showing that the agency has maintained fiscal effort required of a local educational agency, in accordance with section 8501;

"(8) describes how the programs will be coordinated with other appropriate State and Federal programs, such as job training programs, vocational and technical education programs, State and local dropout prevention programs, and special education programs;

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

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

"(11) designates an individual in each affected institution to be responsible for issues relating to the transition of children and youth from the institution to locally operated programs;

"(12) describes how the agency will endeavor to coordinate with businesses for training and mentoring for participating youth;

"(13) provides assurances that the agency will assist in locating alternative programs through which students can continue their education if students are not returning to school after leaving the correctional facility;

"(14) provides assurances that the agency will work with parents to secure parents' assistance in improving the educational achievement of their children and preventing their children's further involvement in delinquent activities;

"(15) provides assurances that the agency works with special education youth in order to meet an existing individualized education program and an assurance that the agency will notify the youth's local school if such youth—

"(A) is identified as in need of special education services while the youth is in the facility; and

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

"(16) provides assurances that the agency will work with youth who dropped out of school before entering the facility to encourage the youth to reenter school once the term of incarceration has been completed or provide the youth with the skills necessary to gain employment, continue the education of the youth, or achieve a secondary school diploma or the recognized equivalent if the youth does not intend to return to school;

"(17) provides assurances that teachers and other qualified staff are also trained to work with

children with disabilities and other students with special needs, taking into consideration the unique needs of such students;

''(18) describes any additional services to be provided to youth, such as career counseling, distance learning, and assistance in securing student loans and grants; and

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

SEC. 135. USE OF FUNDS.

Section 1415(a) (20 U.S.C. 6435(a)) is amended—

(1) in paragraph (1)(B), by inserting '', vocational and technical training'' after ''secondary school completion'';

(2) in paragraph (2)(B)—

(A) in clause (i), by inserting ''and'' after the semicolon;

(B) in clause (ii), by striking ''; and'' and inserting a semicolon; and

(C) by striking clause (iii);

(3) in paragraph (2)(C), by striking ''part F of this title'' and inserting ''part H''; and

(4) in paragraph (2)(D), by striking ''section 14701'' and inserting ''section 8651''.

SEC. 136. TRANSITION SERVICES.

Section 1418(a) (20 U.S.C. 6438(a)) is amended by striking ''10 percent'' and inserting ''15 percent''.

SEC. 137. PURPOSE.

Section 1421(3) (20 U.S.C. 6451(3)) is amended to read as follows:

''(3) operate programs in local schools for youth returning from correctional facilities and programs which may also serve youth at risk of dropping out of school.''.

SEC. 138. PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES.

Section 1422 (20 U.S.C. 6452) is amended—

(1) in subsection (a), by striking ''retained'';

(2) by amending subsection (b) to read as follows:

''(b) SPECIAL RULE.—A local educational agency which includes a correctional facility that operates a school is not required to operate a program of support for children returning from such school to a school not operated by a correctional agency but served by such local edu-

cational agency if more than 30 percent of the youth attending the school operated by the correctional facility will reside outside the boundaries of the local educational agency after leaving such facility.''; and

(3) by adding at the end the following:

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

SEC. 139. LOCAL EDUCATIONAL AGENCY APPLICATIONS.

Section 1423 (20 U.S.C. 6453) is amended by striking paragraphs (4) through (9) and inserting the following:

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

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

"(6) as appropriate, a description of how schools will coordinate with existing social, health, and other services to meet the needs of students returning from correctional facilities, students at risk of dropping out of school, and other participating students, including prenatal health care and nutrition services related to the health of the parent and child, parenting and child development classes, child care, targeted reentry and outreach programs, referrals to community resources, and scheduling flexibility;

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

"(8) as appropriate, a description of how programs will involve parents in efforts to improve the

educational achievement of their children, prevent the involvement of their children in delinquent activities, and encourage their children to remain in school and complete their education;

''(9) a description of how the program under this subpart will be coordinated with other Federal, State, and local programs, such as job training programs and vocational and technical education programs serving this at-risk population of youth;''.

SEC. 140. USES OF FUNDS.

Section 1424 (20 U.S.C. 6454) is amended by striking paragraphs (1) through (3) and inserting the following:

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

''(2) providing assistance to other youth at risk of dropping out of school, including pregnant and parenting teenagers;

''(3) the coordination of social, health, and other services, including day care, for participating youth, if the provision of such services will improve

the likelihood that such youth will complete their education;

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

''(5) programs providing mentoring and peer mediation.''.

SEC. 141. PROGRAM REQUIREMENTS.

Section 1425 (20 U.S.C. 6455) is amended—

(1) in the section heading, by striking ''**THIS SECTION**'' and inserting ''***this subpart***'';

(2) in the matter preceding paragraph (1), by striking ''this section'' and inserting ''this subpart'';

(3) in paragraph (1), by striking ''where feasible, ensure educational programs'' and inserting ''to the extent practicable, ensure that educational programs'';

(4) in paragraphs (3) and (8), by striking ''where feasible,'' and inserting ''to the extent practicable,'';

(5) in paragraph (9)—

(A) by striking ''this program'' and inserting ''this subpart'';

(B) by inserting ''and technical'' after ''vocational''; and

(C) by striking ''title I of the Workforce Investment Act of 1998'' and inserting ''other job training programs'';

(6) in paragraph (10), by inserting ''(42 U.S.C. 5601 et seq.)'' after ''Juvenile Justice and Delinquency Prevention Act of 1974''; and

(7) by amending paragraph (11) to read as follows:

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

SEC. 142. PROGRAM EVALUATIONS.

Section 1431(a) (20 U.S.C. 6471(a)) is amended by striking ''sex, and if feasible,'' and inserting ''gender,''.

PART E—FEDERAL EVALUATIONS AND DEMONSTRATIONS

SEC. 151. EVALUATIONS.

Section 1501 (20 U.S.C. 6491) is amended to read as follows:

"SEC. 1501. EVALUATIONS.

"(a) NATIONAL ASSESSMENT.—

"(1) IN GENERAL.—In accordance with this section, the Secretary shall conduct a national assessment of programs assisted under this title.

"(2) ISSUES TO BE EXAMINED.—In conducting the assessment under this subsection, the Secretary shall examine—

"(A) the implementation of programs assisted under this title and the impact of such implementation on increasing student academic achievement, particularly schools with high concentrations of children living in poverty;

"(B) the implementation of State standards, assessments, and accountability systems developed under this title and the impact of such implementation on educational programs and instruction at the local level;

"(C) the impact of schoolwide programs and targeted assistance programs under this title on improving student academic achievement;

"(D) the extent to which varying models of comprehensive school reform are funded under this title, and the effect of the implementation

of such models on improving achievement of disadvantaged students;

"(E) the costs as compared to the benefits of the activities assisted under this title;

"(F) the impact 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;

"(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 assisted under this title on instruction and student performance;

"(K) the extent to which the assistance made available under this title is targeted to disadvantaged students and schools that need them the most;

"(L) the effectiveness of Federal administration assistance made available under this title, including monitoring and technical assistance; and

"(M) such other issues as the Secretary considers appropriate.

"(3) SOURCES OF INFORMATION.—In conducting the assessment under this subsection, the Secretary shall use information from a variety of sources, including the National Assessment of Educational Progress (carried out under section 411 of the National Education Statistics Act of 1994 (20 U.S.C. 9010)), state evaluations, and other research studies.

"(4) COORDINATION.—In carrying out this subsection, the Secretary shall—

"(A) coordinate conducting the national assessment with conducting the longitudinal study described in subsection (c); and

"(B) ensure that the independent review panel described in subsection (d) participates in conducting the national assessment, including planning for and reviewing the assessment.

"(5) REPORTS.—

"(A) INTERIM REPORT.—Not later than 3 years after the date of enactment of the Leave No Child Behind Act of 2001, the Secretary shall transmit to the President and the Congress an interim report on the national assessment conducted under this subsection.

"(B) FINAL REPORT.—Not later than 4 years after the date of enactment of the Leave No Child Behind Act of 2001, the Secretary shall transmit to the President and the Congress a final report on the national assessment conducted under this subsection.

"(b) STUDIES AND DATA COLLECTION.—

"(1) IN GENERAL.—In addition to other activities described in this section, the Secretary may, directly or through the making of grants to or contracts with appropriate entities—

"(A) conduct studies and evaluations of the need for, and effectiveness of, each program authorized under this title;

"(B) collect the data necessary to comply with the Government Performance and Results Act of 1993; and

"(C) provide guidance and technical assistance to State 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 subsection, the Secretary shall collect, at a minimum, trend information on the effect of each program authorized under this title, which shall complement the data collected and reported under subsections (a) and (c).

"(c) NATIONAL LONGITUDINAL STUDY.—

"(1) IN GENERAL.—The Secretary 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 ensure that

the study referred to in paragraph (1) provides the Congress and educators with each of the following:

"(A) An accurate description and analysis of short-term and long-term effectiveness of the assistance made available under this title upon academic performance.

"(B) Information that can be used to 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) Such other information as the Secretary considers appropriate.

"(3) SCOPE.—In conducting the study referred to in paragraph (1), the Secretary shall ensure that the study—

"(A) bases its analysis on a nationally representative sample of schools participating in programs under this part;

"(B) to the extent practicable, includes in its analysis students who transfer to different schools during the course of the study; and

"(C) analyzes varying models or strategies for delivering school services, including—

"(i) schoolwide and targeted services; and

"(ii) comprehensive school reform models.

"(d) INDEPENDENT REVIEW PANEL.—

"(1) IN GENERAL.—The Secretary shall establish an independent review panel (in this subsection referred to as the 'Review Panel') to advise the Secretary on methodological and other issues that arise in carrying out subsections (a) and (c).

"(2) APPOINTMENT OF MEMBERS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall appoint members

of the Review Panel from among qualified individuals who are—

"(i) specialists in statistics, evaluation, research, and assessment;

"(ii) education practitioners, including teachers, principals, and local and State superintendents; and

"(iii) other individuals with technical expertise who would contribute to the overall rigor and quality of the program evaluation.

"(B) LIMITATIONS.—In appointing members of the Review Panel under this subparagraph (A), the Secretary shall ensure that—

"(i) in order to ensure diversity, a majority of the number of individuals appointed under subparagraph (A)(i) represent disciplines or programs outside the field of education; and

"(ii) the total number of the individuals appointed under subparagraph (A)(ii) or (A)(iii) does not exceed ⅓ of the total number of the individuals appointed under this paragraph.

"(3) FUNCTIONS.—The Review Panel shall consult with and advise the Secretary—

"(A) to ensure that the assessment conducted under subsection (a) and the study conducted under subsection (c)—

"(i) adhere to the highest possible standards of quality with respect to research design, statistical analysis, and the dissemination of findings; and

"(ii) use valid and reliable measures to document program implementation and impacts; and

"(B) to ensure—

"(i) that the final report described in subsection (a)(5)(B) is reviewed not later than 120 days after its completion by not less than two independent experts in program evaluation;

"(ii) that such experts evaluate and comment on the degree to which the report complies with subsection (a); and

"(iii) that the comments of such experts are transmitted with the report under subsection (a)(5)(B).".

SEC. 152. DEMONSTRATIONS OF INNOVATIVE PRACTICES.

(a) IN GENERAL.—Section 1502 (20 U.S.C. 6492) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by striking in subsection (a) ''(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 promising'' 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) by striking ''(a) DEMONSTRATION PROGRAMS'' and all that follows through ''IN GENERAL.—From the'' and inserting ''(a) IN GENERAL.—From the''.

SEC. 153. ELLENDER-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. ELLENDER-CLOSE UP FELLOWSHIP PROGRAM.

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

''(1) It is a worthwhile goal to ensure that all students in America are prepared for responsible citizenship and that all students should have the opportunity to be involved in activities that promote and demonstrate good citizenship.

''(2) It is a worthwhile goal to ensure that America's educators have access to programs for the continued improvement of their professional skills.

''(3) 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 and real concern for young people. Senator Ellender provided valuable support and encouragement to the Close Up Foundation, a nonpartisan, nonprofit 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 provide fellowships in his 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.

"(4) The Close Up Foundation is a nonpartisan, nonprofit, education foundation promoting civic responsibility and knowledge and understanding of the Federal Government among young people and educators. The Congress has consistently supported the Close Up Foundation's work with disadvantaged young people and their educators through the Allen J. Ellender Fellowship Program. Therefore, it is fitting and appropriate to continue support under the successor Ellender-Close Up Fellowship Program 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.

"(b) PROGRAM FOR MIDDLE AND SECONDARY SCHOOL STUDENTS.—

"(1) ESTABLISHMENT.—

"(A) GENERAL AUTHORITY.—In accordance with this subsection, the Secretary may make grants to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing civic responsibility and understanding of the Federal

Government among middle and secondary school students.

"(B) USE OF FUNDS.—Grants under this subsection shall be used only to provide financial assistance to economically disadvantaged students who participate in the program described in subparagraph (A). Financial assistance received pursuant to this subsection by such students shall be known as Ellender-Close Up fellowships.

"(2) APPLICATIONS.—

"(A) APPLICATION REQUIRED.—No grant under this subsection may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(B) CONTENTS OF APPLICATION.—Each application submitted under this paragraph shall contain provisions to assure—

"(i) that fellowship grants are made to economically disadvantaged middle and secondary school students;

"(ii) that every effort will be made to ensure the participation of students from rural and small town areas, as well as from

urban areas, and that in awarding fellowships to economically disadvantaged students, special consideration will be given to the participation of students with special educational needs, including students with disabilities, ethnic minority students, recent immigrants, and gifted and talented students; and

"(iii) the proper disbursement of the funds received under this subsection.

"(c) PROGRAM FOR MIDDLE AND SECONDARY SCHOOL TEACHERS.—

"(1) ESTABLISHMENT.—

"(A) GENERAL AUTHORITY.—In accordance with this subsection, the Secretary may make grants to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of professional development for middle and secondary school teachers and to promote greater civic understanding and responsibility among the students of such teachers.

"(B) USE OF FUNDS.—Grants under this subsection shall be used only for financial assistance to teachers who participate in the program described in subparagraph (A). Financial assistance received pursuant to this subpart by such individuals shall be known as Ellender-Close Up fellowships.

"(2) APPLICATIONS.—

"(A) APPLICATION REQUIRED.—No grant under this subsection may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(B) CONTENTS OF APPLICATION.—Each application submitted under this paragraph shall contain 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.

"(d) PROGRAMS FOR RECENT IMMIGRANTS AND STUDENTS OF MIGRANT PARENTS.—

"(1) ESTABLISHMENT.—

"(A) GENERAL AUTHORITY.—In accordance with this subsection, the Secretary may make grants to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing understanding of the Federal Government among economically disadvantaged recent immigrants and students of migrant parents.

"(B) USE OF FUNDS.—Grants under this subsection shall be used for financial assistance to economically disadvantaged older Americans, recent immigrants and students of migrant parents who participate in the program described in subsection (a). Financial assistance received pursuant to this subpart by such individuals shall be known as Ellender-Close Up fellowships.

"(2) APPLICATIONS.—

"(A) APPLICATION REQUIRED.—No grant under this subsection may be made except upon application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(B) CONTENTS OF APPLICATION.—Each application submitted under this paragraph shall contain provisions—

"(i) to assure that fellowship grants are made to economically disadvantaged recent immigrants and students of migrant parents;

"(ii) to assure that every effort will be made to ensure the participation of recent immigrants and students of migrant parents from rural and small town areas, as well as from urban areas, and that in awarding fellowships, special consideration will be given to the participation of recent immigrants and students of migrant parents with special needs, including individuals with disabilities, ethnic minorities, and gifted and talented students;

"(iii) that fully describe the activities to be carried out with the proceeds of the grant; and

"(iv) to assure the proper disbursement of the funds received under this subsection.

"(e) GENERAL PROVISIONS.—

"(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 any books, documents, papers, and records that are pertinent to any grant under this section.

"(f) LIMITATION.—Of the funds appropriated to carry out this section under section 1002, the Secretary may use not more than 30 percent to carry out subsection (c) of this section.

"SEC. 1504. DROPOUT REPORTING.

''State educational agencies receiving funds under this title shall annually report to the National Center on Education Statistics (established under section 403 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.''.

(b) CONTINUATION OF AWARDS.—Notwithstanding any other provision of this Act, any person or agency that was awarded a grant under part G of title X (20 U.S.C. 8161 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 F—COMPREHENSIVE SCHOOL REFORM

SEC. 161. SCHOOL REFORM.

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

"PART F—COMPREHENSIVE SCHOOL REFORM

"SEC. 1601. COMPREHENSIVE SCHOOL REFORM.

''(a) FINDINGS AND PURPOSE.—

''(1) FINDINGS.—Congress finds the following:

''(A) A number of schools across the country have shown impressive gains in student performance through the use of comprehensive models for schoolwide change that incorporate virtually all aspects of school operations.

"(B) No single comprehensive school reform model may be suitable for every school, however, schools should be encouraged to examine successful, externally developed comprehensive school reform approaches as they undertake comprehensive school reform.

"(C) Comprehensive school reform is an important means by which children are assisted in meeting challenging State student academic achievement standards.

"(2) PURPOSE.—The purpose of this section is to provide financial incentives for schools to develop comprehensive school reforms, based upon scientifically-based research and effective practices that include an emphasis on basic academics and parental involvement so that all children can meet challenging State content and academic achievement standards.

"(b) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to provide grants to State educational agencies to provide subgrants to local educational agencies to carry out the purpose described in subsection (a)(2).

"(2) ALLOCATION.—

"(A) RESERVATION.—Of the amount appropriated under this section, the Secretary may reserve—

"(i) not more than 1 percent for schools supported by the Bureau of Indian Affairs and in the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

"(ii) not more than 1 percent to conduct national evaluation activities described under subsection (e); and

"(iii) not more than 2 percent of the amount appropriated in fiscal year 2002 to carry out this part, for quality initiatives described under subsection (f).

"(B) IN GENERAL.—Of the amount of funds remaining after the reservation under subparagraph (A), the Secretary shall allocate to each State for a fiscal year, an amount that bears the same ratio to the remainder for that fiscal year as the amount made available under section 1124 to the State for the preceding fiscal year bears to the total amount allocated under section 1124 to all States for that year.

"(C) REALLOCATION.—If a State does not apply for funds under this section, the Secretary shall reallocate such funds to other States that do apply in proportion to the amount allocated to such States under subparagraph (B).

"(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 at such time, in such manner and containing such other information as the Secretary may reasonably require.

"(B) CONTENTS.—Each State application shall also describe—

"(i) the process and selection criteria by which the State educational agency, using expert review, will select local educational agencies to receive subgrants under this section;

"(ii) how the agency will ensure that funds under this part are used only for comprehensive school reform programs that—

"(I) include each of the components described in subsection (d)(2);

"(II) have the capacity to improve the academic achievement of all students in core academic subjects within participating schools; and

"(III) are supported by technical assistance providers that have a successful track record, financial stability, and the capacity to deliver high-quality materials and professional development for school personnel.

"(iii) how the agency will disseminate materials regarding information on comprehensive school reforms that are based on scientifically-based research and effective practices;

"(iv) how the agency will evaluate annually the implementation of such reforms and measure the extent to which the reforms resulted in increased student academic performance; and

"(v) how the agency will provide, technical assistance to the local educational

agency or consortia of local educational agencies, and to participating schools, in evaluating, developing, and implementing comprehensive school reform.

"(2) USES OF FUNDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (E), a State educational agency that receives an award under this section shall use such funds to provide competitive grants to local educational agencies or consortia of local educational agencies in the State receiving funds under part A to support comprehensive school reforms in schools eligible for funds under such part.

"(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 two additional 1-year periods after the initial 1-year grant is made if schools are making substantial progress in the implementation of their reforms.

"(C) PRIORITY.—The State, in awarding grants under this paragraph, shall give priority to local educational agencies that—

"(i) plan to use the funds in schools identified as being in need of improvement or corrective action under section 1116(c); or

"(ii) demonstrate a commitment to assist schools with budget allocation, professional development, and other strategies necessary to ensure the comprehensive school reforms are properly implemented and are sustained in the future.

"(D) GRANT CONSIDERATION.—In making subgrant awards under this part, the State educational agency shall take into account the equitable distribution of awards to different geographic regions within the State, including urban and rural areas, and to schools serving elementary and secondary students.

"(E) ADMINISTRATIVE COSTS.—A State educational agency that receives a grant award under this section may reserve not more than 5 percent of such award for administrative, evaluation, and technical assistance expenses.

"(F) SUPPLEMENT.—Funds made available under this section shall be used to supplement, not supplant, any other Federal, State, or local funds that would otherwise be available to carry out this section.

"(3) REPORTING.—Each State educational agency that receives an award under this section shall provide to the Secretary such information as the Secretary may require, including the names of local educational agencies and schools selected to receive subgrant awards under this section, the amount of such award, 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.

"(d) LOCAL AWARDS.—

"(1) IN GENERAL.—Each local educational agency or consortium that applies for a subgrant under this section shall—

"(A) identify which schools eligible for funds under part A plan to implement a comprehensive school reform program, including the projected costs of such a program;

"(B) describe the comprehensive school reforms based on scientifically-based research and effective practices that such schools will implement;

"(C) describe how the agency or consortium will provide technical assistance and support for the effective implementation of the school reforms based on scientifically-based research and effective practices selected by such schools; and

"(D) describe how the agency or consortium will evaluate the implementation of such reforms and measure the results achieved in improving student academic performance.

"(2) COMPONENTS OF THE PROGRAM.—A local educational agency that receives a subgrant award under this section shall provide such funds to

schools that implement a comprehensive school reform program that—

"(A) employs proven strategies and proven methods for student learning, teaching, and school management that are based on scientifically-based research and effective practices and have been replicated successfully in similar schools;

"(B) integrates a comprehensive design for effective school functioning, including instruction, assessment, classroom management, professional development, parental involvement, and school management, that aligns the school's curriculum, technology, and professional development into a comprehensive reform plan for schoolwide change designed to enable all students to meet challenging State content and challenging student performance standards and addresses needs identified through a school needs assessment;

"(C) provides high-quality and continuous teacher and staff professional development;

"(D) includes measurable goals for student performance and benchmarks for meeting such goals;

"(E) is supported by teachers, principals, administrators, and other professional staff;

"(F) provides for the meaningful involvement of parents and the local community in planning and implementing school improvement activities;

"(G) uses high quality external technical support and assistance from an entity, which may be an institution of higher education, with experience and expertise in schoolwide reform and improvement;

"(H) includes a plan for the annual evaluation of the implementation of school reforms and the student results achieved;

"(I) identifies how other resources, including Federal, State, local, and private resources, available to the school will be used to coordinate services to support and sustain the school reform effort; and

"(J)(i) has been found, through rigorous field experiments in multiple sites, to significantly improve the academic performance of students participating in such activity or program as compared to similar students in similar

schools, who have not participated in such activity or program; or

"(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 to develop a comprehensive school reform program 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).

"(e) EVALUATION AND REPORT.—

"(1) IN GENERAL.—The Secretary shall develop a plan for a national evaluation of the programs developed pursuant to this section.

"(2) EVALUATION.—This national evaluation shall evaluate the implementation and results achieved by schools after 3 years of implementing comprehensive school reforms, and assess the effectiveness of comprehensive school reforms in schools with diverse characteristics.

"(3) REPORTS.—Prior to the completion of a national evaluation, the Secretary shall submit an interim report outlining first year implementation activities to the Committees on Education and the

Workforce and Appropriations of the House of Representatives and the Committees on Health, Education, Labor, and Pensions and Appropriations of the Senate.

"(f) QUALITY INITIATIVES.—The Secretary, through grants or contracts, shall provide funds for the following activities:

"(1) TECHNICAL 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 approving or selecting providers of comprehensive school reform, consistent with the requirements described in subsection (d)(3).

"(2) OTHER ACTIVITIES.—Other activities that—

"(A) encourage the development of comprehensive reform models;

"(B) build the capacity of comprehensive school reform providers to increase the number of schools the providers can serve; and

"(C) 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 Federal grant funds distributed by formula because the formula allocation does not provide enough revenue to carry out the program the grant is intended to fund.

''(3) Rural schools often cannot compete for Federal funding distributed by competitive grants because the schools lack the personnel needed to prepare grant applications and the resources to hire specialists in the writing of Federal grant proposals.

"(4) A critical problem for rural school districts involves the hiring and retention of qualified administrators and certified teachers (especially in reading, science, and mathematics). As a result, teachers in rural schools are almost twice as likely to provide instruction in three or more subject areas than teachers in urban schools. Rural schools also face other tough challenges, such as shrinking local tax bases, high transportation costs, aging buildings, limited course offerings, and limited resources.

"Subpart 1—Rural Education Flexibility

"SEC. 1711. FORMULA GRANT PROGRAM AUTHORIZED.

"(a) ALTERNATIVE USES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, an eligible local educational agency may use the applicable funding, that the agency is eligible to receive from the State educational agency for a fiscal year, to 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 or B of title V.

"(2) NOTIFICATION.—An eligible local educational agency shall notify the State educational agency of the local educational agency's intention to use the applicable funding in accordance with para-

graph (1) not later than a date that is established by the State educational agency for the notification.

"(b) ELIGIBILITY.—

"(1) IN GENERAL.—A local educational agency shall be eligible to use the applicable funding in accordance with subsection (a) if—

"(A)(i) the total number of students in average daily attendance at all of the schools served by the local educational agency is less than 600; and

"(ii) all of the schools served by the local educational agency are designated with a school locale code of 7 or 8 as determined by the Secretary of Education; or

"(B) the agency meets the criteria established in subparagraph (A)(i) and the Secretary, in accordance with paragraph (2), grants the local educational agency's request to waive the criteria described in subparagraph (A)(ii).

"(2) CERTIFICATION.—The Secretary shall determine whether or not to waive the criteria described in paragraph (1)(A)(ii) based on a demonstration by a local educational agency and concurrence by the State educational agency that the local

educational agency is located in an area defined as rural by a governmental agency of the State.

"(c) APPLICABLE FUNDING.—In this section, the term 'applicable funding' means funds provided under part A of title II, section 3106, part A of title IV, subpart 1 of part A of title V, and section 5212(a)(2)(A).

"(d) DISBURSEMENT.—Each State educational agency that receives applicable funding for a fiscal year shall disburse the applicable funding to local educational agencies for alternative uses under this section for the fiscal year at the same time that the State educational agency disburses the applicable funding to local educational agencies that do not intend to use the applicable funding for such alternative uses for the fiscal year.

"(e) SUPPLEMENT NOT SUPPLANT.—Funds used under this section shall be used to supplement and not supplant any other Federal, State, or local education funds that would otherwise be available for the purpose of this subpart.

"(f) APPLICABLE RULE.—Except as otherwise provided in this subpart, funds transferred under this subpart 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.

"SEC. 1712. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to award grants to eligible local educational agencies under section 1711(b) to enable the local educational agencies to support local or statewide education reform efforts intended to improve the academic achievement of elementary school and secondary school students and the quality of instruction provided for the students.

"(b) ALLOCATION.—

"(1) IN GENERAL.—Except as provided in paragraph (3), the Secretary shall award a grant to an eligible local educational agency under section 1711(b) for a fiscal year in an amount equal to the initial amount determined under paragraph (2) for the fiscal year minus the total amount received under the provisions of law described under section 1711(c) for the preceding fiscal year.

"(2) DETERMINATION OF THE INITIAL AMOUNT.—The initial amount referred to in paragraph (1) is equal to $100 multiplied by the total number of students, over 50 students, in average daily attendance in such eligible agency plus $20,000, except that the initial amount may not exceed $60,000.

"(3) RATABLE ADJUSTMENT.—

"(A) IN GENERAL.—If the amount made available for this subpart for any fiscal year is not sufficient to pay in full the amounts that local educational agencies are eligible to receive under paragraph (1) for such year, the Secretary shall ratably reduce such amounts for such year.

"(B) ADDITIONAL AMOUNTS.—If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subparagraph (A) shall be increased on the same basis as such payments were reduced.

"(4) CENSUS DETERMINATION.—

"(A) IN GENERAL.—Each local educational agency desiring a grant under this section shall conduct a census not later than December 1 of each year to determine the number of kindergarten through grade 12 students in average daily attendance at the schools served by the local educational agency.

"(B) SUBMISSION.—Each local educational agency shall submit the number described in subparagraph (A) to the Secretary not later than March 1 of each year.

"(c) DISBURSAL.—The Secretary shall disburse the funds awarded to a local educational agency under this section for a fiscal year not later than July 1 of that year.

"(d) SPECIAL RULE.—A local educational agency that is eligible to receive a grant under this subpart for a fiscal year shall be ineligible to receive funds for such fiscal year under subpart 2.

"(e) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement and not supplant any other Federal, State, or local education funds.

"SEC. 1713. ACCOUNTABILITY.

"(a) ACADEMIC ACHIEVEMENT.—

"(1) IN GENERAL.—Each local educational agency that uses or receives funds under section 1711 or 1712 for a fiscal year shall administer an assessment consistent with section 1111.

"(2) SPECIAL RULE.—Each local educational agency that uses or receives funds under section 1711 or 1712 shall use the same assessment described in paragraph (1) for each year of participation in the program under such section.

"(b) STATE EDUCATIONAL AGENCY DETERMINATION REGARDING CONTINUING PARTICIPATION.—Each State

educational agency that receives funding under the provisions of law described in section 1711(c) shall—

"(1) after the second year that a local educational agency participates in a program under section 1711 or 1712 and on the basis of the results of the assessments described in subsection (a), determine whether the schools served by the local educational agency participating in the program performed in accordance with section 1111; and

"(2) only permit those local educational agencies that so participated and make adequate yearly progress, as described in section 1111(b)(2), to continue to so participate.

"Subpart 2—Rural Education Assistance

"SEC. 1721. PROGRAM AUTHORIZED.

"(a) RESERVATIONS.—From amounts appropriated under section 1002(f) for this subpart for a fiscal year, the Secretary shall reserve ½ of 1 percent to make awards to elementary or secondary schools operated or supported by the Bureau of Indian Affairs to carry out the purpose of this subpart.

"(b) GRANTS TO STATES.—

"(1) IN GENERAL.—From amounts appropriated under section 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 authorized activities described in subsection (c)(2).

"(2) ALLOCATION.—From amounts appropriated for this subpart, the Secretary shall allocate to each State educational agency for a fiscal year an amount that bears the same ratio to the amount of funds appropriated under section 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 SPECIALLY 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 a specially qualified agency in such State desiring a grant under this subpart shall submit

an application under such section directly to the Secretary to receive an award under this subpart.

"(B) DIRECT AWARDS TO SPECIALLY QUALIFIED AGENCIES.—The Secretary may award, on a competitive basis, the amount the State educational agency is eligible to receive under paragraph (2) directly to specially qualified agencies in the State.

"(c) LOCAL AWARDS.—

"(1) ELIGIBILITY.—A local educational agency shall be eligible to receive funds under this subpart if—

"(A) 20 percent or more of the children aged 5 to 17, inclusive, served by the local educational agency are from families with incomes below the poverty line; and

"(B) all of the schools served by the agency are designated with a school code of 6, 7, or 8 as determined by the Secretary of Education.

"(2) USES OF FUNDS.—Grant funds awarded to local educational agencies or made available to schools under this subpart shall be used for—

"(A) teacher recruitment and retention, including the use of signing bonuses and other financial incentives;

"(B) teacher professional development, including programs that train teachers to utilize technology to improve teaching and to train special needs teachers;

"(C) educational technology, including software and hardware as described in part B of title V;

"(D) parental involvement activities; or

"(E) programs to improve student academic achievement.

"SEC. 1722. STATE DISTRIBUTION OF FUNDS.

"(a) AWARD BASIS.—A State educational agency shall award grants to eligible local educational agencies—

"(1) on a competitive basis; or

"(2) according to a formula based on the number of students in average daily attendance served by the eligible local educational agencies or schools (as appropriate) in the State, as determined by the State.

"(b) ADMINISTRATIVE COSTS.—A State educational agency receiving a grant under this subpart may not use

more than 5 percent of the amount of the grant for State administrative costs.

"SEC. 1723. APPLICATIONS.

''Each State educational agency and specially qualified agency desiring to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Such application shall include specific measurable goals and objectives relating to increased student academic achievement, decreased student dropout rates, or such other factors that the State educational agency or specially qualified agency may choose to measure.

"SEC. 1724. REPORTS.

''(a) STATE REPORTS.—Each State educational agency that receives a grant under this subpart shall provide an annual report to the Secretary. The report shall describe—

''(1) the method the State educational agency used to award grants to eligible local educational agencies and to provide assistance to schools under this subpart;

''(2) how local educational agencies and schools used funds provided under this subpart; and

"(3) the degree to which progress has been made toward meeting the goals and objectives described in the application submitted under section 1723.

"(b) SPECIALLY QUALIFIED AGENCY REPORT.—Each specially qualified agency that receives a grant under this subpart shall provide an annual report to the Secretary. Such report shall describe—

"(1) how such agency uses funds provided under this subpart; and

"(2) the degree to which progress has been made toward meeting the goals and objectives described in the application submitted under section 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 toward achieving the goals and objectives included in its application, to determine whether the agency has made progress toward meeting such goals and objectives. To review the performance of each agency, the Secretary shall—

"(1) review the use of funds of such agency under section 1721(c)(2); and

"(2) deny the provision of additional funds in subsequent fiscal years to an agency only if the Secretary determines, after notice and an opportunity for a hearing, that the agency's use of funds has been inadequate to justify continuation of such funding.

"SEC. 1726. DEFINITIONS.

"In this subpart—

"(1) The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with 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 in such year under section 1721(b)(3)(A).

"Subpart 3—General Provisions

"SEC. 1731. DEFINITION.

''In this part, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.''.

PART H—GENERAL PROVISIONS OF TITLE I

SEC. 181. GENERAL PROVISIONS.

Title I is amended further by adding at the end the following:

"PART H—GENERAL PROVISIONS

"SEC. 1801. FEDERAL REGULATIONS.

''(a) IN GENERAL.—The Secretary is authorized to issue such regulations as are necessary to ensure reasonable compliance with this title.

''(b) NEGOTIATED RULEMAKING PROCESS.—

''(1) IN GENERAL.—Prior to publishing in the Federal Register proposed regulations to carry out

this title, the Secretary shall obtain the advice and recommendations of representatives of Federal, State, and local administrators, parents, teachers, paraprofessionals, and members of local boards of education involved with the implementation and operation of programs under this title.

"(2) MEETINGS AND ELECTRONIC EXCHANGE.—Such advice and recommendation may be obtained through such mechanisms as regional meetings and electronic exchanges of information.

"(3) PROPOSED REGULATIONS.—After obtaining such advice and recommendations, and prior to publishing proposed regulations, the Secretary shall—

"(A) establish a negotiated rulemaking process on a minimum of three key issues, including—

"(i) accountability;

"(ii) implementation of assessments; and

"(iii) use of paraprofessionals;

"(B) select individuals to participate in such process from among individuals or groups which provided advice and recommendations, in-

cluding representation from all geographic regions of the United States; and

"(C) prepare a draft of proposed regulations that shall be provided to the individuals selected by the Secretary under subparagraph (B) not less than 15 days prior to the first meeting under such process.

"(4) PROCESS.—Such process—

"(A) shall be conducted in a timely manner to ensure that final regulations are issued by the Secretary not later than 1 year after the date of the enactment of the No Child Left Behind Act of 2001; and

"(B) shall not be subject to the Federal Advisory Committee Act but shall otherwise follow the provisions of the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561 et seq.).

"(5) EMERGENCY SITUATION.—In an emergency situation in which regulations to carry out this title must be issued within a very limited time to assist State and local educational agencies with the operation of a program under this title, the Secretary may issue proposed regulations without following such process but shall, immediately thereafter and

prior to issuing final regulations, conduct regional meetings to review such proposed regulations.

"(c) LIMITATION.—Regulations to carry out this part may not require local programs to follow a particular instructional model, such as the provision of services outside the regular classroom or school program.

"SEC. 1802. AGREEMENTS AND RECORDS.

"(a) AGREEMENTS.—All published proposed regulations shall conform to agreements that result from negotiated rulemaking described in section 1801 unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants involved in the process explaining why the Secretary decided to depart from and not adhere to such agreements.

"(b) RECORDS.—The Secretary shall ensure that an accurate and reliable record of agreements reached during the negotiations process is maintained.

"SEC. 1803. STATE ADMINISTRATION.

"(a) RULEMAKING.—

"(1) IN GENERAL.—Each State that receives funds under this title shall—

"(A) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title and provide any such proposed rules, regulations, and policies to

the committee of practitioners under subsection (b) for their review and comment;

"(B) minimize such rules, regulations, and policies to which their local educational agencies and schools are subject;

"(C) eliminate or modify State and local fiscal accounting requirements in order to facilitate the ability of schools to consolidate funds under schoolwide programs; and

"(D) identify any such rule, regulation, or policy as a State-imposed requirement.

"(2) SUPPORT AND FACILITATION.—State rules, regulations, and policies under this title shall support and facilitate local educational agency and school-level systemic reform designed to enable all children to meet the challenging State student academic achievement standards.

"(b) COMMITTEE OF PRACTITIONERS.—

"(1) IN GENERAL.—Each State educational agency shall create a State committee of practitioners to advise the State in carrying out its responsibilities under this title.

"(2) MEMBERSHIP.—Each such committee shall include—

"(A) as a majority of its members, representatives from local educational agencies;

"(B) administrators, including the administrators of programs described in other parts of this title;

"(C) teachers, including vocational educators;

"(D) parents;

"(E) members of local boards of education;

"(F) representatives of private school children; and

"(G) pupil services personnel.

"(3) DUTIES.—The duties of such committee shall include a review, prior to publication, of any proposed or final State rule or regulation pursuant to this title. In an emergency situation where such rule or regulation must be issued within a very limited time to assist local educational agencies with the operation of the program under this title, the State educational agency may issue a regulation without prior consultation, but shall immediately thereafter convene the State committee of practitioners to review the emergency regulation prior to issuance in final form.

"SEC. 1804. LOCAL ADMINISTRATIVE COST LIMITATION.

"(a) LOCAL ADMINISTRATIVE COST LIMITATION.—Each local educational agency may use not more than 4 percent of funds received under part A for administrative expenses.

"(b) REGULATIONS.—The Secretary, after consulting with State and local officials and other experts in school finance, shall develop and issue regulations that define the term administrative cost for purposes of this title. Such definition shall be consistent with generally accepted accounting principles. The Secretary shall publish final regulations on this section not later than 1 year after the date of the enactment of the No Child Left Behind Act of 2001.

"SEC. 1805. APPLICABILITY.

"Nothing in this title shall be construed to affect home schools nor shall any home schooled student be required to participate in any assessment referenced in this title.

"SEC. 1806. PRIVATE SCHOOLS.

"Nothing in this title shall be construed to affect any private school that does not receive funds or services under this title, nor shall any student who attends a private school that does not receive funds or services under this title be required to participate in any assessment referenced in this title.

"SEC. 1807. PRIVACY OF ASSESSMENT RESULTS.

''Any results from individual assessments referenced in this title which become part of the education records of the student shall have the protections as provided in section 444 of the General Education Provisions Act.''.

TITLE II—PREPARING, TRAINING, AND RECRUITING QUALITY TEACHERS

SEC. 201. TEACHER QUALITY TRAINING AND RECRUITING FUND.

Title II (20 U.S.C. 6601 et seq.) is amended to read as follows:

"TITLE II—PREPARING, TRAINING, AND RECRUITING QUALITY TEACHERS

"PART A—TEACHER QUALITY TRAINING AND RECRUITING FUND

"SEC. 2001. PURPOSE.

''The purpose of this part is to provide grants to States and local educational agencies in order to assist their efforts to increase student academic achievement through such strategies as improving teacher and principal quality and increasing the number of highly qualified teachers in the classroom.

"Subpart 1—Grants to States to Prepare, Train, and Recruit Qualified Teachers

"SEC. 2011. FORMULA GRANTS TO STATES.

"(a) IN GENERAL.—In the case of each State that in accordance with section 2013 submits to the Secretary an application for a fiscal year, the Secretary shall make a grant for the year to the State for the uses specified in section 2012. The grant shall consist of the allotment determined for the State under subsection (b).

"(b) DETERMINATION OF AMOUNT OF ALLOTMENTS.—

"(1) RESERVATION OF FUNDS.—From the amount made available to carry out this subpart for any fiscal year, the Secretary shall reserve—

"(A) ½ of 1 percent for allotments for the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be distributed among these outlying areas on the basis of their relative need, as determined by the Secretary in accordance with the purpose of this part; and

"(B) ½ of 1 percent for the Secretary of the Interior for programs under this subpart for professional development activities for teachers, other staff, and administrators in

schools operated or funded by the Bureau of Indian Affairs.

"(2) STATE ALLOTMENTS.—

"(A) HOLD HARMLESS.—

"(i) IN GENERAL.—Subject to subparagraph (B), from the total amount made available to carry out this subpart for any fiscal year and not reserved under paragraph (1), the Secretary shall allot to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico an amount equal to the total amount that such State received for fiscal year 2001 under—

"(I) section 2202(b) of this Act (as in effect on the day before the date of the enactment of the No Child Left Behind Act of 2001); and

"(II) section 306 of the Department of Education Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554).

"(ii) NONPARTICIPATING STATES.—In the case of a State that did not receive any funds for fiscal year 2001 under one or

both of the provisions referred to in subclauses (I) and (II) of clause (i), the amount allotted to the State under such clause shall be the total amount that the State would have received for fiscal year 2001 if it had elected to participate in all of the programs for which it was eligible under each of the provisions referred to in such subclauses.

"(iii) RATABLE REDUCTION.—If the total amount made available to carry out this subpart for any fiscal year and not reserved under paragraph (1) is insufficient to pay the full amounts that all States are eligible to receive under clause (i) for any fiscal year, the Secretary shall ratably reduce such amounts for such fiscal year.

"(B) ALLOTMENT OF ADDITIONAL FUNDS.—

"(i) IN GENERAL.—Subject to clause (ii), for any fiscal year for which the total amount made available to carry out this subpart and not reserved under paragraph (1) exceeds the total amount required to make allotments under subparagraph (A),

the Secretary shall allot such excess amount among the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico as follows:

"(I) 50 percent of such excess amount shall be allotted among such States on the basis of their relative populations of individuals aged 5 through 17, as determined by the Secretary on the basis of the most recent satisfactory data.

"(II) 50 percent of such excess amount shall be allotted among such States in proportion to the number of children, aged 5 to 17, who reside within the State from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved for the most recent fiscal year for which satisfactory data are available, compared

to the number of such individuals who reside in all such States for that fiscal year.

"(ii) EXCEPTION.—No State receiving an allotment under clause (i) may receive less than ½ of 1 percent of the total excess amount allotted under such clause.

"(3) REALLOTMENT.—If any State does not apply for an allotment under this subsection for any fiscal year, the Secretary shall reallot such amount to the remaining States in accordance with this subsection.

"SEC. 2012. WITHIN-STATE ALLOCATIONS.

"(a) USE OF FUNDS.—Each State receiving a grant under this subpart shall use the funds provided under the grant in accordance with this section to carry out activities for the improvement of teaching and learning.

"(b) RESERVATION OF FUNDS.—

"(1) IN GENERAL.—A State that receives a grant under this subpart may reserve not more than 5 percent of the amount of the funds provided under the grant for—

"(A) one or more of the authorized State activities described in subsection (e); and

"(B) planning and administration related to carrying out such activities and making subgrants to local educational agencies under subparts 2 and 3.

"(2) LIMITATION ON ADMINISTRATIVE COSTS.—The amount reserved by a State under paragraph (1)(B) may not exceed 1 percent of the amount of the funds provided under the grant.

"(c) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

"(1) IN GENERAL.—The Secretary may make a grant to a State under this subpart only if the State agrees to distribute the funds described in this subsection as subgrants to local educational agencies under subpart 3.

"(2) HOLD HARMLESS.—

"(A) IN GENERAL.—From the funds that a State receives under this subpart for any fiscal year that are not reserved under subsection (b), the State shall allot to each local educational agency an amount equal to the total amount that such agency received for fiscal year 2001 under—

"(i) section 2203(1)(B) of this Act (as in effect on the day before the date of the

enactment of the No Child Left Behind Act of 2001); and

"(ii) section 306 of the Department of Education Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554).

"(B) NONPARTICIPATING AGENCIES.—In the case of a local educational agency that did not receive any funds for fiscal year 2001 under one or both of the provisions referred to in clauses (i) and (ii) of subparagraph (A), the amount allotted to the agency under such subparagraph shall be the total amount that the agency would have received for fiscal year 2001 if it had elected to participate in all of the programs for which it was eligible under each of the provisions referred to in such clauses.

"(C) RATABLE REDUCTION.—If the funds described in subparagraph (A) are insufficient to pay the full amounts that all local educational agencies are eligible to receive under such subparagraph for any fiscal year, the State shall ratably 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 subpart that are not reserved under subsection (b) exceed the total amount required to make allotments under paragraph (2), the State shall distribute the amount described in subparagraph (B) through a formula under which—

"(i) 20 percent is allocated to local educational agencies in accordance with the relative enrollment in public and private nonprofit elementary and secondary schools within the boundaries of such agencies; and

"(ii) 80 percent is allocated to local educational agencies in proportion to the number of children, aged 5 to 17, who reside within the geographic area served by such agency from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved for the

most recent fiscal year for which satisfactory data are available, compared to the number of such individuals who reside in the geographic areas served by all the local educational agencies in the State for that fiscal year.

''(B) CALCULATION OF AMOUNT.—

''(i) IN GENERAL.—The amount described in this subparagraph for a State 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 subparagraph, the term 'base amount' means 50 percent of the funds that remain to a State after a State makes the reservations described in subsection (b) and the allotments described in paragraph (2).

''(iii) ADDITIONAL AMOUNT.—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 Secretary 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 subgrant process in accordance with subpart 2.

"(2) AMOUNT DESCRIBED.—

"(A) IN GENERAL.—The amount described in this paragraph for a State for any fiscal year is 50 percent of the funds 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 of the funds that a 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 15 nor more than 20 percent.

"(e) AUTHORIZED STATE ACTIVITIES.—The authorized State activities referred to in subsection (b)(1)(A) are the following:

"(1) Reforming teacher certification, recertification, or licensure requirements to ensure that—

"(A) teachers have the necessary teaching skills and academic content knowledge in the subject areas in which they are assigned to teach;

"(B) teacher certification, recertification, or licensure requirements are aligned with the State's challenging State academic content standards; and

"(C) teachers have the knowledge and skills necessary to help students meet challenging State student achievement standards.

"(2) Carrying out programs that—

"(A) include support during the initial teaching or leadership experience, such as mentoring programs that—

"(i) provide—

"(I) mentoring to beginning teachers from veteran teachers with expertise in the same subject matter that the beginning teachers will be teaching; or

"(II) similar mentoring to principals or superintendents;

"(ii) provide mentors time for activities such as coaching, observing, and assisting the teachers or school leaders who are mentored; and

"(iii) use standards or assessments for guiding beginning teachers that are consistent with the State's student achievement standards and with the requirements for professional development activities under section 2033; and

"(B) establish, expand, or improve alternative routes to State certification of teachers, especially in the areas of mathematics and science, for highly qualified individuals with a baccalaureate degree, including mid-career professionals from other occupations, paraprofessionals, former military personnel, and recent college or university graduates with records of academic distinction who demonstrate the potential to become highly effective teachers.

"(3) Developing and implementing effective mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified and effective teachers and principals.

"(4) Reforming tenure systems and implementing teacher testing and other procedures to expeditiously remove ineffective teachers from the classroom.

"(5) Developing enhanced performance systems to measure the effectiveness of specific professional development programs and strategies.

"(6) Providing technical assistance to local educational agencies consistent with this part.

"(7) Funding projects to promote reciprocity of teacher certification or licensure between or among States, except that no reciprocity agreement developed under this paragraph or developed using funds provided under this part may lead to the weakening of any State teaching certification or licensing requirement.

"(8) Developing or assisting local educational agencies 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 implementation of innovative professional development programs that

train teachers to use technology to improve teaching and learning and are consistent with the requirements of section 2033.

''(10) Developing or assisting local educational agencies in developing merit-based performance systems, rigorous assessments for teachers, and strategies which provide differential and bonus pay for teachers in high-need subject areas such as reading, math, and science and in high-poverty schools and districts.

''(11) Providing assistance to local educational agencies for the development and implementation 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 development and support of school leadership academies 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, teacher advancement initiatives that promote professional growth and emphasize multiple career paths (such as career teacher,

mentor teacher, and master teacher) and pay differentiation.

''(f) COORDINATION.—States receiving grants under section 202 of the Higher Education Act of 1965 shall coordinate the use of such funds with activities carried out under this section.

"SEC. 2013. APPLICATIONS BY STATES.

''(a) IN GENERAL.—To be eligible to receive a grant under this subpart, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(b) CONTENTS.—Each application under this section shall include the following:

''(1) A description of how the State will ensure that a local educational agency receiving a subgrant under subpart 3 will comply with the requirements of such subpart.

''(2) A description of how the State will use funds under this part to meet the requirements of section 1119(a)(2).

''(3) A description of how the State will coordinate professional development activities authorized under this part with professional development activities provided under 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. The application shall also describe the comprehensive strategy that the State will take as part of such coordination effort, to ensure that teachers are trained in the utilization of technology so that technology and its applications are effectively used in the classroom to improve teaching and learning in all curriculum and content areas, as appropriate.

"(4) A description of how the State will encourage the development 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.

"(5) A description of how the State will ensure that local educational agencies will comply with the requirements under section 2033, especially with respect to ensuring the participation of teachers, principals, and parents.

"(c) APPLICATION APPROVAL.—A State application submitted to the Secretary under this section shall be

deemed approved by the Secretary unless the Secretary makes a written determination, within 90 days after receiving the application, that the application is in violation of the provisions of this subpart. The Secretary shall not finally disapprove a State application except after giving the State notice and opportunity for a hearing.

"Subpart 2—Math and Science Partnerships

"SEC. 2021. PURPOSE.

''The purpose of this subpart is to improve the achievement of students in the areas of mathematics and science by encouraging States, institutions of higher education, and local educational agencies to participate in programs that—

''(1) focus on education and training of mathematics and science teachers that improves teachers' knowledge and skills and encourages intellectual growth;

''(2) improve mathematics and science teaching by encouraging institutions of higher education to assume greater responsibility for improving mathematics and science teacher education through the establishment of a comprehensive, integrated system of recruiting, training, and advising such teachers; and

''(3) bring mathematics and science teachers in elementary and secondary schools together with sci-

entists, mathematicians, and engineers to increase the subject matter knowledge of teachers and improve their teaching skills through the use of sophisticated laboratory equipment and work space, computing facilities, libraries, and other resources that institutions of higher education are better able to provide than the schools.

"SEC. 2022. APPLICATION REQUIREMENTS.

''(a) IN GENERAL.—An eligible partnership seeking to receive a subgrant from a State under this subpart shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may require.

''(b) PARTNERSHIP APPLICATION CONTENTS.—Each such application shall include—

''(1) an assessment of the teacher quality and professional development of all the schools and 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 re-

form 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 instructions; and

"(4) a description of—

"(A) how the eligible partnership will carry out the activities described in section 2023(c); and

"(B) the eligible partnership's evaluation and accountability plan described in section 2024.

"SEC. 2023. MATH AND SCIENCE PARTNERSHIP SUBGRANTS.

"(a) IN GENERAL.—From the amount described in section 2012(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 2 and not more than 5 years.

"(c) AUTHORIZED ACTIVITIES.—A recipient of funds provided under this subpart may use the funds for the following activities related to elementary or secondary schools:

"(1) Establishing and operating mathematics and science summer professional development workshops or institutes for elementary and secondary school teachers that—

"(A) shall—

"(i) directly relate to the curriculum and content areas in which the teacher provides instruction, and focus only secondarily on pedagogy;

"(ii) enhance the ability of a teacher to understand and use the State's academic content standards for mathematics and science and to select appropriate curricula;

"(iii) train teachers to use curricula that are—

"(I) based on scientific research;

"(II) aligned with State 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) instruction in the use of data and assessments to inform and instruct classroom practice; and

"(iii) professional development activities, including supplemental and follow-up activities, such as curriculum alignment, distance learning, and activities that train teachers to utilize technology in the classroom.

"(2) Recruiting to the teaching profession—

"(A) students studying mathematics, engineering, and science; or

"(B) mathematicians, engineers, and scientists currently working in the field.

"(3) Establishing and operating programs to bring teachers into contact with working scientists, mathematicians, and engineers, to expand teacher content knowledge of and research in science and mathematics.

"(d) PRIORITY.—In awarding subgrants under this subpart, States shall give priority to applications seeking funding for the activity described in subsection (c)(1).

"(e) COORDINATION.—Partnerships receiving grants under section 203 of the Higher Education Act of 1965 (20 U.S.C. 1023) shall coordinate the use of such funds with any related activities carried out by such partnership with funds made available under this subpart.

"SEC. 2024. EVALUATION AND ACCOUNTABILITY PLAN.

"(a) IN GENERAL.—Each eligible partnership receiving a subgrant under this subpart shall develop an evaluation and accountability plan for activities assisted under this subpart that includes rigorous performance objectives that measure the impact of activities funded under this subpart.

"(b) CONTENTS.—The plan—

"(1) shall include measurable goals to increase the number of mathematics and science teachers

who participate in content-based professional development activities; and

"(2) may include objectives and measures for—

"(A) improved student achievement on State mathematics and science assessments;

"(B) increased participation by students in advanced courses in mathematics and science;

"(C) increased percentages of elementary school teachers with academic majors or minors, or group majors or minors, in mathematics, engineering, or the sciences; and

"(D) increased percentages of secondary school classes in mathematics and science taught by teachers with academic majors in mathematics and science, respectively.

"SEC. 2025. REPORTS; REVOCATION OF SUBGRANTS.

"(a) REPORTS.—Each eligible partnership receiving a subgrant under this subpart annually shall report to the State regarding the eligible partnership's progress in meeting the performance objectives described in section 2024.

"(b) REVOCATION.—If the State determines that an eligible partnership that receives a subgrant under this subpart for 5 years is not making substantial progress in meeting the performance objectives described in section

2024 by the end of the third year of the subgrant, the subgrant payments shall not be made for the fourth and fifth years.

"SEC. 2026. DEFINITIONS.

"In this subpart:

"(1) ELIGIBLE PARTNERSHIP.—The term 'eligible partnership' means a partnership that—

"(A) shall include—

"(i) a State educational agency;

"(ii) a mathematics or science department of a private independent institution of higher education or a State-supported public institution of higher education; and

"(iii) a high need local educational agency; and

"(B) may include—

"(i) another institution of higher education or the teacher training department of such an institution;

"(ii) additional local educational agencies, public charter schools, public or private elementary or secondary schools, or a consortium of such schools;

"(iii) a business; or

"(iv) a nonprofit organization of demonstrated effectiveness, including a museum or research institution.

"(2) SUMMER PROFESSIONAL DEVELOPMENT WORKSHOP OR INSTITUTE.—The term 'summer professional development workshop or institute' means a workshop or institute that—

"(A) is conducted during a period of not less than 2 weeks;

"(B) includes as a component a program that provides direct interaction between students and faculty; and

"(C) provides for follow-up training during the academic year that is conducted in the classroom for a period of not less than 3 consecutive or nonconsecutive days, except that—

"(i) if the workshop or institute is conducted during a two-week period, the follow-up training shall be conducted for a period of at least 4 days; and

"(ii) if the follow-up training is for teachers in rural school districts, it may be conducted through distance learning.

"Subpart 3—Subgrants to Local Educational Agencies

"SEC. 2031. LOCAL USE OF FUNDS.

''(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 academic subject areas in which there exists a shortage of such fully qualified teachers within a school or the local educational agency;

''(B) establishing programs that—

''(i) recruit professionals from other fields and provide such professionals with alternative routes to teacher certification; and

''(ii) provide increased opportunities for minorities, individuals with disabilities, and other individuals underrepresented in the teaching profession; and

"(C) implementing hiring policies that ensure comprehensive recruitment efforts as a way to expand the applicant pool, such as through identifying teachers certified through alternative routes, coupled with a system of intensive screening designed to hire the most qualified applicant.

"(2) Initiatives to promote retention of highly qualified teachers and principals, particularly within elementary and secondary schools with a high percentage of low-achieving students, including programs that provide—

"(A) mentoring to newly hired teachers, such as from master teachers, or principals or superintendents;

"(B) incentives, including financial incentives, to retain teachers who have a record of success in helping low-achieving students improve their academic success; or

"(C) incentives, including financial incentives, to principals who have a record of improving the performance of all students, but particularly students from economically disadvantaged families and students from racial and ethnic minority groups.

"(3) Programs and activities that are designed to improve the quality of the teacher force, such as—

"(A) innovative professional development programs (which may be through partnerships including institutions of higher education), including programs that train teachers and principals to utilize technology to improve teaching and learning, are consistent with the requirements of section 2033, and are coordinated with part B of title V;

"(B) development and utilization of proven, cost-effective strategies for the implementation of professional development activities, such as through the utilization of technology and distance learning;

"(C) tenure reform;

"(D) merit pay;

"(E) testing of elementary and secondary school teachers in the subject areas taught by such teachers;

"(F) professional development programs that provide instruction in how to teach children with different learning styles, particularly children with disabilities and children with spe-

cial learning needs (including those who are gifted and talented); and

"(G) professional development programs that provide instruction in methods of improving student behavior in the classroom 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 academies to help exceptionally talented aspiring or current principals and superintendents 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) and pay differentiation.

"(b) SPECIAL RULE.—

"(1) IN GENERAL.—For any fiscal year for which the amount 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) REQUIREMENT.—A local educational agency required to comply with this paragraph shall use not less than the amount expended by the agency under section 2206(b) of this Act (as in effect on the day before the date of the enactment of the No Child Left Behind Act of 2001), 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 to receive a subgrant from a State under this subpart shall submit an application to the State—

"(1) at such time as the State shall require; and

"(2) which is coordinated with other programs under this Act, or other Acts, as appropriate.

"(b) LOCAL APPLICATION CONTENTS.—The local application described in subsection (a), shall include, at a minimum, the following:

"(1) An assurance that the local educational agency will target funds to schools within the jurisdiction of the local educational agency that—

"(A) have the lowest proportion of fully qualified teachers;

"(B) have the largest average class size; or

"(C) are identified for school improvement under section 1116(b).

"(2) A description of how the local educational agency will coordinate professional development 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 that are used

for professional development to train teachers to utilize technology to improve teaching and learning.

''(4) A description of how the local educational agency has collaborated with teachers, principals, parents, and administrators in the preparation of the application.

"SEC. 2033. PROFESSIONAL DEVELOPMENT FOR TEACHERS.

''(a) REQUIREMENTS FOR PROFESSIONAL DEVELOPMENT ACTIVITIES.—Professional development activities under this subpart shall—

''(1) meet the requirements of section 1119(a)(2);

''(2) support professional development activities that give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State academic content standards and student achievement standards;

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

''(4) advance teacher understanding of effective instructional strategies based on scientifically based research for improving student achievement, at a minimum, in reading or language arts and mathematics;

"(5) be directly related to the curriculum and content areas in which the teacher provides instruction, except that this paragraph shall not apply to subparagraphs (F) and (G) of section 2031(3);

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

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

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

"(9) be developed with extensive participation of teachers, principals, parents, and administrators of schools to be served under this subpart;

"(10) be designed to give teachers of limited English proficient children, and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and aca-

demic support services to such children, including the appropriate use of curriculum and assessments;

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

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

"(13) provide instruction in methods of teaching children with special needs.

"(b) PROFESSIONAL DEVELOPMENT ACTIVITIES.—Professional development activities under this subpart may include—

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

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

"(3) the forming of partnerships with institutions of higher education to establish school-based

teacher training programs that provide prospective teachers and novice teachers with an opportunity to work under the guidance of experienced teachers and college faculty;

''(4) the creation of programs for paraprofessionals (assisting teachers employed by a local educational agency receiving assistance under this part) to obtain the education necessary for such paraprofessionals to become licensed and certified teachers; and

''(5) activities that provide follow-up training to teachers who have participated in professional development activities which are designed to ensure that the knowledge and skills learned by the teacher are implemented in the classroom.

''(c) ACCOUNTABILITY.—

''(1) IN GENERAL.—If, after any fiscal year, a State determines that the programs or activities funded by a local educational agency fail to meet the requirements of subsection (a), the State shall notify the agency that—

''(A) it may be subject to paragraph (2); and

"(B) technical assistance is available from the State to help the agency meet those requirements.

"(2) REQUIREMENT TO PROVIDE TEACHER OPPORTUNITY PAYMENTS.—A local educational agency that has been notified by a State for 2 consecutive years under paragraph (1) shall expend under section 2034 for the succeeding fiscal year a proportion of the amount the agency receives under this subpart that is equal to the proportion of the amount the agency received under this part for the preceding fiscal year that the agency used for professional development.

"SEC. 2034. TEACHER OPPORTUNITY PAYMENTS.

"(a) IN GENERAL.—A local educational agency receiving funds under this subpart may (or, in the case of a local educational agency described in section 2033(c)(2), shall) provide funds directly to a teacher or a group of teachers seeking opportunities to participate in a professional development activity of their choice that meets the requirements of section 2033(a) and is selected in consultation with the principal in order to coordinate such professional development with other reform efforts at the school.

"(b) NOTICE TO TEACHERS.—Local educational agencies distributing funds under this section shall establish and implement a timely process through which proper notice of availability of funds will be given to all teachers within schools identified by the agency and shall develop a process whereby teachers will have regular consultation with and be specifically recommended by principals to participate in such program by virtue of—

"(1) a teacher not being fully qualified to teach in the subject or subjects in which they teach; or

"(2) a teacher's need for additional assistance to ensure that the teacher's students make progress toward meeting challenging State academic content standards and student achievement standards.

"(c) SELECTION OF TEACHERS.—If adequate funding is not available to provide payments under this section to all teachers seeking such assistance or identified as needing such assistance pursuant to subsection (b), a local educational agency shall establish procedures for selecting teachers that give priority to teachers described in paragraph (1) or (2) of subsection (b).

"Subpart 4—Mid-Career Transitions to Teaching

"CHAPTER 1—TROOPS-TO-TEACHERS PROGRAM

"SEC. 2041. AUTHORIZATION OF TROOPS-TO-TEACHERS PROGRAM.

''(a) PROGRAM AUTHORIZED.—The Secretary may carry out a program (to be known as the 'Troops-to-Teachers Program')—

''(1) to assist eligible members and former members of the Armed Forces described in section 2042 to obtain certification or licensure as fully qualified elementary school teachers, secondary school teachers, or vocational or technical teachers; and

''(2) to facilitate the employment of such members in elementary schools or secondary schools or as vocational or technical teachers.

''(b) ADMINISTRATION OF PROGRAM.—The Secretary shall enter into a memorandum of agreement with the Secretary of Defense under which the Secretary of Defense, acting through the Defense Activity for Non-Traditional Education Support of the Department of Defense, will perform the actual administration of the Program, other than section 2045. Using funds appropriated to the Secretary to carry out this chapter, the Secretary shall transfer to the Secretary of Defense such amounts as may be

necessary to administer the Program pursuant to the memorandum of agreement.

"(c) INFORMATION REGARDING PROGRAM.—The Secretary shall provide to the Secretary of Defense, for distribution as part of preseparation counseling provided under section 1142 of title 10, United States Code, to members of the Armed Forces described in section 2042, information regarding the Troops-to-Teachers Program and applications to participate in the program.

"(d) PLACEMENT ASSISTANCE AND REFERRAL SERVICES.—As part of the Troops-to-Teachers Program, the Secretary may, with the agreement of the Secretary of Defense, provide placement assistance and referral services regarding employment opportunities with local educational agencies to members of the Armed Forces who are discharged or released from active duty under other than adverse conditions. Unless the member is also selected to participate in the Program under section 2042, a member receiving placement assistance and referral services under the authority of this subsection is not eligible for financial assistance under section 2043.

"SEC. 2042. RECRUITMENT AND SELECTION OF PROGRAM PARTICIPANTS.

"(a) ELIGIBLE MEMBERS.—The following members and former members of the Armed Forces are eligible for

selection to participate in the Troops-to-Teachers Program:

"(1) Any member who—

"(A) on or after October 1, 1999, becomes entitled to retired or retainer pay in the manner provided in title 10 or title 14, United States Code; or

"(B) on or after the date of the enactment of the No Child Left Behind Act of 2001, has an approved date of voluntary retirement and, as of the date the member submits an application to participate in the Program, has one year or less of active duty remaining before retirement.

"(2) Any member who, on or after the date of the enactment of the No Child Left Behind Act of 2001—

"(A) is separated or released from active duty after six or more years of continuous active duty immediately before the separation or release; and

"(B) executes a reserve commitment agreement for a period of three years under subsection (e)(2).

"(3) Any member who, on or after the date of the enactment of the No Child Left Behind Act of 2001, is retired or separated for physical disability under chapter 61 of title 10, United States Code.

"(4) Any member who—

"(A) during the period beginning on October 1, 1990, and ending on September 30, 1999, was involuntarily discharged or released from active duty for purposes of a reduction of force after six or more years of continuous active duty immediately before the discharge or release; or

"(B) applied for the teacher placement program administered under section 1151 of title 10, United States Code, before its repeal, and who satisfied the eligibility criteria specified in subsection (c) of such section 1151.

"(b) SUBMISSION OF APPLICATIONS.—

"(1) FORM AND SUBMISSION.—Selection of eligible members and former members of the Armed Forces to participate in the Troops-to-Teachers Program shall be made on the basis of applications submitted to the Secretary within the time periods specified in paragraph (2). An application shall be in

such form and contain such information as the Secretary may require.

"(2) TIME FOR SUBMISSION.—An application shall be considered to be submitted on a timely basis under paragraph (1) if—

"(A) in the case of a member or former member of the Armed Forces described in paragraph (1), (2), or (3) of subsection (a), the application is submitted not later than four years after the date on which the member is retired or separated or released from active duty, whichever applies to the member; or

"(B) in the case of a member or former member described in subsection (a)(4), the application is submitted not later than September 30, 2003.

"(c) SELECTION CRITERIA.—

"(1) ESTABLISHMENT.—Subject to paragraphs (2) and (3), the Secretary shall prescribe the criteria to be used to select eligible members and former members of the Armed Forces to participate in the Troops-to-Teachers Program.

"(2) EDUCATIONAL BACKGROUND.—If a member or former member of the Armed Forces described in paragraph (1), (2), or (3) of subsection

(a) is applying for assistance for placement as an elementary or secondary school teacher, the Secretary shall require the member to have received a baccalaureate or advanced degree from an accredited institution of higher education. If such a member is applying for assistance for placement as a vocational or technical teacher, the Secretary shall require the member—

"(A) to have received the equivalent of one year of college from an accredited institution of higher education and have six or more years of military experience in a vocational or technical field; or

"(B) to otherwise meet the certification or licensure requirements for a vocational or technical teacher in the State in which the member seeks assistance for placement under the Program.

"(3) HONORABLE SERVICE.—A member or former member of the Armed Forces is eligible to participate in the Troops-to-Teachers Program only if the member's last period of service in the Armed Forces was characterized as honorable. If the member is selected to participate in the Program before the retirement of the member or the separation or

release of the member from active duty, the member may continue to participate in the Program only if, upon the retirement or separation or release from active duty, the member's last period of service is characterized as honorable.

''(d) SELECTION PRIORITIES.—In selecting eligible members and former members of the Armed Forces to receive assistance for placement as elementary or secondary school teachers or vocational or technical teachers, the Secretary shall give priority to members who have educational or military experience in science, mathematics, special education, or vocational or technical subjects and agree to seek employment as science, mathematics, or special education teachers in elementary or secondary schools or in other schools under the jurisdiction of a local educational agency.

''(e) OTHER CONDITIONS ON SELECTION.—

''(1) SELECTION SUBJECT TO FUNDING.—The Secretary may not select an eligible member or former member of the Armed Forces to participate in the Troops-to-Teachers Program under this section and receive financial assistance under section 2043 unless the Secretary has sufficient appropriations for the Program available at the time of the selection to satisfy the obligations to be incurred by

the United States under section 2043 with respect to the member.

"(2) RESERVE COMMITMENT AGREEMENT.—The Secretary may not select an eligible member or former member of the Armed Forces described in subsection (a)(2)(A) to participate in the Troops-to-Teachers Program under this section and receive financial assistance under section 2043 unless—

"(A) the Secretary notifies the Secretary concerned and the member that the Secretary has reserved a full stipend or bonus under section 2043 for the member; and

"(B) the member executes a written agreement with the Secretary concerned to serve as a member of the Selected Reserve of a reserve component of the Armed Forces for a period of three years (in addition to any other reserve commitment the member may have).

"SEC. 2043. PARTICIPATION AGREEMENT AND FINANCIAL ASSISTANCE.

"(a) PARTICIPATION AGREEMENT.—An eligible member or former member of the Armed Forces selected to participate in the Troops-to-Teachers Program under section 2042 and receive financial assistance under this

section shall be required to enter into an agreement with the Secretary in which the member agrees—

"(1) to obtain, within such time as the Secretary may require, certification or licensure as 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 that certification or licensure.

"(b) VIOLATION OF PARTICIPATION AGREEMENT; EXCEPTIONS.—A participant in the Troops-to-Teachers Program shall not be considered to be in violation of the participation agreement entered into under subsection (a) during any period in which the participant—

"(1) is pursuing a full-time course of study related to the field of teaching at an institution of higher education;

"(2) is serving on active duty as a member of the Armed Forces;

"(3) is temporarily totally disabled for a period of time not to exceed three years as established by sworn affidavit of a qualified physician;

"(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

"(5) is seeking and unable to find full-time employment as a 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 pay to a participant in the Troops-to-Teachers Program selected under section 2042 a stipend in an amount up to $5,000.

"(2) LIMITATION.—The total number of stipends that may be paid under paragraph (1) in any fiscal year may not exceed 3,000.

"(d) BONUS FOR PARTICIPANTS.—

"(1) BONUS AUTHORIZED.—Subject to paragraph (2), the Secretary may, in lieu of paying a sti-

pend 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.

"(2) LIMITATION.—The total number of bonuses that may be paid under paragraph (1) in any fiscal year may not exceed 1,000.

"(3) HIGH NEED SCHOOL DEFINED.—For purposes of this subsection, the term 'high need school' means a public elementary school, public secondary school, or public charter school that meets one or more of the following criteria:

"(A) At least 50 percent of the students enrolled in the school were children counted under subsection (c) of section 1124 for purposes of making grants under such section to local educational agencies, when such counting was most recently performed.

"(B) The school has a large percentage of students who qualify for assistance under part

B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

"(C) The school meets any other criteria established by the Secretary in consultation with the National Assessment Governing Board.

"(e) TREATMENT OF STIPEND AND BONUS.—A stipend or bonus paid under this section to a participant in the Troops-to-Teachers Program shall be taken into account in determining the eligibility of the participant for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

"(f) REIMBURSEMENT UNDER CERTAIN CIRCUMSTANCES.—

"(1) REIMBURSEMENT REQUIRED.—A participant in the Troops-to-Teachers Program who is paid a stipend or bonus under this section shall be required to repay the stipend or bonus under the following circumstances:

"(A) The participant fails to obtain teacher certification or licensure or employment as a fully qualified elementary school teacher, secondary school teacher, or vocational or technical teacher as required by the participation agreement under subsection (a).

"(B) The participant voluntarily leaves, or is terminated for cause, from employment as an elementary school teacher, secondary school teacher, or vocational or technical teacher during the three years of required service in violation of the participation agreement.

"(C) The participant executed a written agreement with the Secretary concerned under section 2042(e)(2) to serve as a member of a reserve component of the Armed Forces for a period of three years and fails to complete the required term of service.

"(2) AMOUNT OF REIMBURSEMENT.—A participant required to reimburse the Secretary for a stipend or bonus paid to the participant under this section shall pay an amount that bears the same ratio to the amount of the stipend or bonus as the unserved portion of required service bears to the three years of required service. Any amount owed by the participant shall bear interest at the rate equal to the highest rate being paid by the United States on the day on which the reimbursement is determined to be due for securities having maturities of ninety days or less and shall accrue from the day on

which the participant is first notified of the amount due.

"(3) TREATMENT OF OBLIGATION.—The obligation to reimburse the Secretary under this subsection is, for all purposes, a debt owing the United States. A discharge in bankruptcy under title 11, United States Code, shall not release a participant from the obligation to reimburse the Secretary.

"(4) EXCEPTIONS TO REIMBURSEMENT REQUIREMENT.—A participant shall be excused from reimbursement under this subsection if the participant becomes permanently totally disabled as established by sworn affidavit of a qualified physician. The Secretary may also waive reimbursement in cases of extreme hardship to the participant, as determined by the Secretary.

"(g) RELATIONSHIP TO EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.—The receipt by a participant in the Troops-to-Teachers Program of a stipend or bonus under this section shall not reduce or otherwise affect the entitlement of the participant to any benefits under chapter 30 of title 38, United States Code, or chapter 1606 of title 10, United States Code.

"SEC. 2044. PARTICIPATION BY STATES.

"(a) DISCHARGE OF STATE ACTIVITIES THROUGH CONSORTIA OF STATES.—The Secretary may permit States participating in the Troops-to-Teachers Program to carry out activities authorized for such States under the Program through one or more consortia of such States.

"(b) ASSISTANCE TO STATES.—

"(1) GRANTS AUTHORIZED.—Subject to paragraph (2), the Secretary may make grants to States participating in the Troops-to-Teachers Program, or to consortia of such States, in order to permit such States or consortia of States to operate offices for purposes of recruiting eligible members and former members of the Armed Forces for participation in the Program and facilitating the employment of participants in the Program as elementary school teachers, secondary school teachers, and vocational or technical teachers.

"(2) LIMITATION.—The total amount of grants under paragraph (1) in any fiscal year may not exceed $4,000,000.

"SEC. 2045. SUPPORT OF INNOVATIVE PRERETIREMENT TEACHER CERTIFICATION PROGRAMS.

"(a) DEVELOPMENT, IMPLEMENTATION AND DEMONSTRATION.—The Secretary may enter into a memorandum of agreement with a State, an institution of high-

er education, or a consortia of States or institutions of higher education, to develop, implement, and demonstrate teacher certification programs for members of the Armed Forces described in section 2042(a)(1)(B) for the purpose of assisting such members to consider and prepare for a career as 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) must—

''(1) provide recognition of military experience and training as related to licensure or certification requirements;

''(2) provide courses of instruction that may be conducted on or near a military installation;

''(3) incorporate alternative approaches to achieve teacher certification, such as innovative methods to gaining field-based teaching experiences, and assessment of background and experience as related to skills, knowledge, and abilities required of elementary school teachers, secondary school teachers, or vocational or technical teachers;

''(4) provide for courses to also be delivered via distance education methods; and

"(5) address any additional requirements or specifications as established by the Secretary.

"(c) APPLICATION PROCEDURES.—A State or institution of higher education (or a consortia 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 proposals that provide for a sharing of the costs to carry out the teacher certification program.

"(d) CONTINUATION OF PROGRAMS.—The purpose of this section is to provide funding to develop, implement, and demonstrate teacher certification programs under subsection (a). Upon successful completion of the demonstration phase, the continued operation of the teacher certification programs shall not be the responsibility of the Secretary.

"(e) FUNDING LIMITATION.—The total amount obligated by the Secretary under this section in any fiscal year may not exceed $5,000,000.

"SEC. 2046. REPORTING REQUIREMENTS.

"(a) REPORT REQUIRED.—Not later than March 31 of each year, the Secretary (in consultation with the Secretary of Defense and the Secretary of Transportation) and the Comptroller General shall each submit to Con-

gress a report on the effectiveness of the Troops-to-Teachers Program in the recruitment and retention of qualified personnel by local educational agencies and public charter schools.

"(b) ELEMENTS OF REPORT.—The report under subsection (a) shall include information on the following:

"(1) The number of participants in the Troops-to-Teachers Program.

"(2) The schools in which the participants are employed.

"(3) The grade levels at which the participants teach.

"(4) The subject matters taught by the participants.

"(5) The rates of retention of the participants by the local educational agencies and public charter schools employing the participants.

"(6) Such other matters as the Secretary or the Comptroller General, as the case may be, considers appropriate.

"(c) RECOMMENDATIONS.—The report of the Comptroller General under this section shall also include any recommendations of the Comptroller General regarding any means of improving the Troops-to-Teachers Program,

including means of enhancing the recruitment and retention of participants in the Program.

"SEC. 2047. DEFINITIONS.

''For purposes of this 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 Naval Reserve;

''(D) the Marine Corps Reserve;

''(E) the Air National Guard of the United States;

''(F) the Air Force Reserve; and

''(G) the Coast Guard Reserve.

''(4) SECRETARY CONCERNED.—The term 'Secretary concerned' means—

"(A) the Secretary of the Army, with respect to matters concerning a reserve component of the Army;

"(B) the Secretary of the Navy, with respect to matters concerning a reserve component of the Navy;

"(C) the Secretary of the Air Force, with respect to matters concerning a reserve component of the Air Force; and

"(D) the Secretary of Transportation, with respect to matters concerning the Coast Guard Reserve.

"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 those agencies, 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 such teachers.

"(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 collaborate, 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 evidence of

the commitment of 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—

"(A) the program's goals and objectives;

"(B) the performance indicators the applicant will use to measure the program's progress; and

"(C) the outcome measures that will be used to determine the program's effectiveness; and

"(5) such other information 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 informing them of opportunities under the program and putting them in contact with other institutions, agencies, or organizations that would train, place, and support them;

"(B) training stipends and other financial incentives for program participants, not to exceed $5,000 per participant;

"(C) assisting 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 assisting those 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) REPAYMENT.—The Secretary shall establish such requirements as the Secretary determines appropriate to ensure that program participants who receive a training stipend or other financial incentive under paragraph (1)(B), but 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 'program participants' means 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 subpart 4, 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 subpart 4, 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—

''(A) when referring to an organizational unit of an institution of higher education, any academic unit that offers one or more academic majors in disciplines or content areas corresponding to the academic subject matter areas in which teachers provide instruction; and

''(B) when referring to a specific academic subject matter area, the disciplines or content areas in which academic majors are offered by the arts and sciences organizational unit.

''(2) BEGINNING TEACHER.—The term 'beginning teacher' means an educator in a public school who has not yet been teaching 3 full school years.

''(3) MENTORING PROGRAM.—The term 'mentoring program' means to provide professional support and development, instruction, and guidance to beginning teachers, but does not include a teacher or individual who begins to work in a supervisory position.

''(4) PUBLICLY REPORT.—The term 'publicly report', when used with respect to the dissemination

of information, means that the information is made widely available to the public, including parents and students, through such means as the Internet and major print and broadcast media outlets.''.

SEC. 202. NATIONAL WRITING PROJECT.

(a) 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 10991 and 10992 are redesignated as sections 2101 and 2102, respectively.

(b) EVALUATION.—Section 2102(g) (as so redesignated) is amended—

(1) in paragraph (1), by striking ''14701.'' and inserting ''8651.''; and

(2) in paragraph (2), by striking ''1994'' and inserting ''2002''.

(c) REAUTHORIZATION.—Section 2102(i) (as so redesignated) is amended by striking ''$4,000,000 for fiscal year 1995, 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,''.

(d) CONTINUATION OF 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.) prior to the date of the enact-

ment 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.

SEC. 203. CIVIC EDUCATION; TEACHER LIABILITY PROTECTION.

(a) IN GENERAL.—Title II, as amended by sections 201 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 disengagement, both academically and politically, than any previous entering class of students;

''(2) college freshmen in 1999 demonstrated the lowest levels of political interest 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 32d 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 too 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 a national test of economic knowledge in a 1999 Harris survey;

"(8) the 1998 National Assessment of Educational Progress indicated that students have only 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 are 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 Constitution Center 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.

"It is the purpose of this part—

"(1) to improve the quality of civics and government education by educating students about the history and principles of the Constitution of the United States, including the Bill of Rights;

"(2) to foster civic competence and responsibility; and

"(3) 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 2205 and 2206; and

"(2) the National Council on Economic Education to carry out economic education activities in accordance with section 2206.

"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 2204(1) only to carry out activities—

"(1) under the Citizen and the Constitution program in accordance with subsection (b); and

"(2) under the Project Citizen 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 2204(1)—

"(i) to continue and expand the educational activities of the program entitled the '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 course of instruction 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 2204(1)—

"(i) to provide advanced sustained and ongoing training of teachers about the

Constitution of the United States and the political system of the United States;

"(ii) to provide materials and methods of instruction, including teacher training, that utilize the latest advancements in educational technology; and

"(iii) 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) 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 435 congressional districts, and in the District of Columbia, 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 use funds made available under grants or contracts under section 2204(1)—

"(i) to continue and expand the educational activities of the program entitled the 'We the People . . . Project Citizen' program administered by the Center;

"(ii) to carry out activities to enhance student attainment of challenging academic content standards in civics and government;

"(iii) to provide a course of instruction at the middle school level on the roles of State and local governments in the Federal system established by the Constitution of the United States; and

"(iv) to provide an annual national showcase or competition; and

"(B) may use funds made available under grants or contracts under section 2204(1)—

"(i) to provide optional school and community simulated State legislative hearings;

"(ii) to provide advanced sustained and ongoing training of teachers on the roles of State and local governments in the

Federal system established by the Constitution of the United States;

"(iii) to provide materials and methods of instruction, including teacher training, that utilize the latest advancements in educational technology; and

"(iv) 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) 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 middle schools, including Bureau-funded schools, in each of the 50 States, the District of Columbia, 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' has the meaning given such term in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026).

"SEC. 2206. COOPERATIVE CIVIC EDUCATION AND ECONOMIC EDUCATION EXCHANGE PROGRAMS.

"(a) USE OF FUNDS.—The Center for Civic Education and the National Council on Economic Education may use funds made available under grants or contracts under section 2204(2) only to carry out cooperative education exchange programs that—

"(1) make available to educators from eligible countries exemplary curriculum and teacher training programs in civics and government education, and economics education, developed in the United States;

"(2) assist eligible countries in the adaptation, implementation, and institutionalization of programs described in paragraph (1);

"(3) create and implement programs for civics and government education, and economic education, for students that draw upon the experiences of the participating eligible countries;

"(4) provide means for the exchange of ideas and experiences in civics and government education, and economic education, among political, educational, governmental, and private sector leaders of participating eligible countries; and

"(5) provide support for—

"(A) independent research and evaluation to determine the effects of educational pro-

grams on students' development of the knowledge, skills, and traits of character essential for the preservation and improvement of constitutional democracy; and

"(B) effective participation in and the preservation and improvement of an efficient market economy.

"(b) ACTIVITIES.—In carrying out the cooperative education exchange programs assisted under this section, the Center for Civic Education and the National Council on Economic Education shall—

"(1) provide to the participants from eligible countries—

"(A) seminars on the basic principles of United States constitutional democracy and economic system, including seminars on the major governmental and economic institutions and systems in the United States, and visits to such institutions;

"(B) visits to school systems, institutions of higher education, and nonprofit organizations conducting exemplary programs in civics and government education, and economic education, in the United States;

"(C) translations and adaptations with respect to United States civics and government education, and economic education, curricular programs for students and teachers, and in the case of training programs for teachers translations and adaptations into forms useful in schools in eligible countries, and joint research projects in such areas; and

"(D) independent research and evaluation assistance—

"(i) to determine the effects of the cooperative education exchange programs on students' development of the knowledge, skills, and traits of character essential for the preservation and improvement of constitutional democracy; and

"(ii) to identify effective participation in and the preservation and improvement of an efficient market economy;

"(2) provide to the participants from the United States—

"(A) seminars on the histories, economies, and systems of government of eligible countries;

"(B) visits to school systems, institutions of higher education, and organizations con-

ducting exemplary programs in civics and government education, and economic education, located in eligible countries;

"(C) assistance from educators and scholars in eligible countries in the development of curricular materials on the history, government, and economy of such countries that are useful in United States classrooms;

"(D) opportunities to provide onsite demonstrations of United States curricula and pedagogy for educational leaders in eligible countries; and

"(E) independent research and evaluation assistance to determine—

"(i) the effects of the cooperative education exchange programs assisted under this section on students' development of the knowledge, skills, and traits of character essential for the preservation and improvement of constitutional democracy; and

"(ii) effective participation in and improvement of an efficient market economy; and

"(3) assist participants from eligible countries and the United States to participate in international conferences on civics and government education, and economic education, for educational leaders, teacher trainers, scholars in related disciplines, and educational policymakers.

"(c) PARTICIPANTS.—The primary participants in the cooperative education exchange programs assisted under this section shall be educational leaders in the areas of civics and government education, and economic education, including teachers, curriculum and teacher training specialists, scholars in relevant disciplines, and educational policymakers, and government and private sector leaders from the United States and eligible countries.

"(d) CONSULTATION.—The Secretary may make a grant, or enter into a contract, under section 2204(2) only if the Secretary of State concurs with the Secretary that such grant, or contract, is consistent with the foreign policy of the United States.

"(e) 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 creditable.

"(f) ELIGIBLE COUNTRY DEFINED.—In this section, the term 'eligible country' means a Central European country, an Eastern European country, Lithuania, Latvia, Estonia, 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 province of Northern Ireland in the United Kingdom, and any developing country (as such term is defined in section 209(d) of the Education for the Deaf 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.

"(2) COOPERATIVE CIVIC EDUCATION AND ECONOMIC EDUCATION EXCHANGE PROGRAMS.—There are authorized to be appropriated to carry out sections 2204(2) and 2206 such sums as may be necessary for each of fiscal years 2002 through 2006.

"(b) LIMITATION.—In each fiscal year, the Secretary may use not more than 50 percent of the amount appropriated under subsection (a)(2) for assistance for economic educational activities.

"PART D—TEACHER LIABILITY PROTECTION

"SEC. 2301. SHORT TITLE.

"This part may be cited as the 'Paul Coverdell Teacher Liability Protection Act of 2001'.

"SEC. 2302. FINDINGS AND PURPOSE.

"(a) FINDINGS.—Congress makes the following findings:

"(1) The ability of teachers, principals and other school professionals to teach, inspire and shape the intellect of our Nation's elementary and secondary school students is deterred and hindered by frivolous lawsuits and litigation.

"(2) Each year more and more teachers, principals and other school professionals face lawsuits for actions undertaken as part of their duties to pro-

vide millions of school children quality educational opportunities.

"(3) Too many teachers, principals and other school professionals face increasingly severe and random acts of violence in the classroom and in schools.

"(4) Providing teachers, principals and other school professionals a safe and secure environment is an important part of the effort to improve and expand educational opportunities.

"(5) Clarifying and limiting the liability of teachers, principals and other school professionals who undertake reasonable actions to maintain order, discipline and an appropriate educational environment is an appropriate subject of Federal legislation because—

"(A) the scope of the problems created by the legitimate fears of teachers, principals and other school professionals about frivolous, arbitrary or capricious lawsuits against teachers is of national importance; and

"(B) millions of children and their families across the Nation depend on teachers, principals and other school professionals for the intellectual development of children.

"(b) PURPOSE.—The purpose of this part is to provide teachers, principals and other school professionals the tools they need to undertake reasonable actions to maintain order, discipline and an appropriate educational environment.

"SEC. 2303. PREEMPTION AND ELECTION OF STATE NONAPPLICABILITY.

"(a) PREEMPTION.—This part preempts the laws of any State to the extent that such laws are inconsistent with this part, except that this part shall not preempt any State law that provides additional protection from liability relating to teachers.

"(b) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This part shall not apply to any civil action in a State court against a teacher with respect to claims arising within that State if such State enacts a statute in accordance with State requirements for enacting legislation—

"(1) citing the authority of this subsection;

"(2) declaring the election of such State that this part shall not apply, as of a date certain, to such civil action in the State; and

"(3) containing no other provisions.

"SEC. 2304. LIMITATION ON LIABILITY FOR TEACHERS.

"(a) LIABILITY PROTECTION FOR TEACHERS.—Except as provided in subsections (b) and (c), no teacher in a school shall be liable for harm caused by an act or omission of the teacher on behalf of the school if—

"(1) the teacher was acting within the scope of the teacher's employment or responsibilities related to providing educational services;

"(2) the actions of the teacher were carried out in conformity with local, State, and Federal laws, rules and regulations in furtherance of efforts to control, discipline, expel, or suspend a student or maintain order or control in the classroom or school;

"(3) if appropriate or required, the teacher was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the teacher's responsibilities;

"(4) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the teacher; and

"(5) the harm was not caused by the teacher operating a motor vehicle, vessel, aircraft, or other

vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to—

"(A) possess an operator's license; or

"(B) maintain insurance.

"(b) CONCERNING RESPONSIBILITY OF TEACHERS TO SCHOOLS AND GOVERNMENTAL ENTITIES.—Nothing in this section shall be construed to affect any civil action brought by any school or any governmental entity against any teacher of such school.

"(c) EXCEPTIONS TO TEACHER LIABILITY PROTECTION.—If the laws of a State limit teacher liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

"(1) A State law that requires a school or governmental entity to adhere to risk management procedures, including mandatory training of teachers.

"(2) A State law that makes the school or governmental entity liable for the acts or omissions of its teachers to the same extent as an employer is liable for the acts or omissions of its employees.

"(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

"(d) LIMITATION ON PUNITIVE DAMAGES BASED ON THE ACTIONS OF TEACHERS.—

"(1) GENERAL RULE.—Punitive damages may not be awarded against a teacher in an action brought for harm based on the action of a teacher acting within the scope of the teacher's responsibilities to a school or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such teacher which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

"(2) CONSTRUCTION.—Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

"(e) EXCEPTIONS TO LIMITATIONS ON LIABILITY.—

"(1) IN GENERAL.—The limitations on the liability of a teacher under this part shall not apply to any misconduct that—

"(A) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331

of title 18, United States Code) for which the defendant has been convicted in any court;

"(B) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

"(C) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

"(D) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

"(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to affect subsection (a)(3) or (d).

"SEC. 2305. LIABILITY FOR NONECONOMIC LOSS.

"(a) GENERAL RULE.—In any civil action against a teacher, based on an action of a teacher acting within the scope of the teacher's responsibilities to a school or governmental entity, the liability of the teacher for noneconomic loss shall be determined in accordance with subsection (b).

"(b) AMOUNT OF LIABILITY.—

"(1) IN GENERAL.—Each defendant who is a teacher, shall be liable only for the amount of non-

economic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which that defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

"(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant who is a teacher under this section, the trier of fact shall determine the percentage of responsibility of that defendant for the claimant's harm.

"SEC. 2306. RULE OF CONSTRUCTION.

"Nothing in this part shall be construed to affect any State or local law (including a rule or regulation) or policy pertaining to the use of corporal punishment.

"SEC. 2307. DEFINITIONS.

"For purposes of this part:

"(1) ECONOMIC LOSS.—The term 'economic loss' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs,

and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

"(2) HARM.—The term 'harm' includes physical, nonphysical, economic, and noneconomic losses.

"(3) NONECONOMIC LOSSES.—The term 'noneconomic losses' means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation and all other nonpecuniary losses of any kind or nature.

"(4) SCHOOL.—The term 'school' means a public or private kindergarten, a public or private elementary school or secondary school (as defined in section 14101, or a home school.

"(5) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

"(6) TEACHER.—The term 'teacher' means a teacher, instructor, principal, administrator, or other educational professional that works in a school, a local school board and any member of such board, and a local educational agency and any employee of such agency.

"SEC. 2308. APPLICABILITY.

"This part applies to any claim for harm caused by an act or omission of a teacher if that claim is filed on or after the effective date of the No Child Left Behind Act of 2001 without regard to whether the harm that is the subject of the claim or the conduct that caused the harm occurred before such effective date.".

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)—

(A) is transferred to part B of title V (as amended by section 501) and inserted after section 5204 (as so amended);

(B) is redesignated as section 5205; and

(C) is amended by striking ''this title'' each place such term appears and inserting ''this part''.

(2) PART HEADING REPEAL.—The part heading for part F of title III is repealed.

(d) LIMITED ENGLISH PROFICIENT AND IMMIGRANT CHILDREN.—Parts A through E of title III (20 U.S.C. 6811 et seq.) are amended to read as follows:

"PART A—EDUCATION OF LIMITED ENGLISH PROFICIENT AND IMMIGRANT CHILDREN

"Subpart 1—English Language and Academic Instructional Programs

"SEC. 3101. SHORT TITLE.

''This subpart may be cited as the 'English Language Proficiency and Academic Achievement Act'.

"SEC. 3102. FINDINGS AND PURPOSES.

''(a) FINDINGS.—The Congress finds as follows:

''(1) English is the common language of the United States and every citizen and other person residing in the United States should have a command of the English language in order to develop to their full potential.

''(2) Limited English proficient children, including recent immigrant children, must overcome a number of challenges in receiving an education in order to participate fully in American society, including—

''(A) segregated 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 English is not their dominant language.

"(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 the outlying areas, and Native American languages (as such terms are defined in section 103 of the Native American Languages Act) have a unique status under Federal law that requires special policies within the broad purposes of this 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 result in the effective education of limited English proficient children.

"(7) The Federal Government has a special and continuing obligation to ensure 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, attain English proficiency, develop high levels of academic attainment in English, and meet the same challenging State academic content standards and challenging State student academic achievement standards expected of all children;

"(2) to develop high-quality programs designed to assist local educational agencies in teaching limited English proficient children;

"(3) to assist local educational agencies to develop and enhance their capacity to provide high-quality instructional programs designed to prepare limited English proficient students, including recent immigrant students, to enter all-English 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 reading research and sound 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 parents of a child participating in an English language instruction program for limited English proficient children assisted under this subpart of—

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

"(2) the child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement;

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

"(4) what the specific exit requirements are for the program;

"(5) the expected rate of transition from the program into a classroom that is not tailored for limited English proficient children; and

"(6) the expected rate of graduation from high school for the program if funds under this 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 pro-

gram for limited English proficient children funded under this subpart, if the program does not include classes which exclusively or almost exclusively use the English language in instruction.

"(B) WRITTEN CONSENT NOT OBTAINED.—

"(i) IN GENERAL.—If written consent is not obtained, the local educational agency shall maintain a written record that includes the date and the manner in which such informed consent was sought, including the specific efforts made to obtain such consent.

"(ii) PROOF OF EFFORT.—Notice, in an understandable form, of specific efforts made 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 a child prior to placing the child in a program described in subparagraph (A), and shall include a final request for parental consent for such services. After such notice has been mailed or delivered in writing, the local educational

agency shall provide appropriate educational services.

"(iii) SPECIAL RULE APPLICABLE DURING SCHOOL YEAR.—For those children who have not been identified as limited English proficient prior to the beginning of the school year, the local educational agency shall 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 documentation has been made, the local educational agency shall provide appropriate educational services to such child. The proof of documentation shall be mailed or delivered in writing to a parent or the parents of the child in a timely manner and shall include information on how to have their child immediately removed from the program upon their request. Nothing in this clause shall be construed as exempting a local educational

agency from complying with the notification requirements of subsection (a) and the consent requirements of this paragraph.

"(2) PARENTAL RIGHTS.—A parent or the parents of a child participating in an English language instruction program for limited English proficient children assisted under this subpart—

"(A) shall select among methods of instruction, if more than one method is offered in the program; and

"(B) shall have the right to have their child immediately removed from the program upon their request.

"(c) RECEIPT OF INFORMATION.—A parent or the parents of a child identified for participation in an English language instruction program for limited English proficient children assisted under this subpart shall receive, in a manner and form understandable to the parent or parents, the information required by this subsection. At a minimum, the parent or parents shall receive—

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

"(2) if a parent or the parents of a participating child so desire, notice of opportunities for

regular meetings for the purpose of formulating and responding to recommendations from the parent or parents; and

"(3) procedural information for removing a child from a program for limited English proficient children.

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

"SEC. 3104. TESTING OF LIMITED ENGLISH PROFICIENT CHILDREN.

"(a) IN GENERAL.—Assessments of limited English proficient children participating in programs funded under this subpart, to the extent practicable, shall be in the language and form most likely to yield accurate and reliable information on what such students know and can do in content areas.

"(b) SPECIAL RULE.—Notwithstanding subsection (a), in the case of an assessment of reading or language arts of any student who has attended school in the United States (excluding Puerto Rico) for 3 or more consecutive school years, the assessment shall be in the form of a test written in English, except that, if the entity administering the assessment determines, on a case-by-case individual

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 in accordance with section 3107 submits to the Secretary an application for a fiscal year, the Secretary shall make a grant for the year to the State for the purposes specified in subsection (b). The grant shall consist of the allotment determined for the State under subsection (c).

"(b) PURPOSES OF GRANTS.—

"(1) REQUIRED EXPENDITURES.—The Secretary may make a grant under subsection (a) only if the State involved agrees that the State will expend at least 95 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 (3), a State 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—

"(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 skills and knowledge 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 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.

"(3) LIMITATION ON ADMINISTRATIVE COSTS.—In carrying out paragraph (2), a State that receives a grant under subsection (a) may expend not more than 2 percent of its allotment under subsection (c) for the purposes described in paragraph (2)(C).

"(c) DETERMINATION OF ALLOTMENT AMOUNTS.—

"(1) RESERVATIONS.—From the amount appropriated under section 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 3106(a) for activities approved by the Secretary;

"(B) .5 percent of such amount for payments to outlying areas, to be allotted in accordance with their respective needs for 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) CONTINUATION AWARDS.—Before making awards to States under paragraph (3) for any fiscal year, the Secretary shall make continuation 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 allow such recipients to continue to receive funds in accordance with the terms of their grant until the date on which the grant period otherwise would have terminated if the No Child Left Behind Act of 2001 had not been enacted.

"(3) STATE ALLOTMENTS.—

"(A) IN GENERAL.—From the amount appropriated under section 3110 to carry out this subpart for each fiscal year that remains 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 (or any modification to an application) that the Secretary, after reasonable notice and opportunity for a hearing, determines does not satisfy the requirements of this subpart, the Secretary—

"(I) shall endeavor to make the State's allotment available on a competitive basis to specially qualified agencies within the State that satisfy the requirements applicable to eligible entities under section 3108 and any additional requirements that may be imposed by the Secretary; and

"(II) shall reallot any portion of such allotment remaining after the application of subclause (I) to the remaining States in accordance with subparagraph (A).

"(ii) REQUIREMENTS ON SPECIALLY QUALIFIED AGENCIES.—If a specially qualified agency receives funds under this subparagraph, the requirements of subsection (b) shall not apply to the agency. In lieu of those requirements, the specially qualified agency shall expend the funds for the authorized activities described in section 3108(b) and otherwise shall satisfy the requirements of section 3108.

"(C) SPECIAL RULE FOR PUERTO RICO.—The total amount allotted to Puerto Rico for any fiscal year under subparagraph (A) shall not exceed .5 percent of the total amount allotted to all States for that fiscal year.

"(4) USE OF DATA FOR DETERMINATIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for the purpose of determining the number of children and youth who are limited English proficient and reside 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 more than 4 years old or unavailable, 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 in the States.

"(5) NO REDUCTION PERMITTED BASED ON TEACHING METHOD.—The Secretary may not reduce a State's allotment based on the State's selection of any method of instruction as its preferred method of teaching the English language to children who are limited English proficient.

"SEC. 3106. NATIVE AMERICAN AND ALASKA NATIVE CHILDREN IN SCHOOL.

"(a) ELIGIBLE ENTITIES.—For the purpose of carrying out programs under this part for individuals served by elementary, secondary, and postsecondary schools operated predominately for Native American or Alaska Native

children, the following shall be considered to be a local educational agency:

"(1) An Indian tribe.

"(2) A tribally sanctioned educational 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.

"(b) SUBMISSION OF APPLICATIONS FOR ASSISTANCE.—Notwithstanding any other provision of this part, an entity that is considered to be a local educational agency under subsection (a), and that desires to submit an ap-

plication for Federal financial assistance under this subpart, shall submit the application to the Secretary. In all other respects, such an entity shall be eligible for a subgrant under this subpart on the same basis as any other local educational agency.

"SEC. 3107. APPLICATIONS BY STATES.

"For purposes of section 3105, an application submitted by a State for a grant under such section for a fiscal year is in accordance with this section if the application—

"(1) describes the process that the State will use in making competitive subgrants to eligible entities under section 3109(c);

"(2) contains an agreement that, in carrying out this subpart, the State will address the needs of school systems of all sizes and in all geographic areas, including rural and urban schools;

"(3) contains an agreement that competitive subgrants to eligible entities under section 3109(c) shall be of sufficient size and scope to allow such entities to carry out high quality education programs for limited English proficient children;

"(4) contains an agreement that the State will coordinate its programs and activities under this

subpart with its other programs and activities under this Act and other Acts, as appropriate;

"(5) contains an agreement that the State—

"(A) shall monitor the progress of students enrolled in programs and activities receiving assistance under this subpart in attaining English proficiency and in attaining challenging State 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;

"(6) contains an assurance that the State will develop high-quality annual assessments to measure English language proficiency and require eligible entities receiving a subgrant under this subpart annually to assess the English proficiency of all children with 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 shall include percentage increases in performance on annual assessments in reading, writing, speaking, and listening comprehension as compared to the preceding school year; and

"(8) contains an agreement 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 student academic achievement standards once assistance under this subpart is no longer available.

"SEC. 3108. SUBGRANTS TO ELIGIBLE ENTITIES.

"(a) PURPOSES OF SUBGRANTS.—A State may make a subgrant to an eligible entity from funds received by the State under this subpart only if the entity agrees to expend the funds to improve the education of limited English proficient children and their families, through the acquisition of English and the attainment of challenging

State academic content standards and challenging State student 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) developing and implementing new English language and academic content instructional programs for children who are limited English proficient, including programs of early childhood education and kindergarten through 12th grade education;

"(2) carrying out highly focused, innovative, locally designed projects to expand or enhance existing English language and academic content instruction programs for limited English proficient children;

"(3) implementing, within an individual school, schoolwide programs for restructuring, reforming, and upgrading all relevant programs and operations relating to English language and academic content instruction for limited English proficient students; or

"(4) implementing, within the entire jurisdiction of a local educational agency, agencywide programs for restructuring, reforming, and upgrading all relevant programs and operations relating to

English language and academic content instruction for limited English proficient students.

"(b) AUTHORIZED SUBGRANTEE ACTIVITIES.—

"(1) IN GENERAL.—Subject to paragraph (2), a State may make a subgrant to an eligible entity from funds received by the State under this subpart in order that the eligible entity may achieve one of the purposes described in subsection (a) by undertaking one or more of the following activities to improve the understanding, and use, of the English language, based on a child's learning skills and attainment of challenging State academic content standards and challenging State student academic achievement standards:

"(A) Upgrading program objectives and effective instructional strategies.

"(B) Improving the instruction program for limited English proficient students by identifying, acquiring, and upgrading curricula, instructional materials, educational software, and assessment procedures.

"(C) Providing—

"(i) tutorials and academic or vocational education for limited English proficient children; and

"(ii) intensified instruction.

"(D) Developing and implementing elementary or secondary school English language instructional programs that are coordinated with other relevant programs and services.

"(E) Providing professional development to classroom teachers, principals, administrators, and other school or community-based organizational personnel to improve the instruction and assessment of children who are limited English proficient children.

"(F) Improving the English language proficiency and academic performance of limited English proficient children.

"(G) Improving the instruction of limited English proficient children by providing for the acquisition or development of education technology or instructional materials, access to and participation in electronic networks for materials, training and communications, and incorporation of such resources in curricula and programs, such as those funded under this subpart.

"(H) Developing tutoring programs for limited English proficient children that provide

early intervention and intensive instruction in order to improve academic achievement, to increase graduation rates among limited English proficient children, and to prepare students for transition as soon as possible into classrooms where instruction is not tailored for limited English proficient children.

''(I) Providing family literacy services and parent outreach and training activities to limited English proficient children and their families to improve their English language skills and assist parents in helping their children to improve their academic performance.

''(J) Other activities that are consistent with the purposes of this part.

''(2) MOVING CHILDREN OUT OF SPECIALIZED CLASSROOMS.—Any program or activity undertaken by an eligible entity using a subgrant from a State under this subpart shall be designed to assist students enrolled in the program or activity to attain English proficiency and meet challenging State academic content standards and challenging State student 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.

"(c) SELECTION OF METHOD OF INSTRUCTION.—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 student academic achievement standards. Such selection shall be consistent with sections 3134 and 3135.

"(d) DURATION OF SUBGRANTS.—The duration of a competitive subgrant made by a State under section 3109(c) shall be determined by the State in its discretion.

"(e) APPLICATIONS BY ELIGIBLE ENTITIES.—

"(1) IN GENERAL.—To receive a subgrant from a State under this subpart, an eligible entity shall submit an application to the State at such time, in such form, and containing such information as the State may require.

"(2) REQUIRED DOCUMENTATION.—The 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 satisfy the requirement in subsection (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 measures available, will annually review the progress of elementary and secondary schools within its jurisdiction, or served by it, to determine if such schools are making the adequate yearly progress necessary to ensure that limited English proficient students attending the schools will meet the State's proficient level of performance on the State assessment described in section 1111(b)(4), 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 English to

children who are limited English proficient, and who are proficient in English, including written and oral communication skills;

''(B) if the eligible entity includes one or more local educational agencies, each such agency is complying with section 3103(b) prior to, and throughout, each school year;

''(C) the eligible entity annually will assess the English proficiency of all children with limited English proficiency participating in programs funded under this subpart;

''(D) the eligible entity has based its proposal on scientifically based reading research and sound research and theory on teaching limited English proficient children;

''(E) the eligible entity has described in the application how students enrolled in the programs and activities proposed in the application will be 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 student academic achievement standards; and

"(G) the eligible entity is not in violation of any State law, including State constitutional law, regarding the education of limited English proficient children, consistent with sections 3134 and 3135.

"(4) QUALITY.—For the purposes of awarding competitive subgrants under section 3109(c), a State shall consider the quality of each application and ensure that it is of sufficient size and scope to meet the purposes of this subpart.

"SEC. 3109. DISTRIBUTION OF SUBGRANTS TO ELIGIBLE ENTITIES.

"(a) IN GENERAL.—A State shall expend at least 95 percent of its allotment under section 3105(c) each fiscal year for the purpose of making subgrants to eligible entities within the State that have approved applications, in accordance with subsections (b) and (c).

"(b) FORMULA SUBGRANTS.—

"(1) RESERVATION.—75 percent of the amount expended by a State for subgrants under this subpart shall be reserved for subgrants to eligible entities described in subsection (a) in which, during the fiscal year for which the subgrant is to be made, the

number of limited English proficient children and youth who are enrolled in public and nonpublic elementary or secondary schools located in geographic areas under the jurisdiction of, or served by, such entities is equal to at least 500 students, or 3 percent of the total number of children and youth enrolled in such schools during such fiscal year, whichever is less.

"(2) ALLOTMENT.—From the amount reserved under paragraph (1), the State shall allot to each eligible entity described in such paragraph a percentage based on the ratio of—

"(A) the number of limited English proficient children and youth who are enrolled in public and nonpublic elementary or secondary schools located in geographic areas under the jurisdiction of, or served by, such entity during the fiscal year for which the allotment is to be made; to

"(B) the number of such children and youth in all such eligible entities.

"(3) REALLOTMENT.—Whenever a State determines that an allotment made to an eligible entity under this subsection for a fiscal year will not be used by the entity for the purpose for which it was

made, the State shall, in accordance with such rules as it deems appropriate, reallot such amount, consistent with paragraph (2), to other eligible entities in the State for carrying out that purpose.

''(c) COMPETITIVE SUBGRANTS.—25 percent of the amount expended by a State for subgrants 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 to the previous 2 years, in the percentage or number of children and youth with limited English proficiency, including recent immigrant children, that have enrolled in public and nonpublic elementary or secondary schools in the geographic areas under the jurisdiction of, or served by, such entities during the fiscal year for which the subgrant is to be made; or

''(2) do 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 from a State under subpart 1 shall provide the State, at the conclusion of every second fiscal year during which the subgrant is received, with an evaluation, in a form prescribed by the State, of—

"(1) the programs and activities conducted by the entity with funds received under subpart 1 during the 2 immediately preceding fiscal years;

"(2) the progress made by students in learning the English language and meeting challenging State 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, as determined by a 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 (as measured consistent with subsection (d)) and meet challenging State academic content standards and 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

academic and challenging State student academic achievement standards; and

"(B) have achieved a working knowledge of the English language that is sufficient to permit them to perform, in English, in a classroom that is not tailored to limited English proficient children; and

"(2) such other information as the State may require.

"(d) EVALUATION MEASURES.—In prescribing the form of an evaluation provided by an entity under subsection (a), a State shall approve evaluation measures, as applicable, for use under subsection (c) that are designed to assess—

"(1) oral language proficiency in kindergarten;

"(2) oral language proficiency, including speaking and listening skills, in first grade;

"(3) both oral language proficiency, including speaking and listening skills, and reading and writing proficiency in grades 2 and higher; and

"(4) attainment of challenging State student academic achievement standards.

"SEC. 3122. REPORTING REQUIREMENTS.

"(a) STATES.—Based upon the evaluations provided to a State under section 3121, each State that receives

a grant under subpart 1 shall prepare and submit every second year to the Secretary a report on programs and activities undertaken by the State under such subpart and the effectiveness of such programs and activities in improving the education provided to children who are limited English proficient.

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

"(1) programs and activities undertaken by States under subpart 1 and the effectiveness of such programs and activities in improving the education provided to children who are limited English proficient;

"(2) the types of instructional programs used under subpart 1 to teach limited English proficient children;

"(3) the number of programs or projects, if any, that were terminated because they were not able to reach program goals;

"(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 PROGRAMS.

''In order to maximize Federal efforts aimed at serving the educational needs of children and youth of limited English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs serving language-minority and limited English proficient students that are administered by the Department and other agencies.

"Subpart 3—General Provisions

"SEC. 3131. DEFINITIONS.

''For purposes of this part:

''(1) CHILDREN AND YOUTH.—The term 'children and youth' means individuals aged 3 through 21.

''(2) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization of demonstrated effectiveness or Indian tribe or tribally sanctioned educational authority which is representative of a community or significant segments of a community and

which provides educational or related services to individuals in the community. Such term includes a Native Hawaiian or Native American Pacific Islander native language educational organization.

"(3) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) 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 fluent speakers of the traditional Native American languages used in their educational programs and with not less than 5 years successful experience in providing educational services in traditional Native American languages.

"(5) NATIVE LANGUAGE.—The term 'native language', when used with reference to an individual

who is limited English proficient, means the language normally used by such individual.

"(6) SPECIALLY QUALIFIED AGENCY.—The term 'specially qualified agency', when used with respect to a fiscal year, means an eligible entity located in a State that, for that year—

"(A) does not submit to the Secretary an application under sections 3105(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; and

"(B) any nonprofit institution or organization that is—

"(i) chartered by the governing body of an Indian tribe to operate a school de-

scribed 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).

"SEC. 3132. RULES OF CONSTRUCTION.

"Nothing in subpart 1 shall be construed—

"(1) to prohibit a local educational agency from serving limited English proficient children and youth simultaneously with students with similar educational needs, in the same educational settings where appropriate;

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

"(3) to limit the preservation or use of Native American languages as defined in the Native American Languages Act of 1990.

"SEC. 3133. LIMITATION ON FEDERAL REGULATIONS.

"The Secretary shall issue regulations under this part only to the extent that such regulations are necessary to

ensure compliance with the specific requirements of this part.

"SEC. 3134. LEGAL AUTHORITY UNDER STATE LAW.

''Nothing in this part shall be construed to negate or supersede 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 Pacific Island children, and children in the Commonwealth of Puerto Rico, notwithstanding any other provision of subpart 1, may include programs of instruction, teacher training, curriculum development, evaluation, and testing designed for Native American children learning and studying Native American languages and children of limited Spanish proficiency, except that a primary outcome of programs serving such children shall be increased English proficiency among such children.''.

SEC. 302. CONFORMING AMENDMENT TO DEPARTMENT OF EDUCATION ORGANIZATION ACT.

(a) IN GENERAL.—

(1) RENAMING OF OFFICE.—The Department of Education Organization Act is amended by 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,''.

(b) 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.".

PART B—INDIAN AND ALASKA NATIVE EDUCATION

SEC. 311. ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

(a) IN GENERAL.—Title III (as amended by section 301 of this Act) is further amended by adding at the end the following new part:

"PART B—INDIAN AND ALASKA NATIVE EDUCATION

"Subpart 1—Indian Education

"SEC. 3201. FINDINGS.

"Congress finds that—

"(1) the Federal Government has a special responsibility to ensure that educational programs for all American Indian and Alaska Native children and adults—

"(A) are based on high-quality, internationally competitive academic content standards and student academic achievement standards and build on Indian culture and the Indian community;

"(B) assist local educational agencies, Indian tribes, and other entities and individuals in providing Indian students the opportunity to achieve such standards; and

"(C) meet the unique educational and culturally related academic needs of American Indian and Alaska Native students;

"(2) since the date of the enactment of the initial Indian Education Act in 1972, the level of involvement of Indian parents in the planning, development, and implementation of educational programs that affect such parents and their children has increased significantly, and schools should continue to foster such involvement;

"(3) although the number of Indian teachers, administrators, and university professors has in-

creased since 1972, teacher training programs are not recruiting, training, or retraining a sufficient number of Indian individuals as educators to meet the needs of a growing Indian student population in elementary, secondary, vocational, adult, and higher education;

''(4) the dropout rate for Indian students is unacceptably high; 9 percent of Indian students who were eighth graders in 1988 had dropped out of school by 1990;

''(5) during the period from 1980 to 1990, the percentage of Indian individuals living at or below the poverty level increased from 24 percent to 31 percent, and the readiness of Indian children to learn is hampered by the high incidence of poverty, unemployment, and health problems among Indian children and their families; and

''(6) research related specifically to the education of Indian children and adults is very limited, and much of the research is of poor quality or is focused on limited local or regional issues.

''SEC. 3202. PURPOSE.

''(a) PURPOSE.—It is the purpose of this subpart to support the efforts of local educational agencies, Indian tribes and organizations, postsecondary institutions, and

other entities to meet the unique educational and culturally related academic needs of American Indians and Alaska Natives, so that such students can achieve to the same challenging State academic achievement standards expected of all other students.

''(b) PROGRAMS.—this subpart carries out the purpose described in subsection (a) by authorizing programs of direct assistance for—

''(1) meeting the unique educational and culturally related academic needs of American Indians and Alaska Natives;

''(2) the education of Indian children and adults;

''(3) the training of Indian persons as educators and counselors, and in other professions serving Indian people; and

''(4) research, evaluation, data collection, and technical assistance.

"CHAPTER 1—FORMULA GRANTS TO LOCAL EDUCATIONAL AGENCIES

"SEC. 3211. PURPOSE.

''It is the purpose of this chapter to support local educational agencies in their efforts to reform elementary and secondary school programs that serve Indian students in order to ensure that such programs—

"(1) are based on challenging State academic content standards and State student academic achievement standards that are used for all students; and

"(2) are designed to assist Indian students in meeting those standards and assist the Nation in reaching the National Education Goals.

"SEC. 3212. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) IN GENERAL.—

"(1) ENROLLMENT REQUIREMENTS.—A local educational agency shall be eligible for a grant under this chapter for any fiscal year if the number of Indian children eligible under section 3217 and who were enrolled in the schools of the agency, and to whom the agency provided free public education, during the preceding fiscal year—

"(A) was at least 10; or

"(B) constituted not less than 25 percent of the total number of individuals enrolled in the schools of such agency.

"(2) EXCLUSION.—The requirement of paragraph (1) shall not apply in Alaska, California, or Oklahoma, or with respect to any local educational agency located on, or in proximity to, a reservation.

"(b) INDIAN TRIBES.—

"(1) IN GENERAL.—If a local educational agency that is eligible for a grant under this chapter does not establish a parent committee under section 3214(c)(4) for such grant, an Indian tribe that represents not less than one-half of the eligible Indian children who are served by such local educational agency may apply for such grant.

"(2) SPECIAL RULE.—The Secretary shall treat each Indian tribe applying for a grant pursuant to paragraph (1) as if such Indian tribe were a local educational agency for purposes of this chapter, except that any such tribe is not subject to section 3214(c)(4), section 3218(c), or section 3219.

"SEC. 3213. AMOUNT OF GRANTS.

"(a) AMOUNT OF GRANT AWARDS.—

"(1) IN GENERAL.—Except as provided in subsection (b) and paragraph (2), the Secretary shall allocate to each local educational agency which has an approved application under this chapter an amount equal to the product of—

"(A) the number of Indian children who are eligible under section 3217 and served by such agency; and

"(B) the greater of—

"(i) the average per pupil expenditure of the State in which such agency is located; or

"(ii) 80 percent of the average per pupil expenditure in the United States.

"(2) REDUCTION.—The Secretary shall reduce the amount of each allocation determined under paragraph (1) in accordance with subsection (e).

"(b) MINIMUM GRANT.—

"(1) IN GENERAL.—Notwithstanding subsection (e), a local educational agency or an Indian tribe (as authorized under section 3212(b)) that is eligible for a grant under section 3212, and a school that is operated or supported by the Bureau of Indian Affairs that is eligible for a grant under subsection (d), that submits an application that is approved by the Secretary, shall, subject to appropriations, receive a grant under this chapter in an amount that is not less than $3,000.

"(2) CONSORTIA.—Local educational agencies may form a consortium for the purpose of obtaining grants under this chapter.

"(3) INCREASE.—The Secretary may increase the minimum grant under paragraph (1) to not more than $4,000 for all grantees if the Secretary

determines such increase is necessary to ensure the quality of the programs provided.

"(c) DEFINITION.—For the purpose of this section, the term 'average per pupil expenditure of a State' means an amount equal to—

"(1) the sum of the aggregate current expenditures of all the local educational agencies in the State, plus any direct current expenditures by the State for the operation of such agencies, without regard to the sources of funds from which such local or State expenditures were made, during the second fiscal year preceding the fiscal year for which the computation is made; divided by

"(2) the aggregate number of children who were included in average daily attendance for whom such agencies provided free public education during such preceding fiscal year.

"(d) SCHOOLS OPERATED OR SUPPORTED BY THE BUREAU OF INDIAN AFFAIRS.—(1) Subject to subsection (e), in addition to the grants awarded under subsection (a), the Secretary shall allocate to the Secretary of the Interior an amount equal to the product of—

"(A) the total number of Indian children enrolled in schools that are operated by—

"(i) the Bureau of Indian Affairs; or

"(ii) an Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, for the children of that tribe under a contract with, or grant from, the Department of the Interior under the Indian Self-Determination Act or the Tribally Controlled Schools Act of 1988; and

"(B) the greater of—

"(i) the average per pupil expenditure of the State in which the school is located; or

"(ii) 80 percent of the average per pupil expenditure in the United States.

"(2) Any school described in paragraph (1)(A) that wishes to receive an allocation under this chapter shall submit an application in accordance with section 3214, and shall otherwise be treated as a local educational agency for the purpose of this chapter, except that such school shall not be subject to section 3214(c)(4), section 3218(c), or section 3219.

"(e) RATABLE REDUCTIONS.—If the sums appropriated for any fiscal year under section 3252(a) are insufficient to pay in full the amounts determined for local educational agencies under subsection (a)(1) and for the Secretary of the Interior under subsection (d), each of those amounts shall be ratably reduced.

"SEC. 3214. APPLICATIONS.

"(a) APPLICATION REQUIRED.—Each local educational agency that desires to receive a grant under this chapter shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(b) COMPREHENSIVE PROGRAM REQUIRED.—Each application submitted under subsection (a) shall include a comprehensive program for meeting the needs of Indian children served by the local educational agency, including the language and cultural needs of the children, that—

"(1) provides programs and activities to meet the culturally related academic needs of American Indian and Alaska Native students;

"(2)(A) is consistent with State and local plans under other provisions of this Act; and

"(B) includes academic content and student performance goals for such children, and benchmarks for attaining such goals, that are based on the challenging State standards under title I;

"(3) explains how Federal, State, and local programs, especially under title I, will meet the needs of such students;

"(4) demonstrates how funds made available under this chapter will be used for activities described in section 3215;

"(5) describes the professional development opportunities that will be provided, as needed, to ensure that—

"(A) teachers and other school professionals who are new to the Indian community are prepared to work with Indian children; and

"(B) all teachers who will be involved in programs assisted under this chapter have been properly trained to carry out such programs; and

"(6) describes how the local educational agency—

"(A) will periodically assess the progress of all Indian children enrolled in the schools of the local educational agency, including Indian children who do not participate in programs assisted under this chapter, in meeting the goals described in paragraph (2);

"(B) will provide the results of each assessment referred to in subparagraph (A) to—

"(i) the committee of parents described in subsection (c)(4); and

"(ii) the community served by the local educational agency; and

"(C) is responding to findings of any previous assessments that are similar to the assessments described in subparagraph (A).

"(c) ASSURANCES.—Each application submitted under subsection (a) shall include assurances that—

"(1) the local educational agency will use funds received under this chapter only to supplement the level of funds that, in the absence of the Federal funds made available under this chapter, such agency would make available for the education of Indian children, and not to supplant such funds;

"(2) the local educational agency will submit such reports to the Secretary, in such form and containing such information, as the Secretary may require to—

"(A) carry out the functions of the Secretary under this chapter; and

"(B) determine the extent to which funds provided to the local educational agency under this chapter are effective in improving the educational achievement of Indian students served by such agency;

"(3) the program for which assistance is sought—

"(A) is based on a comprehensive local assessment and prioritization of the unique educational and culturally related academic needs of the American Indian and Alaska Native 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; and

"(C) was developed by such agency in open consultation with parents of Indian children and teachers, and, if appropriate, Indian students from secondary schools, including public hearings held by such agency to provide the individuals described in this subparagraph a full opportunity to understand the program and to offer recommendations regarding the program; and

"(4) the local educational agency developed the program with the participation and written approval of a committee—

"(A) that is composed of, and selected by—

"(i) parents of Indian children in the local educational agency's schools and teachers; and

"(ii) if appropriate, Indian students attending secondary schools;

"(B) a majority of whose members are parents of Indian children;

"(C) that sets forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children, and representatives of the area, to be served;

"(D) with respect to an application describing a schoolwide program in accordance with section 3215(c), that has—

"(i) reviewed in a timely fashion the program; and

"(ii) determined that the program will not diminish the availability of culturally related activities for American Indian and Alaskan Native students; and

"(E) that has adopted reasonable bylaws for the conduct of the activities of the committee and abides by such bylaws.

"SEC. 3215. AUTHORIZED SERVICES AND ACTIVITIES.

"(a) GENERAL REQUIREMENTS.—Each local educational agency that receives a grant under this chapter shall use the grant funds, in a manner consistent with the purpose specified in section 3211, for services and activities that—

"(1) are designed to carry out the comprehensive program of the local educational agency for Indian students, and described in the application of the local educational agency submitted to the Secretary under section 3214(b);

"(2) are designed with special regard for the language and cultural needs of the Indian students; and

"(3) supplement and enrich the regular school program of such agency.

"(b) PARTICULAR ACTIVITIES.—The services and activities referred to in subsection (a) may include—

"(1) culturally related activities that support the program described in the application submitted by the local educational agency;

"(2) early childhood and family programs that emphasize school readiness;

"(3) enrichment programs that focus on problem solving and cognitive skills development and directly support the attainment of challenging State academic content standards and State student academic achievement standards;

"(4) integrated educational services in combination with other programs that meet the needs of Indian children and their families;

"(5) career preparation activities to enable Indian students to participate in programs such as the programs supported by the Carl D. Perkins Vocational and Technical Education Act of 1998, including programs for tech-prep, mentoring, and apprenticeship;

"(6) activities to educate individuals concerning substance abuse and to prevent substance abuse;

"(7) the acquisition of equipment, but only if the acquisition of the equipment is essential to meet the purposes described in section 3211; and

"(8) family literacy services.

"(c) SCHOOLWIDE PROGRAMS.—Notwithstanding any other provision of law, a local educational agency may use funds made available to such agency under this chap-

ter 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.

"(d) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds provided to a grantee under this chapter for any fiscal year may be used for administrative purposes.

"SEC. 3216. INTEGRATION OF SERVICES AUTHORIZED.

"(a) PLAN.—An entity receiving funds under this chapter may submit a plan to the Secretary for the integration of education and related services provided to Indian students.

"(b) COORDINATION OF PROGRAMS.—Upon the receipt of an acceptable plan, the Secretary, in cooperation with each Federal agency providing grants for the provision of education and related services to the applicant, shall authorize the applicant to coordinate, in accordance with such plan, its federally funded education and related services programs, or portions thereof, serving Indian students in a manner that integrates the program services involved into a single, coordinated, comprehensive pro-

gram and reduces administrative costs by consolidating administrative functions.

"(c) PROGRAMS AFFECTED.—The funds that may be consolidated in a demonstration project under any such plan referred to in subsection (b) shall include funds for any Federal program exclusively serving Indian children or the funds reserved under any program to exclusively serve Indian children under which the applicant is eligible for receipt of funds under a statutory or administrative formula for the purposes of providing education and related services which would be used to serve Indian students.

"(d) PLAN REQUIREMENTS.—For a plan to be acceptable pursuant to subsection (b), it shall—

"(1) identify the programs or funding sources to be consolidated;

"(2) be consistent with the purposes of this section authorizing the services to be integrated in a demonstration project;

"(3) describe a comprehensive strategy which identifies the full range of potential educational opportunities and related services to be provided to assist Indian students to achieve the goals set forth in this chapter;

"(4) describe the way in which services are to be integrated and delivered and the results expected from the plan;

"(5) identify the projected expenditures under the plan in a single budget;

"(6) identify the local, State, or tribal agency or agencies to be involved in the delivery of the services integrated under the plan;

"(7) identify any statutory provisions, regulations, policies, or procedures that the applicant believes need to be waived in order to implement its plan;

"(8) set forth measures of student achievement and performance goals designed to be met within a specified period of time; and

"(9) be approved by a parent committee formed in accordance with section 3214(c)(4), if such a committee exists.

"(e) PLAN REVIEW.—Upon receipt of the plan from an eligible entity, the Secretary shall consult with the Secretary of each Federal department providing funds to be used to implement the plan, and with the entity submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal departmental regulations, policies, or procedures necessary to en-

able the applicant to implement its plan. Notwithstanding any other provision of law, the Secretary of the affected department or departments shall have the authority to waive any regulation, policy, or procedure promulgated by that department that has been so identified by the applicant or department, unless the Secretary of the affected department determines that such a waiver is inconsistent with the intent of this chapter or those provisions of the statute from which the program involved derives its authority which are specifically applicable to Indian students.

''(f) PLAN APPROVAL.—Within 90 days after the receipt 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, the Secretary of the Interior, and the head of any other Federal department or agency identified by the Secretary of Education, shall enter into an

interdepartmental memorandum of agreement providing for the implementation of the demonstration projects authorized under this section. The lead agency head for a demonstration program under this section shall be—

"(1) the Secretary of the Interior, in the case of applicant meeting the definition of contract or grant school under title XI of the Education Amendments of 1978; or

"(2) the Secretary of Education, in the case of any other applicant.

"(h) RESPONSIBILITIES OF LEAD AGENCY.—The responsibilities of the lead agency shall include—

"(1) the use of a single report format related to the plan for the individual project which shall be used by an eligible entity to report on the activities undertaken under the project;

"(2) the use of a single report format related to the projected expenditures for the individual project which shall be used by an eligible entity to report on all project expenditures;

"(3) the development of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

"(4) the provision of technical assistance to an eligible entity appropriate to the project, except that

an eligible entity shall have the authority to accept or reject the plan for providing such technical assistance and the technical assistance provider.

"(i) REPORT REQUIREMENTS.—A single report format shall be developed by the Secretary, consistent with the requirements of this section. Such report format, together with records maintained on the consolidated program at the local level, shall contain such information as will allow a determination that the eligible entity has complied with the requirements incorporated in its approved plan, including the demonstration of student achievement, and will provide assurances to each Secretary that the eligible entity has complied with all directly applicable statutory requirements and with those directly applicable regulatory requirements which have not been waived.

"(j) NO REDUCTION IN AMOUNTS.—In no case shall the amount of Federal funds available to an eligible entity involved in any demonstration project be reduced as a result of the enactment of this section.

"(k) INTERAGENCY FUND TRANSFERS AUTHORIZED.—The Secretary is authorized to take such action as may be necessary to provide for an interagency transfer of funds otherwise available to an eligible entity in order to further the purposes of this section.

"(l) ADMINISTRATION OF FUNDS.—

"(1) IN GENERAL.—Program funds shall be administered in such a manner as to allow for a determination that funds from specific a program or programs are spent on allowable activities authorized under such program, except that the eligible entity shall determine the proportion of the funds granted which shall be allocated to such program.

"(2) SEPARATE RECORDS NOT REQUIRED.—Nothing in this section shall be construed as requiring the eligible entity to maintain separate records tracing any services or activities conducted under its approved plan to the individual programs under which funds were authorized, nor shall the eligible entity be required to allocate expenditures among such individual programs.

"(m) OVERAGE.—All administrative costs may be commingled and participating entities shall be entitled to the full amount of such costs (under each program or department's regulations), and no overage shall be counted for Federal audit purposes, provided that the overage is used for the purposes provided for under this section.

"(n) FISCAL ACCOUNTABILITY.—Nothing in this subpart shall be construed so as to interfere with the ability of the Secretary or the lead agency to fulfill the respon-

1 sibilities for the safeguarding of Federal funds pursuant
2 to the Single Audit Act of 1984.

3 "(o) REPORT ON STATUTORY OBSTACLES TO PRO-
4 GRAM INTEGRATION.—

5 "(1) PRELIMINARY REPORT.—Not later than 2
6 years after the date of the enactment of the No
7 Child Left Behind Act of 2001, the Secretary of
8 Education shall submit a preliminary report to the
9 Committee on Health, Education, Labor, and Pen-
10 sions of the Senate and the Committee on Education
11 and the Workforce of the House of Representatives
12 on the status of the implementation of the dem-
13 onstration program authorized under this section.

14 "(2) FINAL REPORT.—Not later than 5 years
15 after the date of the enactment of the No Child Left
16 Behind Act of 2001, the Secretary of Education
17 shall submit a report to the Committee on Health,
18 Education, Labor, and Pensions of the Senate and
19 the Committee on Education and the Workforce of
20 the House of Representatives on the results of the
21 implementation of the demonstration program au-
22 thorized under this section. Such report shall iden-
23 tify statutory barriers to the ability of participants
24 to integrate more effectively their education and re-

lated services to Indian students in a manner consistent with the purposes of this section.

''(p) DEFINITIONS.—For the purposes of this section, the term 'Secretary' means—

''(1) the Secretary of the Interior, in the case of applicant meeting the definition of contract or grant school under title XI of the Education Amendments of 1978; or

''(2) the Secretary of Education, in the case of any other applicant.

''SEC. 3217. STUDENT ELIGIBILITY FORMS.

''(a) IN GENERAL.—The Secretary shall require that, as part of an application for a grant under this chapter, each applicant shall maintain a file, with respect to each Indian child for whom the local educational agency provides a free public education, that contains a form that sets forth information establishing the status of the child as an Indian child eligible for assistance under this chapter and that otherwise meets the requirements of subsection (b).

''(b) FORMS.—

''(1) IN GENERAL.—The form described in subsection (a) shall include—

''(A) either—

"(i)(I) the name of the tribe or band of Indians (as described in section 3251(3)) with respect to which the child claims membership;

"(II) the enrollment number establishing the membership of the child (if readily available); and

"(III) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians; or

"(ii) if the child is not a member of a tribe or band of Indians, the name, the enrollment number (if readily available), and the organization (and address thereof) responsible for maintaining updated and accurate membership rolls of the tribe of any parent or grandparent of the child from whom the child claims eligibility;

"(B) a statement of whether the tribe or band of Indians with respect to which the child, parent, or grandparent of the child claims membership is federally recognized;

"(C) the name and address of the parent or legal guardian of the child;

"(D) a signature of the parent or legal guardian of the child that verifies the accuracy of the information supplied; and

"(E) any other information that the Secretary considers necessary to provide an accurate program profile.

"(2) MINIMUM INFORMATION.—In order for a child to be eligible to be counted for the purpose of computing the amount of a grant award made under section 3213, an eligibility form prepared pursuant to this section for a child shall include—

"(A) the name of the child;

"(B) the name of the tribe or band of Indians (as described in section 3251(3)) with respect to which the child claims eligibility; and

"(C) the dated signature of the parent or guardian of the child.

"(3) FAILURE.—The failure of an applicant to furnish any information described in this subsection other than the information described in paragraph (2) with respect to any child shall have no bearing on the determination of whether the child is an eligible Indian child for the purposes of determining the amount of a grant award made under section 3213.

"(c) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect a definition contained in section 3251.

"(d) FORMS AND STANDARDS OF PROOF.—The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985–1986 academic year to establish the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the forms and standards of proof used—

"(1) to establish such eligibility; and

"(2) to meet the requirements of subsection (a).

"(e) DOCUMENTATION.—For purposes of 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 for a member of such tribe or band. Nothing in subsection (b) shall be construed to require the furnishing of an enrollment number.

"(f) MONITORING AND EVALUATION REVIEW.—

"(1) IN GENERAL.—(A) For each fiscal year, in order to provide such information as is necessary to

carry out the responsibility of the Secretary to provide technical assistance under this chapter, the Secretary shall conduct a monitoring and evaluation review of a sampling of the recipients of grants under this chapter. The sampling conducted under this subparagraph shall take into account the size of the local educational agency and the geographic location of such agency.

"(B) A local educational agency may not be held liable to the United States or be subject to any penalty, by reason of the findings of an audit that relates to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act.

"(2) FALSE INFORMATION.—Any local educational agency that provides false information in an application for a grant under this chapter shall—

"(A) be ineligible to apply for any other grant under this subpart; and

"(B) be liable to the United States for any funds that have not been expended.

"(3) EXCLUDED CHILDREN.—A student who provides false information for the form required

under subsection (a) shall not be counted for the purpose of computing the amount of a grant under section 3213.

"(g) TRIBAL GRANT AND CONTRACT SCHOOLS.—Notwithstanding any other provision of this section, in awarding funds under this chapter to a tribal school that receives a grant or contract from the Bureau of Indian Affairs, the Secretary shall use only one of the following, as selected by the school:

"(1) A count of the number of students in those schools certified by the Bureau.

"(2) A count of the number of students for whom the school has eligibility forms that comply with this section.

"(h) TIMING OF CHILD COUNTS.—For purposes of determining the number of children to be counted in calculating the amount of a local educational agency's grant under this chapter (other than in the case described in subsection (g)(1)), the local educational agency shall—

"(1) establish a date on, or a period not longer than 31 consecutive days during which, the agency counts those children, so long as that date or period occurs before the deadline established by the Secretary for submitting an application under section 3214; and

"(2) determine that each such child was enrolled, and receiving a free public education, in a school of the agency on that date or during that period, as the case may be.

"SEC. 3218. PAYMENTS.

"(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary shall pay to each local educational agency that submits an application that is approved by the Secretary under this chapter the amount determined under section 3213. The Secretary shall notify the local educational agency of the amount of the payment not later than June 1 of the year for which the Secretary makes the payment.

"(b) PAYMENTS TAKEN INTO ACCOUNT BY THE STATE.—The Secretary may not make a grant under this chapter to a local educational agency for a fiscal year if, for such fiscal year, the State in which the local educational agency is located takes into consideration payments made under this chapter in determining the eligibility of the local educational agency for State aid, or the amount of the State aid, with respect to the free public education of children during such fiscal year or the preceding fiscal year.

"(c) REDUCTION OF PAYMENT FOR FAILURE TO MAINTAIN FISCAL EFFORT.—

"(1) IN GENERAL.—The Secretary may not pay a local educational agency the full amount of a grant award determined under section 3213 for any fiscal year unless the State educational agency notifies the Secretary, and the Secretary determines that, with respect to the provision of free public education by the local educational agency for the preceding fiscal year, the combined fiscal effort of the local educational agency and the State, computed on either a per student or aggregate expenditure basis, was not less than 90 percent of the amount of the combined fiscal effort, computed on the same basis, for the second preceding fiscal year.

"(2) FAILURE TO MAINTAIN EFFORT.—If, for any fiscal year, the Secretary determines that a local educational agency failed to maintain the fiscal effort of such agency at the level specified in paragraph (1), the Secretary shall—

"(A) reduce the amount of the grant that would otherwise be made to such agency under this chapter in the exact proportion of such agency's failure to maintain its fiscal effort at such level; and

"(B) not use the reduced amount of the agency's expenditures for the preceding year to

determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1).

"(3) WAIVER.—(A) The Secretary may waive the requirement of paragraph (1), for not more than 1 year at a time, if the Secretary determines that the failure to comply with such requirement is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the agency's financial resources.

"(B) The Secretary shall not use the reduced amount of such agency's expenditures for the fiscal year preceding the fiscal year for which a waiver is granted to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1) in the absence of the waiver.

"(d) REALLOCATIONS.—The Secretary may reallocate, in a manner that the Secretary determines will best carry out the purpose of this chapter, any amounts that—

"(1) based on estimates made by local educational agencies or other information, the Secretary

determines will not be needed by such agencies to carry out approved programs under this chapter; or

"(2) otherwise become available for reallocation under this chapter.

"SEC. 3219. STATE EDUCATIONAL AGENCY REVIEW.

"Before submitting an application to the Secretary under section 3214, a local educational agency shall submit the application to the State educational agency, which may comment on such application. If the State educational agency comments on the application, it shall comment on all applications submitted by local educational agencies in the State and shall provide those comments to the respective local educational agencies, with an opportunity to respond.

"CHAPTER 2—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

"SEC. 3221. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

"(a) PURPOSE.—

"(1) IN GENERAL.—It is the purpose of this section to support projects to develop, test, and 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) other Federal programs operated for the benefit of American Indian and Alaska Native children.

"(b) ELIGIBLE ENTITIES.—For the purpose of this section, the term 'eligible entity' means a State educational agency, local educational agency, Indian tribe, Indian organization, federally supported elementary and secondary school for Indian students, Indian institution, including an Indian institution of higher education, or a consortium of such institutions.

"(c) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to carry out activities that meet the purpose specified in subsection (a)(1), including—

"(A) innovative programs related to the educational needs of educationally disadvantaged children;

"(B) educational services that are not available to such children in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in one or more of the core academic subjects of English, mathematics, science, foreign languages, art, history, and geography;

"(C) bilingual and bicultural programs and projects;

"(D) special health and nutrition services, and other related activities, that address the unique health, social, and psychological problems of Indian children;

"(E) special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or reenter school, and to increase the rate of secondary school graduation;

"(F) comprehensive guidance, counseling, and testing services;

"(G) early childhood and kindergarten programs, including family-based preschool pro-

grams that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

"(H) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to aid such students in the transition from secondary school to postsecondary education;

"(I) partnership projects between schools and local businesses for career preparation programs designed to provide Indian youth with the knowledge and skills such youth need to make an effective transition from school to a high-skill, high-wage career;

"(J) programs designed to encourage and assist Indian students to work toward, and gain entrance into, an institution of higher education;

"(K) family literacy services; or

"(L) other services that meet the purpose described in subsection (a)(1).

"(2) PROFESSIONAL DEVELOPMENT.—Professional development of teaching professionals and

paraprofessional may be a part of any program assisted under this section.

"(d) GRANT REQUIREMENTS AND APPLICATIONS.—

"(1) GRANT REQUIREMENTS.—(A) The Secretary may make multiyear grants under this section for the planning, development, pilot operation, or demonstration of any activity described in subsection (c) for a period not to exceed 5 years.

"(B) In making multiyear grants under this section, the Secretary shall give priority to applications that present a plan for combining two or more of the activities described in subsection (c) over a period of more than 1 year.

"(C) The Secretary shall make a grant payment to an eligible entity after the initial year of the multiyear grant only if the Secretary determines that the eligible entity has made substantial progress in carrying out the activities assisted under the grant in accordance with the application submitted under paragraph (2) and any subsequent modifications to such application.

"(D)(i) In addition to awarding the multiyear grants described in subparagraph (A), the Secretary may award grants to eligible entities for the dissemi-

nation of exemplary materials or programs assisted under this section.

"(ii) The Secretary may award a dissemination grant under this subparagraph if, prior to awarding the grant, the Secretary determines that the material or program to be disseminated has been adequately reviewed and has demonstrated—

"(I) educational merit; and

"(II) the ability to be replicated.

"(2) APPLICATION.—(A) Any eligible entity that desires to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

"(B) Each application submitted to the Secretary under subparagraph (A), other than an application for a dissemination grant under paragraph (1)(D), shall contain—

"(i) a description of how parents of Indian children and representatives of Indian tribes have been, and will be, involved in developing and implementing the activities for which assistance is sought;

"(ii) assurances that the applicant will participate, at the request of the Secretary, in any

national evaluation of activities assisted under this section;

"(iii) information demonstrating that the proposed program is either a research-based program (which may be a research-based program that has been modified to be culturally appropriate for the students who will be served);

"(iv) a description of how the applicant will incorporate the proposed services into the ongoing school program once the grant period is over; and

"(v) such other assurances and information as the Secretary may reasonably require.

"(e) ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds provided to a grantee under this chapter for any fiscal year may be used for administrative purposes.

"SEC. 3222. PROFESSIONAL DEVELOPMENT FOR TEACHERS AND EDUCATION PROFESSIONALS.

"(a) PURPOSES.—The purposes of this section are—

"(1) to increase the number of qualified Indian individuals in teaching or other education professions that serve Indian people;

"(2) to provide training to qualified Indian individuals to enable such individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

"(3) to improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (2).

"(b) ELIGIBLE ENTITIES.—For the purpose of this section, the term 'eligible entity' means—

"(1) an institution of higher education, including an Indian institution of higher education;

"(2) a State or local educational agency, in consortium with an institution of higher education; and

"(3) an Indian tribe or organization, in consortium with an institution of higher education.

"(c) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants to eligible entities having applications approved under this section to enable such entities to carry out the activities described in subsection (d).

"(d) AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—Grant funds under this section shall be used to provide support and training for Indian individuals in a manner consistent with the purposes of this section. Such activities may include but are not limited to, continuing programs,

symposia, workshops, conferences, and direct financial support.

"(2) SPECIAL RULES.—(A) For education personnel, the training received pursuant to a grant under this section may be inservice or preservice training.

"(B) For individuals who are being trained to enter any field other than teaching, the training received pursuant to a grant under this section shall be in a program that results in a graduate degree.

"(e) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information, as the Secretary may reasonably require.

"(f) SPECIAL RULE.—In making grants under this section, the Secretary—

"(1) shall consider the prior performance of the eligible entity; and

"(2) may not limit eligibility to receive a grant under this section on the basis of—

"(A) the number of previous grants the Secretary has awarded such entity; or

"(B) the length of any period during which such entity received such grants.

"(g) GRANT PERIOD.—Each grant under this section shall be awarded for a period of not more than 5 years.

"(h) SERVICE OBLIGATION.—

"(1) IN GENERAL.—The Secretary shall require, by regulation, that an individual who receives training pursuant to a grant made under this section—

"(A) perform work—

"(i) related to the training received under this section; and

"(ii) that benefits Indian people; or

"(B) repay all or a prorated part of the assistance received.

"(2) REPORTING.—The Secretary shall establish, by regulation, a reporting procedure under which a grant recipient under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning the compliance of such recipient with the work requirement under paragraph (1).

"CHAPTER 3—NATIONAL RESEARCH ACTIVITIES

"SEC. 3231. NATIONAL ACTIVITIES.

"(a) AUTHORIZED ACTIVITIES.—The Secretary may use funds made available under section 3252(b) for each fiscal year to—

"(1) conduct research related to effective approaches for the education of Indian children and adults;

"(2) evaluate federally assisted education programs from which Indian children and adults may benefit;

"(3) collect and analyze data on the educational status and needs of Indians; and

"(4) carry out other activities that are consistent with the purpose of this subpart.

"(b) ELIGIBILITY.—The Secretary may carry out any of the activities described in subsection (a) directly or through grants to, or contracts or cooperative agreements with Indian tribes, Indian organizations, State educational agencies, local educational agencies, institutions of higher education, including Indian institutions of higher education, and other public and private agencies and institutions.

"(c) COORDINATION.—Research activities supported under this section—

"(1) shall be carried out in consultation with the Office of Educational Research and Improvement to assure that such activities are coordinated with and enhance the research and development activities supported by the Office; and

"(2) may include collaborative research activities which are jointly funded and carried out by the Office of Indian Education Programs and the Office of Educational Research and Improvement.

"CHAPTER 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)(i) that includes Indian children or adults as participants; or

"(ii) that may benefit Indian children or adults;

"(2) make recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs; and

"(3) submit to the Congress, not later than June 30 of each year, a report on the activities of the Council, including—

"(A) any recommendations that the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants, or that may benefit Indian children or adults; and

"(B) recommendations concerning the funding of any program described in 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 APPLICANTS.

''In making grants under chapter 2 or 3, the Secretary shall give a preference to Indian tribes, organizations, and institutions of higher education under any program with respect to which Indian tribes, organizations, and institutions are eligible to apply for grants.

"SEC. 3244. MINIMUM GRANT CRITERIA.

''The Secretary may not approve an application for a grant under subpart 2 unless the application is for a grant that is—

''(1) of sufficient size, scope, and quality to achieve the purpose or objectives of such grant; and

''(2) based on relevant research findings.

"CHAPTER 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

"(B) has attained an age that is greater than the age of compulsory school attendance under an applicable State law.

"(2) FREE PUBLIC EDUCATION.—The term 'free public education' means education that is—

"(A) provided at public expense, under public supervision and direction, and without tuition charge; and

"(B) provided as elementary or secondary education in the applicable State or to preschool children.

"(3) INDIAN.—The term 'Indian' means an individual who is—

"(A) a member of an Indian tribe or band, as membership is defined by the tribe or band, including—

"(i) any tribe or band terminated since 1940; and

"(ii) any tribe or band recognized by the State in which the tribe or band resides;

"(B) a descendant, in the first or second degree, of an individual described in subparagraph (A);

"(C) considered by the Secretary of the Interior to be an Indian for any purpose;

"(D) an Eskimo, Aleut, or other Alaska Native; or

"(E) a member of an organized Indian group that received a grant under the Indian Education Act of 1988 as it was in effect the day preceding the date of the enactment of the Improving America's Schools Act of 1994.

"SEC. 3252. AUTHORIZATIONS OF APPROPRIATIONS.

"(a) CHAPTER 1.—For the purpose of carrying out chapter 1 of this subpart, there are authorized to be appropriated $100,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 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.".

(b) SAVINGS PROVISION.—Funds appropriated for part A of title IX of the Elementary and Secondary Education Act of 1965 (as in effect on the day before the date of the enactment of this Act) shall be available for use

under subpart 1 of part B of title III of such Act, as added by this section.

SEC. 312. ALASKA NATIVE EDUCATION.

(a) IN GENERAL.—Part B of title III (as added by section 311 of this Act) is further amended by adding at the end the following new subpart:

"Subpart 2—Alaska Native Education

"SEC. 3301. SHORT TITLE.

''This subpart may be cited as the 'Alaska Native Educational Equity, Support, and Assistance Act'.

"SEC. 3302. FINDINGS.

''The Congress finds and declares:

''(1) The attainment of educational success is critical to the betterment of the conditions, long-term well-being and preservation of the culture of Alaska Natives.

''(2) It is the policy of the Federal Government to encourage the maximum participation by Alaska Natives in the planning and the management of Alaska Native education programs.

''(3) Alaska Native children enter and exit school with serious educational handicaps.

''(4) The educational achievement of Alaska Native children is far below national norms. In addition to low Native performance on standardized

tests, Native student dropout rates are high, and Natives are significantly underrepresented among holders of baccalaureate degrees in the State of Alaska. As a result, Native students are being denied their opportunity to become full participants in society by grade school and high school educations that are condemning an entire generation to an underclass status and a life of limited choices.

''(5) The programs authorized herein, combined with expanded Head Start, infant learning and early childhood education programs, and parent education programs are essential if educational handicaps are to be overcome.

''(6) The sheer magnitude of the geographic barriers to be overcome in delivering educational services in rural and village Alaska should be addressed through the development and 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 efforts developed by and undertaken within the Alaska Na-

tive community to improve educational opportunity for all students.

"SEC. 3303. PURPOSE.

"It is the purpose of this subpart to—

"(1) recognize the unique educational needs of Alaska Natives;

"(2) authorize the development of supplemental educational programs to benefit Alaska Natives;

"(3) supplement existing programs and authorities in the area of education to further the purposes of this subpart; and

"(4) provide direction and guidance to appropriate Federal, State and local agencies to focus resources, including resources made available under this subpart, on meeting the educational needs of Alaska Natives.

"SEC. 3304. PROGRAM AUTHORIZED.

"(a) GENERAL AUTHORITY.—

"(1) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to, or enter into contracts with, Alaska Native organizations, educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, and consortia of

such organizations and entities to carry out programs that meet the purpose of this subpart.

"(2) PERMISSIBLE ACTIVITIES.—Programs under this subpart may include—

"(A) the development and implementation of plans, methods, and strategies to improve the education of Alaska Natives;

"(B) the development of curricula and educational programs that address the educational needs of Alaska Native students, including—

"(i) curriculum materials that reflect the cultural diversity or the contributions of Alaska Natives;

"(ii) instructional programs that make use of Native Alaskan languages; and

"(iii) networks that introduce successful programs, materials, and techniques to urban and rural schools;

"(C) professional development activities for educators, including—

"(i) programs to prepare teachers to address the cultural diversity and unique needs of Alaska Native students;

"(ii) in-service programs to improve the ability of teachers to meet the unique needs of Alaska Native students; and

"(iii) recruiting and preparing teachers who are Alaska Natives, reside in communities with high concentrations of Alaska Native students, or are likely to succeed as teachers in isolated, rural communities and engage in cross-cultural instruction;

"(D) the development and operation of home instruction programs for Alaska Native preschool children, the purpose of which is to ensure the active involvement of parents in their children's education from the earliest ages;

"(E) family literacy services;

"(F) the development and operation of student enrichment programs in science and mathematics that—

"(i) are designed to prepare Alaska Native students from rural areas, who are preparing to enter high school, to excel in science and math; and

"(ii) provide appropriate support 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 children and adults;

"(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.

"(3) 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) preschool programs; and

"(C) training, education, and support for parents in such areas as reading readiness, observation, story-telling, and critical thinking.

"(b) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 5 percent of funds provided to a grantee under this section for any fiscal year may be used for administrative purposes.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2006 to carry out this subpart.

"SEC. 3305. ADMINISTRATIVE PROVISIONS.

"(a) APPLICATION REQUIRED.—No grant may be made under this subpart, nor any contract be entered into under this subpart, unless an application is submitted to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this subpart.

"(b) APPLICATIONS.—State and local educational agencies may apply for an award under this subpart only as subpart of a consortium involving an Alaska Native 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 stu-

dents who would participate in the project about its application.

"SEC. 3306. DEFINITIONS.

"For purposes of this subpart—

"(1) the term 'Alaska Native' has the same meaning as the term 'Native' has in section 3(b) of the Alaska Native Claims Settlement Act; and

"(2) the term 'Alaska Native organization' means a federally recognized tribe, consortium of tribes, regional nonprofit Native association, and other Alaska Native organizations that—

"(A) has or commits to acquire expertise in the education of Alaska Natives; and

"(B) has Alaska Natives in substantive and policy-making positions within the organization.".

(b) SAVINGS PROVISION.—Funds appropriated for part C of title IX of the Elementary and Secondary Education Act of 1965 (as in effect on the day before the date of the enactment of this Act) shall be available for use under subpart 2 of part B of title III of such Act, as added by this section.

SEC. 313. AMENDMENTS TO THE EDUCATION AMENDMENTS OF 1978.

Part B of title XI of the Education Amendments of 1978 (25 U.S.C. 2001 et seq.) is amended to read as 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 funded school system that it has established on or near Indian reservations and Indian trust lands throughout the Nation for Indian children.

''(b) POLICY.—It is the policy of the United States to work in full cooperation with Indian tribes toward the goal of assuring that the programs of the Bureau of 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 funded 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 the No Child Left Behind Act of 2001, the Secretary, in consultation with the Secretary of Education, consortia of education organizations, and Indian organizations and tribes, and making the fullest use possible of other existing studies, surveys, and plans, shall carry out by contract with an Indian organization, studies and surveys to establish and revise standards for the basic education of Indian children attending Bureau funded schools. Such studies and surveys shall take into account factors such as academic needs, local cultural differences, type and level of language skills, geographic isolation, and appropriate teacher-student ratios for such children, and shall be directed toward the attainment of equal 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 provisions of this section and section 1131, take such actions as are necessary to coordinate standards implemented under this section with the Comprehensive School Reform Plan developed by the Bureau and—

"(i) with the standards of the improvement plans for the States in which any school operated by the Bureau of Indian Affairs is located; or

"(ii) in the case where schools operated by the Bureau are within the bound-

aries of reservation land of one tribe but within the boundaries of more than one State, with the standards of the State improvement plan of one such State selected by the tribe.

"(2) FURTHER REVISIONS.—Not later that 6 months after the close of the comment period, the Secretary shall establish final standards, distribute such standards to all tribes and publish such final standards in the Federal Register. The Secretary shall revise such standards periodically as necessary. Prior to any revision of such final standards, the Secretary shall distribute such proposed revision to all the tribes, and publish such proposed revision in the Federal Register, for the purpose of receiving comments from the tribes and other interested parties.

"(3) APPLICABILITY OF STANDARDS.—Except as provided in subsection (e), the final standards published under paragraph (2) shall apply to all Bureau funded schools not accredited under subsection (f), and may also serve as a model for educational programs for Indian children in public schools.

"(4) CONSIDERATIONS WHEN ESTABLISHING AND REVISING STANDARDS.—In establishing and re-

vising such standards, the Secretary shall take into account the unique needs of Indian students and support and reinforcement of the specific cultural heritage of each tribe.

"(d) ALTERNATIVE OR MODIFIED STANDARDS.—The Secretary shall provide alternative or modified standards in lieu of the standards established under subsection (c), where necessary, so that the programs of each school are in compliance with the minimum accreditation standards required for schools in the State or region where the school is located.

"(e) WAIVER OF STANDARDS; ALTERNATIVE STANDARDS.—A tribal governing body, or the local school board so designated by the tribal governing body, shall have the local authority to waive, in part or in whole, the standards established under subsections (c) and (d) if such standards are deemed by such body to be inappropriate. The tribal governing body or designated school board shall, not later than 60 days after a waiver under this subsection, submit to the Secretary a proposal for alternative standards that take into account the specific needs of the tribe's children. Such alternative standards shall be established by the 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.—

"(1) DEADLINE FOR MEETING STANDARDS.—Not later the second academic year after publication of the standards, to the extent necessary funding is provided, all Bureau funded schools shall meet the standards established under subsections (c) and (d) or shall be accredited—

"(A) by a tribal accrediting body, if the 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;

"(B) by a regional accreditation agency; or

"(C) by State accreditation standards for the State in which it is located.

"(2) DETERMINATION OF STANDARDS TO BE APPLIED.—The accreditation type or standards applied for each school shall be determined by the school board of the school, in consultation with the Administrator of the school, provided that in the case where the School Board and the Administrator

fail to agree on the type of accreditation and standards to apply, the decision of the school board with the approval of the tribal governing body shall be final.

"(3) ASSISTANCE TO SCHOOL BOARDS.—The Secretary, through contracts and grants, shall assist school boards of contract or grant schools in implementation of the standards established under subsections (c) and (d), if the school boards request that such standards, in part or in whole, be implemented.

"(4) FISCAL CONTROL AND FUND ACCOUNTING STANDARDS.—The Bureau shall, either directly or through contract with an Indian organization, establish a consistent system of reporting standards for fiscal control and fund accounting for all contract and grant schools. Such standards shall provide data comparable to those used by Bureau operated schools.

"(g) ANNUAL PLAN FOR MEETING OF STANDARDS.—Except as provided in subsections (e) and (f), the Secretary shall begin to implement the standards established under this section immediately upon the date of their establishment. On an annual basis, the Secretary shall submit to the appropriate committees of Congress,

all Bureau funded schools, and the tribal governing bodies of such schools a detailed plan to bring all Bureau schools and contract or grant schools up to the level required by the applicable standards established under this section. Such plan shall include detailed information on the status of each school's educational program in relation to the applicable standards established under this section, specific cost estimates for meeting such standards at each school and specific timelines for bringing each school up to the level required by such standards.

"(h) CLOSURE OR CONSOLIDATION OF SCHOOLS.—

"(1) IN GENERAL.—Except as specifically required by statute, no school or peripheral dormitory operated by the Bureau on or after January 1, 1992, may be closed or consolidated or have its program substantially curtailed unless done according to the requirements of this subsection.

"(2) EXCEPTIONS.—This subsection shall not apply—

"(A) in those cases where the tribal governing body, or the local school board concerned (if so designated by the tribal governing body), requests closure or consolidation; or

"(B) when a temporary closure, consolidation, or substantial curtailment is required by

plant conditions which constitute an immediate hazard to health and safety.

"(3) REGULATIONS.—The Secretary shall, by regulation, promulgate standards and procedures for the closure, transfer to another authority, consolidation, or substantial curtailment of Bureau schools, in accordance with the requirements of this subsection.

"(4) NOTICE.—Whenever closure, transfer to another authority, consolidation, or substantial curtailment of a school is under active consideration or review by any division of the Bureau or the Department of the Interior, the affected tribe, tribal governing body, and designated local school board, will be notified immediately, kept fully and currently informed, and afforded an opportunity to comment with respect to such consideration or review. When a formal decision is made to close, transfer to another authority, consolidate, or substantially curtail a school, the affected tribe, tribal governing body, and designated school board shall be notified at least 6 months prior to the end of the school year preceding the proposed closure date. Copies of any such notices and information shall be transmitted promptly to the appropriate committees of Congress and published in the Federal Register.

"(5) REPORT.—The Secretary shall make a report to the appropriate committees of Congress, the affected tribe, and the designated school board describing the process of the active consideration or review referred to in paragraph (4). The report shall include a study of the impact of such action on the student population, identify those students with particular educational and social needs, and ensure that alternative services are available to such students. Such report shall include the description of the consultation conducted between the potential service provider, current service provider, parents, tribal representatives and the tribe or tribes involved, and the Director of the Office of Indian Education Programs within the Bureau regarding such students.

"(6) LIMITATION ON CERTAIN ACTIONS.—No irrevocable action may be taken in furtherance of any such proposed school closure, transfer to another authority, consolidation, or substantial curtailment (including any action which would prejudice the personnel or programs of such school) prior to the end of the first full academic year after such 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 of January 1, 1999;

"(B) any program of such a school that is operated on or after January 1, 1999; or

"(C) any school board of a school operated under a grant under the Tribally Controlled Schools Act of 1988,

only if the tribal governing body approves such action.

"(i) APPLICATION FOR CONTRACTS OR GRANTS FOR NON-BUREAU FUNDED SCHOOLS OR EXPANSION OF BUREAU FUNDED SCHOOLS.—

"(1) IN GENERAL.—(A)(i) The Secretary shall only consider the factors described in subparagraph (B) in reviewing—

"(I) applications from any tribe for the awarding of a contract or grant for a school that is not a Bureau funded school; and

"(II) applications from any tribe or school board of any Bureau funded school for—

"(aa) a school which is not a Bureau funded school; or

"(bb) the expansion of a Bureau funded school which would increase the amount of funds received by the Indian tribe or school board under section 1127.

"(ii) With respect to applications described in this subparagraph, the Secretary shall give consideration to all the factors described in subparagraph (B), but no such application shall be denied based primarily upon the geographic proximity of comparable public education.

"(B) With respect to applications described in subparagraph (A) the Secretary shall consider the following factors relating to the program and services that are the subject of the application:

"(i) The adequacy of the facilities or the potential to obtain or provide adequate facilities.

"(ii) Geographic and demographic factors in the affected areas.

"(iii) The adequacy of the applicant's program plans or, in the case of a Bureau funded school, of projected needs analysis done either by the tribe or the Bureau.

"(iv) Geographic proximity of comparable public education.

"(v) The stated needs of all affected 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.

"(2) DETERMINATION ON APPLICATION.—(A) The Secretary shall make a determination of 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 with respect to an application by the date described in subparagraph (A), the application shall be treated a having been approved by the Secretary.

"(3) REQUIREMENTS FOR APPLICATIONS.—(A) Notwithstanding paragraph (2)(B), an application

described in paragraph (1)(A) may be approved by the Secretary only if—

"(i) the application has been approved by the tribal governing body of the students served by (or to be served by) the school or program that is the subject of the application; and

"(ii) written evidence of such approval is submitted with the application.

"(B) Each application described in paragraph (1)(A) shall provide information concerning each of the factors described in paragraph (1)(B).

"(4) DENIAL OF APPLICATIONS.—Whenever the Secretary makes a determination to deny approval of any application described in paragraph (1)(A), the Secretary shall—

"(A) state the objections in writing to the applicant not later 180 days after the application is submitted to the Secretary;

"(B) provide assistance to the applicant to overcome stated objections; and

"(C) provide the applicant a hearing, under the same rules and regulations pertaining to the Indian Self-Determination and Education Assistance Act and an opportunity to appeal the objections raised by the Secretary.

"(5) EFFECTIVE DATE OF A SUBJECT APPLICATION.—(A) Except as otherwise provided in this paragraph, the action which is the subject of any application described in paragraph (1)(A) that is approved by the Secretary shall become effective at the beginning of the academic year following the fiscal year in which the application is approved, or at an earlier date determined by the Secretary.

"(B) If an application is treated as having been approved by the Secretary under paragraph (2)(B), the action that is the subject of the application shall become effective on the date that is 18 months after the date on which the application is submitted to the Secretary, or at an earlier date determined by the Secretary.

"(6) STATUTORY CONSTRUCTION.—Nothing in this section shall be read so as to preclude the expansion of grades and related facilities at a Bureau funded school where such expansion and the maintenance of such expansion is occasioned or paid for with non-Bureau funds.

"(j) GENERAL USE OF FUNDS.—Funds received by Bureau funded schools from the Bureau of Indian Affairs and under any program from the Department of Education or any other Federal agency for the purpose of pro-

viding education or related services may be used for schoolwide projects to improve the educational program for all Indian students.

"(k) STUDY ON ADEQUACY OF FUNDS AND FORMULAS.—The Comptroller General shall conduct a study, in consultation with Indian tribes and local school boards, to determine the adequacy of funding, and formulas used by the Bureau to determine funding, for programs operated by Bureau funded schools, taking into account unique circumstances applicable to Bureau funded schools, as well as expenditures for comparable purposes in public schools nationally. Upon completion of the study, the Secretary of the Interior shall take such action as necessary to ensure distribution of the findings of the study to all affected Indian tribes, local school boards, and associations of local school boards.

"SEC. 1122. NATIONAL CRITERIA FOR HOME-LIVING SITUATIONS.

"(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Education, Indian organizations and tribes, and Bureau funded schools, shall revise the national standards for home-living (dormitory) situations to include such factors as heating, lighting, cooling, adult-child ratios, needs for counselors (including special needs related to off-reservation home-living (dormitory) situa-

1 tions), therapeutic programs, space, and privacy. Such
2 standards shall be implemented in Bureau operated
3 schools, and shall serve as minimum standards for con-
4 tract or grant schools. Once established, any revisions of
5 such standards shall be developed according to the re-
6 quirements established under section 1138A.

7 ''(b) IMPLEMENTATION.—The Secretary shall imple-
8 ment the revised standards established under this section
9 immediately upon their completion.

10 ''(c) PLAN.—At the time of each annual budget sub-
11 mission for Bureau educational services is presented, the
12 Secretary shall submit to the appropriate committees of
13 Congress, the tribes, and the affected schools, and publish
14 in the Federal Register, a detailed plan to bring all Bu-
15 reau funded schools that provide home-living (dormitory)
16 situations up to the standards established under this sec-
17 tion. Such plan shall include a statement of the relative
18 needs of each Bureau funded home-living (dormitory)
19 school, projected future needs of each Bureau funded
20 home-living (dormitory) school, detailed information on
21 the status of each school in relation to the standards es-
22 tablished under this section, specific cost estimates for
23 meeting each standard for each such school, aggregate
24 cost estimates for bringing all such schools into compli-
25 ance with the criteria established under this section, and

specific timelines for bringing each school into compliance with such standards.

"(d) WAIVER.—The criteria established under this section may be waived in the same manner as the standards provided under section 1121(c) may be waived.

"(e) CLOSURE FOR FAILURE TO MEET STANDARDS PROHIBITED.—No school in operation on or before January 1, 1987 (regardless of compliance or noncompliance with the criteria established under this section), may be closed, transferred to another authority, consolidated, or have its program substantially curtailed for failure to meet the criteria.

"SEC. 1123. CODIFICATION OF REGULATIONS.

"(a) PART 32 OF TITLE 25 OF CODE OF FEDERAL REGULATIONS.—The provisions of part 32 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, are incorporated into this Act and shall be treated as though such provisions are set forth in this subsection. Such provisions may be altered only by means of an Act of Congress. To the extent that such provisions of part 32 do not conform with this Act or any statutory provision of law enacted before November 1, 1978, the provisions of this Act and the provisions of such other statutory law shall govern.

"(b) REGULATION DEFINED.—For purposes of this part, the term 'regulation' means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by any officer or employee of the executive branch.

"SEC. 1124. SCHOOL BOUNDARIES.

"(a) ESTABLISHMENT BY SECRETARY.—The Secretary shall establish, by regulation, separate geographical attendance areas for each Bureau funded school.

"(b) ESTABLISHMENT BY TRIBAL BODY.—In any case where there is more than one Bureau funded school located on an Indian reservation, at the direction of the tribal governing body, the relevant school boards of the Bureau funded schools on the reservation may, by mutual consent, establish the relevant attendance areas for such schools, subject to the approval of the tribal governing body. Any such boundaries so established shall be accepted by the Secretary.

"(c) BOUNDARY REVISIONS.—

"(1) IN GENERAL.—On or after July 1, 2001, no geographical attendance area shall be revised or established with respect to any Bureau funded school unless the tribal governing body or the local school board concerned (if so designated by the tribal governing body) has been afforded—

"(A) at least 6 months notice of the intention of the Bureau to revise or establish such attendance area; and

"(B) the opportunity to propose alternative boundaries.

Any tribe may petition the Secretary for revision of existing attendance area boundaries. The Secretary shall accept such proposed alternative or revised boundaries unless the Secretary finds, after consultation with the affected tribe or tribes, that such revised boundaries do not reflect the needs of the Indian students to be served or do not provide adequate stability to all of the affected programs. The Secretary shall cause such revisions to be published in the Federal Register.

"(2) TRIBAL RESOLUTION DETERMINATION.—Nothing in this section shall be interpreted as denying a tribal governing body the authority, on a continuing basis, to adopt a tribal resolution allowing parents the choice of the Bureau funded school their children may attend, regardless of the attendance boundaries established under this section.

"(d) FUNDING RESTRICTIONS.—The Secretary shall not deny funding to a Bureau funded school for any eligible Indian student attending the school solely because that

student's home or domicile is outside of the geographical attendance area established for that school under this section. No funding shall be made available without tribal authorization to enable a school to provide transportation for any student to or from the school and a location outside the approved attendance area of the school.

"(e) RESERVATION AS BOUNDARY.—In any case where there is only one Bureau funded program located on an Indian reservation, the attendance area for the program shall be the boundaries (established by treaty, agreement, legislation, court decisions, or executive decisions and as accepted by the tribe) of the reservation served, and those students residing near the reservation shall also receive services from such program.

"(f) OFF-RESERVATION HOME-LIVING (DORMITORY) SCHOOLS.—Notwithstanding any geographical attendance areas, attendance at off-reservation home-living (dormitory) schools shall include students requiring special emphasis programs to be implemented at each off-reservation home-living (dormitory) school. Such attendance shall be coordinated between education line officers, the family, and the referring and receiving programs.

"SEC. 1125. FACILITIES CONSTRUCTION.

"(a) COMPLIANCE WITH HEALTH AND SAFETY STANDARDS.—The Secretary shall immediately begin to

bring all schools, dormitories, and other Indian education-related facilities operated by the Bureau or under contract or grant with the Bureau into compliance with all applicable tribal, Federal, or State health and safety standards, whichever provides greater protection (except that the tribal standards to be applied shall be no greater than any otherwise applicable Federal or State standards), with section 504 of the Rehabilitation Act of 1973, and with the Americans with Disabilities Act of 1990. Nothing in this section shall require termination of the operations of any facility which does not comply with such provisions and which is in use on the date of the enactment of the No Child Left Behind Act of 2001.

''(b) COMPLIANCE PLAN.—At the time that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all facilities covered under subsection (a) of this section into compliance with the standards referred to in subsection (a). Such plan shall include detailed information on the status of each facility's compliance with such standards, specific cost estimates for meeting such standards at each school, and specific timelines for bringing each school into compliance with such standards.

''(c) CONSTRUCTION PRIORITIES.—

"(1) SYSTEM TO ESTABLISH PRIORITIES.—On an annual basis the Secretary shall submit to the appropriate committees of Congress and cause to be published in the Federal Register, the system used to establish priorities for replacement and construction projects for Bureau funded schools and home-living schools, including boarding schools and dormitories. At the time any budget request for education is presented, the Secretary shall publish in the Federal Register and submit with the budget request the current list of all Bureau funded school construction priorities.

"(2) LONG-TERM CONSTRUCTION AND REPLACEMENT LIST.—In addition to the plan submitted under subsection (b), the Secretary shall—

"(A) not later than 18 months after the date of the enactment of the No Child Left Behind Act of 2001, establish a long-term construction and replacement list for all Bureau funded schools;

"(B) using the list prepared under subparagraph (A), propose a list for the orderly replacement of all Bureau funded education-related facilities over a period of 40 years to en-

able planning and scheduling of budget requests;

"(C) cause the list prepared under subsection (B) to be published in the Federal Register and allow a period of not less than 120 days for public comment;

"(D) make such revisions to the list prepared under subparagraph (B) as are appropriate based on the comments received; and

"(E) cause the final list to be published in the Federal Register.

"(3) EFFECT ON OTHER LIST.—Nothing in this section shall be construed as interfering with or changing in any way the construction priority list as it exists on the date of the enactment of the No Child Left Behind Act of 2001.

"(d) HAZARDOUS CONDITION AT BUREAU SCHOOL.—

"(1) CLOSURE OR CONSOLIDATION.—A Bureau funded school may be closed or consolidated, and the programs of a Bureau funded school may be substantially curtailed by reason of plant conditions that constitute an immediate hazard to health and safety only if a health and safety officer of the Bu-

reau determines that such conditions exist at the Bureau funded school.

"(2) INSPECTION.—(A) After making a determination described in paragraph (1), the Bureau health and safety officer shall conduct an inspection of the condition of such plant accompanied by an appropriate tribal, county, municipal, or State health and safety officer in order to determine whether conditions at such plant constitute an immediate hazard to health and safety. Such inspection shall be completed by not later than the date that is 30 days after the date on which the action described in 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.

"(B) If the health and safety officer conducting the inspection of a plant required under subparagraph (A) determines that conditions at the plant do not constitute an immediate hazard to health and safety, any consolidation or curtailment that was made under paragraph (1) shall immediately cease and any school closed by reason of conditions at the plant shall be reopened immediately.

"(C) If a Bureau funded school is temporarily closed or consolidated or the programs of a Bureau

funded school are substantially curtailed under this subsection and the Secretary determines that the closure, consolidation, or curtailment will exceed 1 year, the Secretary shall submit to the Congress, by not later than 6 months after the date on which the closure, consolidation, or curtailment was initiated, a report which sets forth the reasons for such temporary actions, the actions the Secretary is taking to eliminate the conditions that constitute the hazard, and an estimated date by which such actions will be concluded.

''(e) FUNDING REQUIREMENT.—

''(1) DISTRIBUTION OF FUNDS.—Beginning with the fiscal year following the year of the date of the enactment of the No Child Left Behind Act of 2001, all funds appropriated for the operations and maintenance of Bureau funded schools shall be distributed by formula to the schools. No funds from this account may be retained or segregated by the Bureau to pay for administrative or other costs of any facilities branch or office, at any level of the Bureau.

''(2) REQUIREMENTS FOR CERTAIN USES.—No funds shall be withheld from the distribution to the budget of any school operated under contract or

grant by the Bureau for maintenance or any other facilities or road related purpose, unless such school has consented, as a modification to the contract or in writing for grants schools, to the withholding of such funds, including the amount thereof, the purpose for which the funds will be used, and the timeline for the services to be provided. The school may, at the end of any fiscal year, cancel an agreement under this paragraph upon giving the Bureau 30 days notice of its intent to do so.

''(f) NO REDUCTION IN FEDERAL FUNDING.—Nothing in this section shall be construed to diminish any Federal funding due to the receipt by the school of funding for facilities improvement or construction from a State or any other source.

''SEC. 1126. BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS.

''(a) FORMULATION AND ESTABLISHMENT OF POLICY AND PROCEDURE; SUPERVISION OF PROGRAMS AND EXPENDITURES.—The Secretary shall vest in the Assistant Secretary for Indian Affairs all functions with respect to formulation and establishment of policy and procedure and supervision of programs and expenditures of Federal funds for the purpose of Indian education administered by the Bureau. The Assistant Secretary shall carry out

such functions through the Director of the Office of Indian Education Programs.

"(b) DIRECTION AND SUPERVISION OF PERSONNEL OPERATIONS.—Not later than 6 months after the date of the enactment of the No Child Left Behind Act of 2001, the Director of the Office of Indian Education Programs shall direct and supervise the operations of all personnel directly and substantially involved in the provision of education services by the Bureau, including school or institution custodial or maintenance personnel, facilities management, contracting, procurement, and finance personnel. The Assistant Secretary for Indian Affairs shall coordinate the transfer of functions relating to procurement, contracts, operation, and maintenance of schools and other support functions to the Director.

"(c) EVALUATION OF PROGRAMS; SERVICES AND SUPPORT FUNCTIONS; TECHNICAL AND COORDINATING ASSISTANCE.—Education personnel who are under the direction and supervision of the Director of the Office of Indian Education Programs in accordance with the first sentence of subsection (b) shall—

"(1) monitor and evaluate Bureau education programs;

"(2) provide all services and support functions for education programs with respect to personnel matters involving staffing actions and functions; and

"(3) provide technical and coordinating assistance in areas such as procurement, contracting, budgeting, personnel, curriculum, and operation and maintenance of school facilities.

"(d) CONSTRUCTION, IMPROVEMENT, OPERATION, AND MAINTENANCE OF FACILITIES.—

"(1) PLAN FOR CONSTRUCTION.—The Assistant Secretary shall submit in the annual budget a plan—

"(A) for school facilities to be constructed under section 1125(c);

"(B) for establishing priorities among projects and for the improvement and repair of educational facilities, which together shall form the basis for the distribution of appropriated funds; and

"(C) for capital improvements to be made over the five succeeding years.

"(2) PROGRAM FOR OPERATION AND MAINTENANCE.—

"(A) ESTABLISHMENT.—The Assistant Secretary shall establish a program, including

the distribution of appropriated funds, for the operation and maintenance of education facilities. Such program shall include—

"(i) a method of computing the amount necessary for each educational facility;

"(ii) similar treatment of all Bureau funded schools;

"(iii) a notice of an allocation of appropriated funds from the Director of the Office of Indian Education Programs directly to the education line officers and appropriate school officials;

"(iv) a method for determining the need for, and priority of, facilities repair and maintenance projects, both major and minor. In making such determination, the Assistant Secretary shall cause to be conducted a series of meetings at the agency and area level with representatives of the Bureau funded schools in those areas and agencies to receive comment on the lists and prioritization of such projects; and

"(v) a system for the conduct of routine preventive maintenance.

"(B) LOCAL SUPERVISORS.—The appropriate education line officers shall make arrangements for the maintenance of education facilities with the local supervisors of the Bureau maintenance personnel. The local supervisors of Bureau maintenance personnel shall take appropriate action to implement the decisions made by the appropriate education line officers, except that no funds under this chapter may be authorized for expenditure unless such appropriate education line officer is assured that the necessary maintenance has been, or will be, provided in a reasonable manner.

"(3) IMPLEMENTATION.—The requirements of this subsection shall be implemented as soon as practicable after the date of the enactment of the No Child Left Behind Act of 2001.

"(e) ACCEPTANCE OF GIFTS AND BEQUESTS.—Notwithstanding any other provision of law, the Director shall promulgate guidelines for the establishment of mechanisms for the acceptance of gifts and bequests for the use and benefit of particular schools or designated Bureau operated education programs, including, where appropriate, the establishment and administration of trust funds. When a Bureau operated program is the beneficiary of

such a gift or bequest, the Director shall make provisions for monitoring its use and shall report to the appropriate committees of Congress the amount and terms of such gift or bequest, the manner in which such gift or bequest shall be used, and any results achieved by such action.

''(f) FUNCTIONS CLARIFIED.—For the purpose of this section, the term 'functions' includes powers and duties.

"SEC. 1127. ALLOTMENT FORMULA.

''(a) FACTORS CONSIDERED; REVISION TO REFLECT STANDARDS.—

''(1) FORMULA.—The Secretary shall establish, by regulation adopted in accordance with section 1138A, a formula for determining the minimum annual amount of funds necessary to sustain each Bureau funded school. In establishing such formula, the Secretary shall consider—

''(A) the number of eligible Indian students served and total student population of the school;

''(B) special cost factors, such as—

''(i) the isolation of the school;

''(ii) the need for special staffing, transportation, or educational programs;

''(iii) food and housing costs;

"(iv) maintenance and repair costs associated with the physical condition of the educational facilities;

"(v) special transportation and other costs of isolated and small schools;

"(vi) the costs of home-living (dormitory) arrangements, where determined necessary by a tribal governing body or designated school board;

"(vii) costs associated with greater lengths of service by education personnel;

"(viii) the costs of therapeutic programs for students requiring such programs; and

"(ix) special costs for gifted and talented students;

"(C) the cost of providing academic services which are at least equivalent to those provided by public schools in the State in which the school is located; and

"(D) such other relevant factors as the Secretary determines are appropriate.

"(2) REVISION OF FORMULA.—Upon the establishment of the standards required in sections 1121 and 1122, the Secretary shall revise the formula es-

tablished under this subsection to reflect the cost of funding such standards. Not later than January 1, 2003, the Secretary shall review the formula established under this section and shall take such steps as are necessary to increase the availability of counseling and therapeutic programs for students in off-reservation home-living (dormitory) schools and other Bureau operated residential facilities. Concurrent with such action, the Secretary shall review the standards established under section 1122 to be certain that adequate provision is made for parental notification regarding, and consent for, such counseling and therapeutic programs.

''(b) PRO RATA ALLOTMENT.—Notwithstanding any other provision of law, Federal funds appropriated for the general local operation of Bureau funded schools shall be allotted pro rata in accordance with the formula established under subsection (a).

''(c) ANNUAL ADJUSTMENT; RESERVATION OF AMOUNT FOR SCHOOL BOARD ACTIVITIES.—

''(1) ANNUAL ADJUSTMENT.—For fiscal year 2003, and for each subsequent fiscal year, the 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 will be implemented for the school year involved.

"(D) Uses a weighted unit of 2.0 for each eligible Indian student that—

"(i) is gifted and talented; and

"(ii) is enrolled in the school on a full-time basis,

in considering the number of eligible Indian students served by the school.

"(E) Uses a weighted unit of 0.25 for each eligible Indian student who is enrolled in a yearlong credit course in an Indian or Native language as part of the regular curriculum of a school, in considering the number of eligible Indian students served by such school. The adjustment required under this subparagraph shall be used for such school after—

"(i) the certification of the Indian or Native language curriculum by the school board of such school to the Secretary, together with an estimate of the number of full-time students expected to be enrolled in the curriculum in the second school year for which the certification is made; and

(ii) the funds appropriated for allotment under this section are designated by the appropriations Act appropriating such funds as the amount necessary to implement such adjustment at such school without reducing allotments made under this section to any school by virtue of such adjustment.

"(2) RESERVATION OF AMOUNT.—

"(A) IN GENERAL.—From the funds allotted in accordance with the formula established under subsection (a) for each Bureau school, the local school board of such school may reserve an amount which does not exceed the greater of—

"(i) $8,000; or

"(ii) the lesser of—

"(I) $15,000; or

"(II) 1 percent of such allotted funds,

for school board activities for such school, including (notwithstanding any other provision of law) meeting expenses and the cost of membership in, and support of, organizations engaged in activities on behalf of Indian education.

"(B) TRAINING.—Each school board shall see that each new member of the school board receives, within 12 months of the individual's assuming a position on the school board, 40 hours of training relevant to that individual's service on the board. Such training may include legal issues pertaining to schools funded by the Bureau, legal issues pertaining to school

boards, ethics, and other topics deemed appropriate by the school board.

"(d) RESERVATION OF AMOUNT FOR EMERGENCIES.—The Secretary shall reserve from the funds available for distribution for each fiscal year under this section an amount which, in the aggregate, shall equal 1 percent of the funds available for such purpose for that fiscal year. Such funds shall be used, at the discretion of the Director of the Office of Indian Education Programs, to meet emergencies and unforeseen contingencies affecting the education programs funded under this section. Funds reserved under this subsection may only be expended for education services or programs, including emergency repairs of educational facilities, at a schoolsite (as defined by section 5204(c)(2) of the Tribally Controlled Schools Act of 1988). Funds reserved under this subsection shall remain available without fiscal year limitation until expended. However, the aggregate amount available from all fiscal years may not exceed 1 percent of the current year funds. Whenever, the Secretary makes funds available under this subsection, the Secretary shall report such action to the appropriate committees of Congress within the annual budget submission.

"(e) SUPPLEMENTAL APPROPRIATIONS.—Supplemental appropriations enacted to meet increased pay costs

attributable to school level personnel shall be distributed under this section.

"(f) ELIGIBLE INDIAN STUDENT DEFINED.—For the purpose of this section, the term 'eligible Indian student' means a student who—

"(1) is a member of or is at least one-fourth degree Indian blood descendant of a member of 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; and

"(2) resides on or near an Indian reservation or meets the criteria for attendance at a Bureau off-reservation home-living (dormitory) school.

"(g) TUITION.—

"(1) IN GENERAL.—An eligible Indian student may not be charged tuition for attendance at a Bureau school or contract or grant school. A student attending a Bureau school under paragraph (2)(C) may not be charged tuition for attendance at such a school.

"(2) ATTENDANCE OF NON-INDIAN STUDENTS AT BUREAU SCHOOLS.—The Secretary may permit the attendance at a Bureau school of a student who is not an eligible Indian student if—

"(A) the Secretary determines that the student's attendance will not adversely affect the school's program for eligible Indian students because of cost, overcrowding, or violation of standards or accreditation;

"(B) the school board consents;

"(C) the student is a dependent of a Bureau, Indian Health Service, or tribal government employee who lives on or near the schoolsite; or

"(D) a tuition is paid for the student that is not more than that charged by the nearest public school district for out-of-district students, and shall be in addition to the school's allocation under this section.

"(3) ATTENDANCE OF NON-INDIAN STUDENTS AT CONTRACT AND GRANT SCHOOLS.—The school board of a contract or grant school may permit students who are not eligible Indian students under this subsection to attend its contract school or grant school and any tuition collected for those students shall be in addition to funding received under this section.

"(h) FUNDS AVAILABLE WITHOUT FISCAL YEAR LIMITATION.—Notwithstanding any other provision of

law, at the election of the school board of a Bureau school made at any time during the fiscal year, a portion equal to not more than 15 percent of the funds allocated with respect to a school under this section for any fiscal year shall remain available to the school for expenditure without fiscal year limitation. The Assistant Secretary shall take steps as may be necessary to implement this provision.

"(i) STUDENTS AT RICHFIELD DORMITORY, RICHFIELD, UTAH.—Tuition for out-of-State Indian students in home-living (dormitory) arrangements at the Richfield dormitory in Richfield, Utah, who attend Sevier County high schools in Richfield, Utah, shall be paid from the Indian school equalization program funds authorized in this section and section 1130 at a rate not to exceed the amounts per weighted student unit for that year for the instruction of such students. No additional administrative cost funds shall be added to the grant.

"SEC. 1128. ADMINISTRATIVE COST GRANTS.

"(a) GRANTS; EFFECT UPON APPROPRIATED AMOUNTS.—

"(1) GRANTS.—Subject to the availability of appropriated funds, the Secretary shall provide grants to each tribe or tribal organization operating a contract school or grant school in the amount de-

termined under this section with respect to the tribe or tribal organization for the purpose of paying the administrative and indirect costs incurred in operating contract or grant schools, provided that no school operated as a stand-alone institution shall receive less than $200,000 per year for these purposes, in order to—

"(A) enable 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 provided by the Secretary or other Federal officers or employees, from resources other than direct program funds, in support of comparable Bureau operated programs.

"(2) EFFECT UPON APPROPRIATED AMOUNTS.—Amounts appropriated to fund the grants provided under this section shall be in addition to, and shall not reduce, the amounts appro-

priated for the program being administered by the contract or grant school.

"(b) DETERMINATION OF GRANT AMOUNT.—

"(1) IN GENERAL.—The amount of the grant provided to each tribe or tribal organization under this section for each fiscal year shall be determined by applying the administrative cost percentage rate of the tribe or tribal organization to the aggregate of the Bureau elementary and secondary functions operated by the tribe or tribal organization for which funds are received from or through the Bureau. The administrative cost percentage rate determined under subsection (c) does not apply to other programs operated by the tribe or tribal organization.

"(2) DIRECT COST BASE FUNDS.—The Secretary shall—

"(A) reduce the amount of the grant determined under paragraph (1) to the extent that payments for administrative costs are actually received by an Indian tribe or tribal organization under any Federal education program included in the direct cost base of the tribe or tribal organization; and

"(B) take such actions as may be necessary to be reimbursed by any other depart-

ment or agency of the Federal Government for the portion of grants made under this section for the costs of administering any program for Indians that is funded by appropriations made to such other department or agency.

"(c) ADMINISTRATIVE COST PERCENTAGE RATE.—

"(1) IN GENERAL.—For purposes of this section, the administrative cost percentage rate for a contract or grant school for a fiscal year is equal to the percentage determined by dividing—

"(A) the sum of—

"(i) the amount equal to—

"(I) the direct cost base of the tribe or tribal organization for the fiscal year, multiplied by

"(II) the minimum base rate; plus

"(ii) the amount equal to—

"(I) the standard direct cost base; multiplied by

"(II) the maximum base rate; by

"(B) the sum of—

"(i) the direct cost base of the tribe or tribal organization for the fiscal year; plus

"(ii) the standard direct cost base.

"(2) ROUNDING.—The administrative cost percentage rate shall be determined to the 1/100 of a decimal point.

"(d) COMBINING FUNDS.—

"(1) IN GENERAL.—Funds received by a tribe or contract or grant school as grants under this section for tribal elementary or secondary educational programs may be combined by the tribe or contract or grant school into a single administrative cost account without the necessity of maintaining separate funding source accounting.

"(2) INDIRECT COST FUNDS.—Indirect cost funds for programs at the school which share common administrative services with tribal elementary or secondary educational programs may be included in the administrative cost account described in paragraph (1).

"(e) AVAILABILITY OF FUNDS.—Funds received as grants under this section with respect to tribal elementary or secondary education programs shall remain available to the contract or grant school without fiscal year limitation and without diminishing the amount of any grants otherwise payable to the school under this section for any fiscal year beginning after the fiscal year for which the grant is provided.

"(f) TREATMENT OF FUNDS.—Funds received as grants under this section for Bureau funded programs operated by a tribe or tribal organization under a contract or agreement shall not be taken into consideration for purposes of indirect cost underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived.

"(g) TREATMENT OF ENTITY OPERATING OTHER PROGRAMS.—In applying this section and section 105 of the Indian Self-Determination and Education Assistance Act with respect to an Indian tribe or tribal organization that—

"(1) receives funds under this section for administrative costs incurred in operating a contract or grant school or a school operated under the Tribally Controlled Schools Act of 1988; and

"(2) operates one or more other programs under a contract or grant provided under the Indian Self-Determination and Education Assistance Act,

the Secretary shall ensure that the Indian tribe or tribal organization is provided with the full amount of the administrative costs that are associated with operating the contract or grant school, and of the indirect costs, that are associated with all of such other programs, provided that funds appropriated for implementation of this section

shall be used only to supply the amount of the grant required to be provided by this section.

"(h) DEFINITIONS.—For purposes of this section:

"(1) ADMINISTRATIVE COST.—(A) The term 'administrative cost' means the costs of necessary administrative functions which—

"(i) the tribe or tribal organization incurs as a result of operating a tribal elementary or secondary educational program;

"(ii) are not customarily paid by comparable Bureau operated programs out of direct program funds; and

"(iii) are either—

"(I) normally provided for comparable Bureau programs by Federal officials using resources other than Bureau direct program funds; or

"(II) are otherwise required of tribal self-determination program operators by law or prudent management practice.

"(B) The term 'administrative cost' may include—

"(i) contract or grant (or other agreement) administration;

"(ii) executive, policy, and corporate leadership and decisionmaking;

"(iii) program planning, development, and management;

"(iv) fiscal, personnel, property, and procurement management;

"(v) related office services and record keeping; and

"(vi) costs of necessary insurance, auditing, legal, safety and security services.

"(2) BUREAU ELEMENTARY AND SECONDARY FUNCTIONS.—The term 'Bureau elementary and secondary functions' means—

"(A) all functions funded at Bureau schools by the Office;

"(B) all programs—

"(i) funds for which are appropriated to other agencies of the Federal Government; and

"(ii) which are administered for the benefit of Indians through Bureau schools; and

"(C) all operation, maintenance, and repair funds for facilities and government quarters used in the operation or support of elementary

and secondary education functions for the benefit of Indians, from whatever source derived.

"(3) DIRECT COST BASE.—(A) Except as otherwise provided in subparagraph (B), the direct cost base of a tribe or tribal organization for the fiscal year is the aggregate direct cost program funding for all tribal elementary or secondary educational programs operated by the tribe or tribal organization during—

"(i) the second fiscal year preceding such fiscal year; or

"(ii) if such programs have not been operated by the tribe or tribal organization during the two preceding fiscal years, the first fiscal year preceding such fiscal year.

"(B) In the case of Bureau elementary or secondary education functions which have not previously been operated by a tribe or tribal organization under contract, grant, or agreement with the Bureau, the direct cost base for the initial year shall be the projected aggregate direct cost program funding for all Bureau elementary and secondary functions to be operated by the tribe or tribal organization during that fiscal year.

"(4) MAXIMUM BASE RATE.—The term 'maximum base rate' means 50 percent.

"(5) MINIMUM BASE RATE.—The term 'minimum base rate' means 11 percent.

"(6) STANDARD DIRECT COST BASE.—The term 'standard direct cost base' means $600,000.

"(7) TRIBAL ELEMENTARY OR SECONDARY EDUCATIONAL PROGRAMS.—The term 'tribal elementary or secondary educational programs' means all Bureau elementary and secondary functions, together with any other Bureau programs or portions of programs (excluding funds for social services that are appropriated to agencies other than the Bureau and are expended through the Bureau, funds for major subcontracts, construction, and other major capital expenditures, and unexpended funds carried over from prior years) which share common administrative cost functions, that are operated directly by a tribe or tribal organization under a contract, grant, or agreement with the Bureau.

"(i) STUDIES FOR DETERMINATION OF FACTORS AFFECTING COSTS; BASE RATES LIMITS; STANDARD DIRECT COST BASE; REPORT TO CONGRESS.—

"(1) STUDIES.—Not later than 120 days after the date of the enactment of the No Child Left Be-

hind Act of 2001, the Director of the Office of Indian Education Programs shall—

"(A) conduct such studies as may be needed to establish an empirical basis for determining relevant factors substantially affecting required administrative costs of tribal elementary and secondary education programs, using the formula set forth in subsection (c); and

"(B) conduct a study to determine—

"(i) a maximum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the smallest tribal elementary or secondary educational programs;

"(ii) a minimum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the largest tribal elementary or secondary educational programs; and

"(iii) a standard direct cost base which is the aggregate direct cost funding level for which the percentage determined under subsection (c) will—

"(I) be equal to the median between the maximum base rate and the minimum base rate; and

"(II) ensure that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of tribal elementary or secondary educational programs closest to the size of the program.

"(2) GUIDELINES.—The studies required under paragraph (1) shall—

"(A) be conducted in full consultation (in accordance with section 1131) with—

"(i) the tribes and tribal organizations that are affected by the application of the formula set forth in subsection (c); and

"(ii) all national and regional Indian organizations of which such tribes and tribal organizations are typically members;

"(B) be conducted onsite with a representative statistical sample of the tribal elementary or secondary educational programs under a contract entered into with a nationally reputable public accounting and business consulting firm;

"(C) take into account the availability of skilled labor; commodities, business and automatic data processing services, related Indian preference and Indian control of education requirements, and any other market factors found substantially to affect the administrative costs and efficiency of each such tribal elementary or secondary educational program studied in order to assure that all required administrative activities can reasonably be delivered in a cost effective manner for each such program, given an administrative cost allowance generated by the values, percentages, or other factors found in the studies to be relevant in such formula;

"(D) identify, and quantify in terms of percentages of direct program costs, any general factors arising from geographic isolation, or numbers of programs administered, independent of program size factors used to compute a base administrative cost percentage in such formula; and

"(E) identify any other incremental cost factors substantially affecting the costs of required administrative cost functions at any of the tribal elementary or secondary educational

programs studied and determine whether the factors are of general applicability to other such programs, and (if so) how the factors may effectively be incorporated into such formula.

"(3) CONSULTATION WITH INSPECTOR GENERAL.—In carrying out the studies required under this subsection, the Director shall obtain the input of, and afford an opportunity to participate to, the Inspector General of the Department of the Interior.

"(4) CONSIDERATION OF DELIVERY OF ADMINISTRATIVE SERVICES.—Determinations described in paragraph (2)(C) shall be based on what is practicable at each location studied, given prudent management practice, irrespective of whether required administrative services were actually or fully delivered at these sites, or whether other services were delivered instead, during the period of the study.

"(5) REPORT.—Upon completion of the studies conducted under paragraph (1), the Director shall submit to Congress a report on the findings of the studies, together with determinations based upon such studies that would affect the definitions set forth under subsection (e) that are used in the formula set forth in subsection (c).

"(6) PROJECTION OF COSTS.—The Secretary shall include in the Bureau's justification for each appropriations request beginning in the first fiscal year after the completion of the studies conducted under paragraph (1), a projection of the overall costs associated with the formula set forth in subsection (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 this subsection, the size of tribal elementary or secondary educational programs is determined by the aggregate direct cost program funding level for all Bureau funded programs which share common administrative cost functions.

"(j) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated such sums as necessary to carry out this section.

"(2) REDUCTIONS.—If the total amount of funds necessary to provide grants to tribes and tribal organizations in the amounts determined under subsection (b) for a fiscal year exceeds the amount of funds appropriated to carry out this section for

such fiscal year, the Secretary shall reduce the amount of each grant determined under subsection (b) for such fiscal year by an amount that bears the same relationship to such excess as the amount of such grants determined under subsection (b) bears to the total of all grants determined under subsection (b) section for all tribes and tribal organizations for such fiscal year.

''(k) APPLICABILITY TO SCHOOLS OPERATING UNDER TRIBALLY CONTROLLED SCHOOLS ACT OF 1988.—The provisions of this section shall also apply to those schools operating under the Tribally Controlled Schools Act of 1988.

''SEC. 1129. DIVISION OF BUDGET ANALYSIS.

''(a) ESTABLISHMENT.—Not later than 12 months after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary shall establish within the Office of Indian Education Programs a Division of Budget Analysis (hereinafter referred to as the 'Division'). Such Division shall be under the direct supervision and control of the Director of the Office.

''(b) FUNCTIONS.—In consultation with the tribal governing bodies and tribal school boards, the Director of the Office, through the Division, shall conduct studies, surveys, or other activities to gather demographic informa-

tion on Bureau funded schools and project the amount necessary to provide Indian students in such schools the educational program set forth in this part.

"(c) ANNUAL REPORTS.—Not later than the date that the Assistant Secretary for Indian Affairs makes the annual budget submission, for each fiscal year after the date of the enactment of the No Child Left Behind Act of 2001, the Director of the Office shall submit to the appropriate committees of Congress (including the Appropriations committees), all Bureau funded schools, and the tribal governing bodies of such schools, a report which shall contain—

"(1) projections, based upon the information gathered pursuant to subparagraph (b) and any other relevant information, of amounts necessary to provide Indian students in Bureau funded schools the educational program set forth in this part;

"(2) a description of the methods and formulas used to calculate the amounts projected pursuant to paragraph (1); and

"(3) such other information as the Director of the Office considers appropriate.

"(d) USE OF REPORTS.—The Director of the Office and the Assistant Secretary for Indian Affairs shall use

the annual report required by subsection (c) when preparing their annual budget submissions.

"SEC. 1130. UNIFORM DIRECT FUNDING AND SUPPORT.

"(a) ESTABLISHMENT OF SYSTEM AND FORWARD FUNDING.—

"(1) IN GENERAL.—The Secretary shall establish, by regulation adopted in accordance with section 1138, a system for the direct funding and support of all Bureau funded schools. Such system shall allot funds in accordance with section 1127. All amounts appropriated for distribution under this section may be made available under paragraph (2).

"(2) TIMING FOR USE OF FUNDS.—(A) For the purposes of affording adequate notice of funding available pursuant to the allotments made under section 1127, amounts appropriated in an appropriations Act for any fiscal year shall become available for obligation by the affected schools on July 1 of the fiscal year in which such amounts are appropriated without further action by the Secretary, and shall remain available for obligation through the succeeding fiscal year.

"(B) The Secretary shall, on the basis of the amount appropriated in accordance with this paragraph—

"(i) publish, not later than July 1 of the fiscal year for which the funds are appropriated, allotments to each affected school made under section 1127 of 85 percent of such appropriation; and

"(ii) publish, not later than September 30 of such fiscal year, the allotments to be made under section 1127 of the remaining 15 percent of such appropriation, adjusted to reflect the actual student attendance.

"(3) LIMITATION.—(A) Notwithstanding any other provision of law or regulation, the supervisor of a Bureau funded school may expend an aggregate of not more than $50,000 of the amount allotted the school under section 1127 to acquire materials, supplies, equipment, services, operation, and maintenance for the school without competitive bidding if—

"(i) the cost for any single item purchased does not exceed $15,000;

"(ii) the school board approves the procurement;

"(iii) the supervisor certifies that the cost is fair and reasonable;

"(iv) the documents relating to the procurement executed by the supervisor or other

school staff cite this paragraph as authority for the procurement; and

"(v) the transaction is documented in a journal maintained at the school clearly identifying when the transaction occurred, what was acquired and from whom, the price paid, the quantities acquired, and any other information the supervisor or school board considers relevant.

"(B) Not later than 6 months after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary shall cause to be sent to each supervisor of a Bureau operated program and school board chairperson, the education line officer or officers of each agency and area, and the Bureau Division in charge of procurement, at both the local and national levels, notice of this paragraph.

"(C) The Director shall be responsible for determining the application of this paragraph, including the authorization of specific individuals to carry out this paragraph, and shall be responsible for the provision of guidelines on the use of this paragraph and adequate training on such guidelines.

"(4) EFFECT OF SEQUESTRATION ORDER.—If a sequestration order issued under the Balanced

Budget and Emergency Deficit Control Act of 1985 reduces the amount of funds available for allotment under section 1127 for any fiscal year by more than 7 percent of the amount of funds available for allotment under such section during the preceding fiscal year—

"(A) to fund allotments under section 1127, the Secretary, notwithstanding any other law, may use—

"(i) funds appropriated for the operation of any Bureau school that is closed or consolidated; and

"(ii) funds appropriated for any program that has been curtailed at any Bureau school; and

"(B) the Secretary may waive the application of the provisions of section 1121(h) with respect to the closure or consolidation of a school, or the curtailment of a program at a school, during such fiscal year if the funds described in clauses (i) and (ii) of subparagraph (A) with respect to such school are used to fund allotments made under section 1127 for such fiscal year.

"(b) LOCAL FINANCIAL PLANS FOR EXPENDITURE OF FUNDS.—

"(1) PLAN REQUIRED.—In the case of all Bureau operated schools, allotted funds shall be expended on the basis of local financial plans which ensure meeting the accreditation requirements or standards for the school established pursuant to section 1121 and which shall be prepared by the local school supervisor in active consultation with the local school board for each school. The local school board for each school shall have the authority to ratify, reject, or amend such financial plan, and expenditures thereunder, and, on its own determination or in response to the supervisor of the school, to revise such financial plan to meet needs not foreseen at the time of preparation of the financial plan.

"(2) The supervisor—

"(A) shall put into effect the decisions of the school board;

"(B) shall provide the appropriate local union representative of the education employees with copies of proposed draft financial plans and all amendments or modifications thereto, at the same time such copies are submitted to the local school board; and

"(C) may appeal any such action of the local school board to the appropriate education line officer of the Bureau agency by filing a written statement describing the action and the reasons the supervisor believes such action should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the appropriate education line officer may, for good cause, overturn the action of the local school board. The appropriate education line officer shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such action.

"(c) USE OF SELF-DETERMINATION GRANTS FUNDS.—Funds for self-determination grants under section 103(a)(2) of the Indian Self-Determination and Education Assistance Act shall not be used for providing technical assistance and training in the field of education by the Bureau unless such services are provided in accordance with a plan, agreed to by the tribe or tribes affected and the Bureau, under which control of education pro-

grams is intended to be transferred to such tribe or tribes within a specific period of time negotiated under such agreement. The Secretary may approve applications for funding tribal divisions of education and development of tribal codes of education from funds appropriated pursuant to section 104(a) of such Act.

"(d) TECHNICAL ASSISTANCE AND TRAINING.—In the exercise of its authority under this section, a local school board may request technical assistance and training from the Secretary, and the Secretary shall, to the greatest extent possible, provide such services, and make appropriate provisions in the budget of the Office for such services.

"(e) SUMMER PROGRAM OF ACADEMIC AND SUPPORT SERVICES.—

"(1) IN GENERAL.—A financial plan under subsection (b) for a school may include, at the discretion of the local administrator and the school board of such school, a provision for a summer program of academic and support services for students of the school. Any such program may include activities related to the prevention of alcohol and substance abuse. The Assistant Secretary for Indian Affairs shall provide for the utilization of any such school

facility during any summer in which such utilization is requested.

"(2) USE OF OTHER FUNDS.—Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934, and this Act may be used to augment the services provided in each summer program at the option, and under the control, of the tribe or Indian controlled school receiving such funds.

"(3) TECHNICAL ASSISTANCE AND PROGRAM COORDINATION.—The Assistant Secretary for Indian Affairs, acting through the Director of the Office, shall provide technical assistance and coordination for any program described in paragraph (1) and shall, to the extent possible, encourage the coordination of such programs with any other summer programs that might benefit Indian youth, regardless of the funding source or administrative entity of any such program.

"(f) COOPERATIVE AGREEMENTS.—

"(1) IN GENERAL.—From funds allotted to a Bureau school under section 1127, the Secretary shall, if specifically requested by the tribal governing body (as defined in section 1141), implement any cooperative agreement entered into between the tribe,

the Bureau school board, and the local public school district which meets the requirements of paragraph (2) and involves the school. The tribe, the Bureau school board, and the local public school district shall determine the terms of the agreement. Such agreement may encompass coordination of all or any part of the following:

"(A) Academic program and curriculum, unless the Bureau school is currently accredited by a State or regional accrediting entity and would not continue to be so accredited.

"(B) Support services, including procurement and facilities maintenance.

"(C) Transportation.

"(2) EQUAL BENEFIT AND BURDEN.—Each agreement entered into pursuant to the authority provided in paragraph (1) shall confer a benefit upon the Bureau school commensurate with the burden assumed, though this requirement shall not be construed so as to require equal expenditures or an exchange of similar services.

"(g) PRODUCT OR RESULT OF STUDENT PROJECTS.—Notwithstanding any other provision of law, where there is agreement on action between the superintendent and the school board of a Bureau funded school,

the product or result of a project conducted in whole or in major part by a student may be given to that student upon the completion of such project.

"(h) NOT CONSIDERED FEDERAL FUNDS FOR MATCHING REQUIREMENTS.—Notwithstanding any other provision of law, funds received by a Bureau funded school under this part shall not be considered Federal funds for the purposes of meeting a matching funds requirement for any Federal program.

"SEC. 1131. POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION.

"(a) FACILITATION OF INDIAN CONTROL.—It shall be the policy of the Secretary and the Bureau, in carrying out the functions of the Bureau, to facilitate tribal control of Indian affairs in all matters relating to education.

"(b) CONSULTATION WITH TRIBES.—

"(1) IN GENERAL.—All actions under this Act shall be done with active consultation with tribes.

"(2) REQUIREMENTS.—The consultation required under paragraph (1) means a process involving the open discussion and joint deliberation of all options with respect to potential issues or changes between the Bureau and all interested parties. During such discussions and joint deliberations, interested parties (including tribes and school officials)

shall be given an opportunity to present issues including proposals regarding changes in current practices or programs which will be considered for future action by the Bureau. All interested parties shall be given an opportunity to participate and discuss the options presented or to present alternatives, with the views and concerns of the interested parties given effect unless the Secretary determines, from information available from or presented by the interested parties during one or more of the discussions and deliberations, that there is a substantial reason for another course of action. The Secretary shall submit to any Member of Congress, within 18 days of the receipt of a written request by such Member, a written explanation of any decision made by the Secretary which is not consistent with the views of the interested parties.

"SEC. 1132. INDIAN EDUCATION PERSONNEL.

"(a) IN GENERAL.—Chapter 51, subchapter III of chapter 53, and chapter 63 of title 5, United States Code, relating to classification, pay and leave, respectively, and the sections of such title relating to the appointment, promotion, hours of work, and removal of civil service employees, shall not apply to educators or to education positions (as defined in subsection (p)).

"(b) REGULATIONS.—Not later than 60 days after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary shall prescribe regulations to carry out this section. Such regulations shall include—

"(1) the establishment of education positions;

"(2) the establishment of qualifications for educators and education personnel;

"(3) the fixing of basic compensation for educators and education positions;

"(4) the appointment of educators;

"(5) the discharge of educators;

"(6) the entitlement of educators to compensation;

"(7) the payment of compensation to educators;

"(8) the conditions of employment of educators;

"(9) the leave system for educators;

"(10) the annual leave and sick leave for educators; and

"(11) such matters as may be appropriate.

"(c) QUALIFICATIONS OF EDUCATORS.—

"(1) REQUIREMENTS.—In prescribing regulations to govern the qualifications of educators, the Secretary shall require—

"(A)(i) that lists of qualified and interviewed applicants for education positions be

maintained in each agency and area office of the Bureau from among individuals who have applied at the agency or area level for an education position or who have applied at the national level and have indicated in such application an interest in working in certain areas or agencies; and

''(ii) that a list of qualified and interviewed applicants for education positions be maintained in the Office from among individuals who have applied at the national level for an education position and who have expressed interest in working in an education position anywhere in the United States;

''(B) that a local school board shall have the authority to waive on a case-by-case basis, any formal education or degree qualifications established by regulation pursuant to subsection (b)(2), in order for a tribal member to be hired in an education position to teach courses on tribal culture and language and that subject to subsection (e)(2), a determination by a school board that such a person be hired shall be instituted supervisor; and

"(C) that it shall not be a prerequisite to the employment of an individual in an education position at the local level that such individual's name appear on the national list maintained pursuant to subparagraph (A)(ii) or that such individual has applied at the national level for an education position.

"(2) EXCEPTION FOR CERTAIN TEMPORARY EMPLOYMENT.—The Secretary may authorize the temporary employment in an education position of an individual who has not met the certification standards established pursuant to regulations, if the Secretary determines that failure to do so would result in that position remaining vacant.

"(d) HIRING OF EDUCATORS.—

"(1) REQUIREMENTS.—In prescribing regulations to govern the appointment of educators, the Secretary shall require—

"(A)(i) that educators employed in a Bureau operated school (other than the supervisor of the school) shall be hired by the supervisor of the school. In cases where there are no qualified applicants available, such supervisor may consult the national list maintained pursuant to subsection (c)(1)(A)(ii);

"(ii) each school supervisor shall be hired by the education line officer of the agency office of the Bureau in which the school is located;

"(iii) educators employed in an agency office of the Bureau shall be hired by the superintendent for education of the agency office; and

"(iv) each education line officer and educators employed in the Office of the Director of Indian Education Programs shall be hired by the Director;

"(B) that before an individual is employed in an education position in a school by the supervisor of a school (or with respect to the position of supervisor, by the appropriate agency education line officer), the local school board for the school shall be consulted. A determination by such school board that such individual should or should not be so employed shall be instituted by the supervisor (or with respect to the position of supervisor, by the agency superintendent for education);

"(C) that before an individual may be employed in an education position at the agency level, the appropriate agency school board shall

be consulted, and that a determination by such school board that such individual should or should not be employed shall be instituted by the agency superintendent for education; and

"(D) that before an individual may be employed in an education position in the Office of the Director (other than the position of Director), the national school boards representing all Bureau schools shall be consulted.

"(2) INFORMATION REGARDING APPLICATION AT NATIONAL LEVEL.—Any individual who applies at the local level for an education position shall state on such individual's application whether or not such individual has applied at the national level for an education position in the Bureau. If such individual is employed at the local level, such individual's name shall be immediately forwarded to the Secretary, who shall, as soon as practicable but in no event in more than 30 days, ascertain the accuracy of the statement made by such individual pursuant to the first sentence of this paragraph. Notwithstanding subsection (e), if the individual's statement is found to have been false, such individual, at the Secretary's discretion, may be disciplined or discharged. If the individual has applied at the national level for

an education position in the Bureau, the appointment of such individual at the local level shall be conditional for a period of 90 days, during which period the Secretary may appoint a more qualified individual (as determined by the Secretary) from the list maintained at the national level pursuant to subsection (c)(1)(A)(ii) to the position to which such individual was appointed.

"(3) STATUTORY CONSTRUCTION.—Except as expressly provided, nothing in this section shall be construed as conferring upon local school boards authority over, or control of, educators at Bureau funded schools or the authority to issue management decisions.

"(e) DISCHARGE AND CONDITIONS OF EMPLOYMENT OF EDUCATORS.—

"(1) REGULATIONS.—In prescribing regulations to govern the discharge and conditions of employment of educators, the Secretary shall require—

"(A) that procedures be established for the rapid and equitable resolution of grievances of educators;

"(B) that no educator may be discharged without notice of the reasons therefore and opportunity for a hearing under procedures that

comport with the requirements of due process; and

"(C) that educators employed in Bureau schools be notified 30 days prior to the end of the school year whether their employment contract will be renewed for the following year.

"(2) PROCEDURES FOR DISCHARGE.—The supervisor of a Bureau school may discharge (subject to procedures established under paragraph (1)(B)) for cause (as determined under regulations prescribed by the Secretary) any educator employed in such school. Upon giving notice of proposed discharge to an educator, the supervisor involved shall immediately notify the local school board for the school of such action. A determination by the local school board that such educator shall not be discharged shall be followed by the supervisor. The supervisor shall have the right to appeal such action to the education line officer of the appropriate agency office of the Bureau. Upon such an appeal, the agency education line officer may, for good cause and in writing to the local school board, overturn the determination of the local school board with respect to the employment of such individual.

"(3) RECOMMENDATIONS OF SCHOOL BOARDS FOR DISCHARGE.—Each local school board for a Bureau school shall have the right—

"(A) to recommend to the supervisor of such school that an educator employed in the school be discharged; and

"(B) to recommend to the education line officer of the appropriate agency office of the Bureau and to the Director of the Office, that the supervisor of the school be discharged.

"(f) APPLICABILITY OF INDIAN PREFERENCE LAWS.—

"(1) IN GENERAL.—Notwithstanding any provision of the Indian preference laws, such laws shall not apply in the case of any personnel action under this section respecting an applicant or employee not entitled to Indian preference if each tribal organization concerned grants a written waiver of the application of such laws with respect to such personnel action and states that such waiver is necessary. This paragraph shall not relieve the Bureau's responsibility to issue timely and adequate announcements and advertisements concerning any such personnel action if such action is intended to fill a vacancy (no matter how such vacancy is created).

"(2) TRIBAL ORGANIZATION DEFINED.—For purposes of this subsection, the term 'tribal organization' means—

"(A) the recognized governing body of any Indian tribe, band, nation, pueblo, or other organized community, including a Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act); or

"(B) in connection with any personnel action referred to in this subsection, any local school board as defined in section 1141 which has been delegated by such governing body the authority to grant a waiver under this subsection with respect to personnel action.

"(3) INDIAN PREFERENCE LAW DEFINED.—The term 'Indian preference laws' means section 12 of the Act of June 18, 1934, or any other provision of law granting a preference to Indians in promotions and other personnel actions. Such term shall not include section 7(b) of the Indian Self-Determination and Education Assistance Act.

"(g) COMPENSATION OR ANNUAL SALARY.—

"(1) IN GENERAL.—(A) Except as otherwise provided in this section, the Secretary shall fix the basic compensation for educators and education po-

sitions at rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5, United States Code, is applicable or on the basis of the Federal Wage System schedule in effect for the locality, and for the comparable positions, the rates of compensation in effect for the senior 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 (on the date of the enactment of the No Child Left Behind Act of 2001 and thereafter) to comparable positions in the overseas schools under the Defense Department Overseas Teachers Pay Act. The Secretary shall allow the local school boards authority to implement only the aspects of the Defense Department Overseas Teacher pay provisions that are considered essential for recruitment and retention. Implementation of such provisions shall not be construed to require the implementation of the Act in its entirety.

"(C)(i) Beginning with the fiscal year following the date of the enactment of the No Child Left Be-

hind Act of 2001, each school board may set the rate of compensation or annual salary rate for teachers and counselors (including academic counselors) who are new hires at the school and who have not worked at the school on the date of implementation of this provision, at rates consistent with the rates paid for individuals in the same positions, with the same tenure and training, in any other school within whose boundaries the Bureau school lies. In instances where the adoption of such rates cause a reduction in the payment of compensation from that which was in effect for the fiscal year following the date of the enactment of the No Child Left Behind Act of 2001, the new rate may be applied to the compensation of employees of the school who worked at the school on of the date of the enactment of that Act by applying those rates to each contract renewal such that the reduction takes effect in three equal installments. Where adoption of such rates lead to an increase in the payment of compensation from that which was in effect for the fiscal year following the date of the enactment of the No Child Left Behind Act of 2001, the school board may make such rates applicable at the next contract renewal such that either—

"(I) the increase occurs in its entirety; or

"(II) the increase is applied in three equal installments.

"(ii) The establishment of rates of basic compensation and annual salary rates under subparagraphs (B) and (C) shall not preclude the use of regulations and procedures used by the Bureau prior to April 28, 1988, in making determinations regarding promotions and advancements through levels of pay that are based on the merit, education, experience, or tenure of the educator.

"(D) The establishment of rates of basic compensation and annual salary rates under subparagraphs (B) and (C) shall not affect the continued employment or compensation of an educator who was employed in an education position on October 31, 1979, and who did not make an election under subsection (p) is in effect on January 1, 1990.

"(2) POST-DIFFERENTIAL RATES.—(A) The Secretary may pay a post-differential rate not to exceed 25 percent of the rate of basic compensation, on the basis of conditions of environment or work which warrant additional pay as a recruitment and retention incentive.

"(B)(i) Upon the request of the supervisor and the local school board of a Bureau school, the Secretary shall grant the supervisor of the school authorization to provide one or more post-differentials under subparagraph (A) unless the Secretary determines for clear and convincing reasons (and advises the board in writing of those reasons) that certain of the requested post-differentials should be disapproved or decreased because there is no disparity of compensation for the involved employees or positions in the Bureau school, as compared with the nearest public school, that is either—

"(I) at least 5 percent; or

"(II) less than 5 percent and affects the recruitment or retention of employees at the school.

"(ii) A request under clause (i) shall be deemed granted at the end of the 60th day after the request is received in the Central Office of the Bureau unless before that time the request is approved, approved with modification, or disapproved by the Secretary.

"(iii) The Secretary or the supervisor of a Bureau school may discontinue or decrease a post-dif-

ferential authorized under this subparagraph at the beginning of a school year if—

"(I) the local school board requests that such differential be discontinued or decreased; or

"(II) the Secretary or the supervisor determines for clear and convincing reasons (and advises the board in writing of those reasons) that there is no disparity of compensation that would affect the recruitment or retention of employees at the school after the differential is discontinued or decreased.

"(iv) On or before February 1 of each year, the Secretary shall submit to Congress a report describing the requests and grants of authority under this subparagraph during the previous year and listing the positions contracted under those grants of authority.

"(h) LIQUIDATION OF REMAINING LEAVE UPON TERMINATION.—Upon termination of employment with the Bureau, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except that leave earned

or accrued under regulations prescribed pursuant to subsection (b)(10) of this section shall not be so liquidated.

"(i) TRANSFER OF REMAINING SICK LEAVE UPON TRANSFER, PROMOTION, OR REEMPLOYMENT.—In the case of any educator who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the regulations prescribed pursuant to subsection (b)(10) shall be transferred to such person's credit in the employing agency on an adjusted basis in accordance with regulations which shall be prescribed by the Office of Personnel Management.

"(j) INELIGIBILITY FOR EMPLOYMENT OF VOLUNTARILY TERMINATED EDUCATORS.—An educator who voluntarily terminates employment with the Bureau before the expiration of the existing employment contract between such educator and the Bureau shall not be eligible to be employed in another education position in the Bureau during the remainder of the term of such contract.

"(k) DUAL COMPENSATION.—In the case of any educator employed in an education position described in subsection (l)(1)(A) who—

"(1) is employed at the close of a school year;

"(2) agrees in writing to serve in such position for the next school year; and

"(3) is employed in another position during the recess period immediately preceding such next school year, or during such recess period receives additional compensation referred to in section 5533 of title 5, United States Code, relating to dual compensation, shall not apply to such educator by reason of any such employment during a recess period for any receipt of additional compensation.

"(l) VOLUNTARY SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary may, subject to the approval of the local school board concerned, accept voluntary services on behalf of Bureau schools. Nothing in this part shall be construed to require Federal employees to work without compensation or to allow the use of volunteer services to displace or replace Federal employees. An individual providing volunteer services under this section is a Federal employee only for purposes of chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

"(m) PRORATION OF PAY.—

"(1) ELECTION OF EMPLOYEE.—Notwithstanding any other provision of law, including laws relating to dual compensation, the Secretary, at the

election of the employee, shall prorate the salary of an employee employed in an education position for the academic school year over the entire 12-month period. Each educator employed for the academic school year shall annually elect to be paid on a 12-month basis or for those months while school is in session. No educator shall suffer a loss of pay or benefits, including benefits under unemployment or other Federal or federally assisted programs, because of such election.

"(2) CHANGE OF ELECTION.—During the course of such year the employee may change election once.

"(3) LUMP SUM PAYMENT.—That portion of the employee's pay which would be paid between academic school years may be paid in a lump sum at the election of the employee.

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'educator' and 'education position' have the meanings contained in paragraphs (1) and (2) of subsection (o). This subsection applies to those individuals employed under the provisions of section 1132 of this title or title 5, United States Code.

"(n) EXTRACURRICULAR ACTIVITIES.—

"(1) STIPEND.—Notwithstanding any other provision of law, the Secretary may provide, for each Bureau area, a stipend in lieu of overtime premium pay or compensatory time off. Any employee of the Bureau who performs additional activities to provide services to students or otherwise support the school's academic and social programs may elect to be compensated for all such work on the basis of the stipend. Such stipend shall be paid as a supplement to the employee's base pay.

"(2) ELECTION NOT TO RECEIVE STIPEND.—If an employee elects not to be compensated through the stipend established by this subsection, the appropriate provisions of title 5, United States Code, shall apply.

"(3) APPLICABILITY OF SUBSECTION.—This subsection applies to all Bureau employees, whether employed under section 1132 of this title or title 5, United States Code.

"(o) DEFINITIONS.—For the purpose of this section—

"(1) EDUCATION POSITION.—The term 'education position' means a position in the Bureau the duties and responsibilities of which—

"(A) are performed on a school-year basis principally in a Bureau school and involve—

"(i) classroom or other instruction or the supervision or direction of classroom or other instruction;

"(ii) any activity (other than teaching) which requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education;

"(iii) any activity in or related to the field of education notwithstanding that academic credits in educational theory and practice are not a formal requirement for the conduct of such activity; or

"(iv) support services at, or associated with, the site of the school; or

"(B) are performed at the agency level of the Bureau and involve the implementation of education-related programs other than the position for agency superintendent for education.

"(2) EDUCATOR.—The term 'educator' means an individual whose services are required, or who is employed, in an education position.

"(p) COVERED INDIVIDUALS; ELECTION.—This section shall apply with respect to any educator hired after November 1, 1979 (and to any educator who elected for coverage under that provision after November 1, 1979) and to the position in which such individual is employed. The enactment of this section shall not affect the continued employment of an individual employed on October 31, 1979 in an education position, or such person's right to receive the compensation attached to such position.

"SEC. 1133. COMPUTERIZED MANAGEMENT INFORMATION SYSTEM.

"(a) ESTABLISHMENT OF SYSTEM.—Not later than July 1, 2003, the Secretary shall establish within the Office, a computerized management information system, which shall provide processing and information to the Office. The information provided shall include information regarding—

"(1) student enrollment;

"(2) curriculum;

"(3) staffing;

"(4) facilities;

"(5) community demographics;

"(6) student assessment information;

"(7) information on the administrative and program costs attributable to each Bureau program, divided into discreet elements;

"(8) relevant reports;

"(9) personnel records;

"(10) finance and payroll; and

"(11) such other items as the Secretary deems appropriate.

"(b) IMPLEMENTATION OF SYSTEM.—Not later than July 1, 2004, the Secretary shall complete implementation of such a system at each field office and Bureau funded school.

"SEC. 1134. UNIFORM EDUCATION PROCEDURES AND PRACTICES.

"The Secretary shall cause the various divisions of the Bureau to formulate uniform procedures and practices with respect to such concerns of those divisions as relate to education, and shall report such practices and procedures to the Congress.

"SEC. 1135. RECRUITMENT OF INDIAN EDUCATORS.

"The Secretary shall institute a policy for the recruitment of qualified Indian educators and a detailed plan to promote employees from within the Bureau. Such plan

shall include opportunities for acquiring work experience prior to actual work assignment.

"SEC. 1136. BIENNIAL REPORT; AUDITS.

"(a) BIENNIAL REPORTS.—The Secretary shall submit to each appropriate committee of Congress, all Bureau funded schools, and the tribal governing bodies of such schools, a detailed biennial report on the state of education within the Bureau and any problems encountered in Indian education during the 2-year period covered by the report. Such report shall contain suggestions for the improvement of the Bureau educational system and for increasing tribal or local Indian control of such system. Such report shall also include the current status of tribally controlled community colleges. The annual budget submission for the Bureau's education programs shall include—

"(1) information on the funds provided to previously private schools under section 208 of the Indian Self-Determination and Education Assistance Act, and recommendations with respect to the future use of such funds;

"(2) the needs and costs of operations and maintenance of tribally controlled community colleges eligible for assistance under the Tribally Controlled Community College Assistance Act of 1978

and recommendations with respect to meeting such needs and costs; and

"(3) the plans required by sections 1121 (g), 1122(c), and 1125(b).

"(b) FINANCIAL AND COMPLIANCE AUDITS.—The Inspector General of the Department of the Interior shall establish a system to ensure that financial and compliance audits are conducted of each Bureau operated school at least once in every 3 years. Audits of Bureau schools shall be based upon the extent to which such school has complied with its local financial plan under section 1130.

"SEC. 1137. RIGHTS OF INDIAN STUDENTS.

"The Secretary shall prescribe such rules and regulations as are necessary to ensure the constitutional and civil rights of Indian students attending Bureau funded schools, including such students' right to privacy under the laws of the United States, such students' right to freedom of religion and expression, 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 provision of this Act. The Secretary shall publish proposed regulations in the Federal

Register, shall provide a period of not less than 90 days for public comment thereon, and shall place in parentheses after each regulatory section the citation to any statutory provision providing authority to promulgate such regulatory provision.

"(b) MISCELLANEOUS.—

"(1) CONSTRUCTION.—The provisions of this Act shall supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before the date of the enactment of this Act and the Secretary is authorized to repeal any regulation inconsistent with the provisions of this Act.

"(2) LEGAL AUTHORITY TO BE STATED.—Regulations issued to implement this Act shall contain, immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority upon which provision is based.

"SEC. 1138A. REGIONAL MEETINGS AND NEGOTIATED RULEMAKING.

"(a) MEETINGS.—

"(1) IN GENERAL.—The Secretary shall obtain tribal involvement in the development of proposed regulations under this part and the Tribally Controlled Schools Act of 1988. The Secretary shall ob-

tain the advice of and recommendations from representatives of Indian tribes with Bureau funded schools on their reservations, Indian tribes whose children attend Bureau funded off-reservation boarding schools, school boards, administrators or employees of Bureau funded schools, and parents and teachers of students enrolled in Bureau funded schools.

''(2) ISSUES.—The Secretary shall provide for a comprehensive discussion and exchange of information concerning the implementation of this part and the Tribally Controlled Schools Act of 1988 through such mechanisms as regional meetings and electronic exchanges of information. The Secretary shall take into account the information received through such mechanisms in the development of proposed regulations and shall publish a summary of such information in the Federal Register together with such proposed regulations.

''(b) DRAFT REGULATIONS.—

''(1) IN GENERAL.—After obtaining the advice and recommendations described in subsection (a)(1) and before publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations implementing this part and the Tribally

Controlled Schools Act of 1988 and shall submit such regulations to a negotiated rulemaking process. Participants in the negotiations process shall be 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 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 1988 are not issued in final form by the deadline provided in paragraph (1), the Secretary shall notify the appropriate committees of Congress of which draft regulations were not issued in final form by the deadline and the reason such final regulations were not issued.

"(3) EXPANSION OF NEGOTIATED RULEMAKING.—All regulations pertaining to this part and the Tribally Controlled Schools Act of 1988 that are

promulgated after the date of the enactment of this subsection shall be subject to a negotiated rulemaking (including the selection of the regulations to be negotiated), unless the Secretary determines that applying such a requirement with respect to given regulations is impracticable, unnecessary, or contrary to the public interest (within the meaning of section 553(b)(3)(B) of title 5), and publishes the basis for such determination in the Federal Register at the same time as the proposed regulations in question are first published. All published proposed regulations shall conform to agreements resulting from such negotiated rulemaking unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants in that process why the Secretary has decided to depart from such agreements. Such negotiated rulemaking shall be conducted in accordance with the provisions of subsection (a), and the Secretary shall ensure that a clear and reliable record of agreements reached during the negotiation process is maintained.

"(c) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall apply to activities carried out under this section.

"SEC. 1139. EARLY CHILDHOOD DEVELOPMENT PROGRAM.

"(a) IN GENERAL.—The Secretary shall provide grants to tribes, tribal organizations, and consortia of tribes and tribal organizations to fund early childhood development programs that are operated by such tribes, organizations, or consortia.

"(b) AMOUNT OF GRANTS.—

"(1) IN GENERAL.—The total amount of the grants provided under subsection (a) with respect to each tribe, tribal organization, or consortium of tribes or tribal organizations for each fiscal year shall be equal to the amount which bears the same relationship to the total amount appropriated under the authority of subsection (g) for such fiscal year (less amounts provided under subsection (f)) as—

"(A) the total number of children under 6 years of age who are members of—

"(i) such tribe;

"(ii) the tribe that authorized such tribal organization; or

"(iii) any tribe that—

"(I) is a member of such consortium; or

"(II) authorizes any tribal organization that is a member of such consortium; bears to

"(B) the total number of all children under 6 years of age who are members of any tribe that—

"(i) is eligible to receive funds under subsection (a);

"(ii) is a member of a consortium that is eligible to receive such funds; or

"(iii) authorizes a tribal organization that is eligible to receive such funds.

"(2) LIMITATION.—No grant may be provided under subsection (a)—

"(A) to any tribe that has less than 500 members;

"(B) to any tribal organization which is authorized—

"(i) by only one tribe that has less than 500 members; or

"(ii) by one or more tribes that have a combined total membership of less than 500 members; or

"(C) to any consortium composed of tribes, or tribal organizations authorized by tribes, that have a combined total tribal membership of less than 500 members.

"(c) APPLICATION.—

"(1) IN GENERAL.—A grant may be provided under subsection (a) to a tribe, tribal organization, or consortia of tribes and tribal organizations only if the tribe, organization, or consortia submits to the Secretary an application for the grant at such time and in such form as the Secretary shall prescribe.

"(2) CONTENTS.—Applications submitted under paragraph (1) shall set forth the early childhood development program that the applicant desires to operate.

"(d) REQUIREMENT OF PROGRAMS FUNDED.—The early childhood development programs that are funded by grants provided under subsection (a)—

"(1) shall coordinate existing programs and may provide services that meet identified needs of parents and children under 6 years of age which are not being met by existing programs, including—

"(A) prenatal care;

"(B) nutrition education;

"(C) health education and screening;

"(D) family literacy services;

"(E) educational testing; and

"(F) other educational services;

"(2) may include instruction in the language, art, and culture of the tribe; and

"(3) shall provide for periodic assessment of the program.

"(e) COORDINATION OF FAMILY LITERACY PROGRAMS.—Family literacy programs operated under this section and other family literacy programs operated by the Bureau of Indian Affairs shall be coordinated with family literacy programs for Indian children under part B of title I of the Elementary and Secondary Education Act of 1965 in order to avoid duplication and to encourage the dissemination of information on quality family literacy programs serving Indians.

"(f) ADMINISTRATIVE COSTS.—The Secretary shall, out of funds appropriated under subsection (g), include in the grants provided under subsection (a) amounts for administrative costs incurred by the tribe, tribal organization, or consortium of tribes in establishing and maintaining the early childhood development program.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $10,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003, 2004, 2005, and 2006.

"SEC. 1140. TRIBAL DEPARTMENTS OR DIVISIONS OF EDUCATION.

"(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall provide grants and technical assistance to tribes for the development and operation of tribal departments of education for the purpose of planning and coordinating all educational programs of the tribe.

"(b) GRANTS.—Grants provided under this section shall—

"(1) be based on applications from the governing body of the tribe;

"(2) reflect factors such as geographic and population diversity;

"(3) facilitate tribal control in all matters relating to the education of Indian children on Indian reservations (and on former Indian reservations in Oklahoma);

"(4) provide for the development of coordinated educational programs on Indian reservations (and on former Indian reservations in Oklahoma) (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) by encouraging tribal administrative support of all Bureau funded educational programs as well as encouraging tribal co-

operation and coordination with all educational programs receiving financial support from State agencies, other Federal agencies, or private entities;

''(5) provide for the development and enforcement of tribal educational codes, including tribal educational policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs; and

''(6) otherwise comply with regulations for grants under section 103(a) of the Indian Self-Determination and Educational Assistance Act that are in effect on the date that application for such grants are made.

''(c) PRIORITIES.—

''(1) IN GENERAL.—In making grants under this section, the Secretary shall give priority to any application that—

''(A) includes assurances from the majority of Bureau funded schools located within the boundaries of the reservation of the applicant that the tribal department of education to be funded under this section will provide coordinating services and technical assistance to all of such schools, including the submission to each applicable agency of a unified application for

funding for all of such schools which provides that—

"(i) no administrative costs other than those attributable to the individual programs of such schools will be associated with the unified application; and

"(ii) the distribution of all funds received under the unified application will be equal to the amount of funds provided by the applicable agency to which each of such schools is entitled under law;

"(B) includes assurances from the tribal governing body that the tribal department of education funded under this section will 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 education programs for which funds are provided by contract

or grant to ensure that the programs meet the requirements of law; and

"(D) provides a plan and schedule for—

"(i) the assumption over the term of the grant by the tribal department of education of all assets and functions of the Bureau agency office associated with the tribe, insofar as those responsibilities relate to education; and

"(ii) the termination by the Bureau of such operations and office at the time of such assumption,

except that when mutually agreeable between the tribal governing body and the Assistant Secretary, the period in which such assumption is to occur may be modified, reduced, or extended after the initial year of the grant.

"(2) TIME PERIOD OF GRANT.—Subject to the availability of appropriated funds, grants provided under this section shall be provided for a period of 3 years and the grant may, if performance by the grantee is satisfactory to the Secretary, be renewed for additional 3-year terms.

"(d) TERMS, CONDITIONS, OR REQUIREMENTS.—The Secretary shall not impose any terms, conditions, or re-

quirements on the provision of grants under this section that are not specified in this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $2,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003, 2004, 2005, and 2006.

"SEC. 1141. DEFINITIONS.

"For the purposes of this part, unless otherwise specified:

"(1) AGENCY SCHOOL BOARD.—The term 'agency school board' means a body, the members of which are appointed by all of the school boards of the schools located within an agency, including schools operated under contract or grant, and the number of such members shall be determined by the Secretary in consultation with the affected tribes, except that, in agencies serving a single school, the school board of such school shall fulfill these duties, and in agencies having schools or a school operated under contract or grant, one such member at least shall be from such a school.

"(2) BUREAU.—The term 'Bureau' means the Bureau of Indian Affairs of the Department of the Interior.

"(3) BUREAU FUNDED SCHOOL.—The term 'Bureau funded school' means—

"(A) a Bureau school;

"(B) a contract or grant school; or

"(C) a school for which assistance is provided under the Tribally Controlled Schools Act of 1988.

"(4) BUREAU SCHOOL.—The term 'Bureau school' means a Bureau operated elementary or secondary day or boarding school or a Bureau operated dormitory for students attending a school other than a Bureau school.

"(5) CONTRACT OR GRANT SCHOOL.—The term 'contract or grant school' means an elementary or secondary school or dormitory which receives financial assistance for its operation under a contract, grant or agreement with the Bureau under section 102, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act, or under the Tribally Controlled Schools Act of 1988.

"(6) EDUCATION LINE OFFICER.—The term 'education line officer' means education personnel under the supervision of the Director, whether located in the central, area, or agency offices.

"(7) FAMILY LITERACY SERVICES.—The term 'family literacy services' has the meaning given that term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

"(8) FINANCIAL PLAN.—The term 'financial plan' means a plan of services provided by each Bureau school.

"(9) INDIAN ORGANIZATION.—the term 'Indian organization' means any group, association, partnership, corporation, or other legal entity owned or controlled by a federally recognized Indian tribe or tribes, or a majority of whose members are members of federally recognized tribes.

"(10) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State, and includes any State agency which directly operates and maintains facilities for providing free public education.

"(11) LOCAL SCHOOL BOARD.—The term 'local school board', when used with respect to a Bureau school, means a body chosen in accordance with the

laws of the tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that in schools serving a substantial number of students from different tribes, the members shall be appointed by the governing bodies of the tribes affected, and the number of such members shall be determined by the Secretary in consultation with the affected tribes.

"(12) OFFICE.—The term 'Office' means the Office of Indian Education Programs within the Bureau.

"(13) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

"(14) SUPERVISOR.—The term 'supervisor' means the individual in the position of ultimate authority at a Bureau school.

"(15) TRIBAL GOVERNING BODY.—The term 'tribal governing body' means, with respect to any school, the tribal governing body, or tribal governing bodies, that represent at least 90 percent of the students served by such school.

"(16) TRIBE.—The term 'tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or estab-

lished pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.''.

SEC. 314. TRIBALLY CONTROLLED SCHOOLS ACT OF 1988.

Sections 5202 through 5212 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) are amended to read as follows:

''SEC. 5202. FINDINGS.

''Congress, after careful review of the Federal Government's historical and special legal relationship with, and resulting responsibilities to, Indians, finds that—

''(1) the Indian Self-Determination and Education Assistance Act, which was a product of the legitimate aspirations and a recognition of the inherent authority of Indian nations, was and is a crucial positive step towards tribal and community control;

''(2) the Bureau of Indian Affairs' administration and domination of the contracting process under such Act has not provided the full opportunity to develop leadership skills crucial to the realization of self-government and has denied Indians an effective voice in the planning and implementation of

programs for the benefit of Indians which are responsive to the true needs of Indian communities;

''(3) Indians will never surrender their desire to control their relationships both among themselves and with non-Indian governments, organizations, and persons;

''(4) true self-determination in any society of people is dependent upon an educational process which will ensure the development of qualified people to fulfill meaningful leadership roles;

''(5) the Federal administration of education for Indian children has not effected the desired level of educational achievement or created the diverse opportunities and personal satisfaction that education can and should provide;

''(6) true local control requires the least possible Federal interference; and

''(7) the time has come to enhance the concepts made manifest in the Indian Self-Determination and Education Assistance Act.

''SEC. 5203. DECLARATION OF POLICY.

''(a) RECOGNITION.—Congress recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of edu-

cational services so as to render such services more responsive to the needs and desires of those communities.

"(b) COMMITMENT.—Congress declares its commitment to the maintenance of the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy for education which will deter further perpetuation of Federal bureaucratic domination of programs.

"(c) NATIONAL GOAL.—Congress declares that a major national goal of the United States is to provide the resources, processes, and structure which will enable tribes and local communities to effect the quantity and quality of educational services and opportunities which will permit Indian children to compete and excel in the life areas of their choice and to achieve the measure of self-determination essential to their social and economic well-being.

"(d) EDUCATIONAL NEEDS.—Congress affirms the reality of the special and unique educational needs of Indian peoples, including the need for programs to meet the linguistic and cultural aspirations of Indian tribes and communities. These may best be met through a grant process.

"(e) FEDERAL RELATIONS.—Congress declares its commitment to these policies and its support, to the full

extent of its responsibility, for Federal relations with the Indian Nations.

"(f) TERMINATION.—Congress hereby repudiates and rejects House Resolution 108 of the 83d Congress and any policy of unilateral termination of Federal relations with any Indian Nation.

"SEC. 5204. GRANTS AUTHORIZED.

"(a) IN GENERAL.—

"(1) ELIGIBILITY.—The Secretary shall provide grants to Indian tribes, and tribal organizations that—

"(A) operate contract schools under title XI of the Education Amendments of 1978 and notify the Secretary of their election to operate the schools with assistance under this part rather than continuing as contract school;

"(B) operate other tribally controlled schools eligible for assistance under this part and submit applications (which are approved by their tribal governing bodies) to the Secretary for such grants; or

"(C) elect to assume operation of Bureau funded schools with the assistance under this part and submit applications (which are ap-

proved by their tribal governing bodies) to the Secretary for such grants.

"(2) DEPOSIT OF FUNDS.—Grants provided under this part shall be deposited into the general operating fund of the tribally controlled school with respect to which the grant is made.

"(3) USE OF FUNDS.—(A) Except as otherwise provided in this paragraph, grants provided under this part shall be used to defray, at the discretion of the school board of the tribally controlled school with respect to which the grant is provided, any expenditures for education related activities for which any funds that compose the grant may be used under the laws described in section 5205(a), including, but not limited to, expenditures for—

"(i) school operations, academic, educational, residential, guidance and counseling, and administrative purposes; and

"(ii) support services for the school, including transportation.

"(B) Grants provided under this part may, at the discretion of the school board of the tribally controlled school with respect to which such grant is provided, be used to defray operations and maintenance expenditures for the school if any funds for

the operation and maintenance of the school are allocated to the school under the provisions of any of the laws described in section 5205(a).

"(b) LIMITATIONS.—

"(1) ONE GRANT PER TRIBE OR ORGANIZATION PER FISCAL YEAR.—Not more than one grant may be provided under this part with respect to any Indian tribe or tribal organization for any fiscal year.

"(2) NONSECTARIAN USE.—Funds provided under any grant made under this part may not be used in connection with religious worship or sectarian instruction.

"(3) ADMINISTRATIVE COSTS LIMITATION.—Funds provided under any grant under this part may not be expended for administrative costs (as 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.

"(c) LIMITATION ON TRANSFER OF FUNDS AMONG SCHOOLSITES.—

"(1) IN GENERAL.—In the case of a grantee that operates schools at more than one schoolsite, the grantee may expend not more than the lesser of—

"(A) 10 percent of the funds allocated for such schoolsite under section 1128 of the Education Amendments of 1978; or

"(B) $400,000 of such funds, at any other schoolsite.

"(2) DEFINITION OF SCHOOLSITE.—For purposes of this subsection, the term 'schoolsite' means the physical location and the facilities of an elementary or secondary educational or residential program operated by, or under contract or grant with, the Bureau for which a discreet student count is identified under the funding formula established under section 1127 of the Education Amendments of 1978.

"(d) NO REQUIREMENT TO ACCEPT GRANTS.—Nothing in this part may be construed—

"(1) to require a tribe or tribal organization to apply for or accept; or

"(2) to allow any person to coerce any tribe or tribal organization to apply for, or accept,

a grant under this part to plan, conduct, and administer all of, or any portion of, any Bureau program. Such 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 the entity to which the grant is provided.

"(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 a date specified by the Secretary that 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 agreed upon by the Secretary and the tribal governing body. If such a program is retroceded, the Secretary shall provide to any Indian tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of funding provided under this part prior to the retrocession.

"(2) STATUS AFTER RETROCESSION.—The tribe requesting retrocession shall specify whether the retrocession is to status as a Bureau operated school or as a school operated under contract under title XI of the Education Amendments of 1978.

"(3) TRANSFER OF EQUIPMENT AND MATERIALS.—Except as otherwise determined by the Secretary, the tribe or tribal organization operating the program to be retroceded must transfer to the Secretary (or to the tribe or tribal organization which will operate the program as a contract school) the existing equipment and materials which were acquired—

"(A) with assistance under this part; or

"(B) upon assumption of operation of the program under this part if the school was a Bureau funded school under title XI of the Education Amendments of 1978 before receiving assistance under this part.

"(g) PROHIBITION OF TERMINATION FOR ADMINISTRATIVE CONVENIENCE.—Grants provided under this part may not be terminated, modified, suspended, or reduced solely for the convenience of the administering agency.

"SEC. 5205. COMPOSITION OF GRANTS.

"(a) IN GENERAL.—The grant provided under this part to an Indian tribe or tribal organization for any fiscal year shall consist of—

"(1) the total amount of funds allocated for such fiscal year under sections 1127 and 1128 of the

Education Amendments of 1978 with respect to the tribally controlled schools eligible for assistance under this part which are operated by such Indian tribe or tribal organization, including, but not limited to, funds provided under such sections, or under any other provision of law, for transportation costs;

"(2) to the extent requested by such Indian tribe or tribal organization, the total amount of funds provided from operations and maintenance accounts and, notwithstanding section 105 of the Indian Self-Determination Act, or any other provision of law, other facilities accounts for such schools for such fiscal year (including but not limited to those referenced under section 1126(d) of the Education Amendments of 1978 or any other law); and

"(3) the total amount of funds that are allocated to such schools for such fiscal year under—

"(A) title I of the Elementary and Secondary Education Act of 1965;

"(B) the Individuals with Disabilities Education Act; and

"(C) any other Federal education law, that are allocated to such schools for such fiscal year.

"(b) SPECIAL RULES.—

"(1) IN GENERAL.—(A) Funds allocated to a tribally controlled school by reason of paragraph (1) or (2) of subsection (a) shall be subject to the 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;

"(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 for which such grants are provided, shall not be subject to any requirements, obligations, restrictions, or limitations imposed by the Bureau that would otherwise apply solely by reason of the receipt of funds provided under any law referred to in clause (i), (ii), or (iii) of subparagraph (A).

"(2) SCHOOLS CONSIDERED CONTRACT SCHOOLS.—Tribally controlled schools for which grants are provided under this part shall be treated

as contract schools for the purposes of allocation of funds under sections 1126(d), 1127, and 1128 of the Education Amendments of 1978.

"(3) SCHOOLS CONSIDERED BUREAU SCHOOLS.—Tribally controlled schools for which grants are provided under this chapter shall be treated as Bureau schools for the purposes of allocation of funds provided under—

"(A) title I of the Elementary and Secondary Education Act of 1965;

"(B) the Individuals with Disabilities Education Act; and

"(C) any other Federal education law, that are distributed through the Bureau.

"(4) ACCOUNTS; USE OF CERTAIN FUNDS.—(A) Notwithstanding section 5204(a)(2), with respect to funds from facilities improvement and repair, alteration and renovation (major or minor), health and safety, or new construction accounts included in the grant under section 5204(a), the grantee shall maintain a separate account for such funds. At the end of the period designated for the work covered by the funds received, the grantee shall submit to the Secretary a separate accounting of the work done and the funds expended to the Secretary. Funds received

from these accounts may only be used for the purpose for which they were appropriated and for the work encompassed by the application or submission under which they were received.

"(B) Notwithstanding subparagraph (A), a school receiving a grant under this part for facilities improvement and repair may use such grant funds for new construction if the tribal government or other organization provides funding for the new construction equal to at least 25 percent of the total cost of such new construction.

"(C) Where the appropriations measure or the application submission does not stipulate a period for the work covered by the funds so designated, the Secretary and the grantee shall consult and determine such a period prior to the transfer of the funds. A period so determined may be extended upon mutual agreement of the Secretary and the grantee.

"(5) ENFORCEMENT OF REQUEST TO INCLUDE FUNDS.—If the Secretary fails to carry out a request made under subsection (a)(2) within 180 days of a request filed by an Indian tribe or tribal organization to include in such tribe or organization's grant the funds described in subsection (a)(2), the

Secretary shall be deemed to have approved such request and the Secretary shall immediately amend the grant accordingly. Such tribe or organization may enforce its rights under subsection (a)(2) and this paragraph, including any denial or failure to act on such tribe or organization's request, pursuant to the disputes authority described in section 5209(e).

"SEC. 5206. ELIGIBILITY FOR GRANTS.

"(a) RULES.—

"(1) IN GENERAL.—A tribally controlled school is eligible for assistance under this part if the school—

"(A) on April 28, 1988, was a contract school under title XI of the Education Amendments of 1978 and the tribe or tribal organization operating the school submits to the Secretary a written notice of election to receive a grant under this part;

"(B) was a Bureau operated school under title XI of the Education Amendments of 1978 and has met the requirements of subsection (b);

"(C) is a school for which the Bureau has not provided funds, but which has met the requirements of subsection (c); or

"(D) is a school with respect to which an election has been made under paragraph (2) and which has met the requirements of subsection (b).

"(2) NEW SCHOOLS.—Any application which has been submitted under the Indian Self-Determination and Education Assistance Act by an Indian tribe for a school which is not in operation on the date of the enactment of the No Child Left Behind Act of 2001 shall be reviewed under the guidelines and regulations for applications submitted under the Indian Self-Determination and Education Assistance Act that were in effect at the time the application was submitted, unless the Indian tribe or tribal organization elects to have the application reviewed under the provisions of subsection (b).

"(b) ADDITIONAL REQUIREMENTS FOR BUREAU FUNDED SCHOOLS AND CERTAIN ELECTING SCHOOLS.—

"(1) BUREAU FUNDED SCHOOLS.—A school that was a Bureau funded school under title XI of the Education Amendments of 1978 on the date of the enactment of the No Child Left Behind Act of 2001, and any school with respect to which an election is made under subsection (a)(2), meets the requirements of this subsection if—

"(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting that the Secretary—

"(i) transfer operation of the school to the Indian tribe or tribal organization, if the Indian tribe or tribal organization is not already operating the school; and

"(ii) make a determination as to whether the school is eligible for assistance under this part; and

"(B) the Secretary makes a determination that the school is eligible for assistance under this part.

"(2) CERTAIN ELECTING SCHOOLS.—(A) By not later than the date that is 120 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine—

"(i) in the case of a school which is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization; and

"(ii) whether the school is eligible for assistance under this part.

"(B) In considering applications submitted under paragraph (1)(A), the Secretary—

"(i) shall transfer operation of the school to the Indian tribe or tribal organization, if the tribe or tribal organization is not already operating the school; and

"(ii) shall determine that the school is eligible for assistance under this part, unless the Secretary finds by clear and convincing evidence that the services to be provided by the Indian tribe or tribal organization will be deleterious to the welfare of the Indians served by the school.

"(C) In considering applications submitted under paragraph (1)(A), the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in operating the school with respect to—

"(i) equipment;

"(ii) bookkeeping and accounting procedures;

"(iii) ability to adequately manage a school; or

"(iv) adequately trained personnel.

"(c) ADDITIONAL REQUIREMENTS FOR A SCHOOL WHICH IS NOT A BUREAU FUNDED SCHOOL.—

"(1) IN GENERAL.—A school which is not a Bureau funded school under title XI of the Education Amendments of 1978 meets the requirements of this subsection if—

"(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application 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.

"(2) DEADLINE FOR DETERMINATION BY SECRETARY.—(A) By not later than the date that is 180 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine whether the school is eligible for assistance under this part.

"(B) In making the determination under subparagraph (A), the Secretary shall give equal consideration to each of the following factors:

"(i) with respect to the applicant's proposal—

"(I) the adequacy of facilities or the potential to obtain or provide adequate 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

"(ii) with respect to all education services already available—

"(I) geographic and demographic factors in the affected areas;

"(II) adequacy and comparability of programs already available;

"(III) consistency of available programs with tribal education codes or tribal legislation on education; and

"(IV) the history and success of these services for the proposed population to be served, as determined from all factors including, if relevant, standardized examination performance.

"(C) The Secretary may not make a determination under this paragraph that is primarily based upon the geographic proximity of comparable public education.

"(D) Applications submitted under paragraph (1)(A) shall include information on the factors described in subparagraph (B)(i), but the applicant may also provide the Secretary such information relative to the factors described in subparagraph (B)(ii) as the applicant considers appropriate.

"(E) If the Secretary fails to make a determination under subparagraph (A) with respect to an application within 180 days after the date on which the Secretary received the application, the Secretary shall be treated as having made a determination that the tribally controlled school is eligible for assistance under the title and the grant shall become effective 18 months after the date on which the Secretary

received the application, or on an earlier date, at the Secretary's discretion.

"(d) FILING OF APPLICATIONS AND REPORTS.—

"(1) IN GENERAL.—All applications and reports submitted to the Secretary under this part, and any amendments to such applications or reports, shall be filed with the education line officer designated by the Director of the Office of Indian Education Programs of the Bureau of Indian Affairs. The date on which such filing occurs shall, for purposes of this part, be treated as the date on which the application or amendment was submitted to the Secretary.

"(2) SUPPORTING DOCUMENTATION.—Any 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.

"(e) EFFECTIVE DATE FOR APPROVED APPLICATIONS.—Except as provided by subsection (c)(2)(E), a grant provided under this part, and any transfer of the operation of a Bureau school made under subsection (b), shall become effective beginning the academic year succeeding the fiscal year in which the application for the grant or transfer is made, or at an earlier date determined by the Secretary.

"(f) DENIAL OF APPLICATIONS.—

"(1) IN GENERAL.—Whenever the Secretary 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—

"(A) state the objections in writing to the tribe or tribal organization within the allotted time;

"(B) provide assistance to the tribe or tribal organization to overcome all stated objections.

"(C) at the request of the tribe or tribal organization, provide the tribe or tribal organization a hearing on the record under the same rules and regulations that apply under the Indian Self-Determination and Education Assistance Act; and

"(D) provide an opportunity to appeal the objection raised.

"(2) TIMELINE FOR RECONSIDERATION OF AMENDED APPLICATIONS.—The Secretary shall reconsider any amended application submitted under

this part within 60 days after the amended application is submitted to the Secretary.

''(g) REPORT.—The Bureau shall submit an annual report to the Congress on all applications received, and actions taken (including the costs associated with such actions), under this section at the same time that the President is required to submit to Congress the budget under section 1105 of title 31, United States Code.

''SEC. 5207. DURATION OF ELIGIBILITY DETERMINATION.

''(a) IN GENERAL.—If the Secretary determines that a tribally controlled school is eligible for assistance under this part, the eligibility determination shall remain in effect until the determination is revoked by the Secretary, and the requirements of subsection (b) or (c) of section 5206, if applicable, shall be considered to have been met with respect to such school until the eligibility determination is revoked by the Secretary.

''(b) ANNUAL REPORTS.—

''(1) IN GENERAL.—Each recipient of a grant provided under this part shall complete an annual report which shall be limited to—

''(A) an annual financial statement reporting revenue and expenditures as defined by the cost accounting established by the grantee;

"(B) an annual financial audit conducted pursuant to the standards of the Single Audit Act of 1984;

"(C) an annual submission to the Secretary of the number of students served and a brief description of programs offered under the grant; and

"(D) a program evaluation conducted by an impartial evaluation review team, to be based on the standards established for purposes of subsection (c)(1)(A)(ii).

"(2) EVALUATION REVIEW TEAMS.—Where appropriate, other tribally controlled schools and representatives of tribally controlled community colleges shall make up members of the evaluation review teams.

"(3) EVALUATIONS.—In the case of a school which is accredited, evaluations will be conducted at intervals under the terms of accreditation.

"(4) SUBMISSION OF REPORT.—

"(A) TO TRIBALLY GOVERNING BODY.—Upon completion of the report required under paragraph (a), the recipient of the grant shall send (via first class mail, return receipt requested) a copy of such annual report to the

tribal governing body (as defined in section 1132(f) of the Education Amendments of 1978) of the tribally controlled school.

"(B) TO SECRETARY.—Not later than 30 days after receiving written confirmation that the tribal governing body has received the report send pursuant to subsection (A), the recipient of the grant shall send a copy of the report to the Secretary.

"(c) REVOCATION OF ELIGIBILITY.—

"(1) IN GENERAL.—(A) The Secretary shall not revoke a determination that a school is eligible for assistance under this part if—

"(i) the Indian tribe or tribal organization submits the reports required under subsection (b) with respect to the school; and

"(ii) at least one of the following subclauses applies with respect to the school:

"(I) The school is certified or accredited by a State or regional accrediting association or is a candidate in good standing for such accreditation under the rules of the State or regional accrediting association, showing that credits achieved by the students within the education pro-

grams are, or will be, accepted at grade level by a State certified or regionally accredited institution.

''(II) A determination made by the Secretary that there is a reasonable expectation that the accreditation described in subclause (I), or the candidacy in good standing for such accreditation, will be reached by the school within 3 years and that the program offered by the school is beneficial to the Indian students.

''(III) The school is accredited by a tribal department of education if such accreditation is accepted by a generally recognized regional or State accreditation agency.

''(IV) The schools accept the standards promulgated under section 1121 of the Education Amendments of 1978 and an evaluation of performance is conducted under this section in conformance with the regulations pertaining to Bureau operated schools by an impartial evaluator chosen by the grantee, but no grantee shall be required to comply with these standards to a

higher degree than a comparable Bureau operated school.

"(V) A positive evaluation of the school is conducted by an impartial evaluator agreed upon by the Secretary and the grantee every 2 years under standards adopted by the contractor under a contract for a school entered into under the Indian Self-Determination and Education Assistance Act (or revisions of such standards agreed to 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 evaluator, the tribal governing body shall choose the evaluator or perform the evaluation. If the Secretary and a grantee which is the tribal governing body fail to agree on such an evaluator, this subclause shall not apply.

"(B) The choice of standards employed for the purpose of subparagraph (A)(ii) shall be consistent with section 1121(e) of the Education Amendments of 1978.

"(2) NOTICE REQUIREMENTS FOR REVOCATION.—The Secretary shall not revoke a determination that a school is eligible for assistance under this part, or reassume 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 1141(14) of the Education Amendments of 1978) of the tribally controlled school which states—

"(i) the specific deficiencies that led to the revocation or resumption determination; and

"(ii) the actions that are needed to remedy such deficiencies; and

"(B) affords such authority an opportunity to effect the remedial actions.

"(3) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical assistance as is practicable to effect such remedial actions. Such notice and technical assistance shall be in addition to a hearing and appeal to be conducted pursuant to the regulations described in section 5206(f)(1)(C).

"(d) APPLICABILITY OF SECTION PURSUANT TO ELECTION UNDER SECTION 5209(b).—With respect to a tribally controlled school which receives assistance under this part pursuant to an election made under section 5209(b)—

"(1) subsection (b) of this section shall apply; and

"(2) the Secretary may not revoke eligibility for assistance under this part except in conformance with subsection (c) of this section.

"SEC. 5208. PAYMENT OF GRANTS; INVESTMENT OF FUNDS.

"(a) PAYMENTS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in two payments, of which—

"(A) the first payment shall be made not later than July 15 of each year in an amount equal to 85 percent of the amount which the grantee was entitled to receive during the preceding academic year; and

"(B) the second payment, consisting of the remainder to which the grantee is entitled for the academic year, shall be made not later than December 1 of each year.

"(2) NEWLY FUNDED SCHOOLS.—For any school for which no payment under this part was made from Bureau funds in the preceding academic year, full payment of the amount computed for the first academic year of eligibility under this part shall be made not later than December 1 of the academic year.

"(3) LATE FUNDING.—With regard to funds for grantees that become available for obligation on October 1 of the fiscal year for which such funds are appropriated, the Secretary shall make payments to grantees not later than December 1 of the fiscal year.

"(4) APPLICABILITY OF CERTAIN TITLE 31 PROVISIONS.—The provisions of chapter 39 of Title 31, United States Code, shall apply to the payments required to be made by paragraphs (1), (2), and (3).

"(5) RESTRICTIONS.—Paragraphs (1), (2), and (3) shall be subject to any restriction on amounts of payments under this part that are imposed by a continuing resolution or other Act appropriating the funds involved.

"(b) INVESTMENT OF FUNDS.—

"(1) TREATMENT OF INTEREST AND INVESTMENT INCOME.—Notwithstanding any other provi-

sion of law, any interest or investment income that accrues to any funds provided under this part after such funds are paid to the Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this part shall be the property of the Indian tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law. Such interest income shall be spent on behalf of the school.

"(2) PERMISSIBLE INVESTMENTS.—Funds provided under this part may be invested by the Indian tribe or tribal organization before such funds are expended for the purposes of this part so long as such funds are—

"(A) invested by the Indian tribe or tribal organization only in obligations of the United States, or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States,

or securities that are guaranteed or insured by the United States; or

"(B) deposited only into accounts that are insure by and agency or instrumentality of the United States, or are fully collateralized to ensure protection of the funds, even in the event of a bank failure.

"(c) RECOVERIES.—For the purposes of underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived, funds received under this part shall not be taken into consideration.

"SEC. 5209. APPLICATION WITH RESPECT TO INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

"(a) CERTAIN PROVISIONS TO APPLY TO GRANTS.—The following provisions of the Indian Self-Determination and Education Assistance Act (and any subsequent revisions thereto or renumbering thereof), shall apply to grants provided under this part:

"(1) Section 5(f) (relating to single agency audit).

"(2) Section 6 (relating to criminal activities; penalties).

"(3) Section 7 (relating to wage and labor standards).

"(4) Section 104 (relating to retention of Federal employee coverage).

"(5) Section 105(f) (relating to Federal property).

"(6) Section 105(k) (relating to access to Federal sources of supply).

"(7) Section 105(l) (relating to lease of facility used for administration and delivery of services).

"(8) Section 106(e) (relating to limitation on remedies relating to cost allowances).

"(9) Section 106(i) (relating to use of funds for matching or cost participation requirements).

"(10) Section 106(j) (relating to allowable uses of funds).

"(11) Section 108(c) (Model Agreements provisions (1)(a)(5) (relating to limitations of costs), (1)(a)(7) (relating to records and monitoring), (1)(a)(8) (relating to property), and (a)(1)(9) (relating to availability of funds).

"(12) Section 109 (relating to reassumption).

"(13) Section 111 (relating to sovereign immunity and trusteeship rights unaffected).

"(b) ELECTION FOR GRANT IN LIEU OF CONTRACT.—

"(1) IN GENERAL.—Contractors for activities to which this part applies who have entered into a contract under the Indian Self-Determination and Education Assistance Act that is in effect upon the date of the enactment of the No Child Left Behind Act of 2001 may, by giving notice to the Secretary, elect to have the provisions of this part apply to such activity in lieu of such contract.

"(2) EFFECTIVE DATE OF ELECTION.—Any election made under paragraph (1) shall take effect on the later of—

"(A) October 1 of the fiscal year succeeding the fiscal year in which such election is made; or

"(B) 60 days after the date of such election.

"(3) EXCEPTION.—In any case in which the 60-day period referred to in paragraph (2)(B) is less than 60 days before the beginning of the succeeding fiscal year, such election shall not take effect until the fiscal year after the fiscal year succeeding the election.

"(c) NO DUPLICATION.—No funds may be provided under any contract entered into under the Indian Self-Determination and Education Assistance Act to pay any expenses incurred in providing any program or services if a grant has been made under this part to pay such expenses.

"(d) TRANSFERS AND CARRYOVERS.—

"(1) BUILDINGS, EQUIPMENT, SUPPLIES, MATERIALS.—A tribe or tribal organization assuming the operation of—

"(A) a Bureau school with assistance under this part shall be entitled to the transfer or use of buildings, equipment, supplies, and materials to the same extent as if it were contracting under the Indian Self-Determination and Education Assistance Act; or

"(B) a contract school with assistance under this part shall be entitled to the transfer or use of buildings, equipment, supplies and materials that were used in the operation of the contract school to the same extent as if it were contracting under the Indian Self-Determination and Education Assistance Act.

"(2) FUNDS.—Any tribe or tribal organization which assumes operation of a Bureau school with as-

sistance under this part and any tribe or tribal organization which elects to operate a school with assistance under this part rather that to continue as a contract school shall be entitled to any funds which would carryover from the previous fiscal year as if such school were operated as a contract school.

''(e) EXCEPTIONS, PROBLEMS, AND DISPUTES.—Any exception or problem cited in an audit conducted pursuant to section 5207(b)(2), any dispute regarding a grant authorized to be made pursuant to this part or any 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 administrative appeals filed after September 8, 1988, by grantees regarding a grant under this part, including an administrative cost grant.

''SEC. 5210. ROLE OF THE DIRECTOR.

''Applications for grants under this part, and all application modifications, shall be reviewed and approved by personnel under the direction and control of the Director of the Office of Indian Education Programs. Required re-

ports shall be submitted to education personnel under the direction and control of the Director of such Office.

"SEC. 5211. REGULATIONS.

"The Secretary is authorized to issue regulations relating to the discharge of duties specifically assigned to the Secretary by this part. In all other matters relating to the details of planning, development, implementing, and evaluating grants under this part, the Secretary shall not issue regulations. Regulations issued pursuant to this part shall not have the standing of a Federal statute for the purposes of judicial review.

"SEC. 5212. THE TRIBALLY CONTROLLED GRANT SCHOOL ENDOWMENT PROGRAM.

"(a) IN GENERAL.—

"(1) TRUST FUNDS.—Each school receiving grants under this part may establish, at a Federally insured banking and savings institution, a trust fund for the purposes of this section.

"(2) AUTHORITY OF SCHOOLS REGARDING TRUST FUNDS.—The school may provide—

"(A) for the deposit into the trust fund, only funds from non-Federal sources, except that the interest on funds received from grants under this part may be used for this purpose;

"(B) for the deposit in the account of any earnings on funds deposited in the account; and

"(C) for the sole use of the school any noncash, in-kind contributions of real or personal property, such property may at any time be converted to cash.

"(b) INTEREST.—Interest from the fund established under subsection (a) may periodically be withdrawn and used, at the discretion of the school, to defray any expenses associated with the operation of the school.

"SEC. 5213. DEFINITIONS.

"For the purposes of this part:

"(1) BUREAU.—The term 'Bureau' means the Bureau of Indian Affairs of the Department of the Interior.

"(2) ELIGIBLE INDIAN STUDENT.—The term 'eligible Indian student' has the meaning of such term in section 1127(f) of the Education Amendments of 1978.

"(3) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including Alaska Native Village or regional corporations (as defined in or established pursuant to the Alaskan Native Claims Settlement Act, which is recognized as eligible for

the special programs and services provided by the United States to Indians because of their status as Indians.

''(4) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

''(5) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(6) TRIBAL ORGANIZATION.—(A) The term 'tribal organization' means—

''(i) the recognized governing body of any Indian tribe; or

''(ii) any legally established organization of Indians which—

"(I) is controlled, sanctioned, or 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.

"(B) In any case in which a grant is provided under this part to an organization to provide services benefiting more than one Indian tribe, the approval of the governing bodies of Indian tribes representing 80 percent of those students attending the tribally controlled school shall be considered a sufficient tribal authorization for such grant.

"(7) TRIBALLY CONTROLLED SCHOOL.—The term 'tribally controlled school' means a school operated by a tribe or a tribal organization, enrolling students in kindergarten through grade 12, including preschools, which is not a local educational agency and which is not directly administered by the Bureau of Indian Affairs.".

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 under such section to no more than 50 percent of the amount that may be reserved for administration under such Act.

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:

"TITLE IV—PROMOTING INFORMED PARENTAL CHOICE AND INNOVATIVE PROGRAMS

"PART A—INNOVATIVE PROGRAMS

"Subpart 1—State and Local Innovative Programs

"SEC. 4101. FINDINGS AND STATEMENT OF PURPOSE.

''(a) FINDINGS.—Congress finds that this subpart—

''(1) provides flexibility to meet local needs;

''(2) promotes local and State education reforms;

''(3) contributes to the improvement of academic achievement for all students;

"(4) provides funding for critical activities; and

"(5) provides services for private school students.

"(b) STATEMENT OF PURPOSE.—It is the purpose of programs under this subpart—

"(1) to provide funding to enable States and local educational agencies to implement promising educational reform programs and school improvement initiatives based on scientifically based research;

"(2) to provide a continuing source of innovation and educational improvement, including support for library services and instructional and media materials; and

"(3) to meet the educational needs of all students, including at-risk youth.

"(c) STATE AND LOCAL RESPONSIBILITY.—

"(1) IN GENERAL.—The States shall have the basic responsibility for the administration of funds made available under this subpart, but such administration shall be carried out with a minimum of paperwork.

"(2) DESIGN AND IMPLEMENTATION.—Notwithstanding paragraph (1), local educational agencies, school superintendents and principals, and

classroom teachers and supporting personnel shall be mainly responsible for the design and implementation of programs assisted under this subpart, because such agencies and individuals have the most direct contact with students and are most likely to be able to design programs to meet the educational needs of students in their own school districts.

"CHAPTER 1—STATE AND LOCAL PROGRAMS

"SEC. 4111. ALLOCATION TO STATES.

''(a) RESERVATIONS.—From the sums appropriated to carry out this subpart for each fiscal year, the Secretary shall reserve not more than 1 percent for payments to outlying areas to be allotted in accordance with their respective needs.

''(b) ALLOCATION OF REMAINDER.—From the remainder of such sums, the Secretary shall allocate, and make available in accordance with this subpart, to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to ½ of 1 percent of such remainder.

"SEC. 4112. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

"(a) DISTRIBUTION RULE.—

"(1) IN GENERAL.—Subject to paragraph (2), from the sums made available each year to carry out this subpart, the State shall distribute not less than 85 percent to local educational agencies within such State according to the relative enrollments in public and private, nonprofit schools within the jurisdictions of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per-pupil allocations to local educational agencies that have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

"(A) children living in areas with high concentrations of economically disadvantaged families;

"(B) children from economically disadvantaged families; and

"(C) children living in sparsely populated areas.

"(2) 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 4131(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 4121.

"(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 numbers or percentages of—

"(i) children living in areas with high concentrations of economically disadvantaged families;

"(ii) children from economically disadvantaged families; or

"(iii) children living in sparsely populated areas.

"(B) 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 subparagraph (A).

"(c) PAYMENT OF ALLOCATIONS.—

"(1) 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).

"(2) 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 subsection (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) ELECTION.—In any fiscal year, any local educational agency that elects to allocate

such additional funds in the manner described in subparagraph (A) shall allocate all additional funds to schools within the local educational agency in such manner.

"(C) CONSTRUCTION.—Subparagraphs (A) and (B) may not be construed to require any school to limit the use of the additional funds described in subparagraph (A) to the provision of services to specific students or categories of students.

"CHAPTER 2—STATE PROGRAMS

"SEC. 4121. STATE USE OF FUNDS.

"A State may use funds made available for State use under this subpart 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 part B;

"(3) statewide education reform and school improvement activities and technical assistance and direct grants to local educational agencies which assist such agencies under section 4131; and

"(4) support for arrangements that provide for independent analysis to measure and report on school district achievement.

"SEC. 4122. STATE APPLICATIONS.

"(a) APPLICATION REQUIREMENTS.—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 or improving the quality of education for students;

"(2) provides information setting forth the allocation of such funds required to implement section 4142;

"(3) provides that the State will keep such records and provide such information to the Secretary as may be required for fiscal audit and pro-

gram evaluation (consistent with the responsibilities of the Secretary under this section);

"(4) provides assurance that, apart from technical and advisory assistance and monitoring compliance with this subpart, the State has not exercised and will not exercise any influence in the decision-making processes of local educational agencies as to the expenditure made pursuant to an application under section 4133;

"(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 years, and may be amended annually as may be necessary to reflect changes without filing a new application.

"(d) AUDIT LIMITATION.—Each local educational agency receiving less than an average of $5,000 under this 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, principals, 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 programs, including professional development to assist teachers, and other school officials, regarding how to use effectively such equipment and software;

''(3) programs for the development or acquisition and use of instructional and educational materials, including library services and materials (including media materials), academic assessments, reference materials, computer software and hardware for instructional use, and other curricular materials that are tied to high academic standards, that will be used to improve student achievement, and that are part of an overall education reform program;

''(4) promising education reform projects, including effective schools and magnet schools;

''(5) programs to improve the academic skills of disadvantaged elementary and secondary school students and to prevent students from dropping out of school;

''(6) programs to combat illiteracy;

''(7) programs to provide for the educational needs of gifted and talented children;

"(8) planning, designing, and initial implementation of charter schools as described in part B;

"(9) school improvement programs or activities under sections 1116 and 1117;

"(10) community service programs that use qualified school personnel to train and mobilize young people to measurably strengthen their communities through nonviolence, responsibility, compassion, respect, and moral courage;

"(11) activities to promote consumer, economic, and personal finance education, such as disseminating and encouraging the best practices for teaching the basic principles of economics and promoting the concept of achieving financial literacy through the teaching of personal financial management skills (including the basic principles involved with earning, spending, saving, and investing);

"(12) activities to promote, implement, or expand public school choice;

"(13) 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 stu-

dents, parents, and school personnel by qualified school based mental health services personnel;

''(15) alternative educational programs for those students who have been expelled or suspended from their regular educational setting, including programs to assist students to reenter the regular educational setting upon return from treatment or alternative educational programs;

''(16) programs to establish or enhance prekindergarten programs for children ages 3 through 5;

''(17) academic intervention programs that are operated jointly with community-based organizations and that support academic enrichment and counseling programs conducted during the school day (including during extended school day or extended school year programs) for students most-at-risk of not meeting challenging State academic standards or not completing secondary school;

''(18) programs for cardiopulmonary resuscitation (CPR) training in schools; and

''(19) programs to establish smaller learning communities.

"SEC. 4132. ADMINISTRATIVE AUTHORITY.

"In order to conduct the activities authorized by this subpart, each State or local educational agency may use funds made available 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 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 year for 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 purposes of this subpart and to the innovative assistance described in section 4131(b);

"(B) based on the needs identified in subparagraph (A), sets forth the planned allocation of funds among innovative assistance programs

described in section 4131 and describes the programs, projects, and activities designed to carry out such innovative assistance programs that the local educational agency intends to support;

''(C) contains information setting forth the allocation of such funds required to implement section 4142;

''(D) describes how assistance under this subpart will contribute to improving student academic achievement;

''(E) provides assurances of compliance with the provisions of this subpart, including the participation of children enrolled in private, nonprofit schools in accordance with section 4142;

''(F) provides assurance that the local educational agency will keep such records, and provide such information to the State as may be reasonably required for fiscal audit and program evaluation, consistent with the responsibilities of the State under this subpart;

''(G) provides in the allocation of funds for the assistance authorized by this subpart, and in the design, planning, and implementation of such programs, for systematic consultation with

parents of children attending elementary and secondary schools in the area served by the local educational agency, with teachers and administrative personnel in such schools, and with other groups involved in the implementation of this subpart (such as librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency; and

"(H) provides assurance that—

"(i) programs, services, and activities will be evaluated annually;

"(ii) such evaluation will be used to determine and implement appropriate changes in program services and activities for the subsequent year;

"(iii) such evaluation will describe how assistance under this subpart contributed toward improving student academic achievement; and

"(iv) such evaluation will be submitted to the State in the time and manner requested by the State.

"(b) TIME PERIOD TO WHICH APPLICATION RELATES.—An application submitted by a local educational

agency under subsection (a) may seek allocations under this part for a period of time not to exceed 3 fiscal years and may be amended annually as may be necessary to reflect changes without the filing of a new application.

"(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—

"(1) IN GENERAL.—Subject to the limitations and requirements of this subpart, a local educational agency shall have complete discretion in determining how funds made available under this chapter will be divided among programs and activities described in section 4131.

"(2) LIMITATION.—In exercising the discretion described in paragraph (1), a local educational agency shall ensure that expenditures under this chapter carry out the purposes of this subpart and are used to meet the educational needs within the schools of such local educational agency.

"CHAPTER 4—GENERAL PROVISIONS

"SEC. 4141. MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY.

"(a) MAINTENANCE OF EFFORT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this subpart for any fiscal year only if the Secretary determines that either the

combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the fiscal year that is 2 fiscal years before the fiscal year for which the determination is made.

"(2) REDUCTION OF FUNDS.—The Secretary shall reduce the amount of the allocation of funds under this subpart in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) WAIVER.—The Secretary may waive, for 1 fiscal year only, the requirements of this section if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

"(b) FEDERAL FUNDS SUPPLEMENTARY.—A State or local educational agency may use and allocate funds received under this subpart only to supplement and, to the extent practical, to increase the level of funds that would, in the absence of Federal funds made available under this subpart, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

"SEC. 4142. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

"(a) PARTICIPATION ON EQUITABLE BASIS.—

"(1) IN GENERAL.—To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this subpart or which serves the area in which a program or project assisted under this subpart is located, who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State from funds made available for State use, such agency, after consultation with appropriate private school officials—

"(A) shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equip-

ment, including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair or minor remodeling of public facilities as may be necessary for their provision (consistent with subsection (c) of this section); or

"(B) if such services, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this subpart.

"(2) OTHER PROVISIONS FOR SERVICES.—If no program or project is carried out under paragraph (1) in the school district of a local educational agency, the State shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in such district are provided with services and materials to the extent that would have occurred if the local educational agency had received funds under this subpart.

"(3) APPLICATION OF REQUIREMENTS.—The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this subpart by a State or local educational agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

"(b) EQUAL EXPENDITURES.—

"(1) IN GENERAL.—Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this subpart for children enrolled in the public schools of the local educational agency.

"(2) CONCENTRATED PROGRAMS.—Taking into account the needs of the individual children and other factors which relate to the expenditures referred to in paragraph (1), and when funds available to a local educational agency under this subpart are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after con-

sultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

''(c) ADMINISTRATIVE RULES.—

''(1) FUNDS AND PROPERTY.—The control of funds provided under this subpart, and title to materials, equipment, and property repaired, remodeled, or constructed with such funds, shall be in a public agency for the uses and purposes provided in this subpart, and a public agency shall administer such funds and property.

''(2) PROVISION OF SERVICES.—The provision of services pursuant to this subpart shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this subpart shall not be commingled with State or local funds.

''(d) WAIVER.—

''(1) STATE PROHIBITION WAIVER.—If by reason of any provision of law a State or local edu-

cational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(2) FAILURE TO COMPLY.—If the Secretary determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, the Secretary may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(e) WITHHOLDING OF ALLOCATION.—Pending final resolution of any investigation or complaint that could result in a waiver under subsection (d)(1) or (d)(2), the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of services to be provided by the Secretary under such subsection.

"(f) TERM OF DETERMINATIONS.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

"(g) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this subpart.

"(h) REVIEW.—

"(1) WRITTEN OBJECTIONS.—The Secretary shall not take any final action under this section until the State and the local educational agency affected by such action have had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why that action should not be taken.

"(2) COURT ACTION.—If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1),

such agency may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code.

"(3) REMAND TO SECRETARY.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(4) COURT REVIEW.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of

the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

''(i) PRIOR DETERMINATION.—Any bypass determination by the Secretary under chapter 2 of title I of this Act (as such chapter was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall, to the extent consistent with the purposes of this title, apply to programs under this title.

"SEC. 4143. FEDERAL ADMINISTRATION.

''(a) TECHNICAL ASSISTANCE.—The Secretary, upon request, shall provide technical assistance to States and local educational agencies under this subpart.

''(b) RULEMAKING.—The Secretary shall issue regulations under this subpart only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this subpart.

''(c) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding any other provision of law, unless expressly in limitation of this subsection, funds appropriated in any fiscal year to carry out activities under this subpart shall become available for obligation on July 1 of such fiscal

year and shall remain available for obligation until the end of the subsequent fiscal year.

"SEC. 4144. DEFINITIONS.

''In this subpart, the following definitions apply:

''(1) SCHOOL-AGE POPULATION.—The term 'school-age population' means the population aged 5 through 17.

''(2) STATE.—The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 4145. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this subpart $450,000,000 for fiscal year 2002 and such sums as may be necessary 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 officials, and the community;

"(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; and

"(2) help ensure that all students meet challenging State academic content standards and challenging State student academic 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 arts education 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 and other instructional staff;

"(6) supporting collaborative activities with Federal agencies or institutions, arts educators, and organizations representing the arts, including State and local arts agencies involved in arts education;

"(7) supporting model projects or programs in the performing arts for children and youth or programs which assure the participation in mainstream settings in arts and education programs of individuals with disabilities through arrangements made with organizations such as the John F. Kennedy Center for the Performing Arts and VSA arts;

"(8) supporting model projects or programs to integrate arts education into the regular elementary and secondary school curriculum; or

"(9) other activities that further the purposes of this subpart.

"(f) CONDITIONS.—As conditions of receiving assistance made available under this subpart, the Secretary shall require each entity receiving such assistance—

"(1) to coordinate, to the extent practicable, each project or program carried out with such assistance with appropriate activities of public or private

cultural agencies, institutions, and organizations, including museums, arts education associations, libraries, and theaters; and

''(2) to use such assistance only to supplement and not to supplant any other assistance or funds made available from non-Federal sources for the activities assisted under this subpart.

''(g) CONSULTATION.—In carrying out this part, the Secretary shall consult with Federal agencies or institutions, arts educators (including professional arts education associations), and organizations representing the arts including State and local arts agencies involved in arts education.

''(h) AUTHORIZATION OF APPROPRIATIONS.—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.

"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 pri-

vate educational programs with appropriately trained staff to supplement public educational offerings, most gifted and talented students, especially those from inner cities, rural communities, or low-income families, must rely on the services and personnel available 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

services and 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 other 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 break.

"(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 program of scientifically based research, demonstration projects, innovative strategies, and similar activities designed to build and enhance the ability of elementary and secondary schools nationwide to meet the special educational needs of gifted and talented students.

"SEC. 4163. RULE OF CONSTRUCTION.

Nothing in this subpart shall be construed to prohibit a recipient of funds under this subpart from serving gifted and talented students simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"SEC. 4164. AUTHORIZED PROGRAMS.

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—From the sums available to carry out this subpart in any fiscal year, the Secretary (after consultation with experts in the field of the education of gifted and talented students) shall make grants to, or enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, other public agencies, and other private agencies and organizations (including Indian tribes and Indian organizations (as such terms are defined in section 4 of the Indian Self-De-

termination and Education Assistance Act (25 U.S.C. 450b)) and Native Hawaiian organizations) to assist such agencies, institutions, and organizations in carrying out programs or projects authorized by this subpart that are designed to meet the educational needs of gifted and talented students, including the training of personnel in the education of gifted and talented students and in the use, where appropriate, of gifted and talented services, materials, and methods for all students.

"(2) APPLICATION.—

"(A) IN GENERAL.—Each entity seeking assistance under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(B) CONTENTS.—Each application submitted under this paragraph shall describe how—

"(i) the proposed gifted and talented services, materials, and methods can be adapted, if appropriate, for use by all students; and

"(ii) the proposed programs can be evaluated.

"(b) USE OF FUNDS.—Programs and projects assisted under this section may include each of the following:

"(1) Conducting—

"(A) scientifically based research on methods and techniques for identifying and teaching gifted and talented students, and for using gifted and talented programs and methods to serve all students; and

"(B) program evaluations, surveys, and the collection, analysis, and development of information needed to accomplish the purpose of this subpart.

"(2) Professional development (including fellowships) for personnel (including leadership personnel) involved in the education of gifted and talented students.

"(3) Establishment and operation of model projects and exemplary programs for serving gifted and talented students, including innovative methods for identifying and educating students who may not be served by traditional gifted and talented programs, including summer programs, mentoring programs, service learning programs, and cooperative programs involving business, industry, and education.

"(4) Implementing innovative strategies, such as cooperative learning, peer tutoring, and service learning.

"(5) Programs of technical assistance and information dissemination, including assistance and information with respect to how gifted and talented programs and methods, where appropriate, may be adapted for use by all students.

"(c) ESTABLISHMENT OF NATIONAL CENTER.—

"(1) IN GENERAL.—The Secretary (after consultation with experts in the field of the education of gifted and talented students) shall establish a National Center for Research and Development in the Education of Gifted and Talented Children and Youth through grants to or contracts with one or more institutions of higher education or State educational agencies, or a combination or consortium of such institutions and agencies and other public or private agencies and organizations, for the purpose of carrying out activities described in 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 as

may be agreed upon through arrangements with institutions of higher education, State or local educational agencies, or other public or private agencies and organizations.

"(d) LIMITATION.—Not more than 30 percent of the funds available in any fiscal year to carry out the 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 subpart—

"(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.

"SEC. 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 of 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.

"SEC. 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, where appropriate, that provision 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 and experience in the field of the education of gifted and talented students and who shall—

"(1) administer and coordinate the programs authorized under this subpart;

"(2) serve as a focal point of national leadership and information on the educational needs of gifted and talented students and the availability of educational services and programs designed to meet such needs; and

"(3) assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities which reflect the needs of gifted and talented students.

"SEC. 4167. AUTHORIZATION OF APPROPRIATIONS.

"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.".

SEC. 402. CONTINUATION OF AWARDS.

Notwithstanding any other provision of this Act, any person or agency that was awarded a grant under part B or D of title X (20 U.S.C. 8031 et seq., 8091 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

SEC. 411. PUBLIC CHARTER SCHOOLS.

Title IV, as amended by section 401, is further amended by adding at the end the following:

"PART B—PUBLIC CHARTER SCHOOLS

"SEC. 4201. FINDINGS AND PURPOSE.

''(a) FINDINGS.—The Congress finds that—

''(1) enhancement of parent and student choices among public schools can assist in promoting comprehensive educational reform and give more students the opportunity to meet challenging State academic content standards and State student academic achievement standards, if sufficiently diverse and high-quality choices, and genuine opportunities to take advantage of such choices, are available to all students;

''(2) useful examples of such choices can come from States and communities that experiment with methods of offering teachers and other educators, parents, and other members of the public the opportunity to design and implement new public schools and to transform existing public schools;

''(3) charter schools are a mechanism for testing a variety of educational approaches and should, therefore, be exempted from restrictive rules and regulations if the leadership of such schools commits

to attaining specific and ambitious educational results for educationally disadvantaged students consistent with challenging State academic content standards and State student academic achievement standards for all students;

''(4) charter schools can embody the necessary mixture of enhanced choice, exemption from restrictive regulations, and a focus on learning gains;

''(5) charter schools, including charter schools that are schools-within-schools, can help reduce school size, and this reduction can have a significant effect on student achievement;

''(6) the Federal Government should test, evaluate, and disseminate information on a variety of charter school models in order to help demonstrate the benefits of this promising educational reform; and

''(7) there is a strong documented need for cash-flow assistance to charter schools that are starting up, because State and local operating revenue streams are not immediately available.

''(b) PURPOSE.—It is the purpose of this part to increase national understanding of the charter schools model by—

"(1) providing financial assistance for the planning, program design and initial implementation of charter schools;

"(2) evaluating the effects of such schools, including the effects on students, student academic achievement, staff, and parents; and

"(3) expanding the number of high-quality charter schools available to students across the Nation.

"SEC. 4202. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary may award grants to State educational agencies having applications approved pursuant to section 4203 to enable such agencies to conduct a charter school grant program in accordance with this part.

"(b) SPECIAL RULE.—If a State educational agency elects not to participate in the program authorized by this part or does not have an application approved under section 4203, the Secretary may award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 4203(c).

"(c) PROGRAM PERIODS.—

"(1) GRANTS TO STATES.—Grants awarded to State educational agencies under this part shall be awarded for a period of not more than 3 years.

"(2) GRANTS TO ELIGIBLE APPLICANTS.—Grants awarded by the Secretary to eligible applicants or subgrants awarded by State educational agencies to eligible applicants under this part shall be awarded for a period of not more than 3 years, of which the eligible applicant may use—

"(A) not more than 18 months for planning and program design;

"(B) not more than 2 years for the initial implementation of a charter school; and

"(C) not more than 2 years to carry out dissemination activities described in section 4204(f)(6)(B).

"(d) LIMITATION.—A charter school may not receive—

"(1) more than one grant for activities described in subparagraphs (A) and (B) of subsection (c)(2); or

"(2) more than one grant for activities under subparagraph (C) of subsection (c)(2).

"(e) PRIORITY TREATMENT.—

"(1) IN GENERAL.—In awarding grants under this part from any funds appropriated under section 4211, the Secretary shall give priority to States to the extent that the States meet the criteria described

in paragraph (2) and one or more of the criteria described in subparagraph (A), (B), or (C) of paragraph (3).

"(2) REVIEW AND EVALUATION PRIORITY CRITERIA.—The criteria referred to in paragraph (1) is that the State provides for periodic review and evaluation by the authorized public chartering agency of each charter school, at least once every 5 years unless required more frequently by State law, to determine whether the charter school is meeting the terms of the school's charter, and is meeting or exceeding the academic performance requirements and goals for charter schools as set forth under State law or the school's charter.

"(3) PRIORITY CRITERIA.—The criteria referred to in paragraph (1) are the following:

"(A) The State has demonstrated progress, in increasing the number of high quality charter schools that are held accountable in the terms of the schools' charters for meeting clear and measurable objectives for the educational progress of the students attending the schools, in the period prior to the period for which a State educational agency or eligible applicant applies for a grant under this part.

"(B) The State—

"(i) provides for one authorized public chartering agency that is not a local educational agency, such as a State chartering board, for each individual or entity seeking to operate a charter school pursuant to such State law; or

"(ii) in the case of a State in which local educational agencies are the only authorized public chartering agencies, allows for an appeals process for the denial of an application for a charter school.

"(C) The State ensures that each charter school has a high degree of autonomy over the charter school's budgets and expenditures.

"(f) AMOUNT CRITERIA.—In determining the amount of a grant to be awarded under this part to a State educational agency, the Secretary shall take into consideration the number of charter schools that are operating, or are approved to open, in the State.

"SEC. 4203. APPLICATIONS.

"(a) APPLICATIONS FROM STATE AGENCIES.—Each State educational agency desiring a grant from the Secretary 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 teachers, parents, and communities of the State educational agency's charter school grant program; and

"(2) describe how the State educational agency—

"(A) will inform each charter school in the State regarding—

"(i) Federal funds that the charter school is eligible to receive; and

"(ii) Federal programs in which the charter school may participate;

"(B) will ensure that each charter school in the State receives the charter school's commensurate share of Federal education funds that are allocated by formula each year, including during the first year of operation of the charter school; and

"(C) will disseminate best or promising practices of charter schools to each local educational agency in the State; and

"(3) contain assurances that the State educational agency will require each eligible applicant desiring to receive a subgrant to submit an application to the State educational agency containing—

"(A) a description of the educational program to be implemented by the proposed charter school, including—

"(i) how the program will enable all students to meet challenging State student academic achievement standards;

"(ii) the grade levels or ages of children to be served; and

"(iii) the curriculum and instructional practices to be used;

"(B) a description of how the charter school will be managed;

"(C) a description of—

"(i) the objectives of the charter school; and

"(ii) the methods by which the charter school will determine its progress toward achieving those objectives;

"(D) a description of the administrative relationship between the charter school and the authorized public chartering agency;

"(E) a description of how parents and other members of the community will be involved in the planning, program design and implementation of the charter school;

"(F) a description of how the authorized public chartering agency will provide for continued operation of the school once the Federal grant has expired, if such agency determines that the school has met the objectives described in subparagraph (C)(i);

"(G) a request and justification for waivers of any Federal statutory or regulatory provisions that the applicant believes are necessary for the successful operation of the charter school, and a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school;

"(H) a description of how the subgrant funds or grant funds, as appropriate, will be used, including a description of how such funds

will be used in conjunction with other Federal programs administered by the Secretary;

"(I) a description of how students in the community will be—

"(i) informed about the charter school; and

"(ii) given an equal opportunity to attend the charter school;

"(J) an assurance that the eligible applicant will annually provide the Secretary and the State educational agency such information as may be required to determine if the charter school is making satisfactory progress toward achieving the objectives described in subparagraph (C)(i);

"(K) an assurance that the applicant will cooperate with the Secretary and the State educational agency in evaluating the program assisted under this part;

"(L) a description of how a charter school that is considered a local educational agency under State law, or a local educational agency in which a charter school is located, will comply with sections 613(a)(5) and 613(e)(1)(B) of the Individuals with Disabilities Education Act;

"(M) if the eligible applicant desires to use subgrant funds for dissemination activities under section 4202(c)(2)(C), a description of those activities and how those activities will involve charter schools and other public schools, local educational agencies, developers, and potential developers; and

"(N) such other information and assurances as the Secretary and the State educational agency may require.

"(c) CONTENTS OF ELIGIBLE APPLICANT APPLICATION.—Each eligible applicant desiring a grant pursuant to section 4202(b) shall submit an application to the State educational agency or Secretary, respectively, at such time, in such manner, and accompanied by such information as the State educational agency or Secretary, respectively, may reasonably require.

"(d) CONTENTS OF APPLICATION.—Each application submitted pursuant to subsection (c) shall contain—

"(1) the information and assurances described in subparagraphs (A) through (N) of subsection (b)(3), except that for purposes of this subsection subparagraphs (J), (K), and (N) of such subsection shall be applied by striking 'and the State educational agency' each place such term appears;

"(2) assurances that the State educational agency—

"(A) will grant, or will obtain, waivers of State statutory or regulatory requirements; and

"(B) will assist each subgrantee in the State in receiving a waiver under section 4204(e); and

"(3) assurances that the eligible applicant has provided its authorized public chartering authority timely notice, and a copy, of the application, except that the State educational agency (or the Secretary, in the case of an application submitted to the Secretary) may waive this requirement in the case of an application for a precharter planning grant or subgrant if the authorized public chartering authority to which a charter school proposal will be submitted has not been determined at the time the grant or subgrant application is submitted.

"SEC. 4204. ADMINISTRATION.

"(a) SELECTION CRITERIA FOR STATE EDUCATIONAL AGENCIES.—The Secretary shall award grants to State educational agencies under this part on the basis of the quality of the applications submitted under section 4203(b), after taking into consideration such factors as—

"(1) the contribution that the charter schools grant program will make to assisting educationally disadvantaged and other students to achieving State academic content standards and State student academic achievement standards and, in general, a State's education improvement plan;

"(2) the degree of flexibility afforded by the State educational agency to charter schools under the State's charter schools law;

"(3) the ambitiousness of the objectives for the State charter school grant program;

"(4) the quality of the strategy for assessing achievement of those objectives;

"(5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students;

"(6) the number of high quality charter schools created under this part in the State; and

"(7) in the case of State educational agencies that propose to use grant funds to support dissemination activities under section 4202(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student academic achievement.

"(b) SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.—The Secretary shall award grants to eligible applicants under this part on the basis of the quality of the applications submitted under section 4203(c), after taking into consideration such factors as—

"(1) the quality of the proposed curriculum and instructional practices;

"(2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school;

"(3) the extent of community support for the application;

"(4) the ambitiousness of the objectives for the charter school;

"(5) the quality of the strategy for assessing achievement of those objectives;

"(6) the likelihood that the charter school will meet those objectives and improve educational results for students; and

"(7) in the case of an eligible applicant that proposes to use grant funds to support dissemination activities under section 4202(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student achievement.

"(c) PEER REVIEW.—The Secretary, and each State educational agency receiving a grant under this part, shall use a peer review process to review applications for assistance under this part.

"(d) DIVERSITY OF PROJECTS.—The Secretary and each State educational agency receiving a grant under this part, shall award subgrants under this part in a manner that, to the extent possible, ensures that such grants and subgrants—

"(1) are distributed throughout different areas of the Nation and each State, including urban and rural areas; and

"(2) will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.

"(e) WAIVERS.—The Secretary may waive any statutory or regulatory requirement over which the Secretary exercises administrative authority except any such requirement relating to the elements of a charter school described in section 4210(1), if—

"(1) the waiver is requested in an approved application under this part; and

"(2) the Secretary determines that granting such a waiver will promote the purpose of this part.

"(f) USE OF FUNDS.—

"(1) STATE EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under this part shall use such grant funds to award subgrants to one or more eligible applicants in the State to enable such applicant to plan and implement a charter school in accordance with this part, except that the State educational agency may reserve not more than 10 percent of the grant funds to support dissemination activities described in paragraph (6).

"(2) ELIGIBLE APPLICANTS.—Each eligible applicant receiving funds from the Secretary or a State educational agency shall use such funds to plan and implement a charter school, or to disseminate information about the charter school and successful practices in the charter school, in accordance with this part.

"(3) ALLOWABLE ACTIVITIES.—An eligible applicant receiving a grant or subgrant under this part may use the grant or subgrant funds only for—

"(A) post-award planning and design of the educational program, which may include—

"(i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and

"(ii) professional development of teachers and other staff who will work in the charter school; and

"(B) initial implementation of the charter school, which may include—

"(i) informing the community about the school;

"(ii) acquiring necessary equipment and educational materials and supplies;

"(iii) acquiring or developing curriculum materials; and

"(iv) other initial operational costs that cannot be met from State or local sources.

"(4) ADMINISTRATIVE EXPENSES.—Each State educational agency receiving a grant pursuant to this part may reserve not more than 5 percent of such grant funds for administrative expenses associated with the charter school grant program assisted under this part. A local educational agency may not deduct funds for administrative fees or expenses from a subgrant awarded to an eligible applicant.

"(5) REVOLVING LOAN FUNDS.—Each State educational agency receiving a grant pursuant to this part may reserve not more than 10 percent of

the grant amount for the establishment of a revolving loan fund. Such fund may be used to make loans to eligible applicants that have received a subgrant under this part, under such terms as may be determined by the State educational agency, for the initial operation of the charter school grant program of such recipient until such time as the recipient begins receiving ongoing operational support from State or local financing sources.

"(6) DISSEMINATION.—

"(A) IN GENERAL.—A charter school may apply for funds under this part, whether or not the charter school has applied for or received funds under this part for planning, program design, or implementation, to carry out the activities described in subparagraph (B) if the charter school has been in operation for at least 3 consecutive years and has demonstrated overall success, including—

"(i) substantial progress in improving student academic achievement;

"(ii) high levels of parent satisfaction; and

"(iii) the management and leadership necessary to overcome initial start-up prob-

lems and establish a thriving, financially viable charter school.

"(B) ACTIVITIES.—A charter school described in subparagraph (A) may use funds reserved under paragraph (1) to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school, through such activities as—

"(i) assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;

"(ii) developing partnerships with other public schools, including charter schools, designed to improve student academic achievement in each of the schools participating in the partnership;

"(iii) developing curriculum materials, academic assessments, and other materials that promote increased student academic

achievement and are based on successful practices within the assisting charter school; and

"(iv) conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student academic achievement in other schools.

"(g) TRIBALLY CONTROLLED SCHOOLS.—Each State that receives a grant under this part and designates a tribally controlled school as a charter school shall not consider payments to a school under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507) in determining—

"(1) the eligibility of the school to receive any other Federal, State, or local aid; or

"(2) the amount of such aid.

"SEC. 4205. NATIONAL ACTIVITIES.

"(a) IN GENERAL.—The Secretary shall reserve for each fiscal year the greater of 5 percent or $5,000,000 of the amount appropriated to carry out this part, except that in no fiscal year shall the total amount so reserved exceed $8,000,000, to carry out the following activities:

"(1) To provide charter schools, either directly or through State educational agencies, with—

"(A) information regarding—

"(i) Federal funds that charter schools are eligible to receive; and

"(ii) other Federal programs in which charter schools may participate; and

"(B) assistance in applying for Federal education funds that are allocated by formula, including assistance with filing deadlines and submission of applications.

"(2) To provide for other evaluations or studies that include the evaluation of the impact of charter schools on student 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 start-up of charter schools;

"(D) training and technical assistance to existing charter schools; and

"(E) for the dissemination to other public schools of best or promising practices in charter schools.

"(4) To provide (including through the use of one or more contracts that use a competitive bidding process) for the collection of information regarding the financial resources available to charter schools, including access to private capital, and to widely disseminate to charter schools any such relevant information and model descriptions of successful programs.

"(b) CONSTRUCTION.—Nothing in this section shall be construed to require charter schools to collect any data described in subsection (a).

"SEC. 4206. FEDERAL FORMULA ALLOCATION DURING FIRST YEAR AND FOR SUCCESSIVE ENROLLMENT EXPANSIONS.

"(a) IN GENERAL.—For purposes of the allocation to schools by the States or their agencies of funds under part A of title I, and any other Federal funds which the Secretary allocates to States on a formula basis, the Secretary and each State educational agency shall take such measures as are necessary to ensure that every charter school receives the Federal funding for which the charter school is eligible not later than 5 months after the charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in that charter school are not fully and completely determined until that charter school actually opens. The measures similarly shall ensure that every charter school expanding its enrollment in any subsequent year of operation receives the Federal funding for which the charter school is eligible not later than 5 months after such expansion.

"(b) ADJUSTMENT AND LATE OPENINGS.—

"(1) IN GENERAL.—The measures described in subsection (a) shall include provision for appropriate adjustments, through recovery of funds or reduction of payments for the succeeding year, in cases where payments made to a charter school on the basis of estimated or projected enrollment data exceed the

amounts that the school is eligible to receive on the basis of actual or final enrollment data.

"(2) RULE.—For charter schools that first open after November 1 of any academic year, the State, in accordance with guidance provided by the Secretary and applicable Federal statutes and regulations, shall ensure that such charter schools that are eligible for the funds described in subsection (a) for such academic year have a full and fair opportunity to receive those funds during the charter schools' first year of operation.

"SEC. 4207. SOLICITATION OF INPUT FROM CHARTER SCHOOL OPERATORS.

"To the extent practicable, the Secretary shall ensure that administrators, teachers, and other individuals directly involved in the operation of charter schools are consulted in the development of any rules or regulations required to implement this part, as well as in the development of any rules or regulations relevant to charter schools that are required to implement part A of title I, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), or any other program administered by the Secretary that provides education funds to charter schools or regulates the activities of charter schools.

"SEC. 4208. RECORDS TRANSFER.

''State educational agencies and local educational agencies, to the extent practicable, shall ensure that a student's records and, if applicable, a student's individualized education program as defined in section 602(11) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(11)), are transferred to a charter school upon the transfer of the student to the charter school, to another public school upon the transfer of the student from a charter school to another public school, and to a private school upon the transfer of the student from a charter or public school to the private school (with the written consent of a parent of the student), in accordance with applicable State law.

"SEC. 4209. PAPERWORK REDUCTION.

''To the extent practicable, the Secretary and each authorized public chartering agency shall ensure that implementation of this part results in a minimum of paperwork for any eligible applicant or charter school.

"SEC. 4210. DEFINITIONS.

''As used in this part:

''(1) The term 'charter school' means a public school that—

''(A) in accordance with a specific State statute authorizing the granting of charters to schools, is exempted from significant State or

local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

"(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

"(C) operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

"(D) provides a program of elementary or secondary education, or both;

"(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

"(F) does not charge tuition;

"(G) complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and part B of the Individuals with Disabilities Education Act;

"(H) is a school to which parents choose to send their children, and that admits students on the basis of a lottery, or in another non-discriminatory manner consistent with State law, if more students apply for admission than can be accommodated;

"(I) agrees to comply with the same Federal and State audit requirements as do other elementary and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

"(J) meets all applicable Federal, State, and local health and safety requirements;

"(K) operates in accordance with State law; and

"(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student academic achievement will be measured in charter schools pursuant to State academic assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

"(2) The term 'developer' means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out.

"(3) The term 'eligible applicant' means a developer that has—

"(A) applied to an authorized public chartering authority; and

"(B) provided adequate and timely notice to that authority under section 4203(d)(3).

"(4) The term 'authorized public chartering agency' means a State educational agency, local educational agency, or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a charter school.

"SEC. 4211. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $225,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

SEC. 412. 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 (20 U.S.C. 8061 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 C—MAGNET SCHOOLS ASSISTANCE; WOMEN'S EDUCATIONAL EQUITY

SEC. 421. 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 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 systemic reform; and

"(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, and consortia of such agencies where appropriate, to carry out the purpose of this part for magnet schools that are—

''(1) part of an approved desegregation plan; and

''(2) designed to bring students from different social, economic, ethnic, and racial backgrounds together.

"SEC. 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 agency or official of competent jurisdiction, that re-

quires 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 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) employ fully qualified teachers in the courses of instruction assisted under this part;

"(C) not engage in discrimination based on race, religion, color, national origin, sex, or 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.—Grant funds made available under this part may be used by an eligible local educational agency or consortium of such agencies—

"(1) for planning and promotional activities directly related to the development, expansion, continuation, or enhancement of academic programs and services offered at magnet schools;

"(2) for the acquisition of books, materials, and equipment, including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools;

"(3) for the payment, or subsidization of the compensation, of elementary and secondary school teachers who are fully qualified, and instructional

staff where applicable, who are necessary for the conduct of programs in magnet schools;

"(4) with respect to a magnet school program offered to less than the entire student population of a school, for instructional activities that—

"(A) are designed to make available the special curriculum that is offered by the magnet school project to students who are enrolled in the school but who are not enrolled in the magnet school program; and

"(B) further the purpose of this part; and

"(5) for activities, which may include professional development, that will build the recipient's capacity to operate magnet school programs once the grant period has ended.

"(b) SPECIAL RULE.—Grant funds under this part may be used in accordance with paragraphs (2) and (3) of subsection (a) only if the activities described in such paragraphs are directly related to improving the students' academic performance based on the State's challenging 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 such 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 under this part for the first year of the project, 15 percent of such funds for the second such year, and 10 percent of such funds for the third such year.

"(c) AMOUNT.—No local educational agency or consortium awarded a grant under this part shall receive more than $4,000,000 under this part in any one fiscal year.

"(d) TIMING.—To the extent practicable, the Secretary shall award grants for any fiscal year under this part not later than July 1 of the applicable fiscal year.

"SEC. 4311. EVALUATIONS.

"(a) RESERVATION.—The Secretary may reserve not more than 2 percent of the funds appropriated under section 4312(a) for any fiscal year to carry out evaluations, technical assistance, and dissemination projects with respect to magnet school projects and programs assisted under this part.

"(b) CONTENTS.—Each evaluation described in subsection (a), at a minimum, shall address—

"(1) how and the extent to which magnet school programs lead to educational quality and improvement;

"(2) the extent to which magnet school programs enhance student access to quality education;

"(3) the extent to which magnet school programs lead to the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority students; and

"(4) the extent to which magnet school programs differ from other school programs in terms of the organizational characteristics and resource allocations of such magnet school programs.

"SEC. 4312. AUTHORIZATION OF APPROPRIATIONS; RESERVATION.

"(a) AUTHORIZATION.—For the purpose of carrying out this part, there are authorized to be appropriated $125,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(b) AVAILABILITY OF FUNDS FOR GRANTS TO AGENCIES NOT PREVIOUSLY ASSISTED.—In any fiscal year for which the amount appropriated pursuant to subsection (a) exceeds $75,000,000, the Secretary shall give priority to using such amounts in excess of $75,000,000 to award grants to local educational agencies or consortia of such agencies that did not receive a grant under this part in the preceding fiscal year.".

SEC. 422. WOMEN'S EDUCATIONAL EQUITY.

(a) TRANSFER AND REDESIGNATION.—Part B of title V (20 U.S.C. 7231 et seq.) is transferred and redesignated as subpart 2 of part C of title IV. Sections 5201 through 5208 are redesignated as sections 4321 through 4328, respectively.

(b) REPORT.—Section 4326 (as so redesignated) is amended by striking "January 1, 1999," and inserting "January 1, 2005,".

(c) EVALUATION AND DISSEMINATION.—Section 4327(a) (as so redesignated) is amended—

(1) by striking ''14701,'' and inserting ''8651,''; and

(2) by striking ''January 1, 1998.'' and inserting ''January 1, 2004.''.

(d) REAUTHORIZATION.—Section 4328 (as so redesignated) is amended by striking ''$5,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years,'' and inserting ''$3,000,000 for fiscal year 2002 and such sums as may be necessary for each of the four succeeding fiscal years,''.

(e) OTHER CONFORMING AMENDMENTS.—

(1) SHORT TITLE.—Section 4321(a) (as so redesignated) is amended to read as follows:

''(a) SHORT TITLE.—This subpart may be cited as the 'Women's Educational Equity Act of 2001'.''.

(2) REFERENCES.—Subpart 2 of part C of title IV (as so redesignated) is amended—

(A) by striking ''this part'' each place such term appears and inserting ''this subpart''; and

(B) by striking ''5203(b)'' each place such term appears and inserting ''4423(b)''.

SEC. 423. CONTINUATION OF AWARDS.

Notwithstanding any other provision of this Act, any person or agency that was awarded a grant under part A of title V (20 U.S.C. 7201 et seq.), or a grant, contract,

or cooperative agreement under part B of such title (20 U.S.C. 7231 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.

TITLE V—21ST CENTURY SCHOOLS

SEC. 501. SAFE SCHOOLS.

Title V, except part B (which is transferred and redesignated as subpart 2 of part C of title IV by section 422(a) of this Act) is amended to read as follows:

"TITLE V—21ST CENTURY SCHOOLS

"PART A—SUPPORTING VIOLENCE AND DRUG PREVENTION AND ACADEMIC ENRICHMENT

"SEC. 5001. SHORT TITLE.

''This part may be cited as the '21st Century Schools Act of 2001'.

"SEC. 5002. PURPOSE.

''The purpose of this part is to support programs that prevent the use of illegal drugs, prevent violence, provide quality before and after school activities and supervision for school age youth, involve parents and communities, and are coordinated with related Federal, State, and community efforts and resources to foster a safe and drug-

free learning environment in which students increase their academic achievement, through the provision of Federal assistance to—

"(1) States for grants to local educational agencies and consortia of such agencies to establish, operate, and improve local programs of drug and violence prevention in elementary and secondary schools;

"(2) States for grants to local educational agencies, community-based organizations, and other public entities and private organizations, for before and after school programs for youth; and

"(3) States and public and private nonprofit and for-profit organizations to conduct training, demonstrations, and evaluations.

"SEC. 5003. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated—

"(1) $475,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 4 succeeding fiscal years, for State grants under subpart 1;

"(2) $900,000,000 for fiscal year 2002, and such sums as may be necessary for each of the four succeeding fiscal years, for State grants under subpart 2; and

"(3) $60,000,000 for fiscal year 2002, and for each of the 4 succeeding fiscal years, for national programs under subpart 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'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 to make continuation grants to grantees under part I 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 to make continuation grants to grantees under the Safe Schools/Healthy Students initiative (under the terms of those grants), as it existed on the day before the date of the effective date of the Leave No Child Behind Act of 2001.

"(b) STATE ALLOTMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary, for each fiscal year, shall allocate among the States—

"(A) one-half of the remainder not reserved under subsection (a) according to the ratio between the school-aged population of each State and the school-aged population of all the States; and

"(B) one-half of such remainder according to the ratio between the amount each State received under part A of title I for the preceding

year and the sum of such amounts received by all the States.

"(2) MINIMUM.—For any fiscal year, no State shall be allotted under this subsection an amount that is less than ½ of 1 percent of the total amount allotted to all the States under this subsection.

"(c) REALLOTMENT OF UNUSED FUNDS.—If any State does not apply for an allotment under this subpart for a fiscal year, the Secretary shall reallot the amount of the State's allotment to the remaining States in accordance with this section.

"(d) DEFINITION.—For the purposes of this section, the term 'Native Hawaiian' means any individual any of whose ancestors were natives, 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 5111(b) for each fiscal year to award competitive grants and contracts to local educational agencies, community-based organizations, and other public entities and private organizations for programs or ac-

tivities to support community efforts that complement activities of local educational agencies described in section 5115. Such officer shall award grants based on—

"(A) the quality of the activity or program proposed; and

"(B) how the program or activity is aligned with the appropriate principles of effectiveness described in section 5114(a).

"(2) SPECIAL CONSIDERATION.—In awarding funds under subparagraph (A), a chief executive officer shall give special consideration to grantees that pursue a comprehensive approach to drug and violence prevention by providing and incorporating mental health services in their programs.

"(3) 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 reserve an amount equal to the total amount allotted to a State under section 5111(b), less the amount reserved under subsection (a) and para-

graphs (2) and (3) of this subsection, for each fiscal year for its local educational agencies.

"(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 1 percent of the amount made available under subsection (a) for the administrative costs of carrying out its responsibilities under this subpart.

"(c) ACTIVITIES.—

"(1) 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, other public entities, and private organizations that are designed to support the implementation of programs and activities under this subpart.

"(2) DATA COLLECTION.—

"(A) STATISTICS.—A State may use a portion of the funds, not to exceed 20 percent, de-

scribed 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) the frequency, seriousness, and incidence of violence and drug related offenses resulting in suspensions and expulsion in elementary and secondary schools in States.

"(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.

"(D) LIMITATION.—Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures,

or practices with respect to crimes on school property or school security.

"(3) SAFE SCHOOLS.—The State shall establish and implement a statewide policy requiring that students attending persistently dangerous public elementary and secondary schools, as determined by the State, or who become a victim of a violent criminal offense, as defined by State law, while in or on the grounds of a public elementary school or secondary school that the student attends, be allowed to attend a safe public elementary or secondary school, within the local educational agency, including a public charter school and allowing payment of reasonable transportation costs and tuition costs for such students.

"SEC. 5113. STATE APPLICATION.

"(a) IN GENERAL.—In order to receive an allotment under section 5111 for any fiscal year, a State shall submit to the Secretary, at such time as the Secretary may require, an application that—

"(1) describes the activities to be funded under section 5112(c);

"(2) describes how activities funded under this subpart will support State academic achievement standards in accordance with section 1111;

"(3) describes how 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 appropriate State officials and others, including the chief executive officer, the chief State school officer, the head of the State alcohol and drug abuse agency, the heads of the State health and mental health agencies, the head of the State criminal justice planning agency, the head of the State child welfare agency, the head of the State board of education, or their designees, and representatives of parents, students, and community-based organizations;

"(5) provides an assurance that the State will 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 of 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 State, local, and other non-Federal funds that would, in the absence of funds under this subpart, be made available for programs and activities authorized under this subpart, and in no case supplant 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 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 social 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 community);

"(9)(A) provides a statement of the State's performance measures for drug and violence prevention programs and activities to be funded under this part 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 for assessing and publicly reporting progress toward meeting those performance measures; and

"(C) a plan for monitoring the implementation of, and providing technical assistance regarding, the activities and programs conducted by local educational agencies, community-based organizations, other public entities, and private organizations under this subpart;

"(10) provides an assurance that the State will consult with a representative sample of local educational agencies in the development of the definition of 'persistently dangerous school' for the purposes of section 5112(c)(3);

"(11) provides a description of how the State defines 'persistently dangerous school' for the purposes of section 5112(c)(3); and

"(12) provides an assurance that the State application will be available for public review after submission of the application.

"(b) GENERAL APPROVAL.—A State application submitted pursuant to subsection (a) shall be deemed to be approved by the Secretary unless the Secretary makes a

written determination, prior to the expiration of the 90-day period beginning on the date that the Secretary receives the application, that the application is in violation of 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. 5114. FORMULA GRANT PROGRAM.

"(a) IN GENERAL.—

"(1) FUNDS TO LOCAL EDUCATIONAL AGENCIES.—A State shall provide the amount made available to the State under this subpart, less the amounts reserved under sections 5111 and 5112 to local educational agencies for drug and violence prevention and education as follows:

"(A) 60 percent of such amount based on the relative amount such agencies received under part A of title I for the preceding fiscal year.

"(B) 40 percent of such amount to local educational agencies based on the relative enrollments in public and private nonprofit elementary and secondary schools within the boundaries of such agencies.

"(2) ADMINISTRATIVE COSTS.—Of the amount received under paragraph (1), a local educational agency may use not more than 1 percent for the administrative costs of carrying out its responsibilities under this subpart.

"(3) RETURN OF FUNDS TO STATE; REALLOCATION.—

"(A) RETURN.—Except as provided in subparagraph (B), upon the expiration of the 1-year period beginning on the date that a local educational agency receives its allocation—

"(i) such agency shall return to the State any funds from such allocation that remain unobligated; and

"(ii) the State shall reallocate any such amount to local educational agencies that have submitted plans for using such amount for programs or activities on a timely basis.

"(B) CARRYOVER.—In any fiscal year, a local educational agency, may retain for obligation in the succeeding fiscal year—

"(i) an amount equal to not more than 25 percent of the allocation it re-

ceived under this subpart for such fiscal year; or

"(ii) upon a demonstration of good cause by such agency and approval by the State, an amount that exceeds 25 percent of such allocation.

"(b) ELIGIBILITY.—To be eligible to receive a subgrant under this subpart, a local educational agency desiring a subgrant shall submit an application to the State. Such an application shall be amended, as necessary, to reflect changes in the activities and programs of the local educational agency.

"(c) DEVELOPMENT.—

"(1) CONSULTATION.—

"(A) IN GENERAL.—A local educational agency shall develop its application through timely and meaningful consultation with State and local government representatives, representatives of schools to be served, school personnel, and community organizations with relevant and demonstrated expertise in drug and violence prevention activities, students and parents.

"(B) CONTINUED CONSULTATION.—On an ongoing basis, the local educational agency shall consult with such representatives and organiza-

tions 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 at the initial stages of design and development of a program or activity shall consult, in accordance with this subsection, with appropriate entities and persons on issues regarding the design and development of the program or activity, including efforts to meet the principles of effectiveness described in section 5115(a).

"(d) CONTENTS OF APPLICATIONS.—

"(1) IN GENERAL.—An application submitted by a local educational agency under this section shall contain—

"(A) an assurance that the activities or programs to be funded support State academic achievement goals in accordance with section 1111;

"(B) a detailed explanation of the local educational agency's comprehensive plan for

drug and violence prevention, which shall include a description of—

"(i) 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) levels of performance for each performance indicator;

"(iii) how such agency will assess and publicly report progress toward attaining its performance measures;

"(iv) the drug and violence prevention activity or program to be funded, including how the activity or program will meet the principles of effectiveness described in section 5115(a), and the means of evaluating such activity or program; and

"(v) how the services will be targeted to schools and students with the greatest need;

"(C) a certification that a meaningful assessment has been conducted to determine community needs (including consultation with community leaders, businesses, and school officials), available resources and capacity in the public and private sector (which may include an analysis based on data reasonably available at the time on the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence by youth in schools and communities, prevalence of risk and protective factors, buffers or assets, or 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 for programs and activities authorized 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 responsibilities 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) an assurance that the application and any waiver request will be available for public review after submission of the application; and

"(I) such other information and assurances as the State may reasonably require.

"(2) GENERAL APPROVAL.—A local educational agency's application submitted to the State under this subpart shall be deemed to be approved by the State unless the State makes a written determination, prior to the expiration of the 90-day period beginning on the date that the State receives the application, that the application is in violation of this subpart.

"(3) DISAPPROVAL.—The State shall not finally disapprove a local educational agency application, except after giving such agency notice and an opportunity for a hearing.

"SEC. 5115. AUTHORIZED ACTIVITIES.

"(a) PRINCIPLES OF EFFECTIVENESS.—

"(1) IN GENERAL.—For a program or activity developed pursuant to this 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 the elementary and secondary schools and communities to be served, including an objective analysis of the current

conditions and consequences regarding 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 in schools to be served based on performance measures described in section 5114(d)(1)(B)(ii) The results shall be used to refine, improve, and strengthen the program, and to refine the perform-

ance measures. The results shall also be made available to the public upon request, with public notice of such availability provided.

"(3) WAIVER.—A local educational agency may apply to the State for a waiver of the requirement of paragraph (1)(C) to allow innovative activities or programs that demonstrate substantial likelihood of success.

"(b) LOCAL EDUCATIONAL AGENCY ACTIVITIES.—

"(1) PROGRAM REQUIREMENTS.—A local educational agency shall use funds made available under section 5114 to develop, implement, and evaluate comprehensive programs and activities, which are coordinated with other school and community-based services and programs, that shall—

"(A) support State academic achievement goals in accordance with section 1111;

"(B) be consistent with the principles of effectiveness described in subsection (a);

"(C) be designed to—

"(i) prevent or reduce violence and illegal drug use, delinquency, serious discipline problems, and poor academic achievement and illegal drug use; and

"(ii) create a well disciplined environment conducive to learning, which includes consultation between teachers, principals, and other school personnel to identify early warning signs of drug use and violence and to provide behavioral interventions as part of classroom management efforts; and

"(D) include activities to promote the involvement of parents in the activity or program, to promote coordination with community groups and coalitions, and government agencies, and to distribute information about the local educational agency's needs, goals, and programs under this subpart.

"(2) AUTHORIZED ACTIVITIES.—Each local educational agency or consortium of such agencies, that receives a subgrant under this subpart may use such funds to carry out activities, such as—

"(A) developmentally appropriate drug and violence prevention programs in both elementary and secondary schools that incorporate a variety of prevention strategies and activities, which may include—

"(i) teaching students that most people do not use illegal drugs;

"(ii) teaching students to recognize social and peer pressure to use illegal drugs and the skills for resisting illegal drug use;

"(iii) teaching students about the dangers of emerging drugs;

"(iv) engaging students in the learning process;

"(v) incorporating activities in secondary schools that reinforce prevention activities implemented in elementary schools; and

"(vi) involving families and communities in setting clear expectations against violence and illegal drug use and enforcing appropriate consequences for violence and illegal drug use;

"(B) training of school personnel and parents in youth drug and violence prevention, including training in early identification, intervention, and prevention of threatening behavior;

"(C) community-wide strategies for reducing violence and illegal drug use, and illegal gang activity;

"(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—

"(i) acquisition and installation of metal detectors;

"(ii) hiring and training of security personnel (including school resource officers), that are related to youth drug and violence prevention;

"(iii) reporting of criminal offenses on school property; and

"(iv) development of comprehensive school security assessments;

"(E) expanding and improving school-based mental health services, including early identification of violence and illegal drug use, assessment, and direct individual or group counseling services provided to students, parents, and school personnel by qualified school based mental health services personnel;

"(F) establishing and maintaining peer mediation programs that include educating and training peer mediators and a designated faculty supervisor and purchasing necessary materials to facilitate training and the mediation process;

"(G) alternative education programs or services that reduce the need for suspensions or expulsions or programs or services for students who have been expelled or suspended from the regular educational settings, including programs or services to assist students to reenter the regular education setting upon return from treatment or alternative education programs;

"(H) counseling, mentoring, and referral services, and other student assistance practices and programs, including assistance provided by qualified school based mental health services personnel and the training of teachers by school-based mental health service providers in appropriate identification and intervention techniques for students, at risk of violent behavior and drug use;

"(I) activities that reduce truancy;

"(J) age appropriate, developmentally based violence prevention and education programs that address the legal, health, personal, and social 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 encourages students to seek advice for anxiety, threats of violence, or actual violence and to confide in a trusted adult regarding an uncomfortable or threatening situation;

"(L) the development of educational programs that prevent school based crime, including preventing crimes motivated by hate that result in acts of physical violence at school and any programs or published materials that address school based crime shall not recommend or require any action that abridges or infringes upon the constitutionally protected rights of free speech, religion, and equal protection of students, their parents, or legal guardians;

"(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 following traumatic crisis events, such as a shooting, major accident, or a drug-related incident, that has disrupted the learning environment;

"(O) establishing and implementing a system for transferring suspension and expulsion records by a local educational agency to any public or private elementary or secondary school;

"(P) allowing students attending a persistently dangerous public elementary or secondary school, as determined by the State, or who become a victim of a violent criminal offense, as defined by State law, while in or on the grounds of a public elementary school or secondary school that the student attends, to attend a safe public elementary or secondary school, within the local educational agency, including a public charter school, and allowing payment of reasonable transportation costs and tuition costs for such students;

"(Q) the development and implementation of character education and training programs that reflect values, that take into account the views of parents or guardians of the student for whom the program is intended, which may include honesty, citizenship, courage, justice, respect, personal responsibility, and trustworthiness;

"(R) establishing and maintaining a school violence hotline;

"(S) activities to ensure students' safe travel to and from school, including pedestrian and bicycle safety education; and

"(T) the evaluation of any of the activities authorized under this subsection and the collection 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 appropriate, collect data to determine the frequency, seriousness, and incidence of illegal drug use and violence by youth in schools and communities in the States, using if appropriate, data submitted by the States pursuant to subsection (b).

"(2) REPORT.—The Secretary shall submit to the Congress a report on the data collected under this subsection.

"(b) STATE REPORT.—

"(1) IN GENERAL.—Not later than October 1, 2004, and every third year thereafter, the chief executive officer of a State, in consultation with the State educational agency, shall submit to the Secretary a report on the implementation and effectiveness of State and local programs under this subpart.

"(2) SPECIAL RULE.—The report required by this subsection shall be—

"(A) based on the State's ongoing evaluation activities, and shall include data on the prevalence of violence and illegal drug use by youth in schools and communities; and

"(B) made available to the public upon request, with public notice of such availability provided.

"(c) LOCAL EDUCATIONAL AGENCY REPORT.—Each local educational agency receiving funds under this subpart shall submit to the State such information, and at such intervals as the State reasonably requires to complete the State report required by subsection (b), information on the prevalence of violence and illegal drug use by youth

in the schools and the community and the progress of the local educational agency toward meeting its performance measures. The report shall be made available to the public upon request, with public notice of such availability provided.

"Subpart 2—21st Century Schools

"SEC. 5121. STATE ALLOTMENTS FOR 21ST CENTURY SCHOOLS.

''(a) STATE ALLOTMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), from the amount made available under section 5003(2) 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 amount each State received under part A of title I for the preceding year and the sum of such amounts received by all the States.

''(2) MINIMUM.—For any fiscal year, no State shall be allotted under this subsection an amount

that is less than ½ of 1 percent of the total amount allotted to all the States under this subsection.

"(b) REALLOTMENT OF UNUSED FUNDS.—If any State does not apply for an allotment under this subpart for a fiscal year, the Secretary shall reallot the amount of the State's allotment to the remaining States in accordance with this section.

"(c) 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 reserved under paragraphs (2) and (3) of this subsection, for each fiscal year for its local educational agencies.

"(2) STATE ADMINISTRATION.—A State may use not more than 1 percent of the amount made available under subsection (a) for the administrative costs of carrying out its responsibilities under this subpart.

"(3) STATE ACTIVITIES.—A State may use not more than 4 percent of the amount made available under subsection (a) for the following activities:

"(A) Monitoring and evaluation of programs and activities assisted under this subpart.

"(B) Providing capacity building, training, and technical assistance under this subpart.

"SEC. 5122. STATE APPLICATION.

"(a) IN GENERAL.—In order to receive an allotment under section 5121(a) for any fiscal year, a State shall submit to the Secretary, at such time as the Secretary may require, 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 will support quality extended learning opportunities;

"(3) an assurance that the program will primarily target students who attend schools eligible for schoolwide programs under section 1114;

"(4) describes the steps the State will take to ensure that programs implement effective strategies, including providing ongoing technical assistance and training, evaluation, and dissemination of promising practices;

"(5) describe how activities funded under this subpart will support State academic achievement goals in accordance with section 1111;

"(6) describe how 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;

"(7) 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 authorized under this subpart; and in no case supplant such State, local, and other non-Federal funds:

"(8) provides an assurance that the application was developed in consultation and coordination with appropriate State officials, including the chief State school officer, the heads of the State health and mental health agencies or their designees, representatives of teachers, parents, students, the business community, and community-based organizations, including religious organizations;

"(9) describes the results of the State's needs and resources assessment for before and after school activities, which shall be based on the results of ongoing State evaluation activities;

"(10) describes how the State will evaluate the effectiveness of programs and activities carried out

under this subpart which shall include at a minimum—

"(A) a description of the performance indicators and performance measures that will be used to evaluate programs and activities; and

"(B) public dissemination of the evaluations of programs and activities carried out under this subpart; and

"(11) provides for timely public notice of intent to file application and an assurance that the application will be available for public review after submission of the application.

"(b) GENERAL APPROVAL.—A State application submitted pursuant to subsection (a) shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 90-day period beginning on the date that the Secretary receives the application, that the application is in violation of 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. 5123. COMPETITIVE GRANT PROGRAM.

"(a) IN GENERAL.—A State that receives funds under this subpart shall provide the amount made avail-

able under section 5121 to eligible entities for 21st century community learning programs in accordance with this subpart.

"(b) ELIGIBILITY.—

"(1) IN GENERAL.—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—

"(A) 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 participating in the center will travel safely to and from the community learning center and back home; and

"(iii) a description of how the eligible applicant will disseminate information about the project (including its location) to the community in a manner that is understandable and accessible.

"(B) a description of how the activity is expected to improve student academic performance;

"(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 authorized under this subpart; and in no case supplant such State, local, and other non-Federal funds;

"(F) a description of the partnership with local educational agency, a community-based organization, and another public entity or private organization, if appropriate;

"(G) a certification that 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 mechanisms used to provide ef-

fective 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 compliment 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 waiver request will 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, community-based organization, and other public entity or private organization or a consortium of two or more of such groups.

"(c) PEER REVIEW.—In reviewing local applications under this section, a State shall use a peer review process or other methods of assuring the quality of such applications.

"(d) GEOGRAPHIC DIVERSITY.—To the extent practicable, a State shall distribute funds equitably among geographic areas within the State.

"(e) DURATION OF AWARDS.—Grants under this subpart may be awarded for a period of not less than 3 years and not more than 5 years.

"(f) AMOUNT OF AWARDS.—A grant awarded under this subpart may not be made in an amount of less than $50,000.

"(g) PRIORITY.—In making awards under this subpart, the State shall give priority to applications submitted by applicants proposing to target services to students who attend schools that have been identified as in need of improvement under section 1116.

"(h) PERMISSIVE LOCAL MATCH.—

"(1) IN GENERAL.—A State may require an eligible entity to match funds awarded under this subpart, except that such match may not exceed the amount of the grant award.

"(2) SLIDING SCALE.—The amount of a match under paragraph (1) shall be established based on a sliding fee scale that takes into account—

"(A) the relative poverty of the population to be targeted by the eligible entity; and

"(B) the ability of the eligible entity to obtain such matching funds.

"(3) IN-KIND CONTRIBUTIONS.—Each State that requires an eligible entity to match funds under this subsection shall permit such entity to provide all or any portion of such match in the form of in-kind contributions.

"(4) CONSIDERATION.—Notwithstanding this subsection, a State shall not consider an eligible entity's ability to match funds when determining which eligible entities will receive subgrants under this subpart.

"SEC. 5124. LOCAL ACTIVITIES.

"(a) PRINCIPLES OF EFFECTIVENESS.—

"(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 need for before and after school programs and activities in such schools and communities;

"(B) be based upon an established set of performance measures aimed at ensuring the

availability of quality extended learning opportunities; and

"(C) if appropriate, be based upon scientifically based research that provides evidence that the program will help students meet State and local performance standards to be used.

"(2) PERIODIC EVALUATION.—The program or activity shall undergo a periodic evaluation to assess its progress toward achieving its goal of providing quality extended learning opportunities. The results shall be used to refine, improve, and strengthen the program, and to refine the performance measures. The results shall also be made available to the public upon request, with public notice of such availability provided.

"(b) SERVICES.—Each eligible entity that receives a subgrant under this subpart shall use such funds to establish or expand activities in community learning centers that—

"(1) provide quality extended learning opportunities to help students, particularly 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) provide students with additional activities, such as drug and violence prevention programs, art and music programs, technology education programs, recreational activity, and character education programs that are linked to, and reinforce, the regular academic program of schools those students attend.

"(c) AUTHORIZED ACTIVITIES.—Each eligible entity that receives a subgrant under this subpart may use such funds to carry out activities, such as—

"(1) before and after school activities (including summer school programs) that advance student achievement, including—

"(A) remedial education activities and academic enrichment learning programs, including providing additional assistance to students in order to allow them to improve their academic achievement;

"(B) math and science education activities;

"(C) arts and music education activities;

"(D) entrepreneurial education programs;

"(E) tutoring services (including those provided by senior citizen volunteers) and mentoring programs;

"(F) recreational activities;

"(G) telecommunications and technology education programs;

"(H) expanded library service hours;

"(I) programs that promote parental involvement; and

"(J) programs that provide assistance to students who have been truant, suspended, or expelled to allow them to improve their academic achievement; and

"(2) establishing or enhancing programs or initiatives that improve academic achievement.

"(d) DEFINITION.—For the purpose of this section, a 'community learning center' is an entity that assists students to meet State and local content and student 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, art and music programs, recreational programs, technology education programs, and character education programs) that are linked to, and reinforce, the regular academic program of schools attended by the students served and is operated by a local educational agency, 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, during the summer, or when school is not in session.

"Subpart 3—National Programs

"SEC. 5131. FEDERAL ACTIVITIES.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—From funds made available to carry out this part under section 5003(3), the Secretary, in consultation with the Secretary of Health and Human Services, the Director of the Office of National Drug Control Policy, and the Attorney General, shall evaluate the effectiveness of programs and activities that prevent violence and the illegal use of drugs by youth, that promote safety and discipline for students in elementary and secondary schools, and that provide before and after school supervision and academic enrichment, based on the needs reported by States and local educational agencies.

"(2) COORDINATION.—The Secretary shall carry out activities described in paragraph (1) directly, or through grants, contracts, or cooperative agreements with public and private nonprofit and for-profit organizations, and individuals, or through agreements with other Federal agencies, and shall

coordinate such activities with other appropriate Federal activities.

"(3) PROGRAMS.—Activities described in paragraph (1) may include—

"(A) demonstrations and rigorous scientifically based evaluations of innovative approaches to drug and violence prevention and before and after school activities based on needs reported by State and local educational agencies;

"(B) the provision of information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 501(d)(16) of the Public Health Service Act;

"(C) the provision of information on violence prevention and school safety to the Attorney General for dissemination; and

"(D) continuing technical assistance to chief executive officers, State agencies, and local educational agencies to build capacity to develop and implement high-quality, effective programs consistent with the principles of effectiveness.

"(b) PEER REVIEW.—The Secretary shall use a peer review process in reviewing applications for funds under this section.

"Subpart 4—Gun Possession

"SEC. 5141. GUN-FREE SCHOOL REQUIREMENTS.

"(a) REQUIREMENTS.—

"(1) STATE LAW.—Each State receiving funds under this Act shall—

"(A) have in effect a State law requiring each local educational agency to expel from school for a period of not less than one year a student who is determined to have possessed a firearm in or at a school or on school grounds under the jurisdiction of a local educational agency in that State, except that such State law shall allow the chief administering officer of such local educational agency to modify such expulsion requirement for a student on a case-by-case basis; and

"(B) require each local educational agency to adopt a policy requiring each elementary and secondary school to refer to the criminal justice or juvenile delinquency system any student who possesses a firearm in school.

"(2) CONSTRUCTION.—Nothing in this part shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such student's regular school setting from providing educational services to such student in an alternative setting.

"(b) REPORT TO STATE.—Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under this Act shall provide to the State, in the application requesting such assistance—

"(1) an assurance that such local educational agency is in compliance with the requirements of subsection (a); and

"(2) a description of the circumstances surrounding incidents of possessions and any expulsions imposed under the State law required by subsection (a)(1), including—

"(A) the name of the school concerned;

"(B) the number of students expelled from such school for firearm possession; and

"(C) the type of firearm concerned.

"(c) SPECIAL RULE.—The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act.

"(d) DEFINITIONS.—For the purpose of this subpart—

"(1) the term 'firearm' has the same meaning given to such term under section 921(a)(3) of title 18, United States Code; and

"(2) the term 'school' does not include a home school, regardless of whether a home school is treated as a private school under State law.

"Subpart 5—General Provisions

"SEC. 5151. DEFINITIONS.

"For the purposes of this part, the following terms have the following meanings:

"(1) BEFORE AND AFTER SCHOOL ACTIVITIES.—The term 'before and after school activities' means academic, recreational, and enrichment activities for school-age youth outside of the regular school hours or school year.

"(2) CONTROLLED SUBSTANCE.—The term 'controlled substance' means a drug or other substance identified under Schedule I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

"(3) DRUG.—The term 'drug' includes controlled substances; the illegal use of alcohol and tobacco; and the harmful, abusive, or addictive use of

substances, including inhalants and anabolic steroids.

"(4) DRUG AND VIOLENCE PREVENTION.—The term 'drug and violence prevention' means—

"(A) with respect to drugs, prevention, early intervention, rehabilitation referral, or education related to the illegal use of drugs; and

"(B) with respect to violence, the promotion of school safety, such that students and school personnel are free from violent and disruptive acts, on school premises, going to and from school, and at school-sponsored activities, through the creation and maintenance of a school environment that is free of weapons and harassment and fosters individual responsibility and respect for the rights of others.

"(5) NONPROFIT.—The term 'nonprofit,' as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(6) SCHOOL-AGED POPULATION.—The term 'school-aged population' means the population aged 5 through 17, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

"(7) SCHOOL BASED MENTAL HEALTH SERVICES PROVIDER.—The term 'school based mental health services provider' includes a State licensed or State certified school counselor, school psychologist, school social worker, or other State licensed or certified mental health professional qualified under State law to provide such services to children and adolescents.

"(8) SCHOOL PERSONNEL.—The term 'school personnel' includes teachers, principals, administrators, guidance counselors, social workers, psychologists, nurses, librarians, and other support staff who are employed by a school or who perform services for the school on a contractual basis.

"(9) STATE.—The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 5152. MESSAGE AND MATERIALS.

"(a) 'WRONG AND HARMFUL' MESSAGE.—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) CURRICULUM.—The Secretary shall not prescribe the use of specific curricula for programs supported under this part.

"SEC. 5153. PARENTAL CONSENT.

"Upon receipt of written notification from the parents or legal guardians of a student, the local educational agency shall withdraw such student from any program or activity funded under this title. The local educational agency shall make reasonable efforts to inform parents or legal guardians of the content of such programs or activities funded under this title, other than classroom instruction.

"SEC. 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.

"SEC. 5155. DISCIPLINE OF CHILDREN WITH DISABILITIES.

"(a) AUTHORITY OF SCHOOL PERSONNEL.—Each State receiving funds under this Act shall require each

local educational agency to have in effect a policy under which school personnel of such agency may discipline (including expel or suspend) a child with a disability who—

"(1) carries or possesses a weapon to or at a school, on school premises, or to or at a school function, under the jurisdiction of a State or a local educational agency;

"(2) knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance at a school, on school premises, or at a school function, under the jurisdiction of a State or a local educational agency; or

"(3) commits an aggravated assault or battery (as defined under State or local law) at a school, on school premises, or at a school function, under the jurisdiction of a State or local educational agency,

in the same manner in which such personnel may discipline a child without a disability. Such personnel may modify the disciplinary action on a case-by-case basis.

"(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to prevent a child with a disability who is disciplined pursuant to the authority provided under paragraph (1) or (2) of subsection (a) from asserting a defense that the carrying or possession of the weapon, or the possession or use of the illegal drugs (or

the sale or solicitation of the controlled substance), as the case may be, was unintentional or innocent.

"(c) FREE APPROPRIATE PUBLIC EDUCATION.—

"(1) CEASING TO PROVIDE EDUCATION.—Notwithstanding any other provision of Federal law, a child expelled or suspended under subsection (a) shall not be entitled to continue educational services, including a free appropriate public education, required under Federal law during the term of such expulsion or suspension, if the State in which the local educational agency responsible for providing educational services to such child does not require a child without a disability to receive educational services after being expelled or suspended.

"(2) PROVIDING EDUCATION.—Notwithstanding paragraph (1), the local educational agency responsible for providing educational services to a child with a disability who is expelled or suspended under paragraph (1) may choose to continue to provide educational services or mental health services to such child. If the local educational agency so chooses to continue to provide the services—

"(A) nothing in any other provision of Federal law shall require the local educational

agency to provide such child with any particular level of service; and

"(B) the location where the local educational agency provides the services shall be left to the discretion of the local educational agency.

"(d) DEFINITIONS.—In this section:

"(1) CONTROLLED SUBSTANCE.—The term 'controlled substance' has the meaning given the term in section 5151.

"(2) ILLEGAL DRUG.—The term 'illegal drug' means a controlled substance, but does not include such a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under the Controlled Substances Act or under any other provision of Federal law.

"(3) WEAPON.—The term 'weapon' has the meaning given the term 'dangerous weapon' under subsection (g)(2) of section 930 of title 18, United States Code.

"PART B—ENHANCING EDUCATION THROUGH TECHNOLOGY

"SEC. 5201. SHORT TITLE.

''This 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 implementing innovative technology initiatives that lead to increased student academic achievement and that may be evaluated for effectiveness and replicated if successful.

''(2) To encourage the establishment or expansion of initiatives, including those involving public-private partnerships, designed to increase access to technology, particularly in high-need local educational agencies.

''(3) To assist States and localities in the acquisition, development, interconnection, implementation, improvement, and maintenance of an effective educational technology infrastructure 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 cur-

riculum 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, principals, and administrators by providing constant access to training to updated research in teaching and learning via electronic means.

''(6) To support the development of electronic networks and other innovative methods, such as distance learning, of delivering challenging courses and curricula for students who would otherwise not have access to such courses and curricula, 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 stu-

dents, parents, teachers, principals, and administrators.

"SEC. 5203. AUTHORIZATION OF APPROPRIATIONS; FUNDING RULE.

"(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) $24,500,000 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 subsection (a) shall be allocated as follows:

"(1) Not less than 95 percent shall be made available for State and local technology initiatives under subpart 1.

"(2) Not more than 5 percent may be made available for activities of the Secretary under sub-

part 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:

"(1) The term 'distance learning' means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications.

"(2) The term 'eligible local entity' means—

"(A) a high-need local educational agency; or

"(B) an eligible local partnership.

"(3) The term 'eligible local partnership' means a partnership that includes at least one high-need local educational agency and at least one—

"(A) local educational agency that can demonstrate that teachers in schools served by that agency are effectively integrating technology and proven teaching practices into instruction, based on scientifically based research, that result in improvement in—

"(i) 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;

"(B) 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);

"(C) for-profit business or organization that develops, designs, manufactures, or produces technology products or services, or has substantial expertise in the application of technology; or

"(D) public or private nonprofit organization with demonstrated experience in the application of educational technology.

"(4) The term 'high-need local educational agency' means a local educational agency that—

"(A) is among the local educational agencies in the State with the highest numbers or percentages of children from families with incomes below the poverty line, as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of

the Community Services Block Grant Act (42 U.S.C. 9902(2));

"(B) includes one or more schools identified under section 1116; and

"(C) has a substantial need for assistance in acquiring and using technology.

"Subpart 1—State and Local Technology for Success Grants

"SEC. 5211. DETERMINATION OF AMOUNT OF STATE ALLOTMENT.

"(a) IN GENERAL.—Except as otherwise provided in this subpart, each State shall be eligible to receive a grant under this subpart for a fiscal year in an allotment determined as follows:

"(1) 50 percent shall bear the same relationship to the amount made available under section 5203(b)(1) for such year as the amount such State received under part A for title I for such year bears to the amount received for such year under such part by all States.

"(2) 50 percent shall be determined on the basis of the State's relative population of individuals age 5 through 17, as determined by the Secretary on the basis of the most recent satisfactory data.

"(b) RESERVATION OF FUNDS FOR BUREAU OF INDIAN AFFAIRS AND OUTLYING AREAS.—Of the amount made available to carry out this subpart under section 5203(b)(1) for a fiscal year—

"(1) the Secretary shall reserve ½ of 1 percent for the Secretary of the Interior for programs under this subpart for schools operated or funded by the Bureau of Indian Affairs; and

"(2) the Secretary shall reserve ½ 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 ½ of 1 percent of the amount made available under section 5203(b)(1) for such year.

"(d) REALLOTMENT OF UNUSED FUNDS.—If any State does not apply for an allotment under this subpart for a fiscal year, or does not use its entire allotment for that fiscal year, the Secretary shall reallot the amount of the State's allotment, or the unused portion thereof, to the remaining States in accordance with this section.

"SEC. 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 a local educational agency that is an eligible local entity, 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 5211(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 subparagraph (A)), to be used to carry out activities consistent with activities described in section 5216.

''(b) CONTINUATION OF AWARDS.—Notwithstanding section 3 of the No Child Left Behind Act of 2001, a State shall make continuation awards on multiyear grants awarded by the State under section 3132(a)(2) (as in effect on the day preceding 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.

''SEC. 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 ensure that all students and teachers in the State, particularly those residing or teaching in districts served by high-need local educational agencies, will have increased access to educational technology.

"(4) A description of—

"(A) how the State will ensure ongoing integration of technology into instructional strategies and school curricula in all 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—

"(i) has increased the ability of teachers to teach effectively; and

"(ii) has enabled students to meet challenging State academic content and student academic achievement standards.

"(5) A description of how the State will encourage the development and utilization of innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology and distance learning, particularly for those areas of the State that would not otherwise have access to such courses and curricula due to geographical isolation or insufficient resources.

"(6) An assurance that financial assistance provided under this subpart shall supplement, 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.

"(c) 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 expiration of the 90-day period 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 for a hearing.

"(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 dissemi-

nation on the Internet, in a timely and user-friendly manner.

"SEC. 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 local strategic educational technology plan consistent with the objectives of the statewide education technology plan described in section 5213(a), and such other information as the State may reasonably require, at such time, and in such manner as the State may specify.

"(b) CONTENTS OF LOCAL APPLICATION.—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. Such a description may include how the applicant will provide release time for teachers (which may include the provision of a substitute teacher).

"(2) A description of the applicant's specific goals for using advanced technology to improve student achievement aligned to challenging State aca-

demic content and student academic achievement standards.

"(3) A description of—

"(A) 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; and

"(B) how such technology will be used to improve the academic achievement for such students.

"(4) A description of how the applicant will promote—

"(A) the utilization of teaching strategies and curricula, based on scientifically based research, 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 consistent with section 2033 (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).

"(5) A description of how the applicant will integrate technology (including software and other electronically delivered learning materials) 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.

"(6) 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 the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.).

"(7) A description of the accountability measures and process the applicant will use for the evaluation of the extent to which funds provided under this subpart were effective in integrating technology into school curriculum, increasing the ability of teachers to teach, and enabling students to meet challenging State academic content and student academic achievement standards.

"(8) A description of how the applicant will encourage the development and utilization of innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology and distance learning, particularly for those areas that would not otherwise have access to such courses and curricula due to geographical isolation or insufficient resources.

"(9) A description of what steps the applicant has taken, or will take, to comply with section 5205(a)(1).

"(10) 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 es-

tablished by the State consistent with this subpart; and

"(B) a description of how any technology obtained with funds provided under this subpart will be integrated 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. STATE 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 activities:

"(1) Developing, or assisting applicants in the development and utilization of, innovative strategies to deliver rigorous academic programs through the use of technology and distance learning, and providing other technical assistance to such applicants throughout the State, with a priority to high-need local educational agencies.

"(2) Establishing or supporting public-private initiatives, such as interest-free or reduced-cost loans, for the acquisition of educational technology for high-need local educational agencies and students attending schools served by such agencies.

"(3) Assisting applicants in providing sustained and intensive, high-quality professional development based on scientifically based research in the integration of advanced technologies (including emerging technologies) into curriculum and in using those technologies to create new learning environments, including training in the use of technology to—

"(A) access data and resources to develop curricula and instructional materials;

"(B) enable teachers—

"(i) to use the Internet to communicate with parents, other teachers, principals, and administrators; and

"(ii) to retrieve Internet-based learning resources; and

"(C) lead to improvements in classroom instruction in the core academic subject areas, which effectively prepare students to meet challenging State academic content and student academic achievement standards.

"(4) Assisting applicants in providing all students (including students with disabilities and students with limited English proficiency) and teachers with access to educational technology.

"(5) Establishing or expanding access to technology in areas served by high-need local educational agencies, with special emphasis on access provided through technology centers in partnership with libraries and with the support of the private sector.

"(6) Developing enhanced performance measurement systems to determine the effectiveness of education technology programs funded under this subpart, particularly in determining the extent to which education technology funded under this subpart has been successfully integrated into teaching strategies and school curriculum, has increased the ability of teachers to teach, and has enabled students to meet challenging State academic content and student academic achievement standards.

"(7) Collaborating with other States on distance learning, including making advanced courses available to students who would otherwise not have access to such courses.

"(b) LIMITATION ON ADMINISTRATIVE COSTS.—Of the 5 percent of the State's allotment under section 5211 which may be used to carry out activities under this section, not more than 40 percent may be used by the State for administrative costs.

"SEC. 5216. LOCAL ACTIVITIES.

"(a) PROFESSIONAL DEVELOPMENT.—A recipient of funds made available under section 5212(a)(2)(A) shall use not less than 20 percent of such funds to provide sustained and intensive, high-quality professional development, consistent with section 2033 (as applicable), based on scientifically based research in the integration of advanced technologies (including emerging technologies) into curriculum and in using those technologies to create new learning environments, including professional development in the use of technology to—

"(1) access data and resources to develop curricula and instructional materials;

"(2) enable teachers—

"(i) to use the Internet to communicate with parents, other teachers, principals, and administrators; and

"(ii) 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.—Subsection (a) does not apply to a recipient of funds under section 5212(a)(2)(A) that dem-

onstrates, to the satisfaction of the State, that such recipient already provides sustained and intensive, high-quality professional development based on scientifically based research in the integration of technology (including emerging technologies) into the curriculum.

"(c) OTHER ACTIVITIES.—In addition to the activities described in subsection (a), a recipient of funds distributed by a State under section 5212(a)(2)(A) shall use such funds to carry out other activities consistent with this subpart, which may include the following:

"(1) Adapting or expanding existing and new applications of technology to enable teachers to increase student academic achievement through the use of teaching practices and advanced technologies that are based on scientifically based research and are designed to prepare students to meet challenging State academic content and student academic achievement standards, and for developing and utilizing innovative strategies to deliver rigorous academic programs.

"(2) Expanding, acquiring, implementing, applying, and maintaining education technology as a means to improve the academic achievement of all students.

"(3) The establishment or expansion of initiatives, particularly those involving public-private partnerships, designed to increase access to technology for students and teachers, with special emphasis on the access of high-need local educational agencies to technology.

"(4) Using technology to promote parent and family involvement, and support communications between students, parents, and teachers.

"(5) Acquiring proven and effective curricula that include integrated technology and are designed to help students achieve challenging State academic content and student academic achievement standards.

"(6) Using technology to collect, manage, and analyze data to inform school improvement efforts.

"(7) Implementing enhanced performance measurement systems to determine the effectiveness of education technology programs funded under this subpart, particularly in determining the extent to which education technology funded under this subpart has been successfully integrated into teaching strategies and school curriculum, has increased the ability of teachers to teach, and has enabled stu-

dents to meet challenging State academic content and student academic achievement standards.

''(8) Preparing one or more teachers in elementary and secondary schools as technology leaders who are provided with the means to serve as experts and train other teachers in the effective use of technology.

''(9) Establishing or expanding access to technology in areas served by high-need local educational agencies, with special emphasis for access provided through technology centers in partnership with libraries and with the support of the private sector.

"Subpart 2—National Technology Activities

"SEC. 5221. NATIONAL ACTIVITIES.

''(a) IN GENERAL.—Using funds made available under section 5203(b)(2), the Secretary—

''(1) shall—

''(A) conduct an independent, long-term study, utilizing scientifically based research methods and control groups, on the effect of educational technology on improving student academic achievement;

''(B) include in the study an identification of uses of educational technology (including how teachers can integrate technology into the cur-

ricula) 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;

"(2) 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

"(3) may provide technical assistance (directly or through the competitive award of grants or contracts) to States, local educational agencies, and other recipients of funds under this part in order 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—

"(A) shall place a priority on projects that—

"(i) develop innovative models using electronic networks or other forms of distance learning to provide challenging courses that are otherwise not readily available to students in a particular school district, particularly in 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 technical assistance, for recipients of funds under subsection (a)(2) to effectively evaluate their activities; and

"(ii) disseminate the evaluations made under paragraph (2)(A)(ii).

"(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 it would carry out the purposes of subsection (a)(2); and

"(ii) a detailed plan for an independent evaluation, supported by scientifically based research principles, of the project to determine the impact on the academic achievement of students served under such project, as measured by challenging State academic content and student academic achievement standards.

"(B) NON-FEDERAL SHARE.—

"(i) 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.

"(ii) 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 50 percent of the cost of the activities assisted under a grant or contract under this subpart.

"(iv) NOTICE.—The Secretary shall publish, in the Federal Register, the non-Federal share required under this subparagraph.

"(3) EVALUATION AND DISSEMINATION.—The Secretary shall make information on each project funded with a grant or contract under subsection (a)(2) widely available to schools and the general public, including through dissemination on the Inter-

net, 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 stated goals, and the timeline for meeting such goals;

"(B) not later than 3 months after the completion of the first year of the project period, information on the progress of the grant or contract recipient in carrying out the grant or contract, including a detailed description of the use of the funds provided, the extent to which the stated goals have been reached, and the results (or progress of) the evaluation of the project; and

"(C) not later than 3 months after the completion of the second year of the project period (and updated thereafter as appropriate), a followup to the information described in subparagraph (B).

"Subpart 3—Ready to Learn, Ready to Teach

"SEC. 5231. READY TO LEARN TELEVISION.

''(a) PROGRAM AUTHORIZED.—

''(1) IN GENERAL.—The Secretary shall award grants to or enter into contracts or cooperative agreements with eligible entities described in paragraph (3) 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 educational television programming) of educational programming for preschool and elementary school children and accompanying support materials and services that directly promote the effective use of such programming;

''(C) facilitate the development of programming and digital content especially designed for nationwide distribution over digital broadcasting channels and the Internet, containing Ready to Learn-based children's programming and resources for parents and caregivers;

"(D) enable such entities to contract with other entities (such as public telecommunications entities) so that programs under this section are disseminated and distributed by the most appropriate distribution technologies to the widest possible audience appropriate to be served by the programming; 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) promote the effective use of programming developed under subparagraphs (B) and (C) among parents, Head Start providers, Even Start and providers of family literacy services, child care providers, early childhood development 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 subsection, 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 young children, their parents, child care workers, Head Start providers, Even Start and providers of family literacy services.

"(3) ELIGIBLE ENTITIES DESCRIBED.—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 disadvantaged 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 disadvantaged 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 which returns to the entity an appropriate share of any ancillary income from sales of any program-related products.

"(4) CAP ON ADMINISTRATIVE COSTS.—An entity receiving a grant, contract, or cooperative agreement from the Secretary under this subsection may not use more than 5 percent of the amounts received under the grant, contract, or cooperative agreement for the expenses of administering the grant, contract, or cooperative agreement.

"(5) COORDINATION OF ACTIVITIES.—An entity receiving a grant, contract, or cooperative agreement from the Secretary under this subsection shall work with the Secretary and the Secretary of Health and Human Services to—

"(A) maximize the utilization by preschool and elementary school children of the programming under this section and to make such programming widely available to federally funded programs serving such populations; and

"(B) coordinate with Federal programs that have major training components for early childhood development (including Head Start, Even Start, family literacy services, and State

training activities funded under the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.)) regarding the availability and utilization of materials developed with funds provided under this section to enhance parent and child care provider skills in early childhood development and education.

''(b) APPLICATIONS.—Any entity desiring a grant, contract, or cooperative agreement under subsection (a) shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

''(c) REPORT AND EVALUATION..—

''(1) ANNUAL REPORT BY GRANT RECIPIENTS TO SECRETARY.—Each entity receiving funds under this section shall prepare and submit to the Secretary an annual report which contains such information as the Secretary may require. At a minimum, the report shall describe the program activities undertaken with funds received under this section, including information regarding—

''(A) the programming that has been developed directly or indirectly by the entity and the target population of the programs developed;

"(B) the support and training materials that have been developed to accompany the programming and the method by which such materials are distributed to consumers and users of the programming;

"(C) the means by which the programming has been distributed, including the distance learning technologies that have been utilized to make programming available and the geographic distribution achieved through such technologies; and

"(D) the initiatives undertaken by the entity to develop public-private partnerships to secure non-Federal support for the development and distribution and broadcast of educational and instructional programming.

"(2) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the relevant committees of Congress a biannual report on the activities funded and carried out under this section, and shall include in the report—

"(A) a summary of the programming developed using funds provided under this section; and

"(B) a description of the training materials developed using funds provided under this section, the manner in which outreach has been conducted to inform parents and child care providers of the availability of such materials, and the manner in which such materials have been distributed.

"(d) FUNDING RULE.—Not less than 60 percent of the amounts authorized to be appropriated under section 5233 for any fiscal year shall be used to carry out subparagraphs (B) and (C) of subsection (a)(1).

"SEC. 5232. READY TO TEACH.

"(a) IN GENERAL.—The Secretary may carry out any of the following activities:

"(1) Awarding grants to a nonprofit telecommunications entity (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 and to assist 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 a local public telecommunications entity 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 existing publicly funded telecommunications 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 materials and 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 edu-

cational agencies, and State or local nonprofit public telecommunications entities;

"(C) assure that a significant portion of the benefits available for elementary and secondary schools from the program for which assistance is sought will be available to schools of local educational agencies which have a high percentage of children counted for the purpose of part A of title I; and

"(D) contain such additional assurances as the Secretary may reasonably require.

"(c) APPROVAL OF APPLICATIONS; NUMBER OF DEMONSTRATION SITES.—In approving applications under this section, the Secretary shall assure that—

"(1) the national telecommunications-based program under subsection (a)(1) is conducted at elementary and secondary school sites in 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 multiyear collaborative arrangements for content development with State educational agencies, local educational agencies,

institutions of higher education, businesses, or other agencies and organizations, and

"(B) contribute non-Federal matching funds (including funds provided for transitions to digital broadcasting as well as in-kind contributions) to the activities assisted with the grant in an amount not less than 100 percent of the amount of the grant.

"PART C—CHARACTER EDUCATION

"SEC. 5301. CHARACTER EDUCATION PROGRAM.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary may make grants to State educational agencies, local educational agencies, or consortia of such agencies for the design and implementation of character education programs that—

"(A) can be integrated into State academic content standards for the core academic subjects; and

"(B) can be carried out in conjunction with other educational reform efforts.

"(2) DURATION.—Each grant under this section shall be made for a period not to exceed 5 years, of which the grant recipient may not use more than 1 year for planning and program design.

"(b) CONTRACTS UNDER PROGRAM.—

"(1) EVALUATION.—Each 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 integration of such program into the curriculum and teaching methods of schools where the program is carried out; and

"(C) measuring the success of such program in fostering the elements of character selected by the recipient under subsection (c)(1).

"(2) MATERIALS AND PROGRAM DEVELOPMENT.—Each 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.

"(2) EXAMPLE ELEMENTS.—Elements of character selected under this subsection may include any of the following:

"(A) Trustworthiness.

"(B) Respect.

"(C) Responsibility.

"(D) Fairness.

"(E) Caring.

"(F) Citizenship.

"(G) Giving.

"(d) APPLICATION.—

"(1) IN GENERAL.—Each agency or consortium seeking assistance under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

"(2) REQUIRED INFORMATION.—Each application for assistance under this section shall include information that—

"(A) demonstrates that the program for which the assistance is sought has clear goals and objectives that are based on scientifically based research;

"(B) describes the activities that will be carried out with the assistance and how such activities will meet the goals and objectives described in paragraph (1); and

"(C) describes how the program for which the assistance is sought will be linked to other efforts to improve educational achievement, including—

"(i) broader educational reforms that are being instituted by the applicant or its partners; and

"(ii) applicable State academic content standards for student achievement.

"(e) SELECTION OF RECIPIENTS.—

"(1) PEER REVIEW.—

"(A) IN GENERAL.—In selecting agencies or consortia to receive assistance under this section from among the applicants for such assistance, the Secretary shall use a peer review process that includes the participation of experts in the field of character education.

"(B) USE OF FUNDS.—The Secretary may use funds appropriated under this section for the cost of carrying out peer reviews under this paragraph.

"(2) SELECTION CRITERIA.—Each selection under paragraph (1) shall be made on the basis of the quality of the application submitted, taking into consideration such factors as—

"(A) the extent of parental, student, and community involvement in the program; and

"(B) the likelihood that the goals of the program will be realistically achieved.

"(3) EQUITABLE DISTRIBUTION.—In making selections under this subsection, the Secretary shall ensure, to the extent practicable under paragraph (2), that the programs assisted under this section are equitably distributed among the geographic re-

gions of the United States, and among urban, suburban, and rural areas.

"(f) EVALUATIONS.—

"(1) IN GENERAL.—As a condition of receiving assistance under this section, the Secretary shall require each agency or consortium receiving such assistance to transmit to the Secretary, not later than 5 years after such receipt, a report containing an evaluation of each program assisted.

"(2) ATTAINMENT OF GOALS AND OBJECTIVES.—In conducting an evaluation referred to in paragraph (1), each agency or consortium shall evaluate the degree to which each program for which assistance was made available attained the goals and objectives for the program as described in the application for assistance submitted under subsection (d).

"(3) DISSEMINATION.—The Secretary shall—

"(A) make each evaluation received under this subsection publicly available; and

"(B) provide public notice (through such means as the Internet, the media, and public agencies) of the availability of each such evaluation after it is received by the Secretary.

"(g) MATCHING FUNDS.—As a condition of receiving assistance under this section, the Secretary may require

that each agency or consortium receiving such assistance provide matching funds from non-Federal sources.

"SEC. 5302. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.

"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 needs are not being met by the very institutions and systems that were created to take care of them.

"(3) As a result of the concern about the failure of the healthcare system to reach 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 concludes that effective 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 school counseling demonstration 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 students felt safer.

"(10) The report produced by the Institute of Medicine, 'Schools and Health: Our Nation's Investment', recommended a student-to-school counselor ratio of 250:1, student-to-school psychologist ratio of 1000:1, and a student-to-school social worker ratio of 800:1. The United States average student-to-counselor ratio is 551:1. Ratios for school psychologists and school social workers also exceed the recommended levels.

"(b) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary may use funds provided under this section to award grants to local educational agencies to enable such 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 describing 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 initiating or expanding school counseling; and

"(C) show the greatest potential for replication and dissemination.

"(3) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall ensure an equitable geographic distribution among the regions of the United States and among 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 may not supplant, other Federal, State, or local funds used 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 relation-

ships, work and self, decisionmaking, or academic and career planning, or to improve peer interaction;

''(6) provide counseling services in settings that meet the range of needs of students;

''(7) include inservice training, including training for teachers 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 Health Association of one school counselor to 250 students,

one school social worker to 800 students, and one school psychologist to 1,000 students; and

"(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 for 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 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 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 enhance the ability of the child 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 individual;

"(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;

"(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 GENERAL.—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 or students in secondary school, 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 one 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, and 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 set goals 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 training.

"(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) providing for the professional development of mentoring coordinators and support staff;

"(C) recruitment, screening, and training of 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.

"(2) 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.

"(d) TERM OF GRANT.—Each grant made under this section shall be available for expenditure for a period of 3 years.

"(e) 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;

"(2) information on the children 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 mentor so many 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 and support, including—

"(A) emotional support;

"(B) academic assistance; and

"(C) exposure to experiences that children might not otherwise encounter on their own;

"(6) an assurance that mentoring programs will be monitored to ensure that each child assigned a mentor benefits 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.—

"(1) COMPETITIVE BASIS.—In accordance with this subsection, the Secretary shall select grant re-

cipients from among qualified applicants on a competitive basis.

"(2) PRIORITY.—In selecting grant recipients under paragraph (1), the Secretary shall give priority to each applicant that—

"(A) serves children with greatest need living in rural areas, high crime areas, or troubled home environments, or who attend schools with violence problems;

"(B) provides background screening of mentors, training of mentors, and technical assistance in carrying out mentoring programs;

"(C) proposes a mentoring program under which each mentor will be assigned to not more children than the mentor can serve effectively; or

"(D) proposes a school-based mentoring program.

"(3) OTHER CONSIDERATIONS.—In selecting grant recipients under paragraph (1), the Secretary shall also consider—

"(A) the degree to which the location of the programs proposed by each applicant contributes to a fair distribution of programs with respect to urban and rural locations;

"(B) the quality of the mentoring programs proposed by each applicant, including—

"(i) the resources, if any, the applicant will dedicate to providing children with opportunities for job training or post-secondary education;

"(ii) the degree to which parents, teachers, community-based organizations, and the local community have participated, or will participate, in the design and implementation of the applicant's mentoring program;

"(iii) the degree to which the applicant can ensure that mentors will develop longstanding relationships with the children they mentor;

"(iv) the degree to which the applicant will serve children with greatest need in the 4th, 5th, 6th, 7th, and 8th grades; and

"(v) the degree to which the program will continue to serve children from the 4th grade through graduation from secondary school; and

"(C) the capability of each applicant to effectively implement its mentoring program.

"(4) GRANT TO EACH STATE.—Notwithstanding any other provision of this subsection, in selecting grant recipients under paragraph (1), the Secretary shall select not less than 1 grant recipient from each State for which there is a qualified applicant.

"(g) MODEL SCREENING GUIDELINES.—

"(1) IN GENERAL.—Based on model screening guidelines developed by the Office of Juvenile Programs of the Department of Justice, the Secretary shall develop and distribute to program participants specific model guidelines for the screening of mentors who seek to participate in programs to be assisted under this part.

"(2) BACKGROUND CHECKS.—The guidelines developed under this subsection shall include, at a minimum, a requirement that potential mentors be subject to reference checks, child and domestic abuse record checks, and criminal background checks.

"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, poli-

cies, 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 and Congress containing the results of the study conducted under this section.

''(c) 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. 5505. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out section 5503 $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.''.

TITLE VI—IMPACT AID PROGRAM

SEC. 601. PAYMENTS UNDER SECTION 8002 WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.

(a) FOUNDATION PAYMENTS FOR PRE-1995 RECIPIENTS.—Section 8002(h)(1) (20 U.S.C. 7702(h)(1)) is amended—

(1) in subparagraph (A), by striking ''and was eligible to receive a payment under section 2 of the Act of September 30, 1950'' and inserting ''and that filed, or has been determined pursuant to statute to have filed a timely application, and met, or has been determined pursuant to statute to meet, the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950''; and

(2) in subparagraph (B), by striking ''(or if the local educational agency was not eligible to receive a payment under such section 2 for fiscal year 1994'' and inserting ''(or if the local educational agency did not meet, or has not been determined pursuant to statute to meet, the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950 for fiscal year 1994''.

(b) PAYMENTS FOR 1995 RECIPIENTS.—Section 8002(h)(2) (20 U.S.C. 7702(h)(2)) is amended—

(1) in subparagraph (A), by adding at the end before the period ", or whose application for fiscal year 1995 was determined pursuant to statute to be timely filed for purposes of payments for subsequent fiscal years"; and

(2) in subparagraph (B)(ii), by striking "for each local educational agency that received a payment under this section for fiscal year 1995" and inserting "for each local educational agency described in subparagraph (A)".

(c) REMAINING FUNDS.—Section 8002(h)(4)(B) (20 U.S.C. 7702(h)(4)(B)) is amended—

(1) by striking "(in the same manner as percentage shares are determined for local educational agencies under paragraph (2)(B)(ii))" and inserting "(by dividing the maximum amount that the agency is eligible to receive under subsection (b) by the total of the maximum amounts for all such agencies)"; and

(2) by striking ", except that for the purpose of calculating a local educational agency's assessed value of the Federal property" and inserting ", except that, for purposes of calculating a local edu-

cational agency's maximum amount under subsection (b)''.

(d) APPLICATION FOR PAYMENT.—Notwithstanding any other provision of law, the Secretary shall treat as timely filed an application under section 8002 (20 U.S.C. 7702) from Academy School District 20, Colorado, for a payment for fiscal year 1999, and shall process that application from funds appropriated for that section for fiscal year 2001.

SEC. 602. CALCULATION OF PAYMENT UNDER SECTION 8003 FOR SMALL LOCAL EDUCATIONAL AGENCIES.

Section 8003(b)(3)(B)(iv) (20 U.S.C. 7703(b)(3)(B)(iv)) is amended by inserting after ''of the State in which the agency is located'' the following: ''or less than the average per pupil expenditure of all the States''.

SEC. 603. ELIGIBILITY UNDER SECTION 8003 FOR CERTAIN HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.

(a) ELIGIBILITY.—Section 8003(b)(2)(C) (20 U.S.C. 7703(b)(2)(C)) is amended—

(1) in clauses (i) and (ii) by inserting after ''Federal military installation'' each place it appears the following: ''(or if the agency is a qualified local educational agency as described in clause (iv))''; and

(2) by adding at the end the following:

"(iv) QUALIFIED LOCAL EDUCATIONAL AGENCY.—A qualified local educational agency described in this clause is an agency that meets the following requirements:

"(I) The boundaries of the agency are the same as island property designated by the Secretary of the Interior to be property that is held in trust by the Federal Government.

"(II) The agency has no taxing authority.

"(III) The agency received a payment under paragraph (1) for fiscal year 2001.".

(b) EFFECTIVE DATE.—The Secretary shall consider an application for a payment under section 8003(b)(2) for fiscal year 2002 from a qualified local educational agency described in section 8003(b)(2)(C)(iv), as added by subsection (a), as meeting the requirements of section 8003(b)(2)(C)(iii), and shall provide a payment under section 8003(b)(2) for fiscal year 2002, if the agency submits to the Secretary an application for payment under such

section not later than 60 days after the date of the enactment of this Act.

SEC. 604. CONSTRUCTION.

(a) SCHOOL FACILITY EMERGENCY AND MODERNIZATION GRANTS.—Section 8007(b) (20 U.S.C. 7707(b)) is amended to read as follows:

"(b) SCHOOL FACILITY EMERGENCY AND MODERNIZATION GRANTS AUTHORIZED.—

"(1) IN GENERAL.—From 60 percent of the amount appropriated for each fiscal year under section 8014(e), the Secretary—

"(A) shall award emergency grants in accordance with this subsection to eligible local educational agencies to enable the agencies to carry out emergency repairs of school facilities; and

"(B) shall award modernization grants in accordance with this subsection to eligible local educational agencies to enable the agencies to carry out the modernization of school facilities.

"(2) PRIORITY.—In approving applications from local educational agencies for emergency grants and modernization grants under this subsection, the Secretary shall give priority to applications for emergency grants and, among such applications for emer-

gency grants, shall give priority to those applications of local educational agencies based on the severity of the emergency.

"(3) ELIGIBILITY REQUIREMENTS.—

"(A) EMERGENCY GRANTS.—A local educational agency is eligible to receive an emergency 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)—

"(I) has no practical capacity to issue bonds;

"(II) has minimal capacity to issue bonds and is at 75 percent of the agency's limit of bonded indebtedness; or

"(III) does not meet the requirements of subclauses (I) and (II) but is eligible to receive funds under section 8003(b)(2) for the fiscal year; and

"(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)(i);

"(ii) the agency is eligible to receive assistance under section 8002 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; and

"(iii) the agency has facility needs resulting from actions of the Federal Government, such as enrollment increases due to the expansion of Federal activities,

housing privatization, or the acquisition of Federal property.

"(C) RULE OF CONSTRUCTION.—For purposes of subparagraph (A)(i), a local educational agency—

"(i) has no practical capacity to issue bonds if the total assessed value of real property that may be taxed for school purposes is less than $25,000,000; and

"(ii) has minimal capacity to issue bonds if the total assessed value of real property that may be taxed for school purposes is not less than $25,000,000 but not more than $50,000,000.

"(4) AWARD CRITERIA.—In awarding emergency grants and modernization grants under this subsection, the Secretary shall consider the following factors:

"(A) The ability of the local educational agency to respond to the emergency, or to pay for the modernization project, as the case may be, as measured by—

"(i) the agency's level of bonded indebtedness;

"(ii) the assessed value of real property per student that may be taxed for school purposes compared to 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;

"(iii) the agency's total tax rate for school purposes (or, if applicable, for capital expenditures) compared to the average total tax rate for school purposes (or the average capital expenditure tax rate, if applicable) in the State in which the agency is located; and

"(iv) funds that are available to the agency, from any other source, including section 8007(a), that may be used for capital expenditures.

"(B) The percentage of property in the agency that is nontaxable due to the presence of the Federal Government.

"(C) The number and percentages of children described in subparagraphs (A), (B), (C), and (D) of section 8003(a)(1) served in the school facility with the emergency or served in

the school facility proposed for modernization, as the case may be.

"(D) In the case of an emergency grant, the severity of the emergency, as measured by the threat that the condition of the school facility poses to the health, safety, and well-being of students.

"(E) In the case of a modernization grant—

"(i) the severity of the need for modernization, as measured by such factors as—

"(I) overcrowding, as evidenced by the use of portable classrooms; or

"(II) the agency's inability to maximize the use of technology or offer a curriculum in accordance with contemporary State standards due to the physical limitations of the current school facility; and

"(ii) the age of the school facility proposed for modernization.

"(5) OTHER AWARD PROVISIONS.—

"(A) GENERAL PROVISIONS.—

"(i) LIMITATIONS ON AMOUNT OF FUNDS.—

"(I) IN GENERAL.—The amount of funds provided under an emergency grant or a modernization grant awarded under this subsection to a local educational agency that meets the requirements of subclause (II) or (III) of paragraph (3)(A)(i)—

"(aa) shall not exceed 50 percent of the total cost of the project to be assisted under this subsection; and

"(bb) shall not exceed $3,000,000 during any 5-year period.

"(II) IN-KIND CONTRIBUTIONS.—A local educational agency may use in-kind contributions to meet the matching requirement of subclause (I)(aa).

"(ii) PROHIBITIONS ON USE OF FUNDS.—A local educational agency may not use funds provided under an emer-

gency grant or modernization grant awarded under this subsection for—

"(I) a project for a school facility for which the agency does not have full title or other interest; or

"(II) stadiums or other facilities primarily used for athletic contests, exhibitions, or other events for which admission is charged to the general public.

"(iii) SUPPLEMENT NOT SUPPLANT.—A local educational agency shall use funds provided under an emergency grant or modernization grant awarded under this subsection only to supplement the amount of funds that would, in the absence of the Federal funds provided under the grant, be made available from non-Federal sources to carry out emergency repairs of school facilities or to carry out the modernization of school facilities, as the case may be, and not to supplant such funds.

"(B) EMERGENCY GRANTS.—

"(i) PROHIBITION ON USE OF FUNDS.—A local educational agency that is

awarded an emergency grant under this subsection may not use amounts under the grant for the complete or partial replacement of an existing school facility unless such replacement is less expensive or more cost-effective to correct the identified emergency.

"(ii) CARRY-OVER OF CERTAIN APPLICATIONS.—In the case of a local educational agency that applies for an emergency grant under this subsection for a fiscal year and does not receive the grant for the fiscal year, the Secretary—

"(I) shall, upon the request of the agency, treat the application as an application for an emergency grant under this subsection for the subsequent fiscal year in accordance with the priority requirements of paragraph (2); and

"(II) shall allow the agency to amend or otherwise update the application, as appropriate.

"(6) APPLICATION.—A local educational agency that desires to receive an emergency grant or a mod-

ernization grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall contain the following:

"(A) The information described in clauses (i) through (iv) of paragraph (4)(A) and subparagraphs (B) and (C) of paragraph (4).

"(B) In the case of an application for an emergency grant—

"(i) a description of the school facility deficiency that poses a health or safety hazard to the occupants of the facility and a description of how the deficiency will be repaired; and

"(ii) a signed statement from an appropriate local official certifying that a deficiency in the school facility threatens the health or safety of the occupants of the facility or that prevents the use of all or a portion of the building.

"(C) In the case of an application for a modernization grant—

"(i) an explanation of the need for the school facility modernization project; and

"(ii) the date on which original construction of the facility to be modernized was completed.

"(D) A description of the project for which a grant under this subsection would be used, including a cost estimate for the project.

"(E) A description of the interest in, or authority over, the school facility involved, such as an ownership interest or a lease arrangement.

"(F) Such other information and assurances as the Secretary may reasonably require.

"(7) REPORT.—

"(A) IN GENERAL.—Not later than January 1 of each year, the Secretary shall prepare and submit to the appropriate congressional committees a report that contains a justification for each grant awarded under this subsection for the prior fiscal year.

"(B) DEFINITION.—In this paragraph, the term 'appropriate congressional committees' means—

"(i) the Committee on Appropriations and the Committee on Education and the

Workforce of the House of Representatives; and

"(ii) the Committee on Appropriations and the Committee on Health, Education, Labor and Pensions of the Senate.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 8014(e) (20 U.S.C. 7714(e)) is amended by striking "for each of the three succeeding fiscal years" and inserting "for fiscal year 2001, $150,000,000 for fiscal year 2002, and such sums as may be necessary for each of the four succeeding fiscal years".

SEC. 605. STATE CONSIDERATION OF PAYMENTS IN PROVIDING STATE AID.

Section 8009(b)(1) (20 U.S.C. 7709(b)(1)) is amended by inserting after "section 8003(a)(2)(B)" the following: "and, with respect to a local educational agency that receives a payment under section 8003(b)(2), the amount in excess of the amount that the agency would receive if the agency were deemed to be an agency eligible to receive a payment under section 8003(b)(1) and not section 8003(b)(2)".

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

Section 8014 (20 U.S.C. 7714) is amended by striking "three succeeding fiscal years" each place it appears and inserting "six succeeding fiscal years".

SEC. 607. REPEAL OF EXISTING TITLE VI; TRANSFER AND REDESIGNATION OF PROGRAM.

(a) REPEAL OF EXISTING TITLE VI.—Title VI (20 U.S.C. 7301 et seq.) is repealed.

(b) TRANSFER AND REDESIGNATION OF PROGRAM.—(1) Title VIII (20 U.S.C. 7701 et seq.)—

(A) is transferred from the current placement of the title and inserted after title V; and

(B) is redesignated as title VI.

(2) Title VI (as redesignated by paragraph (1)(B)) is amended—

(A) by redesignating sections 8001 through 8005 (20 U.S.C. 7701–7705) as sections 6001 through 6005, respectively; and

(B) by redesignating sections 8007 through 8014 (20 U.S.C. 7707–7714) as sections 6006 through 6013, respectively.

(c) CONFORMING AMENDMENTS.—(1) Title VI (as redesignated by subsection (b)) is amended by striking ''8002'', ''8003'', ''8004'', ''8005'', ''8008'', ''8009'', ''8011'', ''8013'', and ''8014'' each place such terms appear and inserting ''6002'', ''6003'', ''6004'', ''6005'', ''6007'', ''6008'', ''6010'', ''6012'', and ''6013'', respectively.

(2) Section 6005 (as redesignated by subsection (b)) is amended in the heading by striking ''**8002 AND 8003**'' and inserting ''**6002 AND 6003**''.

(3) Section 6009(c)(1) (as redesignated by subsection (b)) is amended in the heading by striking ''8003'' and inserting ''6003''.

(d) SAVINGS PROVISION.—Funds appropriated for title VIII of the Elementary and Secondary Education Act of 1965 (as in effect on the day before the date of the enactment of this Act) shall be available for use under title VI of such Act, as added by this section.

SEC. 608. SENSE OF CONGRESS RELATING TO FULL FUNDING OF THE IMPACT AID PROGRAM.

(a) FINDINGS.—Congress finds the following:

(1) More than 90 percent of resources for school districts in the United States are raised from State and local property taxes.

(2) School districts that are affected by the presence of the Federal Government, such as Federal property that is not subject to taxation, must still provide educational services to children who are federally connected by such activities of the Federal Government.

(3) To mitigate this loss of funding, Congress has made ''impact aid'' payments to local edu-

cational agencies to reimburse the agencies for the costs of educating federally connected children.

(4) From 1950 to 1969, Congress provided full funding for the impact aid program to help defray the costs of educating federally connected children.

(5) For fiscal year 2000, Congress provided only 46 percent of the costs of educating federally connected children.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the House of Representatives, the Senate, and the Administration should work together to provide full funding for the impact aid program in future fiscal years in order to meet the needs of school districts affected by a Federal presence; and

(2) the full funding of the impact aid program will ensure that federally connected children will continue to receive a quality education.

TITLE VII—ACCOUNTABILITY

SEC. 701. FLEXIBILITY AND ACCOUNTABILITY.

Title VII is amended to read as follows:

"TITLE VII—FLEXIBILITY AND ACCOUNTABILITY

"PART A—STATE ACCOUNTABILITY FOR IMPROVING ACADEMIC ACHIEVEMENT

"SEC. 7101. STATE FINANCIAL AWARDS.

''(a) IN GENERAL.—Beginning in the 2002–2003 school year, the Secretary shall make in accordance with this section financial awards, to be known as 'Achievement in Education Awards', to States that have made significant progress in improving educational achievement.

''(b) CRITERIA OF PROGRESS.—For the purposes of subsection (a), the Secretary shall judge progress using each of the following criteria, giving the greatest weight to the criterion described in paragraph (1):

''(1) The progress of the State's students from economically disadvantaged families and students from racial and ethnic minority groups—

''(A) on the assessments administered by the State under section 1111; and

''(B) beginning in the 2003–2004 school year, on assessments of 4th and 8th grade reading and mathematics under—

''(i) the State assessments carried out as part of the National Assessment of Educational Progress under section 411 of

the National Education Statistics Act of 1994 (20 U.S.C. 9010); or

"(ii) an assessment selected by the State that—

"(I) is administered annually;

"(II) yields high quality data that are valid and reliable;

"(III) meets widely recognized professional and technical standards, including specific and rigorous test security procedures;

"(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 expressed in terms of achievement levels that are consistent with the achievement levels

(basic, proficient, and advanced) set forth in section 1111;

"(VII) provides results in such a form that they may be disaggregated, at a minimum, according to income level and major racial and ethnic group; and

"(VIII) is administered to all students or to a representative sample of students in the 4th and 8th grades statewide, with a sample size that is sufficiently large to produce statistically significant estimates of statewide student achievement.

"(2) The overall improvement in the achievement of all of the State's students, as measured by—

"(A) the assessments administered by the State under section 1111; and

"(B) beginning in the 2003–2004 school year, the assessments described in paragraph (1)(B).

"(3) The progress of the State in improving the English proficiency of students who enter school with limited English proficiency.

"(c) OTHER CONSIDERATIONS.—In judging a State's progress under subsection (a), the Secretary may also consider—

"(1) the progress of the State in increasing the percentage of students who graduate from secondary schools; and

"(2) the progress of the State in increasing the percentage of students who take advanced coursework (such as Advanced Placement or International Baccalaureate courses) and who pass the exams associated with such coursework.

"(d) AMOUNT.—The Secretary shall determine the amount of an award under subsection (a) based on—

"(1) the school-age population of the State; and

"(2) the degree of progress shown by a State with respect to the criteria set forth in subsections (b) and (c).

"(e) USE OF FUNDS.—

"(1) IN GENERAL.—A State receiving a financial award under this section shall use the proceeds of such award only to make financial awards to public elementary and secondary schools in the State that have made the most significant progress with respect to the criteria described in subsection (b).

"(2) USE BY SCHOOLS.—In consultation with the school's teachers, the principal of each elementary or secondary school that receives a financial award from a State under this section shall use the proceeds of such award at the school for any educational purpose permitted under State law.

"(3) RESPONSIBLE STATE AGENCY.—The State educational agency for each State shall be the agency responsible for making awards under this subsection.

"(f) PEER REVIEW.—In selecting States for awards under subsection (a), the Secretary shall use a peer-review process.

"(g) COSTS OF INDEPENDENT ASSESSMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall make grants to States to offset the costs of administering assessments administered by the States to meet the requirements of (b)(1)(B)(ii).

"(2) LIMITATIONS.—Grants made by the Secretary in any year to a State under paragraph (1)—

"(A) may be awarded only to offset the costs of a single administration of an assessment described in such paragraph in the State for that year; and

"(B) may not exceed the costs of administering in the State for that year the State assessments that would be carried out under the National Assessment of Educational Progress described in subsection (b)(1)(B).

"(3) ALLOCATION.—The Secretary may determine the appropriate methodology of allocating grants to States under this subsection.

"SEC. 7102. STATE SANCTIONS.

"(a) FAILURE TO MAKE PROGRESS.—

"(1) LOSS OF ADMINISTRATIVE FUNDS.—The Secretary shall reduce, by 30 percent, the amount of funding that a State may reserve for State administration under the State formula grant programs authorized by this Act if the Secretary determines that, for 2 consecutive years—

"(A) the State's students from economically disadvantaged families and students from racial and ethnic minority groups failed to make adequate yearly progress on the assessments administered by the State under section 1111; and

"(B) the State's students from economically disadvantaged families and students from racial and ethnic minority groups failed to

make measurable progress in reading and mathematics, as measured by the 4th and 8th grade assessments described in subsection (b)(1)(B).

"(2) FURTHER REDUCTIONS.—In each of the first 2 years after the years described in paragraph (1), the Secretary may increase the reduction described in such paragraph by any amount not more than a total of an additional 45 percent.

"(b) OTHER FAILURES.—In addition to any action taken under subsection (a)(1) or (a)(2), the Secretary shall reduce, by 20 percent, the amount of funding that a State may reserve for State administration under the State formula grant programs authorized by this Act if the Secretary determines that, for 2 consecutive years, the State failed to make adequate yearly progress—

"(1) with respect to the achievement of children with limited English proficiency under section 1111(b)(2)(C)(iii)(II)(dd); or

"(2) with respect to the acquisition of English language proficiency by children with limited English proficiency under section 1111(b)(2)(C)(iii)(III).

"(c) USE OF FUNDS FOR IMPROVEMENT.—

"(1) IN GENERAL.—The Secretary shall require that any funds reduced under this section be allocated by the State to local educational agencies in the State for school improvement purposes described in section 1116.

"(2) TREATMENT OF FUNDS.—Funds described in paragraph (1) shall not count toward the amounts that are required to be reserved by a State for school improvement under section 1003.

"SEC. 7103. DEVELOPMENT OF STATE STANDARDS AND ASSESSMENTS.

"(a) IN GENERAL.—The Secretary shall make financial awards to States to enable the States—

"(1) to pay the costs of the development of the additional State assessments and standards required by section 1111(b), including the costs of working in voluntary partnerships with other States, at the sole discretion of each such State, in developing such assessments and standards if a State chooses to do so; and

"(2) if a State has developed the assessments and standards referred to in paragraph (1), to administer such assessments or to carry out other activities described in this title and other activities related to ensuring accountability for results in the

State's schools and local educational agencies, such as—

"(A) developing academic content and achievement standards and aligned assessments in other subjects not required by section 1111;

"(B) developing assessments of English language proficiency necessary to comply with section 1111(b)(7);

"(C) assuring the continued validity and reliability of State assessments;

"(D) refining State assessments to ensure their continued alignment with the State's academic content standards and to improve the alignment of curricula and instruction materials;

"(E) providing for multiple measures to increase the reliability and validity of student and school classifications;

"(F) strengthening the capacity of local educational agencies and schools to provide all students the opportunity to increase educational achievement;

"(G) expanding the range of accommodations available to students with limited English proficiency and students with disabilities to im-

prove the rates of inclusion of such students; and

"(H) improving the dissemination of information on student achievement and school performance to parents and the community.

"(b) BONUSES.—The Secretary shall make a one-time bonus payment to each State that completes the development of the assessments described in subsection (a) ahead of the deadline set forth in section 1111.

"SEC. 7104. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—

"(1) AWARDS AND BONUS PAYMENTS.—For the purposes of making awards under section 7101 and bonus payments under section 7103(b), there are authorized to be appropriated $40,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.

"(2) GRANTS FOR INDEPENDENT ASSESSMENTS; ADMINISTRATION OF STATE ASSESSMENTS UNDER NAEP.—For the purposes of making grants to offset the costs of independent assessments under section 7101(g) and for the purposes of administering the State assessments carried out under the National Assessment of Educational Progress referred to in section 7101(b)(1)(B)(i), there are au-

thorized to be appropriated to the Secretary $69,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.

"(3) DEVELOPMENT AND ADMINISTRATION OF STATE STANDARDS AND ASSESSMENTS.—For the purposes of carrying out subsection 7103(a), there are authorized to be appropriated $400,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003 through 2005.

"(b) ALLOCATION OF APPROPRIATED FUNDS.—From each of the amounts appropriated under subsection (a), the Secretary shall allocate to the States—

"(1) 50 percent based on the relative number of children aged 5 to 17 in each State; and

"(2) 50 percent allocated equally among the States.

"PART B—FUNDING FLEXIBILITY FOR STATE AND LOCAL EDUCATIONAL AGENCIES

"SEC. 7201. SHORT TITLE.

"This part may be cited as the 'State and Local Transferability Act'.

"SEC. 7202. PURPOSE.

"The purpose of this part is to allow States and local educational agencies the flexibility—

"(1) to target Federal funds to Federal programs that most effectively address the unique needs of States and localities; and

"(2) to transfer Federal funds allocated to other activities to allocations for activities authorized under title I programs.

"SEC. 7203. TRANSFERABILITY OF FUNDS.

"(a) TRANSFERS BY STATES.—

"(1) IN GENERAL.—In accordance with this part, a State may transfer up 50 percent of the non-administrative State funds allocated to the State for use for State-level activities under each of the following provisions to one or more of the State's allocations under any other of such provisions:

"(A) Part A of Title II.

"(B) Subpart 1 of part A of title IV.

"(C) Part A or B of title V.

"(2) SUPPLEMENTAL FUNDS FOR TITLE I.—In accordance with this part, a State may transfer any funds allocated to the State under a provision listed in paragraph (1) to its allocation under title I.

"(b) TRANSFERS BY LOCAL EDUCATIONAL AGENCIES.—

"(1) AUTHORITY TO TRANSFER FUNDS.—

"(A) IN GENERAL.—In accordance with this part, a local educational agency (except 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) for a fiscal year to one 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 30 percent of the funds allocated to it under each of the provisions listed in paragraph (2)—

"(i) to its allocation for school improvement under section 1003;

"(ii) to any other allocation if such transferred funds are used only for local educational agency improvement activities consistent with section 1116(d).

"(C) SUPPLEMENTAL FUNDS FOR TITLE I.—In accordance with this part, a local educational agency may transfer funds allocated to such agency under a provision listed in paragraph (2) to its allocation under title I.

"(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 1 of part A of title IV.

"(C) Subpart 1 of part A of title V or section 5212(a)(2)(A).

"(c) NO TRANSFER OF TITLE I FUNDS.—A State or a local educational agency may not transfer under this part to any other program any funds allocated to it under title I.

"(d) MODIFICATION OF PLANS AND APPLICATIONS; NOTIFICATION.—

"(1) STATE TRANSFERS.—Each State that makes a transfer of funds under this section shall—

"(A) modify to account for such transfer each State plan, or application submitted by the State, to which such funds relate;

"(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the Secretary; and

"(C) not later than 30 days before the effective date of such transfer, notify the Secretary of such transfer.

"(2) LOCAL TRANSFERS.—Each local educational agency that makes a transfer under this section shall—

"(A) modify to account for such transfer each local plan, or application submitted by the agency, to which such funds relate;

"(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the State; and

"(C) not later than 30 days before the effective date of such transfer, notify the State of such transfer.

"(e) 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.

"(2) CONSULTATION.—Each State educational agency or local educational agency that transfers funds under this section shall conduct consultations in accordance with section 8503(c), if such transfer transfers funds from a program that provides for the participation of students, teachers, or other educational personnel, from private schools.

"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 boost academic achievement and implement education reforms;

"(5) to eliminate Federal barriers to implementing effective local education programs;

"(6) to hold local educational agencies accountable for boosting the academic achievement of all students, especially disadvantaged children; and

"(7) to narrow achievement gaps between the lowest and highest performing groups of students so that no child is left behind.

"SEC. 7303. AGREEMENTS TO PROVIDE LOCAL FLEXIBILITY.

"(a) AUTHORITY.—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 paragraph (2); and

"(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 under this part with 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 serving urban and rural areas.

"(c) REQUIRED TERMS OF PERFORMANCE AGREEMENT.—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 performance 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 a 5-year plan describing how the local educational agency intends to combine and use the funds from programs included in the scope of the performance agreement to advance the education

priorities of the State and the local educational agency, meet the general purposes of the included programs, improve student achievement, and narrow achievement gaps.

"(5) LOCAL INPUT.—The performance agreement shall contain an assurance that the local educational agency will provide parents, teachers, and schools with notice and an opportunity to comment on the proposed terms of the performance agreement in accordance with State law.

"(6) FISCAL RESPONSIBILITIES.—The performance agreement shall contain an assurance that the local educational agency will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds consolidated and used under the performance agreement.

"(7) CIVIL RIGHTS.—The performance agreement shall contain an assurance that the local educational agency will meet the requirements of applicable Federal civil rights laws in carrying out the agreement and in consolidating and using the funds under the agreement.

"(8) PRIVATE SCHOOL PARTICIPATION.—The performance agreement shall contain an assurance

that the local educational agency agrees that in consolidating and using funds under the performance agreement—

"(A) the local educational agency will provide for the equitable participation of students and professional staff in private schools; and

"(B) that sections 8504, 8505, and 8506 shall apply to all services and assistance provided with such funds in the same manner as such sections apply to services and assistance provided in accordance with section 8503.

"(9) ANNUAL REPORTS.—The performance agreement shall contain an assurance that the local educational agency agrees that not later than 1 year after the date on which the Secretary enters into the performance agreement, and annually thereafter during the term of the performance agreement, the local educational agency shall disseminate widely to parents and the general public, transmit to its State educational agency and the Secretary, distribute to print and broadcast media, and post on the Internet, a report that includes a detailed description of how the local educational agency used the funds consolidated under the agreement to improve student academic achievement and reduce achievement gaps.

"(c) 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.

"(d) AMENDMENT TO PERFORMANCE AGREEMENT.—

"(1) IN GENERAL.—In each of the following circumstances, the Secretary shall agree to amend a performance agreement entered into with a local educational agency under this part:

"(A) REDUCTION IN SCOPE OF PERFORMANCE AGREEMENT.—Not later than 1 year after entering into the performance agreement, a State seeks to amend the agreement to remove from the scope any program described in section 7304(b).

"(B) EXPANSION OF SCOPE OF PERFORMANCE AGREEMENT.—Not later than 1 year after entering into the performance agreement, a State seeks to amend the agreement to include in its scope any additional program described in section 7304(b) or any additional

achievement indicators for which the State will be held accountable.

"(2) APPROVAL OF AMENDMENT.—

"(1) IN GENERAL.—Not later than 60 days after the receipt of a proposed 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 time period described in such subparagraph shall be considered to be approved.

"(3) TREATMENT OF PROGRAM FUNDS WITHDRAWN FROM AGREEMENT.—Beginning on the effective date of an amendment executed under paragraph (1)(A), each program requirement of each program removed from the scope of a performance agreement shall apply to the local educational agency's use of funds made available under the program.

"SEC. 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 requirements of the program under which the funds were made available to the State.

"(b) ELIGIBLE PROGRAMS.—Funds made available under programs under each of the following provisions of this Act may be consolidated and used under subsection (a):

"(1) Title II.

"(2) Part A of title IV.

"(3) Subpart 1 of part A of title V.

"(4) Part B of title V.

"SEC. 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.

"SEC. 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 permitting the Secretary, after notice and an opportunity for a hearing, to terminate the agreement if, during the term of the agreement, the local educational agency that is party to the agreement fails to make adequate yearly progress for 3 consecutive years.

"(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 not met the achievement goals contained in the performance agreement, the Secretary may not renew the agreement under section 7307 and, beginning on the date on which such term ends, the local educational agency shall be required to comply with each of the program requirements in effect on such date for each program included in the performance agreement.

"SEC. 7307. RENEWAL OF PERFORMANCE AGREEMENT.

"(a) IN GENERAL.—Except as provided in section 7306(b) and in accordance with this section, the Secretary shall renew for 1 additional 5-year term a performance agreement entered into under this part if the State that is party to the agreement has met or has substantially met, by the end of the original term of the agreement, the achievement goals contained in the agreement.

"(b) NOTIFICATION.—The Secretary may not renew a performance agreement under this part unless, not less than 6 months before the end of the original term of the agreement, the local educational agency seeking the renewal notifies the Secretary of its intention to renew.

"(c) EFFECTIVE DATE.—A renewal under this section shall be effective at the end of the original term of the agreement or on the date on which the local educational agency seeking renewal provides to the Secretary all data required under the agreement, whichever is later.

"SEC. 7308. REPORTS.

"(a) TRANSMITTAL TO CONGRESS.—Not later than 60 days after the Secretary receives a report described in section 7303(c)(9), 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 application information with respect to the programs included within the scope of such performance agreement other than that information that is required to be included in the report described in section 7303(c)(9).

"SEC. 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 State in which a local educational agency is located pursuant to section 1111(b)(2)(C).

"(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.".

TITLE VIII—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

"PART A—DEFINITIONS

"SEC. 8101. DEFINITIONS.

''Except as otherwise provided, for the purposes of this Act, the following terms have the following meanings:

''(1) Average daily attendance—

''(A) Except as provided otherwise by State law or this paragraph, the term 'average daily attendance' means—

''(i) the aggregate number of days of attendance of all students during a school year; divided by

''(ii) the number of days school is in session during such school year.

''(B) The Secretary shall permit the conversion of average daily membership (or other similar data) to average daily attendance for local educational agencies in States that provide State aid to local educational agencies on the basis of average daily membership or such other data.

''(C) If the local educational agency in which a child resides makes a tuition or other payment for the free public education of the

child in a school located in another school district, the Secretary shall, for purposes of this Act—

"(i) consider the child to be in attendance at a school of the agency making such payment; and

"(ii) not consider the child to be in attendance at a school of the agency receiving such payment.

"(D) If a local educational agency makes a tuition payment to a private school or to a public school of another local educational agency for a child with disabilities, as defined in paragraph (5), the Secretary shall, for the purposes of this Act, consider such child to be in attendance at a school of the agency making such payment.

"(2) AVERAGE PER-PUPIL EXPENDITURE.—The term 'average per-pupil expenditure' means, in the case of a State or of the United States—

"(A) without regard to the source of funds—

"(i) the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the deter-

mination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State or, in the case of the United States for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

''(ii) any direct current expenditures by the State for the operation of such agencies; divided by

''(B) the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

''(3) BEGINNING TEACHER.—The term 'beginning teacher' means an educator in a public school who has been teaching less than a total of 3 complete school years.

''(4) CHILD.—The term 'child' means any person within the age limits for which the State provides free public education.

''(5) CHILD WITH DISABILITY.—The term 'child with a disability' means a child—

"(A) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (hereinafter referred to as 'emotional disturbance'), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

"(B) who, by reason thereof, needs special education and related services.

"(6) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a public or private nonprofit organization of demonstrated effectiveness that—

"(A) is representative of a community or significant segments of a community; and

"(B) provides educational or related services to individuals in the community.

"(7) CONSOLIDATED LOCAL APPLICATION.—The term 'consolidated local application' means an application submitted by a local educational agency pursuant to section 14305.

"(8) CONSOLIDATED LOCAL PLAN.—The term 'consolidated local plan' means a plan submitted by

a local educational agency pursuant to section 14305.

"(9) CONSOLIDATED STATE APPLICATION.—The term 'consolidated State application' means an application submitted by a State educational agency pursuant to section 14302.

"(10) CONSOLIDATED STATE PLAN.—The term 'consolidated State plan' means a plan submitted by a State educational agency pursuant to section 14302.

"(11) COUNTY.—The term 'county' means one of the divisions of a State used by the Secretary of Commerce in compiling and reporting data regarding counties.

"(12) COVERED PROGRAM.—The term 'covered program' means each of the programs authorized by—

"(A) part A of title I;

"(B) part B of title I;

"(C) part C of title I;

"(D) part D of title I;

"(E) part F of title I;

"(F) part G of title I;

"(G) part A of title II;

"(H) part A of title III;

"(I) part A of title V;

"(J) part B of title V; and

"(K) part A of title IV:

"(13) CURRENT EXPENDITURES.—The term 'current expenditures' means expenditures for free public education—

"(A) including expenditures for administration, instruction, attendance, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities; but

"(B) not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds received under title I and part A of title IV.

"(14) DEPARTMENT.—The term 'Department' means the Department of Education.

"(15) EDUCATIONAL SERVICE AGENCY.—The term 'educational service agency' means a regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local educational agencies.

"(16) EFFECTIVE SCHOOLS PROGRAM.—The term 'effective schools program' means a school-

based program that may encompass preschool through secondary school levels and that has the objectives of—

"(A) promoting school-level planning, instructional improvement, and staff development;

"(B) increasing the academic achievement levels of all children and particularly educationally disadvantaged children; and

"(C) achieving as ongoing conditions in the school the following factors identified through scientifically based research as distinguishing effective from ineffective schools:

"(i) Strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving.

"(ii) Emphasis on the acquisition of basic and advanced academic skills.

"(iii) A safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement.

"(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) or

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 areas test; or

"(II) completion of an academic major in each of the subject areas in which he or she provides instruction.

"(22) GIFTED AND TALENTED.—The term 'gifted and talented', when used with respect to students, children or youth, means students, children or youth who give evidence of high performance capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities.

"(23) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given that term in section 101 of the Higher Education Act of 1965.

"(24) LIMITED ENGLISH PROFICIENT STUDENT.—The term 'limited English proficient student' means an individual aged 5 through 17 enrolled in an elementary school or secondary school—

"(A) who—

"(i) was not born in the United States or whose native language is a language other than English;

"(ii)(I) is a Native American or Alaska Native, or a native resident of the outlying areas; and

"(II) comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or

"(iii) is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

"(B) who has sufficient difficulty speaking, reading, writing, or understanding the English language, and whose difficulties may deny the individual—

"(i) the ability to meet the State's proficient level of performance on State assessments described in section 1111(b)(4) in core academic subjects; or

"(ii) the opportunity to participate fully in society.

"(25) LOCAL EDUCATIONAL AGENCY.—(A) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function

for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

''(B) The term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

''(C) The term includes an elementary or secondary school funded by the Bureau of Indian Affairs but only to the extent that such inclusion makes such school eligible for programs for which specific eligibility is not provided to such school in another provision of law and such school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that such school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

''(D) The term includes educational service agencies and consortia of such agencies.

"(26) MENTORING.—The term 'mentoring' means a program in which an adult works with a child or youth on a 1-to-1 basis, establishing a supportive relationship, providing academic assistance, and introducing the child or youth to new experiences that enhance the child or youth's ability to excel in school and become a responsible citizen.

"(27) NATIVE AMERICAN AND NATIVE AMERICAN LANGUAGE.—The terms 'Native American' and 'Native American language' shall have the same meaning given such terms in section 103 of the Native American Languages Act of 1990.

"(28) OTHER STAFF.—The term 'other staff' means pupil services personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

"(29) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and through fiscal year 2003 and for the purpose of any discretionary grant program, includes the freely associated states of the Republic of the Marshall Islands, the Fed-

erated States of Micronesia, and the Republic of Palau.

"(30) PARENT.—The term 'parent' includes a legal guardian, or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare).

"(31) PUPIL SERVICES PERSONNEL; PUPIL SERVICES.—(A) The term 'pupil services personnel' means school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services (including related services as such term is defined in section 602(22) of the Individuals with Disabilities Education Act) as part of a comprehensive program to meet student needs.

"(B) The term 'pupil services' means the services provided by pupil services personnel.

"(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.

"(E) Development of appropriate active strategies to construct meaning from print.

"(F) Development and maintenance of a motivation to read.

"(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 observation or experiment;

"(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

"(iii) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations;

"(iv) is evaluated using randomized experiments in which individuals, entities, programs, or activities are randomly assigned to different variations (including a control condition) to compare the relative effects of the variations; and

"(v) has been accepted by a peer-reviewed journal or approved by a panel of

independent experts through a comparably rigorous, objective, and scientific review.

''(35) SECONDARY SCHOOL.—The term 'secondary school' means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that such term does not include any education beyond grade 12.

''(36) SECRETARY.—The term 'Secretary' means the Secretary of Education.

''(37) STATE.—The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

''(38) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' means the agency primarily responsible for the State supervision of public elementary and secondary schools.

''(39) TECHNOLOGY.—The term 'technology' means the latest state-of-the-art technology products and services.

''SEC. 8102. APPLICABILITY OF TITLE.

''Parts B, C, D, and E of this title do not apply to title VI of this Act.

"SEC. 8103. APPLICABILITY TO BUREAU OF INDIAN AFFAIRS OPERATED SCHOOLS.

''For purposes of any competitive program under this Act, a consortia of schools operated by the Bureau of Indian Affairs, a school operated under a contract or grant with the Bureau of Indian Affairs in consortia with another contract or grant school or tribal or community organization, or a Bureau of Indian Affairs school in consortia with an institution of higher education, a contract or grant school and tribal or community organization shall be given the same consideration as a local educational agency.

"PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

"SEC. 8201. CONSOLIDATION OF STATE ADMINISTRATIVE FUNDS FOR ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

''(a) CONSOLIDATION OF ADMINISTRATIVE FUNDS.—

''(1) IN GENERAL.—A State educational agency may consolidate the amounts specifically made available to such agency for State administration under one or more of the programs under paragraph (2) if such State educational agency can demonstrate that the majority of such agency's resources are derived from non-Federal sources.

"(2) APPLICABILITY.—This section applies to any program under this Act under which funds are authorized to be used for administration, and such other programs as the Secretary may designate.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—A State educational agency shall use the amount available under this section for the administration of the programs included in the consolidation under subsection (a).

"(2) ADDITIONAL USES.—A State educational agency may also use funds available under this section for administrative activities designed to enhance the effective and coordinated use of funds under programs included in the consolidation under subsection (a), such as—

"(A) the coordination of such programs with other Federal and non-Federal programs;

"(B) the establishment and operation of peer-review mechanisms under this Act;

"(C) the administration of this title;

"(D) the dissemination of information regarding model programs and practices;

"(E) technical assistance under any program under this Act;

"(F) State level activities designed to carry out this title;

"(G) training personnel engaged in audit and other monitoring activities; and

"(H) implementation of the Cooperative Audit Resolution and Oversight Initiative of the Department of Education.

"(c) RECORDS.—A State educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of programs included in the consolidation under subsection (a).

"(d) REVIEW.—To determine the effectiveness of State administration under this section, the Secretary may periodically review the performance of State educational agencies in using consolidated administrative funds under this section and take such steps as the Secretary finds appropriate to ensure the effectiveness of such administration.

"(e) UNUSED ADMINISTRATIVE FUNDS.—If a State educational agency does not use all of the funds available to such agency under this section for administration, such agency may use such funds during the applicable period

of availability as funds available under one or more programs included in the consolidation under subsection (a).

"SEC. 8202. SINGLE LOCAL EDUCATIONAL AGENCY STATES.

"A State educational agency that also serves as a local educational agency, in such agency's applications or plans under this Act, shall describe how such agency will eliminate duplication in the conduct of administrative functions.

"SEC. 8203. CONSOLIDATION OF FUNDS FOR LOCAL ADMINISTRATION.

"(a) GENERAL AUTHORITY.—In accordance with regulations of the Secretary and for any fiscal year, a local educational agency, with the approval of its State educational agency, may consolidate and use for the administration of one or more programs under this Act (or such other programs as the Secretary shall designate) not more than the percentage, established in each such program, of the total available for the local educational agency under such programs.

"(b) STATE PROCEDURES.—Within one-year from the date of enactment of the No Child Left Behind Act of 2001, a State educational agency shall, in collaboration with local educational agencies in the State, establish procedures for responding to requests from local educational agencies to consolidate administrative funds under sub-

section (a) and for establishing limitations on the amount of funds under such programs that may be used for administration on a consolidated basis.

''(c) CONDITIONS.—A local educational agency that consolidates administrative funds under this section for any fiscal year shall not use any other funds under the programs included in the consolidation for administration for that fiscal year.

''(d) USES OF ADMINISTRATIVE FUNDS.—A local educational agency that consolidates administrative funds under this section may use such consolidated funds for the administration of such programs and for uses, at the school district and school levels, comparable to those described in section 8201(b)(2).

''(e) RECORDS.—A local educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of such programs included in the consolidation.

''SEC. 8204. CONSOLIDATED SET-ASIDE FOR DEPARTMENT OF THE INTERIOR FUNDS.

''(a) GENERAL AUTHORITY.—

''(1) TRANSFER.—The Secretary shall transfer to the Department of the Interior, as a consolidated amount for covered programs, the Indian education

programs under subpart 1 of part B of title III, and the education for homeless children and youth 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, consistent with the requirements of the programs specified in paragraph (1), for the distribution and use of those program funds under terms that the Secretary determines best meet the purposes of those programs.

"(B) The agreement shall—

"(i) set forth the plans of the Secretary of the Interior for the use of the amount transferred and the performance measures to assess program effectiveness, including measurable goals and objectives; and

"(ii) be developed in consultation with Indian tribes.

"(b) ADMINISTRATION.—The Department of the Interior may use not more than 1.5 percent of the funds consolidated under this section for such department's

costs related to the administration of the funds transferred under this section.

"PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

"SEC. 8301. PURPOSE.

''The purposes of this part are to improve teaching and learning through greater coordination between programs and to provide greater flexibility to State and local authorities by allowing the consolidation of State and local plans, applications, and reporting.

"SEC. 8302. OPTIONAL CONSOLIDATED STATE PLANS OR APPLICATIONS.

''(a) GENERAL AUTHORITY.—

''(1) SIMPLIFICATION.—In order to simplify application requirements and reduce the burden for States under this Act, the Secretary, in accordance with subsection (b), shall establish procedures and criteria under which a 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 section for—

''(A) any programs under this Act in which the State participates; and

"(B) such other programs as the Secretary may designate.

"(2) CONSOLIDATED APPLICATIONS AND PLANS.—A 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.—In establishing criteria and procedures under this section, the Secretary shall collaborate with Governors, State educational agencies and, as appropriate, with other State agencies, local educational agencies, public and private 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 material required to be included in a consolidated State plan or consolidated State application.

"(3) NECESSARY MATERIALS.—The Secretary shall require only descriptions, information, assurances, and other materials that are absolutely necessary for the consideration of the consolidated State plan or consolidated State application.

"SEC. 8303. CONSOLIDATED REPORTING.

"In order to simplify reporting requirements and reduce reporting burdens, the Secretary shall establish procedures and criteria under which a State educational agency, in consultation with the State's Governor, may submit a consolidated State annual report. Such report shall contain information about the programs included in the report, including the State's performance under those programs, and other matters as the Secretary determines, such as monitoring activities. Such a report shall take the place of separate individual annual reports for the programs subject to it.

"SEC. 8304. GENERAL APPLICABILITY OF STATE EDUCATIONAL AGENCY ASSURANCES.

"(a) ASSURANCES.—A State educational agency, in consultation with the State's Governor, that submits a consolidated State plan or consolidated State application under this Act, whether separately or under section 8302, shall have on file with the Secretary a single set of assur-

ances, applicable to each program for which such plan or application is submitted, that provides that—

"(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

"(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency, in a nonprofit private agency, institution, or organization, or in an Indian tribe if the law authorizing the program provides for assistance to such entities; and

"(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing law;

"(3) the State will adopt and use proper methods of administering each such program, including—

"(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program;

"(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation; and

"(C) the adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of such programs;

"(4) the State will cooperate in carrying out any evaluation of each such program conducted by or for the Secretary or other Federal officials;

"(5) the State will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each such program;

"(6) the State will—

"(A) make reports to the Secretary as may be necessary to enable the Secretary to perform the Secretary's duties under each such program; and

"(B) maintain such records, provide such information to the Secretary, and afford access to the records as the Secretary may find necessary to carry out the Secretary's duties; and

"(7) before the plan or application was submitted to the Secretary, the State has afforded a reasonable opportunity for public comment on the plan or application and has considered such comment.

"(b) GEPA PROVISION.—Section 441 of the General Education Provisions Act shall not apply to programs under this Act.

"SEC. 8305. CONSOLIDATED LOCAL PLANS OR APPLICATIONS.

"(a) GENERAL AUTHORITY.—A local educational agency receiving funds under more than one program under this Act may submit plans or applications to the State educational agency under such programs on a consolidated basis. The State educational agency shall make any consolidated local plans and applications available to the Governor.

"(b) REQUIRED CONSOLIDATED PLANS OR APPLICATIONS.—A State that has an approved consolidated State plan or application under section 8302 may require local educational agencies in the State receiving funds under more than one program included in the consolidated State plan or consolidated State application to submit consolidated local plans or applications under such programs, but may not require such agencies to submit separate plans.

"(c) COLLABORATION.—A State educational agency, in consultation with the Governor, shall collaborate with local educational agencies in the State in establishing procedures for the submission of the consolidated State plans or consolidated State applications under this section.

"(d) NECESSARY MATERIALS.—The State 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 program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

"(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to such entities; and

"(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing statutes;

"(3) the applicant will adopt and use proper methods of administering each such program, including—

"(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and

"(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation;

"(4) the applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary or other Federal officials;

"(5) the applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to such applicant under each such program;

"(6) the applicant will—

"(A) make reports to the Governor and State educational agency and the Secretary as may be necessary to enable such agency and the Secretary to perform their duties under each such program; and

"(B) maintain such records, provide such information, and afford access to the records as the Governor and State educational agency or the Secretary may find necessary to carry out the State's or the Secretary's duties; and

"(7) before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and has considered such comment.

"(b) GEPA PROVISION.—Section 442 of the General Education Provisions Act shall not apply to programs under this Act.

"PART D—WAIVERS

"SEC. 8401. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

"(a) IN GENERAL.—Except as provided in subsection (c), the Secretary may waive any statutory or regulatory requirement of this Act or the Carl D. Perkins Vocational and Technical Education Act of 1998 for a State educational agency, local educational agency, Indian tribe, or school through a local educational agency, that—

"(1) receives funds under a program authorized by this Act; and

"(2) requests a waiver under subsection (b).

"(b) REQUEST FOR WAIVER.—

"(1) IN GENERAL.—A State educational agency, local educational agency, or Indian tribe which desires a waiver shall submit a waiver application to the Secretary that—

"(A) indicates each Federal program affected and each statutory or regulatory requirement requested to be waived;

"(B) describes the purpose and overall expected results of waiving each such requirement;

"(C) describes, for each school year, specific, measurable, educational goals for the State educational agency and for each local educational agency, Indian tribe, or school that would be affected by the waiver; and

"(D) explains why the waiver will assist the State educational agency and each affected local educational agency, Indian tribe, or school in reaching such goals.

"(2) ADDITIONAL INFORMATION.—Such requests—

"(A) may provide for waivers of requirements applicable to State educational agencies, local educational agencies, Indian tribes, and schools; and

"(B) shall be developed and submitted—

"(i)(I) by local educational agencies (on behalf of such agencies and schools) to State educational agencies; and

"(II) by State educational agencies (on behalf of, and based upon the requests of, local educational agencies) to the Secretary; or

"(ii) by Indian tribes (on behalf of schools operated by such tribes) to the Secretary.

"(3) GENERAL REQUIREMENTS.—

"(A) In the case of a waiver request submitted by a State educational agency acting in its own behalf, the State educational agency shall—

"(i) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

"(ii) submit the comments to the Secretary; and

"(iii) provide notice and information to the public regarding the waiver request in the manner that the applying agency

customarily provides similar notices and information to the public.

"(B) In the case of a waiver request submitted by a local educational agency that receives funds under this Act—

"(i) such request shall be reviewed by the State educational agency and be accompanied by the comments, if any, of such State educational agency; and

"(ii) notice and information regarding the waiver request shall be provided to the public by the agency requesting the waiver in the manner that such agency customarily provides similar notices and information to the public.

"(c) RESTRICTIONS.—The Secretary shall not waive under this section any statutory or regulatory requirements relating to—

"(1) the allocation or distribution of funds to States, local educational agencies, or other recipients of funds under this Act;

"(2) maintenance of effort;

"(3) comparability of services;

"(4) use of Federal funds to supplement, not supplant, non-Federal funds;

"(5) equitable participation of private school students and teachers;

"(6) parental participation and involvement;

"(7) applicable civil rights requirements;

"(8) the requirement for a charter school under part B of title IV; or

"(9) the prohibitions regarding—

"(A) State aid in section 8502;

"(B) use of funds for religious worship or instruction in section 8507; and

"(C) activities in section 8513.

"(d) DURATION AND EXTENSION OF WAIVER.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the duration of a waiver approved by the Secretary under this section may be for a period not to exceed 5 years.

"(2) EXTENSION.—The Secretary may extend the period described in paragraph (1) if the Secretary determines that—

"(A) the waiver has been effective in enabling the State or affected recipients to carry out the activities for which the waiver was requested and the waiver has contributed to improved student performance; and

"(B) such extension is in the public interest.

"(e) REPORTS.—

"(1) LOCAL WAIVER.—A local educational agency that receives a waiver under this section shall at the end of the second year for which a waiver is received under this section, and each subsequent year, submit a report to the State educational agency that—

"(A) describes the uses of such waiver by such agency or by schools;

"(B) describes how schools continued to provide assistance to the same populations served by the programs for which waivers are requested; and

"(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—

"(A) describes the uses of such waiver by schools operated by such tribe; and

"(B) evaluates the progress of such schools in improving the quality of instruction or the academic performance of students.

"(4) REPORT TO CONGRESS.—Beginning in fiscal year 2002 and each subsequent year, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a report—

"(A) summarizing the uses of waivers by State educational agencies, local educational agencies, Indian tribes, and schools; and

"(B) describing whether such waivers—

"(i) increased the quality of instruction to students; or

"(ii) improved the academic performance of students.

"(f) TERMINATION OF WAIVERS.—The Secretary shall terminate a waiver under this section if the Secretary determines, after notice and an opportunity for a hearing,

that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver or if the waiver is no longer necessary to achieve its original purposes.

''(g) PUBLICATION.—A notice of the Secretary's decision to grant each waiver under subsection (a) shall be published in the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, and the public.

"PART E—UNIFORM PROVISIONS

"SEC. 8501. MAINTENANCE OF EFFORT.

''(a) IN GENERAL.—A local educational agency may receive funds under a covered program for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of such agency and the State with respect to the provision of free public education by such agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

''(b) REDUCTION IN CASE OF FAILURE TO MEET.—

''(1) IN GENERAL.—The State educational agency shall reduce the amount of the allocation of

funds under a covered program in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of subsection (a) of this section by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency).

''(2) SPECIAL RULE.—No such lesser amount shall be used for computing the effort required under subsection (a) of this section for subsequent years.

''(c) WAIVER.—The Secretary may waive the requirements of this section if the Secretary determines that such a waiver would be equitable due to—

''(1) exceptional or uncontrollable circumstances such as a natural disaster; or

''(2) a precipitous decline in the financial resources of the local educational agency.

''SEC. 8502. PROHIBITION REGARDING STATE AID.

''A State shall not take into consideration payments under this Act (other than under title VI) in determining the eligibility of any local educational agency in such State for State aid, or the amount of State aid, with respect to free public education of children.

"SEC. 8503. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.

"(a) PRIVATE SCHOOL PARTICIPATION.—

"(1) IN GENERAL.—Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in areas served by a State educational agency, local educational agency, educational service agency, consortium of such agencies, or another entity receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary and secondary schools in areas served by such agency, consortium or entity, such agency, consortium or entity shall, after timely and meaningful consultation with appropriate private school officials, provide such children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits that address their needs under such program.

"(2) SECULAR, NEUTRAL, AND NONIDEOLOGICAL SERVICES OR BENEFITS.—Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.

"(3) SPECIAL RULE.—Educational services and other benefits provided under this section for such private school children, teachers, and other edu-

cational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in such program and shall be provided in a timely manner.

''(4) EXPENDITURES.—Expenditures for educational services and other benefits provided under this section to eligible private school children, their teachers, and other educational personnel serving such children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.

''(5) PROVISION OF SERVICES.—Such agency, consortium or entity described in subsection (a)(1) of this section may provide such services directly or through contracts with public and private agencies, organizations, and institutions.

''(b) APPLICABILITY.—

''(1) IN GENERAL.—This section applies to programs under—

''(A) part B, subpart 1 of title I;

''(B) part C of title I;

''(C) part A of title II;

''(D) part A of title III;

"(E) part A of title V; and

"(F) part B of title V.

"(2) DEFINITION.—For the purposes of this section, the term 'eligible children' means children eligible for services under a program described in paragraph (1).

"(c) CONSULTATION.—

"(1) IN GENERAL.—To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency, consortium of such agencies or entity shall consult with appropriate private school officials during the design and development of the programs under this Act, on issues such as—

"(A) how the children's needs will be identified;

"(B) what services will be offered;

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

"(D) how the services will be assessed and how the results of the assessment will be used to improve such services;

"(E) the size and scope of the equitable services to be provided to the eligible private school children, teachers, and other educational

personnel and the amount of funds available for such services; and

"(F) how and when the agency, consortium, or entity will make decisions about the delivery of services, including a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third party providers.

"(2) DISAGREEMENT.—If the agency, consortium or entity disagrees with the views of the private school officials on the provision of services through a contract, the agency, consortium, or entity shall provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to use a contractor.

"(3) TIMING.—Such consultation shall occur before the agency, consortium, or entity makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act, and shall continue throughout the implementation and assessment of activities under this section.

"(4) DISCUSSION REQUIRED.—Such consultation shall include a discussion of service delivery mechanisms that the agency, consortium, or entity

could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.

"(d) PUBLIC CONTROL OF FUNDS.—

"(1) IN GENERAL.—The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with such funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer such funds and property.

"(2) PROVISION OF SERVICES.—

"(A) The provision of services under this section shall be provided—

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

"(ii) through contract by such public agency with an individual, association, agency, organization, or other entity.

"(B) In the provision of such services, such employee, person, association, agency, 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 BY-PASS.

"If, by reason of any provision of law, a State educational agency, local educational agency, educational service agency, consortium, or other entity of such agencies, is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary and secondary schools, on an equitable basis, or if the Secretary determines that such agency consortium or entity has substantially failed or is unwilling to provide for such participation, as required by section 8503, the Secretary shall—

"(1) waive the requirements of that section for such agency, consortium, or entity;

"(2) arrange for the provision of equitable services to such children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 8503, 8505, and 8506; and

"(3) in making the determination, consider one or more factors, including the quality, size, scope, location of the program and the opportunity of private

school children, teachers, and other educational personnel to participate.

"SEC. 8505. COMPLAINT PROCESS FOR PARTICIPATION OF PRIVATE SCHOOL CHILDREN.

''(a) PROCEDURES FOR COMPLAINTS.—The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations of section 8503 by a State educational agency, local educational agency, educational service agency, consortium of such agencies or entity. Such individual or organization shall submit such complaint to the State educational agency for a written resolution by the State educational agency within a reasonable period of time.

''(b) APPEALS TO SECRETARY.—Such resolution may be appealed by an interested party to the Secretary not later than 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within a reasonable period of time. Such appeal shall be accompanied by a copy of the State educational agency's resolution, and a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve each such appeal not later than 120 days after receipt of the appeal.

"SEC. 8506. BY-PASS DETERMINATION PROCESS.

"(a) REVIEW.—

"(1) IN GENERAL.—

"(A) The Secretary shall not take any final action under section 8504 until the State educational agency, local educational agency, educational service agency, consortium of such agencies or entity affected by such action has had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary to show cause why that action should not be taken.

"(B) Pending final resolution of any investigation or complaint that could result in a determination under this section, the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

"(2) PETITION FOR REVIEW.—

"(A) If such affected agency consortium or entity is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), such agency consortium or entity may, within 60 days after notice of such action, file with the

United States court of appeals for the circuit in which such State is located a petition for review of that action.

"(B) A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary.

"(C) The Secretary upon receipt of the copy of the petition shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code.

"(3) FINDINGS OF FACT.—

"(A) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may then make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings.

"(B) Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(4) JURISDICTION.—

"(A) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part.

"(B) The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(b) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines, in consultation with such agency, consortium or entity and representatives of the affected private school children, teachers, or other educational personnel that there will no longer be any failure or inability on the part of such agency or consortium to meet the applicable requirements of section 8503 or any other provision of this Act.

"(c) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allocation or allocations under this Act.

"(d) PRIOR DETERMINATION.—Any by-pass determination by the Secretary under this Act as in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001 shall remain in effect to the extent the Secretary determines that such determination is consistent with the purpose of this section.

"SEC. 8507. PROHIBITION AGAINST FUNDS FOR RELIGIOUS WORSHIP OR INSTRUCTION.

"Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction.

"SEC. 8508. APPLICABILITY.

"Nothing in this Act shall be construed to affect home schools, whether or not a home school is treated as a home school or a private school under State law (consistent with section 8509), nor shall any home schooled student be required to participate in any assessment referenced in this Act.

"SEC. 8509. PRIVATE SCHOOLS.

"Nothing in this Act shall be construed to affect any private school that does not receive funds or services under this Act nor shall any student who attends a private school that does not receive funds or services 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.

"SEC. 8511. GENERAL PROVISION REGARDING NON-RECIPIENT NONPUBLIC SCHOOLS.

''Nothing in this Act, or any other Act administered by the Department, shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this Act.

"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—

''(1) to develop or distribute materials, or operate programs or courses of instruction directed at

youth that are designed to promote or encourage, sexual activity, whether homosexual or heterosexual;

"(2) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;

"(3) to provide sex education or HIV prevention education in schools unless such instruction is age appropriate and emphasizes the health benefits of abstinence; or

"(4) to operate a program of contraceptive distribution in schools.

"(b) LOCAL CONTROL.—Nothing in this section shall be construed to—

"(1) authorize an officer or employee of the Federal Government to direct, review, or control a State, local educational agency, or schools' instructional content, curriculum, and related activities;

"(2) limit the application of the General Education Provisions Act (20 U.S.C.A. 1221 et seq.);

"(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

"(4) create any legally enforceable right.

"SEC. 8514. PROHIBITION ON FEDERAL MANDATES, DIRECTION, AND CONTROL.

"(a) GENERAL PROHIBITION.—Officers and employees of the Federal Government are prohibited from mandating, directing, or controlling a State, local educational agency, or school's curriculum, 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 specific instructional content or academic achievement standards and assessments, curriculum, or program of instruction as a condition of eligibility to receive funds under this Act.

"(c) EQUALIZED SPENDING.—Nothing in this Act shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

"(d) BUILDING STANDARDS.—Nothing in this Act shall be construed to mandate national school building standards for a State, local agency, or school.

"SEC. 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 ON DEPARTMENT AUDITS.

''The Secretary shall report to the Congress not later than 180 days after the date of enactment of the No Child Left Behind Act of 2001 regarding how the Secretary shall ensure that audits conducted by Department employees of activities assisted under this Act comply with changes to this Act made by the No Child Left Behind Act of 2001, particularly with respect to permitting children with similar educational needs to be served in the same educational settings, where appropriate.

"SEC. 8517. STUDY OF TESTING.

''(a) IN GENERAL.—The Secretary shall provide for a study of the effects of testing on students in elementary and secondary schools. Such study may include—

''(1) overall improvement or decline in what students are learning based on independent measures;

''(2) changes in course offerings, teaching practices, course content, and instructional material;

''(3) changes in rates of teacher and administrator turnover;

''(4) changes in dropout, grade retention and graduation rates for students;

"(5) costs of preparing for, conducting and grading the assessments in terms of dollars expended by the school district and time expended by students and teachers; and

"(6) such other effects as the Secretary may deem appropriate.

"(b) REPORT.—Not later than 2 years after the date of enactment of the No Child Left Behind Act of 2001, the Secretary shall transmit 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 the study conducted under subsection (a).

"(c) SUBSEQUENT CONGRESSIONAL CONSIDERATION.—After receipt of the report described in subsection (b), Congress may consider whether it is appropriate to enact legislation to mitigate any negative effects on students in elementary or secondary schools caused by testing.

"SEC. 8518. 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 achieve-

ment standards approved or certified by the Federal Government, in order to receive assistance under this Act.

''(b) CONSTRUCTION.—Nothing in this section shall be construed to affect requirements under title I of this Act.

''SEC. 8519. PROHIBITION ON ENDORSEMENT OF CURRICULUM.

''Notwithstanding any other prohibition of Federal law, no funds provided to the Department of Education or to any applicable program may be used by the Department to endorse, approve, or sanction any curriculum designed to be used in an elementary or secondary school.

''SEC. 8520. RULE OF CONSTRUCTION ON PERSONALLY IDENTIFIABLE INFORMATION.

''Nothing in this Act shall be construed to permit the development of a national database of personally identifiable information on individuals involved in studies or in data collection efforts under this Act.

''SEC. 8521. 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.

"SEC. 8522. SEVERABILITY.

"If any provision of this Act is held invalid, the remainder of this Act shall be unaffected thereby.

"SEC. 8523. ENCOURAGE EDUCATION SAVINGS.

"To the extent practicable, the Secretary shall promote education savings accounts in States that have qualified State tuition programs (as defined in section 529 of the Internal Revenue Code of 1986).

"SEC. 8524. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE; USE OF AMERICAN-MADE STEEL.

"(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

"(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

"(c) USE OF AMERICAN-MADE STEEL.—A school system receiving financial assistance under this Act for construction shall use American-made steel for such con-

1 struction and shall comply with the requirements of the
2 Buy American Act.

3 **"PART F—SENSE OF CONGRESS**

4 **"SEC. 8601. PAPERWORK REDUCTION.**

5 ''(a) FINDINGS.—The Congress finds that—

6 ''(1) instruction and other classroom activities
7 provide the greatest opportunity for students, espe-
8 cially at-risk and disadvantaged students, to attain
9 high standards and achieve academic success;

10 ''(2) one of the greatest obstacles to estab-
11 lishing an effective, classroom-centered education
12 system is the cost of paperwork compliance;

13 ''(3) paperwork places a burden on teachers
14 and administrators who must complete Federal and
15 State forms to apply for Federal funds and absorbs
16 time and money which otherwise would be spent on
17 students;

18 ''(4) the Education at a Crossroads Report re-
19 leased in 1998 by the Education Subcommittee on
20 Oversight and Investigations states that require-
21 ments by the Department of Education result in
22 more than 48,600,000 hours of paperwork per year;
23 and

24 ''(5) paperwork distracts from the mission of
25 schools, encumbers teachers, and administrators

with nonacademic responsibilities, and competes with teaching and classroom activities which promote learning and achievement.

''(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal and State educational agencies should reduce the paperwork requirements placed on schools, teachers, principles, and other administrators.

''SEC. 8602. PROHIBITION ON MANDATORY NATIONAL CERTIFICATION OF TEACHERS AND PARAPROFESSIONALS.

''(a) PROHIBITION ON MANDATORY TESTING OR CERTIFICATION.—Notwithstanding any other provision of law, the Secretary is prohibited from using Federal funds to plan, develop, implement, or administer any mandatory national teacher or paraprofessional test or certification.

''(b) PROHIBITION ON WITHHOLDING FUNDS.—The Secretary is prohibited from withholding funds from any State or local educational agency if such State or local educational agency fails to adopt a specific method of teacher or paraprofessional certification.

''SEC. 8603. PROHIBITION ON FEDERALLY SPONSORED TESTING.

''Notwithstanding any other provision of Federal law, no funds provided under this Act to the Secretary or to the recipient of any award may be used to develop, pilot

test, field test, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

"SEC. 8604. SENSE OF CONGRESS REGARDING MEMORIALS.

"It is the sense of Congress that—

"(1) the saying of a prayer, the reading of a scripture, or the performance of religious music, as part of a memorial service that is held on the 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; 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.

"SEC. 8605. EFFECTIVE USE OF FEDERAL ELEMENTARY AND SECONDARY EDUCATION FUNDS.

"It is the sense of the Congress that the Secretary, State educational agencies, and local educational agencies should work together to ensure that not less than 95 percent of all funds appropriated to carry out elementary and secondary education programs under this Act is spent di-

rectly to improve the academic achievement of the Nation's children in their classrooms.

"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 categorical program and demonstration project authorized under this Act—

"(1) to conduct—

"(A) comprehensive evaluations of the program or project; and

"(B) studies of the effectiveness of the programs or project and its administrative impact on schools and local educational agencies;

"(2) to evaluate the aggregate short- and long-term effects and cost efficiencies across Federal programs assisted or authorized under this Act and related Federal preschool, elementary and secondary programs under any other Federal law; and

"(3) to increase the usefulness of evaluations of grant recipients in order to ensure the continuous progress of the program or project by improving the quality, timeliness, efficiency, and utilization of in-

formation relating to performance under the program or project.

"(b) TITLE I EXCLUDED.—The Secretary may not reserve under subsection (a) funds appropriated to carry out any program authorized under title I.

"(c) EVALUATION ACTIVITIES AUTHORIZED ELSEWHERE.—If, under any other provision of this Act (other than title I), funds are authorized to be reserved or used for evaluation activities with respect to a program or project, the Secretary may not reserve additional funds under this section for the evaluation of such program or project.".

SEC. 802. COMPREHENSIVE REGIONAL ASSISTANCE CENTERS.

(a) IN GENERAL.—Part A of title XIII (20 U.S.C. 8621 et seq.)—

(1) is transferred to the end of title VIII, as amended by section 801; and

(2) is redesignated as part H.

(b) REDESIGNATION OF SECTIONS.—Sections 13101 through 13105 are redesignated as sections 8701 through 8705, respectively.

(c) CONFORMING AMENDMENTS.—

(1) REQUIREMENTS.—Section 8702(a) (as redesignated by subsection (b)) is amended—

(A) by striking ''section 13101(a)'' and inserting ''section 8701(a)''; and

(B) in paragraph (7), by striking ''section 13201'' and inserting ''section 8751''.

(2) MAINTENANCE OF SERVICE.—Section 8703(b) (as redesignated by subsection (b)) is amended—

(A) in paragraph (1), by striking ''section 13102'' and inserting ''section 8702''; and

(B) in paragraph (2)—

(i) by striking ''section 13201'' and inserting ''section 8751''; and

(ii) by striking ''section 13401'' and inserting ''section 8851''.

(3) TRANSITION.—Section 8704(b)(1) (as redesignated by subsection (b)) is amended by striking ''section 13105'' and inserting ''section 8705''.

SEC. 803. NATIONAL DIFFUSION NETWORK.

(a) IN GENERAL.—Part B of title XIII (20 U.S.C. 8651 et seq.)—

(1) is transferred to the end of title VIII, as amended by section 802; and

(2) is redesignated as part I.

(b) REDESIGNATION OF SECTIONS.—Sections 13201 and 13202 are redesignated as sections 8751 and 8752, respectively.

(c) CONFORMING AMENDMENT.—Section 8751 (as redesignated by subsection (b)) is amended—

(1) in subsection (e)(3), by striking ''under part C'' through the end thereof and inserting ''under part F; and''; and

(2) in subsection (f)(4), by striking ''section 13401'' and inserting ''section 8851''.

SEC. 804. EISENHOWER REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIA.

(a) IN GENERAL.—Part C of title XIII (20 U.S.C. 8671 et seq.)—

(1) is transferred to the end of title VIII, as amended by section 803; and

(2) is redesignated as part J.

(b) REDESIGNATION OF SECTIONS.—Sections 13301 through 13308 are redesignated as sections 8801 through 8808, respectively.

(c) CONFORMING AMENDMENTS.—

(1) GRANT AUTHORIZATION.—Section 8801(a)(3) (as redesignated by subsection (b)) is amended by striking ''section 13308'' and inserting ''section 8808''.

(2) USE OF FUNDS.—Section 8802 (as redesignated by subsection (b)) is amended—

(A) by striking ''section 13304'' and inserting ''section 8804'';

(B) in paragraph (2), by striking ''13301(a)(1)'' and inserting ''8801(a)(1)''; and

(C) in paragraph (3), by striking ''13301(a)(1)'' and inserting ''8801(a)(1)''.

(3) PAYMENTS.—Section 8805 (as redesignated by subsection (b)) is amended in each of subsections (a) and (c) by striking ''section 13303'' and inserting ''section 8803''.

(4) EVALUATION.—Section 8806(a) (as redesignated by subsection (b)) is amended by striking ''section 14701'' and inserting ''section 8651''.

(5) DEFINITIONS.—Section 8807(4) (as redesignated by subsection (b)) is amended by striking ''section 13301'' and inserting ''section 8801''.

SEC. 805. TECHNOLOGY-BASED TECHNICAL ASSISTANCE.

(a) IN GENERAL.—Part D of title XIII (20 U.S.C. 8701)—

(1) is transferred to the end of title VIII, as amended by section 804; and

(2) is redesignated as part K.

(b) REDESIGNATION OF SECTION.—Section 13401 is redesignated as section 8851.

SEC. 806. REGIONAL TECHNICAL SUPPORT AND PROFESSIONAL DEVELOPMENT.

(a) IN GENERAL.—Subpart 3 of part A of title III (20 U.S.C. 6861 et seq.)—

(1) is transferred to the end of title VIII, as amended by section 805; and

(2) is redesignated as part L.

(b) REDESIGNATION OF SECTION.—Section 3141 is redesignated as section 8901.

(c) CONFORMING AMENDMENT.—Section 8901 (as redesignated by subsection (b)) is amended by striking ''part C of title XIII'' and inserting ''part J''.

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 ASSESSMENTS.—(A) The Commissioner, in carrying out the National Assessment—

"(i) may conduct State assessments of student achievement in grades 4, 8, and 12; and

"(ii) shall conduct annual State assessments of student achievement in reading and mathematics in grades 4 and 8 in order for States to carry out section 1111(c)(2) of the Elementary and Secondary Education Act of 1965.

"(B)(i) Except as provided in clause (ii), a participating State shall review and give permission for the release of results from any test of its students administered as a part of a State assessment prior to the release of the data. Refusal by a State to release its data shall not restrict the release of data from other States that have approved the release of that data.

"(ii) A State participating in the annual State assessments of its students in reading and mathematics in grades 4 and 8 shall be deemed to have given its permission to release its data if it has an approved plan under section 1111 of the Elementary and Secondary Education Act of 1965."; and

(2) by amending subsection (d) to read as follows:

"(d) PARTICIPATION.—

"(1) NATIONAL AND REGIONAL 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 Improvements Act of 2001".

SEC. 912. FINDINGS.

Congress makes the following findings:

(1) An estimated 1,000,000 children in the United States will experience homelessness in 2001.

(2) Homelessness has a devastating impact on the educational opportunities of children and youth. Homeless children go hungry at more than twice the rate of other children, have four times the rate of delayed development, and are twice as likely to repeat a grade.

(3) Despite steady progress in school enrollment and attendance resulting from the passage in 1987 of the Stewart B. McKinney Homeless Assist-

ance Act (42 U.S.C. 11301 et seq.), homeless students still face numerous barriers to education, including residency, guardianship and registration requirements, delays in the transfer of school records, and inadequate transportation service.

(4) School is one of the few secure factors in the lives of homeless children and youth, providing stability, structure, and accomplishment during a time of great upheaval.

(5) Homeless children and youth require educational stability and the opportunity to maintain regular and consistent attendance in school, so that they acquire the skills necessary to escape poverty and lead productive, healthy lives as adults.

(6) In the 14 years since the passage of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.), educators and service providers have learned much about policies and practices which help remove the barriers described.

SEC. 913. PURPOSE.

The purpose of this subpart is to strengthen subtitle B of title VII of Public Law 100–77 (42 U.S.C. 11431 et seq.) by amending it—

(1) to include innovative practices, proven to be effective in helping homeless children and youth enroll, attend, and succeed in school; and

(2) to help ensure that all children and youth impacted by the loss of fixed, regular, and adequate housing receive a quality education and secure their chance for a brighter future.

SEC. 914. EDUCATION FOR HOMELESS CHILDREN AND YOUTH.

Subtitle B of title VII of Public Law 100–77 (42 U.S.C. 11431 et seq.) is amended to read as follows:

"Subtitle B—Education for Homeless Children and Youth

"SEC. 721. STATEMENT OF POLICY.

''It is the policy of the Congress that—

''(1) each State educational agency ensure that each child of a homeless individual and each homeless youth has equal access to the same free, public education, including a public preschool education, as provided to other children and youth;

''(2) in any State that has a compulsory residency requirement as a component of the State's compulsory school attendance laws or other laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in

school of homeless children and youth, the State review and undertake steps to revise such laws, regulations, practices, or policies to ensure that homeless children and youth are afforded the same free, public education as provided to other children and youth;

''(3) homelessness alone is not sufficient reason to separate students from the mainstream school environment; and

''(4) homeless children and youth must have access to the education and other services that such children and youth need to ensure that such children and youth have an opportunity to meet the same challenging State student academic achievement standards to which all students are held.

''SEC. 722. GRANTS FOR STATE AND LOCAL ACTIVITIES FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.

''(a) GENERAL AUTHORITY.—The Secretary is 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 reasonably require.

"(c) ALLOCATION AND RESERVATIONS.—

"(1) IN GENERAL.—Subject to paragraph (2) and section 724(d), from the amounts appropriated for each fiscal year under section 726, the Secretary is authorized to allot to each State an amount that bears the same ratio to the amount appropriated for such year under section 726 as the amount allocated under section 1122 of the Elementary and Secondary Education Act of 1965 to the State for that year bears to the total amount allocated under section 1122 of such Act to all States for that year, except that no State shall receive less than $125,000 or ½ of 1 percent of the amount appropriated under section 726, whichever is greater.

"(2) RESERVATION.—(A) The Secretary is authorized to reserve 0.1 percent of the amount appropriated for each fiscal year under section 726 to be allocated by the Secretary among the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, according to their respective need for assistance under this subtitle, as determined by the Secretary.

"(B)(i) The Secretary shall transfer 1 percent of the amount appropriated for each fiscal year under section 726 to the Department of the Interior for programs for Indian students served by schools funded by the Secretary of the Interior, as determined under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), that are consistent with the purposes of this Act.

"(ii) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of this part, for the distribution and use of the funds described in clause (i) under terms that the Secretary determines best meet the purposes of the programs described in such clause. Such agreement shall set forth the plans of the Secretary of the Interior for the use of the amounts transferred, including appropriate goals, objectives, and milestones.

"(3) STATE DEFINED.—As used in this subsection, the term 'State' shall not include the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(d) ACTIVITIES.—Grants under this section shall be used—

"(1) to carry out the policies set forth in section 721 in the State;

"(2) to provide activities for, and services to, homeless children, including preschool-aged homeless children, and youth that enable such children and youth to enroll in, attend, and succeed in school, or, if appropriate, in preschool programs;

"(3) to establish or designate an Office of Coordinator of Education of Homeless Children and Youth in the State educational agency in accordance with subsection (f);

"(4) to prepare and carry out the State plan described in subsection (g); and

"(5) to develop and implement professional development programs for school personnel to heighten their awareness of, and capacity to respond to, specific problems in the education of homeless children and youth.

"(e) STATE AND LOCAL GRANTS.—

"(1) MINIMUM DISBURSEMENTS BY STATES.—From the sums made available each year to carry out this subtitle, the State educational agency shall distribute not less than 75 percent in grants to local educational agencies for the purposes of carrying out section 723, except that States funded at the min-

imum level set forth in subsection (c)(1) shall distribute not less than 50 percent in grants to local educational agencies for the purposes of carrying out section 723.

"(2) USE BY STATE EDUCATIONAL AGENCY.—A State educational agency may use funds made available for State use under this subtitle to conduct activities under subsection (f) directly or through grants.

"(3) PROHIBITION ON SEGREGATING HOMELESS STUDENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and section 723(a)(2)(B)(ii), in providing a free public education to a homeless child or youth, no State receiving funds under this subtitle shall segregate such child or youth, either in a separate school or in a separate program within a school, based solely on such child's or youth's status as homeless.

"(B) EXCEPTION.—A State that operates a separate school for homeless children as of the day preceding the date of enactment of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001—

"(i) shall remain eligible to receive, and to distribute to local educational agencies, funds under this subtitle for such school; and

"(ii) shall not distribute to local educational agencies in the State any funds received under this subtitle for use by any such schools not in operation as of such date of enactment.

"(f) FUNCTIONS OF THE OFFICE OF COORDINATOR.—The Coordinator of Education of Homeless Children and Youth established in each State shall—

"(1) gather, to the extent possible, reliable, valid, and comprehensive information on the nature and extent of the problems homeless children and youth have in gaining access to public preschool programs and to public elementary and secondary schools, the difficulties in identifying the special needs of such children and youth, any progress made by the State educational agency and local educational agencies in the State in addressing such problems and difficulties, and the success of the program under this subtitle in assisting homeless children and youth to enroll in, attend, and succeed in, school;

"(2) develop and carry out the State plan described in subsection (g);

"(3) collect and transmit to the Secretary information gathered pursuant to paragraphs (1) and (2) at such time and in such manner as the Secretary may require;

"(4) facilitate coordination between the State educational agency, the State social services agency, and other agencies providing services to homeless children and youth, including homeless children, including preschool-aged homeless children, and youth, and families of such children and youth;

"(5) in order to improve the provision of comprehensive education and related services to homeless children and youth and their families, coordinate and collaborate with—

"(A) educators, including child development and preschool program personnel;

"(B) State and local providers of services to homeless and runaway children and youth and homeless families (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youth);

"(C) local educational agency liaisons for homeless children and youth; and

"(D) State and local community organizations and groups representing homeless children and youth and their families; and

"(6) provide technical assistance to local educational agencies, in coordination with local liaisons designated under subsection (g)(1)(J)(ii), to ensure that local educational agencies comply with the requirements of paragraphs (3) through (7) of subsection (g).

"(g) STATE PLAN.—

"(1) IN GENERAL.—Each State shall submit to the Secretary a plan to provide for the education of homeless children and youth within the State, which plan shall—

"(A) describe how such children and youth are or will be given the opportunity to meet the same challenging State student academic achievement standards all students are expected to meet;

"(B) describe the procedures the State educational agency will use to identify such children and youth in the State and to assess their special needs;

"(C) describe procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youth;

"(D) describe programs for school personnel (including principals, attendance officers, teachers, enrollment personnel, and pupil services personnel) to heighten the awareness of such personnel of the specific needs of runaway and homeless youth;

"(E) describe procedures that ensure that homeless children and youth who meet the relevant eligibility criteria are able to participate in Federal, State, or local food programs;

"(F) describe procedures that ensure that—

"(i) homeless children have equal access to the same public preschool programs, administered by the State agency, as provided to other children;

"(ii) homeless youth and youth separated from the public schools are identified and accorded equal access to appropriate secondary education and support services; and

"(iii) homeless children and youth who meet the relevant eligibility criteria are able to participate in Federal, State, or local before- and after-school care programs;

"(G) address problems set forth in the report provided to the Secretary under subsection (f)(3);

"(H) address other problems with respect to the education of homeless children and youth, including problems caused by enrollment delays that are caused by—

"(i) immunization and medical records requirements;

"(ii) residency requirements;

"(iii) lack of birth certificates, school records, or other documentation;

"(iv) guardianship issues; or

"(v) uniform or dress code requirements;

"(I) demonstrate that the State educational agency and local educational agencies in the State have developed, and shall review and revise, policies to remove barriers to the en-

rollment and retention of homeless children and youth in schools in the State; and

"(J) contain assurances that—

"(i) except as provided in subsection (e)(3)(B), State and local educational agencies will adopt policies and practices to ensure that homeless children and youth are not segregated solely on the basis of their status as homeless;

"(ii) local educational agencies will designate an appropriate staff person, who may also be a coordinator for other Federal programs, as a liaison for homeless children and youth, to carry out the duties described in paragraph (6)(A); and

"(iii) the State and its local educational agencies will 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, the liaison) to and from the school of origin, as determined in paragraph (3)(A), in accordance with the following, as applicable:

"(I) If 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.

"(II) If the homeless child's 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 in the school of origin, 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 is living 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.

"(2) COMPLIANCE.—

"(A) IN GENERAL.—Each plan adopted under this subsection shall also describe how the State will ensure that local educational agencies in the State will comply with the requirements of paragraphs (3) through (7).

"(B) COORDINATION.—Such plan shall indicate what technical assistance the State will furnish to local educational agencies and how compliance efforts will be coordinated with the local liaisons established under this subchapter.

"(3) LOCAL EDUCATIONAL AGENCY REQUIREMENTS.—

"(A) IN GENERAL.—The local educational agency serving each child or youth to be assisted under this subtitle shall, according to the child's or youth's best interest, either—

"(i) continue the child's or youth's education in the school of origin for the duration of homelessness—

"(I) in any case in which a family becomes homeless between aca-

demic years or during the academic year; or

"(II) for the remainder of the academic year, if the child becomes permanently housed during the academic year; or

"(ii) enroll the child or youth in any public school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.

"(B) BEST INTEREST.—In determining the best interest of the child or youth under subparagraph (A), the local educational agency shall—

"(i) to the extent feasible, keep a homeless child or youth in the school of origin, except when doing so is contrary to the wishes of the child's or youth's parent or guardian;

"(ii) provide a written explanation, including a statement regarding the right to appeal under subparagraph (E), to the homeless child's or youth's parent or guardian if the local educational agency

sends such child or youth to a school other than the school of origin or a school requested by the parent or guardian; and

"(iii) in the case of an unaccompanied youth, ensure that the homeless liaison designated under paragraph (1)(J)(2) assists in placement or enrollment decisions under this subparagraph and provides notice to such youth of the right to appeal under subparagraph (E).

"(C) ENROLLMENT.—(i) The school selected in accordance with this paragraph shall immediately enroll pursuant to section 725(3) the homeless child or youth, even if the child or youth is unable to produce records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation.

"(ii) The enrolling school shall immediately contact the school last attended by the child or youth to obtain relevant academic and other records.

"(iii) If the child or youth needs to obtain immunizations or immunization or medical records, the enrolling school shall immediately

refer the parent or guardian of the child or youth to the liaison who shall assist in obtaining necessary immunizations or immunization or medical records in accordance with subparagraph (E).

"(D) RECORDS.—Any record ordinarily kept by the school, including immunization or medical records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, of each homeless child or youth shall be maintained—

"(i) so that the records are available, in a timely fashion, when a child or youth enters a new school or school district; and

"(ii) in a manner consistent with section 444 of the General Education Provisions Act (20 U.S.C. 1232g).

"(E) ENROLLMENT DISPUTES.—If a dispute arises over school selection or enrollment in a school—

"(i) the child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute;

"(ii) the parent or guardian of the child or youth shall be provided with a written explanation of the school's decision regarding school selection or enrollment, including the rights of the parent, guardian, or youth to appeal the decision;

"(iii) the child, youth, parent, or guardian shall be referred to the local liaison designated under paragraph (1)(J)(ii), who shall carry out the dispute resolution process as described in paragraph (1)(A) as expeditiously as possible after receiving notice of the dispute; and

"(iv) in the case of an unaccompanied youth, the homeless liaison shall ensure that the youth is immediately enrolled in school pending resolution of the dispute.

"(F) PLACEMENT CHOICE.—The choice regarding placement shall be made regardless of whether the child or youth lives with the homeless parents or has been temporarily placed elsewhere.

"(G) SCHOOL OF ORIGIN DEFINED.—In this paragraph, the term 'school of origin' means the school that the child or youth at-

tended when permanently housed or the school in which the child or youth was last enrolled.

"(H) CONTACT INFORMATION.—Nothing in this subtitle shall prohibit a local educational agency from requiring a parent or guardian of a homeless child to submit contact information required by the local educational agency of a parent or guardian of a nonhomeless child.

"(4) COMPARABLE SERVICES.—Each homeless child or youth to be assisted under this subtitle shall be provided services comparable to services offered to other students in the school selected under paragraph (3), including—

"(A) transportation services;

"(B) educational services for which the child or youth meets the eligibility criteria, such as services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, educational programs for children with disabilities, and 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.

"(5) COORDINATION.—

"(A) IN GENERAL.—Each local educational agency serving homeless children and youth that receives assistance under this subtitle shall coordinate—

"(i) the provision of services under this subtitle with local social services agencies and other agencies or programs providing services to homeless children and youth and their families, including services and programs funded under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.); and

"(ii) with other local educational agencies on interdistrict issues, such as transportation or transfer of school records.

"(B) HOUSING ASSISTANCE.—If applicable, each State and local educational agency that receives assistance under this subtitle shall coordinate with State and local housing agencies responsible for developing the comprehen-

sive housing affordability strategy described in section 105 of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. 12705) to minimize educational disruption for children and youth who become homeless.

"(C) COORDINATION PURPOSE.—The coordination required under subparagraphs (A) and (B) shall be designed to—

"(i) ensure that homeless children and youth have access and reasonable proximity to available education and related support services; and

"(ii) raise the awareness of school personnel and service providers of the effects of short-term stays in a shelter and other challenges associated with homelessness.

"(6) LIAISON.—

"(A) DUTIES.—Each local liaison for homeless children and youth, designated under paragraph (1)(J)(ii), shall ensure that—

"(i) homeless children and youth are identified by school personnel and through coordination activities with other entities and agencies;

"(ii) homeless children and youth enroll in, and have an equal opportunity to succeed in, schools of that agency;

"(iii) homeless families, children, and youth receive educational services for which such families, children, and youth are eligible, including Head Start and Even Start programs and preschool programs administered by the local educational agency, and referrals to health care services, dental services, mental health services, and other appropriate services;

"(iv) the parents or guardians of homeless children and youth are informed of the education and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children;

"(v) public notice of the educational rights of homeless children and youth is disseminated where such children and youth receive services under this Act, such as schools, family shelters, and soup kitchens;

"(vi) enrollment disputes are mediated in accordance with subsection (g)(3)(E); and

"(vii) the parent or guardian of a homeless child or youth, and any unaccompanied youth, is fully informed of all transportation services, including transportation to the school of origin, as described in paragraph (1)(J)(ii), and is assisted in accessing transportation to the school selected in accordance with paragraph (3)(A).

"(B) NOTICE.—State coordinators whose duties are described under subsection (d) and local educational agencies shall inform school personnel, service providers, and advocates working with homeless families of the duties of the liaisons.

"(C) LOCAL AND STATE COORDINATION.—Local educational agency liaisons for homeless children and youth shall, as a part of their duties, coordinate and collaborate with State coordinators and community and school personnel responsible for the provision of education and related services to homeless children and youth.

"(7) REVIEW AND REVISIONS.—

"(A) IN GENERAL.—Each State educational agency and local educational agency that receives assistance under this subtitle, shall review and revise any policies that may act as barriers to the enrollment of homeless children and youth in schools selected in accordance with paragraph (3).

"(B) CONSIDERATION.—In reviewing and revising such policies, consideration shall be given to issues concerning transportation, immunization, residency, birth certificates, school records and other documentation, and guardianship.

"(C) SPECIAL ATTENTION.—Special attention shall be given to ensuring the enrollment and attendance of homeless children and youth who are not currently attending school.

"SEC. 723. LOCAL EDUCATIONAL AGENCY GRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.

"(a) GENERAL AUTHORITY.—

"(1) IN GENERAL.—The State educational agency shall, in accordance with section 722(e) and from amounts made available to such agency under

section 726, make grants to local educational agencies for the purpose of facilitating the enrollment, attendance, and success in school of homeless children and youth.

"(2) SERVICES.—

"(A) IN GENERAL.—Services under paragraph (1)—

"(i) may be provided through programs on school grounds or at other facilities;

"(ii) shall, to the maximum extent practicable, be provided through existing programs and mechanisms that integrate homeless children and youth with non-homeless children and youth; and

"(iii) shall be designed to expand or improve services provided as part of a school's regular academic program, but not to replace such services provided under such program.

"(B) SERVICES ON SCHOOL GROUNDS.—If services under paragraph (1) are provided on school grounds, schools—

"(i) may use funds under this subtitle to provide the same services to other chil-

dren and youth who are determined by the local educational agency to be at risk of failing in, or dropping out of, schools, subject to the requirements of clause (ii); and

"(ii) except as otherwise provided in section 722(e)(3)(B), shall not provide services in settings within a school that segregates homeless children and youth from other children and youth, except as is necessary for short periods of time—

"(I) for health and safety emergencies; or

"(II) to provide temporary, special, and supplementary services to meet the unique needs of homeless children and youth.

"(3) REQUIREMENT.—Services provided under this section shall not replace the regular academic program and shall be designed to expand upon or improve services provided as part of the school's regular academic program.

"(b) APPLICATION.—A local educational agency that desires to receive a grant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by

such information as the State educational agency may reasonably require. Each such application shall include—

"(1) an assessment of the educational and related needs of homeless children and youth, as defined in section 725(1) and (2), in the area served by such agency (which may be undertaken as part of needs assessments for other disadvantaged groups);

"(2) a description of the services and programs for which assistance is sought to address the needs identified in paragraph (1);

"(3) an assurance that the local educational agency's combined fiscal effort per student, or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such agency for the fiscal year preceding the fiscal year for which the determination is made, was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made;

"(4) an assurance that the applicant complies with, or will use requested funds to comply with, paragraphs (3) through (7) of section 722(g); and

"(5) a description of policies and procedures, consistent with section 722(e)(3)(B), that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and youth.

"(c) AWARDS.—

"(1) IN GENERAL.—The State educational agency shall, in accordance with the requirements of this subtitle and from amounts made available to it under section 726, make competitive subgrants to local educational agencies that submit applications under subsection (b). Such subgrants shall be awarded on the basis of the need of such agencies for assistance under this subtitle and the quality of the applications submitted.

"(2) NEED.—In determining need under paragraph (1), the State educational agency may consider the number of homeless children and youth enrolled in preschool, elementary, and secondary schools within the area served by the agency, and shall consider the needs of such children and youth and the ability of the agency to meet such needs. Such agency may also consider—

"(A) the extent to which the proposed use of funds would facilitate the enrollment, reten-

tion, and educational success of homeless children and youth;

"(B) the extent to which the application—

"(i) reflects coordination with other local and State agencies that serve homeless children and youth; and

"(ii) meets the requirements of section 722(g)(3);

"(C) the extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youth; and

"(D) such other criteria as the State agency determines appropriate.

"(3) QUALITY.—In determining the quality of applications under paragraph (1), the State educational agency shall consider—

"(A) the applicant's needs assessment under subsection (b)(1) and the likelihood that the program presented in the application will meet such needs;

"(B) the types, intensity, and coordination of the services to be provided under the program;

"(C) the involvement of parents or guardians;

"(D) the extent to which homeless children and youth will be integrated within the regular education program;

"(E) the quality of the applicant's evaluation plan for the program;

"(F) the extent to which services provided under this subtitle will be coordinated with other available services; and

"(G) such other measures as the State educational agency considers indicative of a high-quality program.

"(4) DURATION OF GRANTS.—Grants awarded under this section shall be for terms not to exceed 3 years.

"(d) AUTHORIZED ACTIVITIES.—A local educational agency may use funds awarded under this section for activities to carry out the purpose of this subtitle, including—

"(1) the provision of tutoring, supplemental instruction, and enriched educational services that are linked to the achievement of the same challenging State academic content standards and challenging

State student academic achievement standards the State establishes for other children and youth;

''(2) the provision of expedited evaluations of the strengths and needs of homeless children and youth, including needs and eligibility for programs and services (such as educational programs for gifted and talented students, children with disabilities, and students with limited-English proficiency, services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, programs in vocational and technical education, and school nutrition programs);

''(3) professional development and other activities for educators and pupil services personnel that are designed to heighten the understanding and sensitivity of such personnel to the needs of homeless children and youth, the rights of such children and youth under this Act, and the specific educational needs of runaway and homeless youth;

''(4) the provision of referral services to homeless children and youth for medical, dental, mental, and other health services;

''(5) the provision of assistance to defray the excess cost of transportation for students pursuant to section 722(g)(4)(A), not otherwise provided

through Federal, State, or local funding, where 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 provided through Federal, State, or local funding, for preschool-aged children;

''(7) the provision of services and assistance to attract, engage, and retain homeless youth (as described in paragraphs (1) and (2) of section 725) in public school programs and services provided to non-homeless youth;

''(8) the provision for homeless children and youth of before- and after-school, mentoring, and summer programs in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities;

''(9) if necessary, the payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll homeless children and youth in school, including birth certificates, immunization or medical records, academic records, guardianship records, and evaluations for special programs or services;

"(10) the provision of education and training to the parents of homeless children and youth about the rights of, and resources available to, such children and youth;

"(11) the development of coordination between schools and agencies providing services to homeless children and youth, as described in section 722(g)(5);

"(12) the provision of pupil services (including violence prevention counseling) and referrals for such services;

"(13) activities to address the particular needs of homeless children and youth that may arise from domestic violence;

"(14) the adaptation of space and purchase of supplies for nonschool facilities made available under subsection (a)(2) to provide services under this subsection;

"(15) the provision of school supplies, including those supplies to be distributed at shelters or temporary housing facilities, or other appropriate locations; and

"(16) the provision of other extraordinary or emergency assistance needed to enable homeless children and youth to attend school.

"SEC. 724. SECRETARIAL RESPONSIBILITIES.

"(a) REVIEW OF PLANS.—In reviewing the State plan submitted by a State educational agency under section 722(g), the Secretary shall use a peer review process and shall evaluate whether State laws, policies, and practices described in such plans adequately address the problems of homeless children and youth relating to access to education and placement as described in such plans.

"(b) TECHNICAL ASSISTANCE.—The Secretary shall provide support and technical assistance to the State educational agencies to assist such agencies to carry out their responsibilities under this subtitle, if requested by the State educational agency.

"(c) NOTICE.—The Secretary shall, before the next school year that begins after the date of the enactment of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, create and disseminate nationwide a public notice of the educational rights of homeless children and youth and disseminate such notice to other Federal agencies, programs, and grantees, including Head Start grantees, Health Care for the Homeless grantees, Emergency Food and Shelter grantees, and homeless assistance programs administered by the Department of Housing and Urban Development.

"(d) EVALUATION AND DISSEMINATION.—The Secretary shall conduct evaluation and dissemination activi-

ties of programs designed to meet the educational needs of homeless elementary and secondary school students, and may use funds appropriated under section 726 to conduct such activities.

"(e) SUBMISSION AND DISTRIBUTION.—The Secretary shall require applications for grants under this subtitle to be submitted to the Secretary not later than the expiration of the 60-day period beginning on the date that funds are available for purposes of making such grants and shall make such grants not later than the expiration of the 120-day period beginning on such date.

"(f) DETERMINATION BY SECRETARY.—The Secretary, based on the information received from the States and information gathered by the Secretary under subsection (e), shall determine the extent to which State educational agencies are ensuring that each homeless child and homeless youth has access to a free appropriate public education as described in section 721(1).

"(g) INFORMATION.—

"(1) IN GENERAL.—From funds appropriated under section 726, the Secretary shall, either directly or through grants, contracts, or cooperative agreements, periodically collect and disseminate data and information regarding—

"(A) the number and location of homeless children and youth;

"(B) the education and related services such children and youth receive;

"(C) the extent to which such needs are being met; and

"(D) such other data and information as the Secretary deems necessary and relevant to carry out this subtitle.

"(2) COORDINATION.—The Secretary shall coordinate such collection and dissemination with other agencies and entities that receive assistance and administer programs under this subtitle.

"(h) REPORT.—Not later than 4 years after the date of the enactment of the McKinney-Vento Homeless 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'—

"(A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1));

"(B) includes—

"(i) children and youth who are living in doubled-up accommodations sharing the housing of another due to loss of housing, economic hardship or a similar reason, are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations, are living in emergency or transitional shelters, are abandoned in hospitals, or are awaiting foster care placement;

"(ii) individuals who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation

for human beings (within the meaning of section 103(a)(2)(C)); and

"(iii) children and youth who are living in cars, parks, public spaces, abandoned buildings or substandard housing, bus or train stations, or similar settings; and

"(C) does not include migratory children (as such term is defined in section 1309(2) of the Elementary and Secondary Education Act of 1965), unless such children are staying in accommodations not fit for habitation.

"(2) The term 'unaccompanied youth' includes youth not in the physical custody of a parent or guardian.

"(3) The terms 'enroll' and 'enrollment' include within their meaning the right to attend classes and to participate fully in school activities.

"(4) The terms 'local educational agency' and 'State educational agency' have the meanings given such terms in section 8101 of the Elementary and Secondary Education Act of 1965.

"(5) The term 'Secretary' means the Secretary of Education.

"(6) The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 726. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this subtitle, there are authorized to be appropriated $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. 11301) 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 the enactment of Public Law 106–400.

Subpart 3—General Education Provisions

SEC. 916. INFORMATION ACCESS AND CONSENT.

(a) IN GENERAL.—Section 445 of the General Education Provisions Act (20 U.S.C. 1232h) is amended by—

(1) redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(2) by striking subsections (a) and (b) and inserting the following:

"(a) ACCESS TO INFORMATION.—No funds shall be made available under any applicable program to any edu-

cational agency or institution that has a policy of denying, or that effectively prevents, the parent of an elementary school or secondary school student served by such agency or at such institution, as the case may be—

"(1) the right to inspect and review any instructional material used with respect to the educational curriculum of the student. Each educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the instructional material. The granting of each such request shall be made in a reasonable period of time, but shall not exceed 45 days, after the date of the request;

"(2) the right to inspect and review a survey, analysis, or evaluation that is subject to subsection (c)(7) before the survey, analysis, or evaluation is given to a student.

"(b) RESTRICTION ON SEEKING INFORMATION FROM MINORS.—

"(1) IN GENERAL.—Notwithstanding any other provision of Federal law, no funds shall be made available under any program administered by the Secretary to any educational agency or institution that administers or provides a survey, analysis, or evaluation to a student without the prior, informed,

written consent of the parent or guardian of a student concerning—

"(A) political affiliations or beliefs of the student or the student's parent;

"(B) mental or psychological problems potentially embarrassing to the student or the student's family;

"(C) sex behavior or attitudes;

"(D) illegal, antisocial, or self-incriminating behavior;

"(E) appraisals of other individuals with whom the minor has a familial relationship;

"(F) relationships that are legally recognized as privileged, including those with lawyers, physicians, and members of the clergy; and

"(G) religious practices affiliations or beliefs.

"(2) EXPLANATION.—In seeking the consent of the parent an educational agency or institution must provide an accurate explanation, in writing, of the types of items listed in subparagraphs (A) through (G) of paragraph (1) that are contained in the survey and the purpose, if known, for including those items.

"(c) RESTRICTION ON MEDICAL TESTING AND TREATMENT OF MINORS.—

"(1) CONSENT REQUIRED.—Except as provided in paragraph (2), no funds shall be made available under any applicable program to an educational agency or institution that requires or otherwise causes the student without the prior, written, informed consent of the parent or a guardian of a minor to undergo medical or mental health examination, testing, treatment, or immunization (except in the case of a medical emergency).

"(2) EXCEPTION.—Paragraph (1) shall not apply to medical or mental health examinations, testing, treatment, or immunizations of students expressly permitted by State law without written parental consent.

"(3) DEFINITIONS.—For the purpose of this section, the term 'educational agency or institution' means any elementary, middle, or secondary school, any school district or local board of education, and any State educational agency that is the recipient of funds under any program administered by the Secretary, except that it does not apply to postsecondary institutions.

"(4) INSTRUCTIONAL MATERIAL.—In this subsection the term 'instructional material' means a textbook, audio/visual material, informational material accessible through Internet sites, material in digital or electronic formats, instructional manual, or journal, or any other material supplementary to the education of a student.

"(5) RULES OF CONSTRUCTION.—(A) Nothing in this section shall be construed to supersede the Family Educational Rights and Privacy Act (20 U.S.C. 1232g).

"(B) The term 'instructional material' does not include academic tests or assessments.

"(6) APPLICATION.—

"(A) CERTAIN SURVEYS, ANALYSIS, AND EVALUATIONS.—Subsection (b) shall not apply to surveys, analysis, or evaluations administered to a student as part of the Individuals with Disabilities Act (20 U.S.C. 1400 et seq.).

"(B) PARENTAL CONSENT.—Nothing in subsection (c) shall be construed to supersede or otherwise affect the parental consent requirements under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

"(C) STUDENT RIGHTS.—The rights provided parents under this Act transfer to the student once the student turns 18 years old or is an emancipated minor at any age.

"(7) STATE LAW EXCEPTION.—Educational agencies and institutions residing in a State that has a law that provides parents rights comparable to the rights contained herein may seek exemption from this Act by obtaining a waiver from the office designated by the Secretary to administer this Act. This office may grant a waiver to educational agencies and institutions upon review of State law.".

PART B—EQUAL ACCESS TO PUBLIC SCHOOL FACILITIES

SEC. 921. SHORT TITLE.

This part may be cited as the "Boy Scouts of America Equal Access Act".

SEC. 922. EQUAL ACCESS.

(a) IN GENERAL.—Notwithstanding any other provision of law, no funds made available through the Department of Education shall be provided to any public elementary school, public secondary school, local educational agency, or State educational agency, if the school or a school served by the agency—

(1) has a designated open forum; and

(2) denies equal access or a fair opportunity to meet to, or discriminates against, any group affiliated with the Boy Scouts of America or any other youth group that wishes to conduct a meeting within that designated open forum, on the basis of the membership or leadership criteria of the Boy Scouts of America or of the youth group that prohibit the acceptance of homosexuals, or individuals who reject the Boy Scouts' or the youth group's oath of allegiance to God and country, as members or leaders.

(b) TERMINATION OF ASSISTANCE AND OTHER ACTION.—

(1) DEPARTMENTAL ACTION.—The Secretary is authorized and directed to effectuate subsection (a) by issuing, and securing compliance with, rules or orders with respect to a public school or agency that receives funds made available through the Department of Education and that denies equal access, or a fair opportunity to meet, or discriminates, as described in subsection (a).

(2) PROCEDURE.—The Secretary shall issue and secure compliance with the rules or orders, under paragraph (1), in a manner consistent with the procedure used by a Federal department or

agency under section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1).

(3) JUDICIAL REVIEW.—Any action taken by the Secretary under paragraph (1) shall be subject to the judicial review described in section 603 of that Act (42 U.S.C. 2000d–2). Any person aggrieved by the action may obtain that judicial review in the manner, and to the extent, provided in section 603 of that Act.

(c) DEFINITIONS AND RULE.—

(1) DEFINITIONS.—In this section:

(A) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; SECONDARY SCHOOL; STATE EDUCATIONAL AGENCY.—The terms ''elementary school'', ''local educational agency'', ''secondary school'', and ''State educational agency'' have the meanings given the terms in section 8101 of the Elementary and Secondary Education Act of 1965 (as in effect after the effective date of this Act).

(B) SECRETARY.—The term ''Secretary'' means the Secretary of Education, acting through the Assistant Secretary for Civil Rights of the Department of Education.

(C) YOUTH GROUP.—The term ''youth group'' means any group or organization intended to serve young people under the age of 21.

(2) RULE.—For purposes of this section, an elementary school or secondary school has a designated open forum whenever the school involved grants an offering to or opportunity for 1 or more youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory.

SEC. 923. EFFECTIVE DATE.

Notwithstanding section 5, this part takes effect 1 day after the date of the enactment of this Act.

PART C—REPEALS

SEC. 931. REPEALS.

The following provisions are repealed:

(1) GOALS.—Parts A and C of title II and title VI of Goals 2000: Educate America Act.

(2) TROOPS-TO-TEACHERS PROGRAM ACT OF 1999.—The Troops-to-Teachers Program Act of 1999 (title XVII of Public Law 106–65; 20 U.S.C. 9301 et seq.).

(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.

Passed the House of Representatives May 23, 2001.

Attest:

Clerk.

107TH CONGRESS
1ST SESSION

H. R. 1

AN ACT

To close the achievement gap with accountability, flexibility, and choice, so that no child is left behind.