107TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPT. 107–63
Part 1

NO CHILD LEFT BEHIND ACT OF 2001

R E P O R T

OF THE

COMMITTEE ON EDUCATION AND THE WORKFORCE HOUSE OF REPRESENTATIVES

ON

H.R. 1

together with

ADDITIONAL AND DISSENTING VIEWS

[Including cost estimate of the Congressional Budget Office]

MAY 14, 2001.—Ordered to be printed

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107TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPT. 107–63
Part 1

NO CHILD LEFT BEHIND ACT OF 2001

MAY 14, 2001.—Ordered to be printed

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

R E P O R T

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 1]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and the Workforce, to whom was referred the bill (H.R. 1) a bill to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "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.
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Sec. 105. School choice.
Sec. 106. Academic assessment and local educational agency and school improvement.
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PART B—STUDENT READING SKILLS IMPROVEMENT GRANTS

Sec. 111. Reading first; early reading first.
Sec. 112. Amendments to Even Start.
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Sec. 139. Local educational agency applications.
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Sec. 141. Program requirements.
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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.

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Sec. 171. Rural education.

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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.

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. Construction.
Sec. 604. State consideration of payments in providing State aid.
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TITLE VII—ACCOUNTABILITY

Sec. 701. Flexibility and accountability.

TITLE VIII—GENERAL PROVISIONS

Sec. 801. General provisions.
Sec. 802. Comprehensive regional assistance centers.
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TITLE IX—MISCELLANEOUS PROVISIONS

PART A—AMENDMENTS TO OTHER ACTS

SUBPART 1—NATIONAL EDUCATION STATISTICS ACT

Sec. 901. Amendment to NESA.

SUBPART 2—HOMELESS EDUCATION

Sec. 911. Short title.
Sec. 912. Findings.
Sec. 913. Purpose.
Sec. 914. Education for homeless children and youth.
Sec. 915. Technical amendment.

PART B—REPEALS

Sec. 921. Repeals.

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 scientif-

ically 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 concentrations 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 neglected or delinquent, and young children who are in need of reading assistance and family literacy assistance.

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

"(3) Too many students attend local schools that fail to 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 2 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(c) that have the greatest need for that assistance in amounts sufficient to have a significant impact in improving those schools.

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

"(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 State funds each local educational agency receives below the amount received by such agency under subpart 2 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 official, agency, or entity has sufficient authority, under State law, to adopt curriculum content and student academic achievement standards, and academic assessments aligned with such academic standards, which will be applicable to all students enrolled in the State's public 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 student 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 1 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.

"(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 com-

ply 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 1 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)(F) (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) the percentage of students not tested (disaggregated by the same categories and subject to the same exception described in clause (i));

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

"(iv) 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;

"(v) 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; and

"(vi) 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.

"(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 whether 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.

"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, migratory 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 appropriate, 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 (6) and (7) 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 para-

graph (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 (6) and (7) 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 scientifically 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 providers, 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 subparagraph (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) Before identifying an elementary school or a secondary school for school improvement under paragraph (1), for corrective action under paragraph (6), or for restructuring under paragraph (7), the local educational agency shall provide the school with an opportunity to review the school-level data, including academic assessment data, on which the proposed identification is based.

"(B) EVIDENCE.—If the principal of a school proposed for identification under paragraph (1), (6), or (7) believes, or a majority of the parents of the students enrolled in such school believe, that the proposed identification is in error for statistical or other substantive reasons, the principal may provide supporting evidence to the local educational agency, which shall consider that evidence before making a final determination.

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

"(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 address 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 identification 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); and

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

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

"(i) inclusion of 1 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 development, 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) 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 (7) through (9).

"(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 1 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.

"(7) RESTRUCTURING.—

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

"(i) a school is subject to corrective action under paragraph (6) 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 (6) fails to make adequate yearly progress, the local educational agency shall—

"(I) 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 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 1 of the following alternative governance arrangements for the school consistent with State law:

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

"(ii) Replacing the principal and all or most of the school staff that are relevant to the 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 participate in developing any plan under subparagraph (A)(iii), and shall provide parents an explanation of the options under subparagraph (A)(i) and (ii).

"(8) TRANSPORTATION.—In any case described in paragraph (6)(D)(i) and (7)(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.

"(9) COOPERATIVE AGREEMENT.—In any case described in paragraph (6)(D)(i) or (7)(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.

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

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

"(B) fails to make adequate yearly progress, but children from low-income families in the school make statistically significant educational progress for 1 year, the local educational agency shall place or continue as appropriate the school in corrective action under paragraph (6).

"(11) 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 educational agency consistent with the requirements of this section; and

"(ii) to work with schools needing improvement.

"(B) TECHNICAL ASSISTANCE.—Technical assistance provided under this section by the State educational agency or an entity authorized by such agency shall be based upon scientifically based research.

"(9) CORRECTIVE ACTION.—In order to help students served under this part meet challenging State academic standards, each State shall implement a system of corrective action in accordance with 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 1 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 1 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 identified 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 paragraph shall permit the making of any payment under this paragraph for religious worship or instruction.".

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)(10), for which a local educational agency has failed to carry out its responsibilities under paragraphs (6) and (7) of section 1116(b);

"(2) second, provide support and assistance to other local educational agencies identified as in need of improvement under section 1116(b); and

"(3) third, provide support and assistance to other local educational agencies and schools participating under this part that need that support and assistance in order to achieve the purpose of this part.

"(c) 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 assistance 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 achievement 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;

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

"(14) 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.

"(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 ensure 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 education, 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 equipment 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 section directly or through contracts with public and private agencies, organizations, and institutions.

"(b) CONSULTATION.—

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

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

"(B) what services will be offered;

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

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

"(E) the size and scope of the equitable services to be provided to the eligible private school children, and the 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 1 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 assisted under this part, and not to supplant such funds.

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

"(c) COMPARABILITY OF SERVICES.—

"(1) IN GENERAL.—(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 1 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 2 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 subparagraph (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 Secretary shall determine the number of children aged 5 to 17, inclusive, from families below the poverty level on the basis of the most recent satisfactory data, described in paragraph (3), available from the Department of Commerce. The District of Columbia and the Commonwealth of Puerto Rico shall be treated as individual local educational agencies. If a local educational agency contains 2 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 institutions 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 agency 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 percent, 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 2 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 1 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 include 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 action 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 library 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 subgrants 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) 3 individuals selected by the Secretary;

"(ii) 3 individuals selected by the National Institute for Literacy;

"(iii) 3 individuals selected by the National Research Council of the National Academy of Sciences; and

"(iv) 3 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 subgrants 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 assessment tools assist teachers in identifying specific reading deficiencies.

"(7) A measurement of the extent to which professional development programs implemented by States using funds received under this subpart improve reading instruction.

"(8) 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 Sec-

retary 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;

"(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 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, 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 Head Start center or a family literacy program), which organizations 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 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;

"(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, preschools, and Head Start centers, and with family literacy services.

"(f) AWARD AMOUNTS.—The Secretary may establish a maximum award amount, or ranges of award amounts, for grants under this subpart.

"SEC. 1223. FEDERAL ADMINISTRATION.

"The Secretary shall consult with the Secretary of Health and Human Services in order to coordinate the activities undertaken under this subpart with programs under the Head Start Act (42 U.S.C. 9831 et seq.).

"SEC. 1224. REPORTING REQUIREMENTS.

"Each eligible applicant receiving a grant under this subpart shall report annually to the Secretary regarding the eligible applicant's progress in addressing the purposes of this subpart.

"SEC. 1225. EVALUATION.

"From the total amount made available under section 1002(b)(2) for the period beginning October 1, 2002, and ending September 30, 2006, the Secretary shall reserve not more than $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 migrant 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 determine 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 para-

graph (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 effectiveness 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 educational 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 2 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 perform-

ance 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 paragraph (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, part A of title V, and section 5212(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, including 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 career paths, with 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 scientists, mathematicians, and engineers to increase the subject matter knowledge of teachers and improve their teaching skills through the use of sophisticated laboratory equipment and work space, computing facilities, 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 reform activities that promote student achievement in mathematics and science;

"(3) a description of how the activities to be carried out by the eligible partnership will be based on a review of relevant research, and an explanation of why the activities are expected to improve student achievement and to strengthen the quality of mathematics and science 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 special 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 career paths, with 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 oppor-

tunity 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 academic 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 stipend under subsection (c), pay a bonus of $10,000 to a participant in the Troops-to-Teachers Program selected under section 2042 who agrees in the participation agreement under subsection (a) to accept full-time employment as a fully qualified elementary school teacher, secondary school teacher, or vocational or technical teacher for not less than three years in a high need school.

"(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 higher 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 Congress 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 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.

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 programs 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 conducting 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. TEACHER IMMUNITY.

"(a) IMMUNITY.—Notwithstanding any other provision of law, no school board member of, or teacher or administrator in, a local educational agency that receives funds under this Act shall be liable for monetary damages in his or her personal capacity for an action that was taken in carrying out his or her official duties and intended to maintain school discipline, so long as that action was not prohibited under State or local law and did not constitute reckless or criminal misconduct.

"(b) LIMITATION.—The immunity established under subsection (a) shall apply only to liability arising under Federal law.".

(b) CONTINUATION OF AWARDS.—Notwithstanding any other provision of this Act, any person or agency that was awarded a grant under part F of title X (20 U.S.C. 8141 et seq.) prior to the date of the enactment of this Act shall continue to receive funds in accordance with the terms of such award until the date on which the award period terminates under such terms.

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 program 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 application 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 described in section 3106(a) or otherwise to oversee the delivery of educational services to members of the tribe; and

"(ii) approved by the Secretary for the purpose of carrying out programs under subpart 1 for individuals served by a school described in section 3106(a).

"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 increased since 1972, teacher training programs are not recruiting, training, or retraining a sufficient number of Indian individuals as edu-

cators 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 chapter to support a schoolwide program under section 1114 if—

"(1) the committee composed of parents established pursuant to section 3214(c)(4) approves the use of the funds for the schoolwide program; and

"(2) the schoolwide program is consistent with the purposes described in section 3211.

"(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 program and reduces administrative costs by consolidating administrative functions.

"(c) PROGRAMS AFFECTED.—The funds that may be consolidated in a demonstration project under any such plan referred to in subsection (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 enable 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 responsibilities for the safeguarding of Federal funds pursuant to the Single Audit Act of 1984.

"(o) REPORT ON STATUTORY OBSTACLES TO PROGRAM INTEGRATION.—

"(1) PRELIMINARY REPORT.—Not later than 2 years after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary of Education shall submit a preliminary report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives on the status of the implementation of the demonstration program authorized under this section.

"(2) FINAL REPORT.—Not later than 5 years after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary of Education shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives on the results of the implementation of the demonstration program authorized under this section. Such report shall identify statutory barriers to the ability of participants to integrate more effectively their education and related 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 programs that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

"(H) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to aid such students in the transition from secondary 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 dissemination 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 Native 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 students who would participate in the project about its application.

"SEC. 3306. DEFINITIONS.

"For purposes of this subpart—

"(1) the term 'Alaska Native' has the same meaning as the term 'Native' has in section 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 boundaries 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 revising 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 providing 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) situations), therapeutic pro-

grams, space, and privacy. Such standards shall be implemented in Bureau operated schools, and shall serve as minimum standards for contract or grant schools. Once established, any revisions of such standards shall be developed according to the requirements established under section 1138A.

"(b) IMPLEMENTATION.—The Secretary shall implement the revised standards established under this section immediately upon their completion.

"(c) PLAN.—At the time of each annual budget submission for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress, the tribes, and the affected schools, and publish in the Federal Register, a detailed plan to bring all Bureau funded schools that provide home-living (dormitory) situations up to the standards established under this section. Such plan shall include a statement of the relative needs of each Bureau funded home-living (dormitory) school, projected future needs of each Bureau funded home-living (dormitory) school, detailed information on the status of each school in relation to the standards established under this section, specific cost estimates for meeting each standard for each such school, aggregate cost estimates for bringing all such schools into compliance 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 enable 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 Bureau determines that such conditions exist at the Bureau funded school.

"(2) INSPECTION.—(A) After making a determination described in paragraph (1), the Bureau health and safety officer shall conduct an inspection of 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 established 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 determined 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 appropriated for the program being administered by the contract or grant school.

"(b) DETERMINATION OF GRANT AMOUNT.—

"(1) IN GENERAL.—The amount of the grant provided to each tribe or tribal organization under this section for each fiscal year shall be determined by applying the administrative cost 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 department 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 sec-

ondary 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 Behind 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 information 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 programs 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 positions at rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5, United States Code, is applicable or on the basis of the Federal Wage System schedule in effect for the locality, and 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 Behind Act of 2001, each school board may set the rate of

compensation or annual salary rate for teachers and counselors (including academic counselors) who are new hires at the school and who have not worked at the school 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-differential 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 obtain 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 cooperation and coordination with all educational programs receiving financial support from State agencies, other Federal agencies, or private entities;

"(5) provide for the development and enforcement of 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 of-

fice 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 requirements 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 established 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 educational 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 approved 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 programs 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 provision 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 assistance 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 reports 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.".

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 program evaluation (consistent with the responsibilities of the Secretary under this section);

"(4) provides assurance that, apart from technical and advisory assistance and monitoring compliance with this subpart, the State has not exercised and will not exercise any influence in the decisionmaking 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 students, parents, and school personnel by qualified school based mental health services personnel; and

"(15) alternative educational programs for those students who have been expelled or suspended from their regular educational setting, including programs to assist students to reenter the regular educational setting upon return from treatment or alternative educational programs.

"SEC. 4132. ADMINISTRATIVE AUTHORITY.

"In order to conduct the activities authorized by this subpart, each State or local educational agency 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 equipment, 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 1 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 consultation 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 educational 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 private 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-Determination and Education Assistance Act (25 U.S.C. 450b)) and Native Hawaiian organizations) to assist such agencies, institutions, and organizations in carrying out programs or projects authorized by this subpart that are designed to meet the educational needs of gifted and talented students, including the training of personnel in the education of gifted and talented students and in the use, where appropriate, of gifted and talented services, materials, and methods for all students.

"(2) APPLICATION.—

"(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 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 consider-

ation 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 problems and establish a thriving, financially viable charter school.

"(B) ACTIVITIES.—A charter school described in subparagraph (A) may use funds reserved under paragraph (1) to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school, through such activities as—

"(i) assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;

"(ii) developing partnerships with other public schools, including charter schools, designed to improve student academic achievement in each of the schools participating in the partnership;

"(iii) developing curriculum materials, 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 startup of charter schools;

"(D) training and technical assistance to existing charter schools; and

"(E) for the dissemination to other public schools of best or promising practices in charter schools.

"(4) To provide (including through the use of one or more contracts that use a competitive bidding process) for the collection of information regarding the financial resources available to charter schools, including access to private capital, and to widely disseminate to charter schools any such relevant information and model descriptions of successful programs.

"(b) CONSTRUCTION.—Nothing in this section shall be construed to 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 nondiscriminatory 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 inter-

action 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 requires the desegregation of minority-group-segregated children or faculty in the elementary and secondary schools of such agency; or

"(2) without having been required to do so, has adopted and is implementing, or will, if assistance is made available to such local educational agency or consortium of such agencies under this part, adopt and implement a plan that has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority-group-segregated children or faculty in such schools.

"SEC. 4306. APPLICATIONS AND REQUIREMENTS.

"(a) APPLICATIONS.—An eligible local educational agency, or consortium of such agencies, desiring to receive assistance under this part shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

"(b) INFORMATION AND ASSURANCES.—Each such application shall include—

"(1) a description of—

"(A) how assistance made available under this part will be used to promote desegregation, including how the proposed magnet school project will increase 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 one-half 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 activities 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 paragraphs (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, described in subsection (b)(2), either directly or through grants and contracts, to establish and implement a statewide system of collecting data regarding statistics on—

"(i) truancy rates; and

"(ii) 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 received 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 organizations in order to seek advice regarding how best to coordinate such agency's activities under this subpart with other related strategies, programs, and activities being conducted in the community.

"(2) DESIGN AND DEVELOPMENT.—To ensure timely and meaningful consultation, a local educational agency 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 performance 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, law enforcement and security activities, including—

"(i) acquisition and installation of metal detectors;

"(ii) hiring and training of security personnel, 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 one-half 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 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 on-going 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 available 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 effective 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) 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.

"(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) 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 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 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 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.

"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 curriculum that is aligned with challenging State academic content and student academic achievement standards, through such means as high quality professional development programs.

"(5) To enhance the ongoing professional development of teachers, principals, and administrators by providing constant access to updated research in teaching and learning via electronic means.

"(6) To support the development of electronic networks and other innovative methods, such as distance learning, of delivering challenging courses and 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 students, 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 subpart 2, of which not more than $15,000,000 may be used for the study required by section 5221(a)(1).

"SEC. 5204. DEFINITIONS.

"In this part:

"(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 ap-

plication 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 that 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 dissemination 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.

"(2) A description of the applicant's specific goals for using advanced technology to improve student achievement aligned to challenging State academic content and student academic achievement standards.

"(3) A description of—

"(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 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 established by the State consistent with this subpart; and

"(B) an assurance that any technology obtained with funds provided under this subpart will have compatibility and interconnectivity with technology obtained with funds provided previously under title III (as in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001), as appropriate.

"SEC. 5215. 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 demonstrates, 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 students 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 curricula) 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 Internet, in a timely and user-friendly manner. This information shall, at a minimum, include—

"(A) upon the awarding of such a grant or contract under subsection (a)(2), the identification of the grant or contract recipient, the amount of the grant or contract, the stated goals of the grant or contract, the methods by which the grant or contract will be evaluated in meeting such 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. TELECOMMUNICATIONS PROGRAM.

"(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 educational 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 regions 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 $25,000,000 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 relationships, 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 adult role models.

"(2) MENTOR.—The term 'mentor' means an individual who works with a child to provide a positive role model for the child, to establish a supportive relationship with the child, and to provide the child with academic assistance and exposure to new experiences and examples of opportunity that 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 adult;

"(2) to improve the academic performance of such children;

"(3) to improve interpersonal relationships between such children and their peers, teachers, other adults, and family members;

"(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, who—

"(A) have received training and support in mentoring;

"(B) have been screened using appropriate reference checks, child and domestic abuse record checks, and criminal background checks; and

"(C) are interested in working with youth; and

"(2) are intended to achieve 1 or more of the following goals:

"(A) Provide general guidance to children with greatest need.

"(B) Promote personal and social responsibility among children with greatest need.

"(C) Increase participation by children with greatest need in, 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 adult mentors;

"(D) reimbursement of schools, if appropriate, for the use of school materials or supplies in carrying out the program;

"(E) dissemination of outreach materials;

"(F) evaluation of the program using scientifically based methods; and

"(G) such other activities as the Secretary may reasonably prescribe by rule.

"(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 recipients 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 postsecondary 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, policies, or procedures of such programs that can be replicated.

"(b) REPORT.—Not later than 3 years after the date of enactment of the Mentoring for Success Act, the Comptroller General shall submit a report to the Secretary 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 educational 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. 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 emergency 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 emergency 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 modernization 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. 604. 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. 605. 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. 606. 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.

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 improve 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 au-

thorized 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 authorized 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 nonadministrative State funds allocated to the State for use for State-level activities under each of the following provisions to 1 or more of the State's allocations under any other of such provisions:

"(A) Part A of Title II.

"(B) Subpart 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 1 or more of its allocations for such fiscal year under any other provision listed in paragraph (2).

"(B) AGENCIES IDENTIFIED FOR IMPROVEMENT.—A local educational agency identified for improvement under section 1116(c)(2) may transfer in accordance with this part not more than 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) Part A of title V or section 5212(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.".

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 determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State or, in the case of the United States for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

"(ii) any direct current expenditures by the State for the operation of 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 Federated 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 subsection (a) and for establishing limitations on the amount of funds under such programs that may be used for administration on a consolidated basis.

"(c) CONDITIONS.—A local educational agency that consolidates administrative funds under this section for any fiscal year shall not use any other funds under the programs included in the consolidation for administration for that fiscal year.

"(d) USES OF ADMINISTRATIVE FUNDS.—A local educational agency that consolidates administrative funds under this section may use such consolidated funds for the administration of such programs 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 assurances, 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 Governor and State educational agency under such programs on a consolidated basis.

"(b) REQUIRED CONSOLIDATED PLANS OR APPLICATIONS.—A State that has an approved consolidated State plan or application under section 8302 may require local educational agencies in the State receiving funds under more than one program included in the consolidated State plan or 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 Governor and State educational agency 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 educational 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 NONRECIPIENT 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.

"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. REQUIRED APPROVAL OR CERTIFICATION PROHIBITED.

"(a) IN GENERAL.—Notwithstanding any other provision of Federal law, no State shall be required to have academic content standards or student academic achievement standards approved or certified by the Federal Government, in order to receive assistance under this Act.

"(b) CONSTRUCTION.—Nothing in this section shall be construed to affect requirements under title I of this Act.

"SEC. 8518. 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. 8519. RULE OF CONSTRUCTION ON PERSONALLY IDENTIFIABLE INFORMATION.

"Nothing in this Act shall be construed to permit the development of a national database of personally identifiable information on individuals involved in studies or in data collection efforts under this Act.

"SEC. 8520. SEVERABILITY.

"If any provision of this Act is held invalid, the remainder of this Act shall be unaffected thereby.

"PART F—SENSE OF CONGRESS

"SEC. 8601. PAPERWORK REDUCTION.

"(a) FINDINGS.—The Congress finds that—

"(1) instruction and other classroom activities provide the greatest opportunity for students, especially at-risk and disadvantaged students, to attain high standards and achieve academic success;

"(2) one of the greatest obstacles to establishing an effective, classroom-centered education system is the cost of paperwork compliance;

"(3) paperwork places a burden on teachers and administrators who must complete Federal and State forms to apply for Federal funds and absorbs time and money which otherwise would be spent on students;

"(4) the Education at a Crossroads Report released in 1998 by the Education Subcommittee on Oversight and Investigations states that requirements by the Department of Education result in more than 48,600,000 hours of paperwork per year; and

"(5) paperwork distracts from the mission of schools, encumbers teachers, and administrators with nonacademic responsibilities, and competes with teaching and classroom activities which promote learning and achievement.

"(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal and State educational agencies should reduce the paperwork requirements placed on schools, teachers, 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.

"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 information relating to performance under the program or project.

"(b) TITLE I EXCLUDED.—The Secretary may not reserve under subsection (a) funds appropriated to carry out any program authorized under title I.

"(c) EVALUATION ACTIVITIES AUTHORIZED ELSEWHERE.—If, under any other provision of this Act (other than title I), funds are authorized to be reserved or used for evaluation activities with respect to a program or project, the Secretary may not reserve additional funds under this section for the evaluation of 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 Assistance 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 one 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 minimum 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 enrollment 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 academic 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 attended 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 comprehensive 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 nonhomeless 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 children 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, retention, 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 nonhomeless 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 activities 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 enactment of Public Law 106–400.

PART B—REPEALS

SEC. 921. 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.

PURPOSE

The purpose of H.R. 1, the No Child Left Behind Act of 2001, is to transform the federal role in education and advance our nation's education priorities. The bill reauthorizes the Elementary and Secondary Education Act of 1965 and fundamentally reforms the Act by increasing accountability for student performance, focusing on what works, reducing bureaucracy, increasing flexibility, and em-

powering parents. Key components of the legislation include: (1) closing the achievement gap through high State academic standards, annual State academic assessments, and consequences for schools that fail to teach; (2) promoting parental empowerment through reports to parents on the performance of States and schools, assisting charter schools, expanding public school choice, and allowing students in failing schools to receive supplementary educational services from a provider of their parent's choice; (3) improving literacy by focusing on reading in the early grades and early childhood reading instruction; (4) expanding freedom to teach and learn by increasing flexibility in Title I and reducing duplicative and excessive programs and regulations; (5) rewarding success and sanctioning failure by providing financial rewards for States that improve academic achievement and narrow the achievement gap, and reducing federal funds to States that fail to demonstrate results; (6) improving teacher quality by ensuring that all students are taught by fully qualified teachers, encouraging professional development based on research, and strengthening math and science education; and (7) making schools safer by protecting teachers from frivolous lawsuits, promoting school safety, allowing students to escape unsafe schools, and supporting character education.

COMMITTEE ACTION

HEARINGS

The Committee on Education and the Workforce, the Subcommittee on Education Reform, and the Subcommittee on 21st Century Competitiveness together have held 11 hearings both in and outside of Washington, D.C. during the 107th Congress to review and make determinations on reauthorizing the Elementary and Secondary Education Act. A list of all the hearings are as follows:

Full Committee Hearings

1. March 1, 2001, "State Leadership in Education Reform."
2. March 7, 2001, "Leave No Child Behind."
3. March 28, 2001, "No Child Left Behind."
4. March 29, 2001, "Transforming the Federal Role in Education for the 21st Century."

Field hearings

1. February 16, 2001, "Flexibility, Accountability, and Quality Education" in Bradenton, Florida.
2. February 20, 2001, "Reading and Accountability: Improving 21st Century Schools" in Marietta, Georgia.
3. March 2, 2001, "Improving Academic Achievement with Freedom and Accountability" in Chicago, Illinois.

Subcommittee on Education Reform

1. March 8, 2001, "Measuring Success: Using Assessments and Accountability to Raise Student Achievement."
2. March 14, 2001, "Empowering Success: Flexibility and School Choice."

Field hearing

1. May 1, 2001, "Ensuring Educational Opportunity for Minority Children" in Lexington, Kentucky.

Subcommittee on 21st Century Competitiveness

March 15, 2001, "Improving Student Achievement Through Technology."

There was significant activity relating to the reauthorization of the Elementary and Secondary Education Act in the 106th Congress. In total, the full Committee, the Subcommittee on Early Childhood, Youth and Families, the Subcommittee on Postsecondary Education, Training and Life-Long Learning, and the Subcommittee on Oversight and Investigations, and held 55 hearings. Ultimately, there was not a reauthorization of the act during the 106th Congress.

LEGISLATIVE ACTION

On March 22, 2001, Representative John Boehner (R–OH) introduced H.R. 1, the No Child Left Behind Act of 2001. H.R. 1 contains the President's education proposals for elementary and secondary education, as well as a comprehensive reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA).

On the basis of the hearings, bills referred to the Committee, the Subcommittee on Education Reform and the Subcommittee on 21st Century Competitiveness, the recommendations of the administration, and the recommendations of the education community and groups representing the interests of families, an amendment in the nature of a substitute was prepared. The Committee on Education and the Workforce considered a substitute offered by the Chairman to H.R. 1, the No Child Left Behind Act of 2001 in legislative session on May 2, 3, and 9, 2001 during which 46 amendments were considered on which 8 roll call votes were taken. The Committee on Education and the Workforce with a majority of the Committee present ordered the bill favorably reported by a vote of 41 to 7 on May 9, 2001.

SUMMARY

INTRODUCTION

Section 1

Section 1 gives the short title of the bill.

Section 2

Section 2 states that references to an amendment or repeal of a section or other provisions shall be considered to be made to the Elementary and Secondary Education Act.

Section 3

Section 3 establishes a one-year transition rule for certain grants awarded prior to the date of enactment.

Section 4

Section 4 establishes an effective date of October 1, 2001 or the date of the enactment of the No Child Left Behind Act, whichever occurs later.

Title I—Improving the Academic Performance of the Disadvantaged

TITLE I, PART A—BASIC PROGRAM

Title I, Part A of H.R. 1 extends and modifies Title I, Part A of the Elementary and Secondary Education Act (ESEA). Part A provides supplemental educational services to low-achieving students to assist them in meeting challenging State student academic achievement standards. The bill expands the existing standards and assessments-based structure to Title I by requiring annual academic assessments in reading and math in grades 3–8 instead of in just three grades; strengthens academic accountability by holding all States, school districts and schools accountable for ensuring that their students meet high academic standards; provides for distribution of report cards on the academic quality of all schools, including the qualifications of teachers and teachers' aides, to parents and communities; gives students the opportunity to leave failing Title I schools and enroll in other public schools or charter schools; allows disadvantaged students in schools that fail for three consecutive years to receive supplemental educational services from a provider of choice; provides rewards to Title I schools that are closing the achievement gap; ensures that all newly-hired teachers funded by Title I are fully qualified; raises the qualifications of teachers' aides; and provides greater flexibility to schoolwide programs.

TITLE I, PART B—STUDENT READING SKILLS IMPROVEMENT GRANTS

Subpart 1—Reading First

Reading First is a new program that would triple the funding for improving classroom reading instruction and provide assistance to States and local educational agencies in establishing scientific research-based reading programs for all children in kindergarten through grade three. It would provide the necessary professional development to ensure that teachers can identify children at-risk for reading failure and provide the most effective early instruction to overcome specific barriers to reading proficiency. Eighty percent of the funds would go to States under a poverty-based formula. The remaining 20 percent would be made available for two-year discretionary performance based grants to States that reduce the number of children who cannot read. States could use up to 15 percent of the funds for professional development. States must distribute at least 80 percent of their funds to local educational agencies through a competitive process, giving priority to high poverty areas in which there are a high percentage of students in grades K–3 reading below grade level. Funds under Reading First are to be used for diagnostic assessments and instructional materials that include the essential components of reading instruction. The Secretary will order a five-year external evaluation of the Reading First program,

and provide such technical assistance to States and local educational agencies as requested.

Subpart 2—Early Reading First

Early Reading First is a new competitive grant initiative that will provide funds to enhance reading readiness for children in high poverty areas, and where there are high numbers of students who are not reading at grade level. Early Reading First is targeted towards children ages three through five, and would support the development of verbal skills, phonemic awareness, pre-reading development and assistance for professional development for teachers in child care centers or Head Start centers in instructional activities that would prepare children for formal reading instruction in kindergarten and grade one.

Subpart 3—William F. Goodling Even Start Family Literacy Programs

H.R. 1 extends and reauthorizes the Even Start Family Literacy Program, which is designed to improve the quality of Even Start programs that provide literacy services to parents and their children in order to break cycles of illiteracy. This was accomplished by requiring Even Start projects to use instructional programs based on scientifically based research on reading, establishing qualifications for program instructors, tying local program objectives to state indicators of program quality, strengthening evaluation of local programs and their use in program improvement, and authorizing research to find the most effective way of improving literacy among adults with reading difficulties.

Subpart 4—Inexpensive Book Distribution Program

H.R. 1 extends and reauthorizes the Inexpensive Book Distribution Program, which is operated under a single, noncompetitive award to Reading is Fundamental, Inc. (RIF). It supports, through subcontracts, local private nonprofit groups and organizations, or public agencies that distribute inexpensive books to children with the objective of motivating children to read. Federal funds pay for up to 75 percent of the cost of books, except that the federal share for programs serving the children of migrant and seasonal farm workers is 100 percent. Contractors are to give priority to programs that serve a substantial number or percent of children with special needs, such as children with disabilities, low-income children, and children at risk of school failure.

TITLE I, PART C—EDUCATION OF MIGRATORY CHILDREN

Title I, Part C of H.R. 1 extends and modifies Title I, Part C of the Elementary and Secondary Education Act, "Education of Migratory Children." The bill makes slight modifications to the eligibility requirements for receiving funds under this Part to better address the needs of migrant children. Some of the most important provisions seek to improve the transfer of migrant student records. These provisions direct the Secretary to assist States in developing effective methods for the transfer of student records and for determining the minimum data elements to be transferred. The bill also provides States with increased flexibility in the use of these funds.

TITLE I, PART D—NEGLECTED AND DELINQUENT YOUTH

Title I, Part D of H.R. 1 makes several minor changes to Title I, Part D of ESEA for neglected and delinquent children. The majority of changes are made to ensure the Subpart 2 program for local educational agencies is focused primarily on addressing the needs of youth returning from local correctional facilities to their local schools or programs of alternative education. The amendments would still permit local educational agencies to serve the needs of other at risk children as long as they first meet the academic and other needs of youth returning from local correctional facilities. The bill also increases the amount of Subpart 1 funds States are to set aside to use to transition youth in State correctional facilities back to their local schools from 10 to 15 percent.

TITLE I, PART E—EVALUATIONS

Section 1501 authorizes the Secretary to conduct evaluations and assessments, collect data, and carry out other activities that support the Title I programs and provide information useful to those who would support the activities that are essential for the Title I programs; and helping States, LEAs, and schools develop management information systems. Section 1501 would also provide for the continued conduct of the national assessment of Title I and a national longitudinal study of Title I schools.

Section 1502 authorizes the Secretary to conduct demonstrations of innovative practices.

Section 1503 authorizes the Ellender Fellowship program. This program, administered by the private, non-profit Close Up Foundation, provides financial aid to enable low-income students, their teachers, older Americans, recent immigrants, and children of migrant parents to come to Washington, DC to study the operations of the three branches of government. Activities include attending seminars on government and current events, and meeting with government leaders.

Section 1504 requires recipients of Title I funds to report dropouts rates to the National Center for Educational Statistics.

TITLE I, PART F—COMPREHENSIVE SCHOOL REFORM

Title I, Part F of H.R. 1 puts into statutory form the comprehensive school reform grant program. The comprehensive school reform grant program provides financial incentives for schools to develop comprehensive reforms to change an entire school. The reforms must be based upon reliable research and effective practices, and emphasize basic academics and parental involvement.

TITLE I, PART G—RURAL EDUCATION FLEXIBILITY AND ASSISTANCE

H.R. 1 provides rural school districts with increased flexibility and funding to enhance academic achievement and addresses the unique needs of rural school districts that cannot compete for federal education grants because of inadequate resources. Specifically, H.R. 1 will address the different needs of (1) small, rural school districts and (2) low-income, rural school districts. Under Subpart 1, an LEA would be eligible if the total number of students in average daily attendance at all of the schools served by the LEA is less than 600; and all of the schools served by the LEA are designated

with a School Locale Code of 7, or 8, as determined by the Secretary of Education. Eligible LEAs would be able to combine funding under various formula grant programs to support local or Statewide education reform efforts intended to improve the academic achievement of elementary and secondary school students and the quality of instruction provided for these students. Grants under this provision would be awarded to eligible LEAs based on the number of students in average daily attendance less the amount they received from consolidated formula grant programs. LEAs participating in this initiative would have to meet high accountability standards by demonstrating the ability to meet academic achievement standards under Title I, such as the State's definition of adequate yearly progress. Schools failing to meet these requirements would not be eligible for continued funding.

If an LEA did not qualify for funding under Subpart 1, it could seek funds under Subpart 2. An LEA would be eligible to use the applicable funding under Subpart 2 if it serves a school-age population, 20 percent or more of whom are from families with incomes below the poverty line; and all of the schools served by the LEA are designated with a School Locale Code of 6, 7, or 8, as determined by the Secretary of Education. Funds under this Subpart can be used for such things as: educational technology, professional development, technical assistance, and teacher recruitment and retention.

TITLE I, PART H—GENERAL PROVISIONS OF TITLE I

Title I, Part H of H.R. 1 includes general provisions governing Title I. Such provisions include negotiated rulemaking; State rulemaking; a State Committee of practitioners to advise the State in carrying out its responsibilities under Title I; local educational agency administrative cost limitations; and rules of construction.

Title II—Preparing, Training, and Recruiting Quality Teachers

TITLE II, PART A—TEACHER QUALITY TRAINING AND RECRUITING FUND

The purpose of this Part is to provide grants to States, LEAs, and eligible partnerships in order to assist their efforts to increase student academic achievement through such strategies as improving teacher quality and increasing the number of highly qualified teachers in the classroom. H.R. 1 consolidates and streamlines the Eisenhower Professional Development program and the Class Size Reduction program to provide States and local schools additional flexibility in the use of these funds, in exchange for increased accountability, by demonstrating that student achievement is increasing.

Funds are sent to States by formula (50 percent based on population and 50 percent based on poverty). State allotments would have to be equal to funding received under the Eisenhower Professional Development program and the Class Size Reduction program. States are authorized to retain 5 percent of funds for State activities. States send funding to the local level by formula and by competitive grant. Local educational agency allotments would have to be equal to funding received under the Eisenhower Professional Development program and the Class Size Reduction program. 80 to 85 percent of the funds (at the discretion of the State) are sent to

local educational agencies by formula (20 percent based on population and 80 percent based on poverty) for local uses of finds. States, working in conjunction with State Agencies for Higher Education, must award at least 15 percent but not more than 20 percent of the funds (at the discretion of the State) on a competitive basis to eligible partnerships for math and science programs. Eligible partnerships must include at least: (1) a State educational agency; (2) a mathematics or science department of a private independent or State-supported public institution of higher education; and (3) a high need local educational agency. This part also continues and updates the Troops-to-Teachers and Transition to Teaching programs.

TITLE II, PART B—NATIONAL WRITING PROJECT

H.R. 1 continues and updates the authorization for the National Writing Project. The purpose of this program is to support in-service teacher training programs, including the dissemination of effective practices and research funding, regarding the teaching of writing and related skills (in language arts subjects and across the curriculum) at all educational levels. The program supports professional development for teachers of writing and teachers of other subjects who are interested in writing, including teachers who serve students at the pre K–12, postsecondary, and adult education levels. The program is also authorized to award grants for classroom research projects conducted by elementary and secondary school teachers.

TITLE II, PART C—CIVIC EDUCATION

This program supports the Center for Civic Education and its education program that encourages instruction on the principles of our Constitutional democracy; the history of the Constitution and the Bill of Rights; congressional hearings simulations; and annual competitions of simulated congressional hearings for secondary school students. It also authorizes the National Council on Economic Education to conduct Cooperative Education Exchange programs that provide curricula and teacher training programs in civics education and economic education, developed in the U.S., for educators in eligible countries overseas. Countries in Central and Eastern Europe, the Commonwealth of Independent States, and the former Soviet Union are eligible.

TITLE II, PART D—TEACHER LIABILITY PROTECTION

This Part provides civil litigation immunity to teachers, principals, local school board members, superintendents, and other education professionals, when they are sued in their individual capacity under a federal cause of action for monetary damages. The immunity, in general, extends to reasonable actions that teachers and other administrators take to maintain order and discipline in carrying out their official duties. The protections do not extend to reckless or criminal misconduct, or to actions that are prohibited under State or local law. Furthermore, the immunity provisions do not affect in any way tort claims or other causes of action that may be brought under State or local law.

Title III—Education of Limited English Proficient and Immigrant Children; Indian and Alaskan Native Education

TITLE III, PART A—ENGLISH LANGUAGE PROFICIENCY AND ACADEMIC ACHIEVEMENT ACT

Title III, Part A of H.R. 1 consolidates the Bilingual Education Act with the Emergency Immigrant Education Program and the Foreign Language Assistance Program to create a formula grant program to the States. The consolidated program provides States and local providers with the flexibility to choose the type of instructional program provided to limited English proficient (LEP) children. The majority of changes are focused on reforming federally funded programs for limited English proficient children (including immigrant children and youth) in order to ensure they become proficient in English and transition into classrooms where instruction is not tailored for LEP children as soon as possible. Title III, Part A requires local educational agencies to obtain informed parental consent prior to placing children in an instructional program that is not taught primarily in English; provides parents the right to choose among instructional programs if more than one type of program is offered; and gives parents the right to immediately remove their child from a program for limited English proficient children. Title III, Part A also requires reading and language arts assessments for children to be in English who have attended school in the United States for at least three consecutive years, and who participate in a program funded under this Act; ensures that 95 percent of funds must be used at the local level; and holds States accountable for results by reducing all ESEA administrative funds up to 20 percent for States that fail to have the majority of their limited English proficient children becoming English language proficient

TITLE III, PART B—INDIAN AND ALASKAN NATIVE EDUCATION

Title III, Part B re-designates Title IX of the Elementary and Secondary Education Act as Title III, Part B, and amends the old Title IX as well as Title XI of the Education Amendments of 1978, and the Tribally Controlled Schools Act of 1988. Taken together, these statutes provide most of the federal government's's education aid that is specifically targeted to American Indian and Alaska Native students and the schools and the organizations that serve them. In updating and improving these programs, the Committee has focused on improving student achievement, targeting resources to the programs that are providing the best results, greatly increasing the flexibility of the programs at the local level so that Native Americans and Alaskan Natives can make the decisions which impact themselves, reducing the administrative burden placed on participating entities, increasing the amount of aid that actually reaches the classroom, and increasing the emphasis placed on family literacy services for the effected populations. In addition, with respect to education programs funded by the Bureau of Indian Affairs, the Committee has shifted as much authority and responsibility to the Tribes, tribal organizations, and local school boards as possible while maintaining accountability for the use of federal funds.

Title IV—Promoting Informed Parental Choice and Innovative Programs

TITLE IV, PART A—INNOVATIVE PROGRAMS

Subpart 1—State and Local Innovative Programs

Innovative Education Program Strategies (Title VI under current law) is the only K–12 education block grant program contained within the ESEA. It is the only formula program that allows recipients to use funds to benefit any and all student populations, in any and all schools. Under H.R. 1, the purposes of the program are 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; provide a continuing source of innovation and educational improvement, including support for library services and instructional and media materials; and meet the educational needs of all students, including at risk students. H.R. 1 expands the State uses of funds to include support for arrangements that provide for independent analysis to measure and report on school district achievement. In addition, Title IV, part A of H.R. 1 includes language to add more uses of funds to the current list so LEAs can broaden the scope of the program. These new uses include: professional development activities and the hiring of teachers; activities to promote consumer, economic, and personal finance education; expanding and improving school-based mental health services; 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; activities to improve the quality of civics and government education; alternative educational programs for those students who have been expelled or suspended from their regular educational setting; and programs to hire and support school nurses. Under current law, up to 15 percent of the funds are retained, and controlled, at the State level. H.R. 1 includes language to send 100 percent of any new funding for this program over the FY 2001 appropriation to the local level. This change to current law will result in more funds being sent to the school district and classroom levels.

Subpart 2—Arts Education

H.R. 1 amends the Arts in Education programs found in Title X, Part D, of the Elementary and Secondary Education Act. In updating and improving these programs, the Committee has focused on increasing the involvement of local arts educators and State and local arts organizations, and on simplifying the program by targeting resources to the programs that are providing results. Specifically, the bill continues the Arts Education program at its current funding level; updates congressional findings and eliminates outdated references; eliminates a restrictive consultation provision that has prevented the participation of local organizations in the program; shifts the focus of collaborative efforts to arts educators and State and local arts agencies; requires the Secretary to consult with arts educators and organizations representing the arts when awarding grants; continues participation in the program by the Kennedy Center and VSA arts (formerly Very Special Arts); and re-

quires that federal arts education funds be used only to supplement and not supplant non-federal arts activities. The bill further simplifies and focuses the program by eliminating the unfunded Cultural Partnerships for At-Risk Children and Youth program as well as an outdated appropriations threshold.

Subpart 3—Gifted and Talented Children

H.R. 1 continues the Jacob K. Javits Gifted and Talented Students Education Program, which awards grants to State and local educational agencies, institutions of higher education, and other public and private agencies and organizations to help build a nationwide capability to meet the needs of gifted and talented students in elementary and secondary schools. Since 1989, the Javits Gifted and Talented Program has funded almost 100 grants that supported model programs and practices for educating talented students nationwide. Projects under the program identify gifted and talented students; individualize instruction; involve parents in the education of their children; and expand educational opportunities by collaborating with business, industry, and other organizations.

TITLE IV, PART B—CHARTER SCHOOLS

The Public Charter Schools Program provides three-year competitive grants for the planning, program design and initial implementation of charter schools to those States that have a State charter statute. Charter schools are nonsectarian public schools. The "charter" establishing each school is a written performance contract that provides public support for the school for a specified period of time. The school's charter gives the school autonomy over its operation and frees the school from regulations that other public schools must follow. In exchange for autonomy, charter schools are held accountable for meeting the terms of their charters including increasing student academic achievement.

TITLE IV, PART C—MAGNET SCHOOLS

The Magnet Schools Assistance Program (MSAP) provides competitive grants to local educational agencies for magnet schools that are implementing school desegregation plans. Magnet schools offer special vocational or academic programs designed to attract students from outside the school's traditional enrollment area. MSAP grantees receive three-year awards, which cannot exceed $4 million per year. Funds may be used for planning and promoting academic programs, acquiring instructional equipment, and paying the salaries of fully qualified teachers who conduct programs in magnet schools. However, over the three-year period, a decreasing proportion of the grant may be used for planning activities; 50 percent, 15 percent, and 10 percent respectively.

H.R. 1 reauthorizes the Women's Educational Equity Act (WEEA). This program promotes gender equity in education and provides financial assistance to enable educational agencies and institutions to comply with Title IX of the Education Amendments of 1972 (which prohibits sex discrimination in educational programs and activities that receive federal financial assistance). WEEA authorizes the Secretary of Education to award two types of grants: to develop and implement gender equity programs; and to provide "support and technical assistance" in areas such as teacher train-

ing and evaluation of exemplary programs, as well as for research and development.

Title V—21st Century Schools

TITLE V, PART A—21ST CENTURY SCHOOLS ACT OF 2001

Title V, Part A of H.R. 1 extends and amends the Safe and Drug-Free Schools and Communities Act; the 21st Century Community Learning Centers Program; and the Gun Free Schools Act.

Title V, Part A brings three major federal laws with a focus on the safety of students and teachers while at school facilities together to form a comprehensive approach to school safety and academic achievement. By bringing the Safe and Drug-Free Schools and Communities Act, the 21st Century Community Learning Centers program and the Gun Free Schools Act together into a single title of ESEA, the Committee is signaling its commitment to programs and activities authorized by this part which will support efforts to prevent the use of illegal drugs, prevent violence, and provide quality before and after school activities for school-aged children in order to foster a safe and drug free learning environment in which students increase their academic achievement.

Subpart 1—Safe Schools

Subpart 1 reauthorizes and reforms the Safe and Drug-Free Schools and Communities Act (SDFSCA). It provides funds to States through a formula based 50 percent on school age population and 50 percent on Title I to assist in the establishment, operation, and improvement of programs of drug and violence prevention in elementary and secondary schools. Subpart 1 continues the current law authorization for Governors to use up to 20 percent of a State's SDFSCA grant to provide competitive grants to local educational agencies, community-based organizations, and other private and public organizations for activities consistent with the goals of the Act. The remainder of funds are distributed by formula grant to local educational agencies. The new formula reflects the Committee's desire—evident throughout H.R. 1—to target federal resources to schools with high proportions of low-income students.

Subpart 2—21st Century schools

Subpart 2 specifically focuses on 21st Century Community Learning Centers programs and provides funds through a formula to the States based 50 percent on school age population and 50 percent on Title I. States will use the federal funds to provide grants on a competitive basis to local educational agencies, community-based organizations, and other private and public organizations to administer before and after school programs for youth.

Subpart 3—National programs

Subpart 3 authorizes national programs to support the goals of Title V, part A including demonstrations and evaluations of innovative programs, information dissemination, and technical assistance.

Subpart 4—Gun possession

Subpart 4 reauthorizes the Gun Free Schools Act, which requires local educational agencies to have a policy in place requiring a one-

year expulsion for any student who possesses a firearm on school property. The law provides flexibility for local schools by allowing the head of an LEA to consider the appropriateness of the expulsion on a case by-case basis. In addition to some minor modifications to the act, H.R. 1 eliminates the section that requires the Secretary to disseminate policy guiding the implementation of the Act and its connection to Individuals with Disabilities Education Act (IDEA).

Subpart 5—General provisions

Subpart 5 contains general provisions, parental consent requirements, prohibited uses of funds, and definitions.

H.R. 1 also requires a greater focus on quality programming by including "Principles of Effectiveness" in Subparts 1 and 2. The principles require any program or activity funded under the Act to be: based upon an assessment of objective data; based upon performance measures established by the LEA; based upon scientifically based research that provides evidence that the program or activity will prevent or reduce drug abuse and violence (there is a waiver for innovative programs with a likelihood of success); and be periodically evaluated with the results used to improve the program or activity.

TITLE V, PART B—ENHANCING EDUCATION THROUGH TECHNOLOGY

Enhancing Education Through Technology consolidates all of the current Title III programs under the Elementary and Secondary Education Act (except for Ready To Learn Television and the Telecommunications Demonstration Project for Mathematics) into a single performance-based technology grant program. These programs include the Technology Literacy Challenge Fund, the Local Innovation Challenge Grants, Regional Consortia, Technology Leadership Activities, Preservice Teacher Training in Technology, Community-Based Technology, and Star Schools. At the federal level, 95 percent of the consolidated funds are provided to the States through a formula based 50 percent on the State's school age population and 50 percent on Title I. The Secretary may spend the remaining 5 percent on evaluations, technical assistance, and programs of national significance.

At the State level, States may spend 5 percent on activities such as technical assistance and funding innovative programs. From the State to local level, 95 percent of the funds are directed to local educational agencies. Of the total funds going locally, 60 percent is distributed through a State formula based 100 percent on Title I, while the remaining 40 percent is competitively distributed by the State. Funds may be used for increasing access to technology (particularly in high-need schools), improving teacher professional development in technology, and/or promoting innovative State and local initiatives that use technology to increase academic achievement. Enhancing Education Through Technology also maintains the current legal requirement that recipients of funds must have technology in place for the protection of minors, to filter or block obscenity, child pornography, and material that is harmful to minors.

Enhancing Education Through Technology also consolidates the Ready To Learn Television program and the Telecommunications

Demonstration Project for Mathematics under a new subpart entitled Ready To Learn, Ready To Teach. Under this subpart, the Secretary is required to fund the Ready To Learn Television program and may fund the development of digital content and a national telecommunications-based program to improve the teaching of core academic subjects (similar to that of the Telecommunications Demonstration Project for Mathematics).

TITLE V, PART C—CHARACTER EDUCATION

This program awards grants to State educational agencies, local educational agencies, or a consortia of such agencies for the design and implementation of character education programs that can be integrated in State academic content standards and can be carried out in conjunction with other educational reform efforts. Each agency or consortium may contract with outside sources, including institutions of higher education and private and nonprofit organizations (including religious organizations), for assistance with evaluation, developing secular curricula, and integrating secular character education into the curriculum and teaching methods. Each recipient of assistance under this part must take into consideration the views of the parents of students when selecting elements of character that will be taught under the program. Elements of character selected under the program may include the following: trustworthiness, respect, responsibility, fairness, caring, citizenship, and giving.

TITLE V, PART D—SCHOOL COUNSELING

This currently authorized program provides local educational agencies with funding for counseling and educational needs of all students. Authorized activities include expanding counseling services through qualified counselors, providing innovative approaches to increase children's understanding of peer and family relationships, including in service teacher and counselor training and parental involvement, and ensuring team approaches to school counseling.

TITLE V, PART E—MENTORING PROGRAMS

This new program provides assistance to promote mentoring programs for children with greatest need. The program is designed to assist such children in receiving support and guidance from a caring adult, to improve their academic performance and interpersonal relationships among their peers, teachers, other adults, and family members, to reduce dropout rates, and to reduce juvenile delinquency. Eligible entities include local educational agencies, community based organizations and partnership between the two.

Title VI—Impact Aid

Title VI of H.R. 1 makes technical changes to the Impact Aid program that was reauthorized during the 106th Congress. The Impact Aid Reauthorization Act of 2000 was enacted as part of the Floyd D. Spence National Defense Authorization Act for fiscal year 2001. Title VI modifies the new "hold harmless" formula for distributing funds under Section 8002 (payments for federal acquisition of real property) to ensure that school districts of all sizes receive a

fair share of funds under this section; makes minor modifications to the section of the formula benefiting small school districts; makes technical corrections to the construction provisions to clarify Congressional intent; modifies language in Section 8009 (equalized States) to clarify that funds provided to school districts based on their identification as "heavily impacted" would be exempt from State equalization; extends the filing deadline for a school in Colorado; and extends the authorization for Impact Aid through 2006.

Title VI also makes technical corrections to the Impact Aid construction program to correct a misinterpretation of the eligibility requirements for certain grants. Specifically, it clarifies that an LEA is considered to be unable to fund construction needs through bond issues if the assessed value of the taxable property within the LEA is less than $25 million; clarifies that an LEA is considered to have minimal capacity to fund construction needs through bond issues if the assessed value of the taxable property within the LEA is greater than $25 million but less than $50 million, and the LEA has already used at least 75 percent of its existing bonding authority for other construction needs; separates the application process for emergency grants from that of modernization grants; and clarifies that the Secretary is to fund projects that address threats to the health and safety of students or school staff prior to funding grants intended only for school modernization.

TITLE VII, PART A—ACCOUNTABILITY

Part A of Title VII provides rewards for States that make significant progress in academic achievement for students as a whole, for students from low-income families, and for students from major racial and ethnic groups based on the State academic assessments under Title I and a second indicator consisting of the State National Assessment of Educational Progress (NAEP) or another assessment selected by the State; sanctions States that fail to make adequate yearly progress for their disadvantaged students by reducing their administrative funds; provides States With funds to develop annual assessments, or if a State has developed those assessments and standards, to carry out other activities related to ensuring accountability for results in the State's schools and local educational agencies; and provides bonuses for States that have annual assessments for grades 3 through 8 in place prior to the 2004–2005 school year.

TITLE VII, PART B—FUNDING FLEXIBILITY FOR STATE AND LOCAL EDUCATIONAL AGENCIES

Part B of Title VII of H.R. 1 authorizes States and local educational agencies to transfer their non-Title I formula grant allocations to other federal ESEA formula grant programs. Specifically, it allows States to transfer up to 50 percent of their State activity allocations between programs. Local educational agencies may transfer up to 50 percent of a program's allocation to other programs. LEAs identified for improvement under Title I can only transfer funds for school improvement activities, up to 30 percent. LEAs in corrective action cannot transfer any funds.

Title VIII—General Provisions

Title VIII of H.R. 1 includes general provisions that affect all Elementary and Secondary Education Act (ESEA) programs. The bill adds several new definitions, moves some definitions from within individual programs into the general provisions and modifies other definitions. Title VIII provides flexibility to combine administrative funds of all ESEA programs, and allows States and school districts to submit single consolidated plans for all ESEA programs. The authority of the Secretary to waive burdensome regulations is continued from current law.

With respect to private school students and staff, authority in current law for such students and staff to receive services under ESEA programs is strengthened. At the same time, H.R. 1 prohibits the federal government from exercising any control over home schools or private schools that do not receive ESEA funds.

Many of the prohibitions placed upon the federal government are continued and strengthened. The Committee has continued and strengthened the prohibition which restricts the federal government from controlling, mandating or directing curriculum. National, tests are prohibited, as well as any kind of mandatory national teacher or paraprofessional test or certification. In addition, H.R. 1 ensures that individual assessment results are protected from disclosure to third parties pursuant to the General Education Provisions Act and ensures that no State is required to have academic content standards or achievement standards approved by the federal government. Protections against the establishment of any national database of personally identifiable information are a part of the bill.

With respect to social issues, H.R. 1 prohibits funds from being used to operate a program of contraceptive distribution at schools and prohibits funding of sex education in schools unless such programs are age appropriate and emphasize abstinence.

Two Sense of the Congress provisions are included in the bill—one relating to religious memorials on campus and the other relating to paperwork reduction.

Other provisions authorize the Secretary to reserve funds to carry out program evaluations.

A new provision relating to voluntary school prayer is included in the bill.

Finally, language is included in the general provisions which transfers the authority under the existing Title XIII of ESEA relating to comprehensive regional assistance centers, the national diffusion network, regional math and science consortia, and technology based technical assistance to Title VIII of the ESEA; and transfers the authority of the Regional Technical Support Centers under the existing Subpart 3 of Part A of Title III to Title VIII of ESEA.

TITLE IX, PART A—AMENDMENTS TO OTHER ACTS

Subpart 1—National Education Statistics Act

Subpart 1 of Part A of Title IX amends the National Education Statistics Act to make changes to the National Assessment of Educational Progress (NAEP) to clarify that for purposes of Title VII accountability there is no cost-sharing requirement of the States.

Subpart 1 also authorizes annual State NAEP assessments in reading and mathematics in the fourth and eighth grades.

Subpart 2—Homeless Education

The McKinney-Vento Homeless Assistance Act authorizes formula grants to States, based on State allocations for grants to local educational agencies under Title I, Part A of the Elementary and Secondary Education Act. Grants must be used for State and local programs to provide equal access to a free, public education for homeless children and youth, including a public preschool education, equivalent to that provided to other children and youth. Grants must also be used to establish an Office of Coordinator of Education of Homeless Children and Youth within each State educational agency; to implement professional development activities for school personnel; and to provide each child or youth the opportunity to meet the same State student academic standards that others are expected to meet. H.R. 1 makes several changes to current law to better meet the educational needs of homeless children and youth. Among other things, H.R. 1 requires schools to immediately enroll homeless children and youth, thereby eliminating delays caused by lack of records and other enrollment requirements; ensures that public notice of the educational rights of homeless children and youth are disseminated in school districts; ensures that schools keep children in their school of origin whenever possible and appropriate; prohibits a State receiving funds from segregating a homeless child, either in a separate school or in a separate program within a school, based on that student's status as homeless (this provision contains a grandfather clause that ensures established schools do not lose funding); provides States with greater flexibility to use McKinney-Vento funds for Statewide support and technical assistance activities; and increases the amount of McKinney-Vento funding available to small States.

TITLE IX, PART B—REPEALS

Part B of Title IX of H.R. 1 repeals several ESEA programs including the National Education Goals Panel, the Fund for the Improvement of Education, the Urban Education program, the Physical Education for Progress program, the Coordinated Services program, and the Education Infrastructure program.

COMMITTEE VIEWS

INTRODUCTION TO H.R. 1

Transforming the Federal Role in Education So That No Child is Left Behind

As America enters the 21st Century full of hope and promise, too many of our neediest students are being left behind.

Although education is primarily a State and local responsibility, the federal government is partly at fault for tolerating these abysmal results. The federal government currently does not do enough to reward success and sanction failure in our education system.

Since 1965, when the federal government embarked on its first major elementary-secondary education initiative, federal policy has strongly influenced America's schools. Over the years Congress has

created scores of programs under the Elementary and Secondary Education Act of 1965 that intended to address problems in education without asking whether or not the programs produce results, or knowing their impact on local needs. Yet, after spending billions of dollars on education, we have fallen short in meeting our goals for educational excellence. The academic achievement gap between rich and poor, minorities and non-minorities, is not only wide, but in some cases is growing wider still.

In reaction to these disappointing results, some have decided that there should be no federal involvement in education. Others suggest we merely add new programs into the old system. Surely, there must be another way—a way that points to a more effective federal role. The policies in H.R. 1 are based on the fundamental notion that an enterprise works best when responsibility is placed closest to the most important activity of the enterprise, when those responsible are given greatest latitude and support, and when those responsible are held accountable for producing results. H.R. 1 will accomplish this by granting unprecedented new flexibility to local school districts, demanding results in public education through strict accountability measures, empowering parents, and providing a safety valve for children trapped in failing schools. Specifically, it does the following:

Enhances accountability and demands results

H.R. 1 includes President Bush's rigorous plan for holding State and local school districts that use federal funds accountable for improving student academic achievement.

H.R. 1 requires States and local schools to demonstrate results through annual reading and math assessments for students in grades three through eight. The plan authorizes $400 million to help States design the tests.

Grants unprecedented local flexibility

H.R. 1 dramatically enhances flexibility for local school districts, giving them the freedom to transfer up to 50 percent of the federal education dollars they receive among an assortment of ESEA programs as long as they demonstrate results. Local school districts do not have to receive permission from the State or the Education Secretary to transfer funds.

This unprecedented new flexibility gives local school districts the freedom to target resources where they're needed most—from class size reduction, to higher teacher salaries, to technology in the classroom—and address needs that often change from one year to the next, since these transfers are not permanent and must be made on an annual basis.

Consolidates duplicative programs

The bill gives States and local schools additional flexibility to improve student performance by consolidating a host of duplicative programs to ensure that State and local officials can meet the unique needs of students.

H.R. 1 eliminates or consolidates 34 federal Elementary and Secondary Education Act (ESEA) programs out of a total of 66, streamlining over 50 percent of the federal K–12 education bureaucracy.

Empowers parents

H.R. 1 requires States and school districts to prepare annual report cards on their schools to better inform parents about the quality of their child's school.

Moreover, it allows parents to remove their child from a low-performing school and send them to a different public school immediately after their school has been identified as failing.

Creates a safety valve for children in failing schools

Before giving parents the option of sending their children to another school, H.R. 1 gives low-performing schools the chance to improve by offering them financial and other technical assistance to improve and increase student academic achievement.

If a school does not make adequate yearly progress after one year, the district must implement certain actions to improve the school, such as replacing certain staff, as well as offer public school choice to all students in the failing school.

H.R. 1 allows parents to use Title I funds to provide supplementary educational services—including tutoring, after school services, and summer school programs—for their children.

Parents will choose from a list of providers that meet certain criteria, including private faith-based providers.

Prohibits national testing

H.R. 1 explicitly prohibits federally sponsored national testing, federally controlled curriculum, as well as any mandatory national teacher test or certification.

Authorizes the President's Reading First initiative

H.R. 1 focuses on effective, proven methods of reading instruction and triples federal literacy funding from the present $300 million to $900 million in 2002.

The President proposes to spend $5 billion over the next five years on reading programs for K–3 children.

Improves teacher quality

H.R. 1 will not fund a separate program that can only be used by school districts for class size reduction. Instead, school districts will have the flexibility to use funds to reduce class sizes by recruiting, hiring, and training teachers, or on professional development.

Makes schools safer

H.R. 1 authorizes the Safe and Drug-Free Schools program, the 21st Century Community Learning Centers Act, and the Gun Free Schools Act—which helps States and local school districts fund drug and violence prevention programs and before- and after-school activities.

As part of the broad effort to make schools safer, H.R. 1 allows teachers to remove violent and persistently disruptive students from the classroom without fear of legal repercussions.

Improves math and science education

H.R. 1 establishes the Math and Science Partnership program to provide grant funds for States to work in conjunction with institu-

tions of higher education in strengthening K–12 math and science education.

Partnerships will focus on strengthening math and science instruction in elementary and secondary schools, and may include such activities as making math and science curricula more rigorous, improving professional development, and attracting math and science majors to teaching.

Protects home schools

Home schools are freed from federal regulations not only in the Elementary and Secondary Education Act (H.R. 1), but also all programs administered through the U.S. Department of Education.

The bill exempts all home schools and those private schools that do not use federal funds from all testing requirements referenced in H.R. 1.

TITLE I, PART A—BASIC PROGRAM

Historical Perspective

Title I, the largest federal Elementary and Secondary Education Act (ESEA) program, provides supplemental educational services to children who are achieving below grade level. From the time it was first enacted in 1965 until the present, taxpayers have provided more than $120 billion in funding, with the initial investment in 1965 of $960 million having risen to $8.6 billion in 2001.

The reach of Title I is broad. Title I provides services to more than 12.5 million students enrolled in 45,000 schools and 13,000 school districts. Fifty-seven percent of all schools receive Title I funds. Ninety-six percent of the highest poverty schools (schools with more than 75 percent of students in poverty) receive Title I funds, an improvement from 79 percent in 1993–94. Funding for low-poverty schools declined from 49 to 36 percent over the same period. Title I grants or services are provided to almost all school districts in the country—approximately 90 percent.

Over its 34-year history, Title I has been confronted with questions about its effectiveness in raising the academic achievement of the students it serves. During its first 30 years (1965–1995), Title I largely functioned as an isolated program with separate services, lower expectations, and different testing requirements. Federal dollars were tied to eligible students, so that federal funds provided supplementary aid only to eligible students rather than general aid to all students. Participants in Title I programs were selected by their test scores and usually remedied through "pull out" programs that typically provided an additional 30 minutes per day in basic skills. Funds were provided based on the number of low scoring students, which created a disincentive to improve scores, for when they did improve, Title I funds were reallocated to other students and schools with lower scores.

The 1993 interim report of the National Assessment of Title I found that it did not provide the services necessary to help at-risk students in high-poverty schools to close their academic achievement gaps with students in low-poverty schools. Studies of Title I also found that expectations were lower for students in high-poverty schools, and that attending high-poverty schools had a negative effect on student achievement. The final report, released in

1997, confirmed the generally negative findings from the interim report:

> In the period covered by this study, children in high-poverty schools began school academically behind their peers in low-poverty schools, and were unable to close this gap in achievement as they progressed through school. When assessed against high academic standards, most students failed to exhibit the skill and mastery in reading and mathematics expected for their respective grade levels. Students in high-poverty schools were, by far, the least able to demonstrate the expected levels of academic proficiency. ("Prospects: The Congressionally Mandated Study Educational Growth and Opportunity," Puma et al. 1997, p. iv)

The ESEA reauthorization in 1994 made significant changes to Title I based on the findings in the 1993 interim report of the National Assessment of Title I. The Improving America's Schools Act (IASA) of 1994 reshaped Title I based on a new approach of standards-driven reform, and an emphasis on schoolwide reform instead of pull-out programs. Under the new Title I law, States were required to develop challenging content and performance standards for all students that would be linked to an aligned assessment and accountability system. Students in schools receiving Title I funds would be held to the same standards as students in other schools, eliminating dual accountability systems. In addition to setting high standards, Title I funds were focused on teaching and learning, through upgrading curriculum, accelerating instruction, and providing teachers with professional development to teach to high academic standards.

The latest report of the Congressionally mandated National Assessment of Title I (NATI), released in January 2001, came to mixed conclusions on the progress of student achievement in high-poverty schools. Because the changes in 1994 allowed for more flexible uses of Title I dollars and schoolwide reform, it is challenging to measure the impact of the Title I program on student achievement since it is difficult to disentangle its effect from the impact of State and local reform efforts that the program is designed to support. Using trends in State assessment data and the National Assessment of Educational Progress (NAEP), the report was able to show some progress and some stagnation. On State assessments, it found that three-year trends reported by nine States demonstrated progress in the percentage of students in the highest poverty schools meeting the State standards for proficiency in reading and mathematics. State assessments also demonstrated some progress in narrowing the achievement gap between high and low poverty schools.

NAEP data, however, paint a different picture of student achievement since the 1994 amendments. NATI reports "In contrast to the recent State assessment data, longer-term trends in NAEP scores depict a widening achievement gap between high and low poverty schools from the late 1980s to 1999." The achievement gap is "substantial, equal to several grade levels." Furthermore, it found that "among the lowest-achieving students, NAEP reading

performance as measured by the main NAEP shows no significant change during the 1990s."

It is difficult to link any of this achievement data to the changes made to Title I in 1994. The 1999 NATI study pointed out that "full implementation [of the 1994 reforms] in classrooms across the country has yet to be accomplished." Dissemination of information about the 1994 reforms did not reach all schools and school districts. For example, the report Status of Education Reform in Public Elementary Schools: Principals' Perspectives, indicated that most principals in Title I eligible schools were unaware of the standards-based reforms required by the 1994 legislation, and so it is even more difficult to attribute the increase in scores to the 1994 changes in Title I. Though these reports only represent a sample of the studies that have been conducted since 1965, they are reflective of continuing concerns.

At the beginning of the 21st century, 36 years after the enactment of Title I, the effectiveness of Title I in improving the academic achievement of students below grade level remains unclear. In order to ensure that another decade does not go by with widening achievement gaps, H.R. 1, the No Child Left Behind Act of 2001, makes significant improvements to current law. It places a priority on academic accountability and granting flexibility to schools and teachers to make decisions as to how to best meet the needs of disadvantaged students. Final, aligned assessments required by the 1994 reauthorization must be in place, or a State is subject to administrative sanctions; States must annually assess children in reading and math in grades 3 through 8; all groups of students (economically disadvantaged, minority, limited English proficient, and others), not just students in the aggregate, are to show improvement; in order to empower parents with information, States, school districts and schools will issue report cards on the academic achievement of their students with results broken-down so communities can better see where achievement gaps remain or widen; public school choice will be offered to parents of students enrolled in low performing Title I schools; additional help and expertise will be made available to failing schools to help them turn themselves around; economically disadvantaged students in persistently failing schools will have the option of receiving supplemental educational services from a provider of their choice; and schools that continue to fail will be subject to corrective actions, and eventually significant measures such as reconstitution.

Achieving Excellence Through High Academic Standards and Accountability

The structure of H.R. 1, the No Child Left Behind Act of 2001, builds upon the standards-based approach to Title I that was adopted in the 1994 amendments (Improving America's Schools Act, P.L. 103–382) to Title I. The 1994 changes to the Title I statute required States to develop State content and performance standards by the 1997–98 school year and State assessments aligned to those standards by the 2000–2001 school year. States are now expected to have established challenging content and performance standards, implemented assessments that measure student performance against these standards, hold schools and school systems accountable for the achievement of all students, and align

their Title I programs with these policies. A single accountability system should be in place in each State that applies equally to all students so that all students are held to the same high academic standards.

States are complying with the current ESEA requirements to varying degrees. The reasons for the uneven response, according to the U.S. Department of Education, range from States not being able to easily conform their own policies to federal requirements, to a lack of funding and coordination at the State level, to miscommunication between State and federal officers. As of January 2001, 49 States, as well as Washington, D.C. and Puerto Rico, had met the requirement for developing core content standards in reading and math. Only 28 States had approved performance standards, which are closely related to the development of final State assessments. The U.S. Department of Education is currently reviewing States' final assessment systems, using a peer review process involving experts in standards, assessments and Title I. The peer review process does not directly examine a State's assessment instruments. Some systems have been granted full approval, while others still require improvement. Those States that have made significant progress but will be unable to finalize their systems by the 2000–01 test administration deadline have been granted "timeline waivers." States that are significantly behind and lack a clear plan for meeting the requirement may be required to enter into compliance agreements with the Department that outline how the State will make the changes necessary to comply with the law.

Throughout H.R. 1, the Committee changed references in current law to "content standards" and "performance standards" to "academic content standards" and "academic achievement standards," respectively. The Committee's intent is only to clarify the terms that are used to describe these standards, not to in any way require States to change what they have developed to meet the requirements for these standards under the 1994 amendments.

It is the Committee's view that the intent of this Act is that States adopt standards and assessments that measure academic knowledge of math and reading, as opposed to applied and contextual learning that focus on student workplace skills and competencies. To the extent such research is available, classroom instruction should be based on rigorous, scientifically based research. The bill does not authorize the Secretary to define the term "academic" for the States. States may define the term "academic" as they see fit, or not at all.

Annual Academic Assessments in Reading and Math for Grades 3–8

In accordance with the President's "No Child Left Behind" proposal, Section 1111 requires States to build on their academic standards and assessments and annually assess students in grades three through eight in reading and math. Only standards, not assessments, are required to be developed for science. The purpose of these annual, academic assessments is to empower parents with information about the achievement of their children, as well as to hold schools, districts and States accountable for improving academic achievement. Without assessments, no one can be held accountable for improving student achievement. With annual assess-

ments in reading and math in grades three through eight, there will be more information available to more accurately determine whether a school is providing all of its students with a quality education.

The Committee heard from several witnesses about the importance of measuring student achievement annually. According to Arizona Superintendent of Education Lisa Graham Keegan, who testified at the March 14, 2001 hearing on "Empowering Success: Flexibility and School Choice":

> [T]he Congress is rightly very concerned about whether flexibility will lead to academic gain, or to academic stagnation with no strings attached. There needs to be an accountability system in place that measures student progress from year to year, and shows whether or not each student is progressing adequately toward well defined academic standards. Ideally, our assessments should also let us know how we're doing as States in relation to one another, and how we as a nation stack up against other countries.

If a State only assesses in a few grades, it is more difficult to diagnose strengths and weaknesses, and to address problems in a particular classroom or grade level within a school. With annual tests, problems can be found before it is too late to fix them and can ensure that resources are directed as effectively as possible.

Mr. Edward Rust, Co-Chairman of the Business Coalition for Excellence in Education, testified before the Education Reform Subcommittee on March 8, 2001, that "we know it from a business standpoint that you have got to measure progress or you will never know whether or nor you are getting close to your goal." He also testified that,

> [T]he Committee for Economic Development's recent report, entitled Measuring "at Matters: Using Assessment and Accountability to Improve Student Learning, points out that tests are a means, not an end, in school reform. Assessment and accountability systems must be a part of the educational plan that provides the data and information necessary to make informed decisions about student progress. Continuous review of assessment systems must be part of school improvement plans. As the report notes, although there are valid concerns about some testing practices, we cannot wait for the "perfect" test. Instead, we must continue to evaluate and improve the existing assessment systems because they provide the best means for charting our progress in improving student achievement. The debate over testing should not be about whether to rely on tests, but how best to improve and use them to enhance educational outcomes."

Section 1111(b)(4)(G) requires States to develop annual assessments in grades three through eight in reading and math by the 2004–2005 school year. It is the Committee's view that States would continue to administer assessments developed under Section 1111 prior to the enactment of H.R. 1. In addition to implementing annual assessments in reading and math in grades three through

eight, States would continue to administer reading and math assessments at least once during grades 10–12, as required under current law. The Committee recognizes that the requirement to have assessments in place by 2004–2005 will present numerous challenges to many States, especially those that have not yet met the 1994 assessments requirements. Therefore, the Committee encourages States to seek technical assistance from the U.S. Department of Education, if needed, as soon as possible to ensure that they meet this deadline. Section 1111 (b)(10) requires the Secretary to provide this assistance.

States that fail to meet this deadline will be subject to having a portion of their administrative funds withheld under Section 1111(g). If they do meet the deadline, they may receive a financial bonus in accordance with Section 7103.

Section 1111(b)(4)(F) also requires that State assessments use multiple measures to ensure students are performing academically. H.R. 1 clearly recognizes that States are responsible for designing their assessments. As Mr. Rust noted earlier, "perfect" tests do not yet exist, and high-stakes decisions should not rest solely on one well designed, but potentially fallible, assessment.

Timely and Useful Assessment Data

It is the Committee's view that in order-for annual assessment data to be an effective accountability tool, school districts and schools should receive assessments results as soon as possible, but no later than the end of the school year. Such assessment data should be provided in a format that is easily accessible. State educational agencies should use assessment data to assist local educational agencies in improving the quality of instruction and identifying areas that need improvement or additional resources to improve student academic achievement. Such assessment data should also be used to improve the instruction and achievement of individual children.

Testing of Students in the English language

Recognizing the many benefits of prompt acquisition of English language skills, the Committee has included language in the bill regarding testing of students in the English language. Section 1111 (b)(4)(H)(iv) would require that all students who have attended schools in the United States for at least three consecutive years be tested in reading and language arts in the English language. Attaining both English proficiency, particularly for reading and language arts tests, and academic proficiency is especially important for the success of limited English proficient students in the early years. However, recognizing that there may be some situations where limited English proficient students may have difficulty mastering the language because of a lack of formal instruction in their native language prior to entering the United States, the local educational agency may extend the three-year time frame mentioned above for one additional year on an individual, case-by-case basis.

Section 1111 (b)(7) requires local educational agencies to annually assess the English proficiency of all LEP students, beginning no later than the 2002–2003 school year.

The Committee strongly believes that in order to ensure that schools and school districts are held accountable for improving aca-

demic achievement and English language proficiency of limited English proficient and immigrant children, they should be tested each year in the same manner as their English speaking peers. Schools are held accountable for specifically improving the academic achievement of LEP students. States will include English language proficiency in their definition of adequate yearly progress, solely for the purpose of rewards and sanctions. States that fail to improve English language proficiency will be subject to losing twenty percent of their total administrative allocation under ESEA programs.

Adequate Yearly Progress for All Students

The adequate yearly progress provision in Title I of H.R. 1 is central to achieving the President's goal of leaving no child behind. H.R. 1 ensures that States hold school districts accountable for ensuring that schools make real progress each year, and do not have low standards for high-poverty schools. In order for all children to succeed, all schools, including high-poverty schools, are expected to be high quality schools. In order to identify low performing schools, there needs to be a standard definition within the State of what a low performing school is, based on State academic assessments in reading and math and other measures a State may choose to include. Neither current law, nor H.R. 1 specifically defines this for States. It only describes what minimum variables the definition should include, and that the State should expect its students as a whole to make adequate gains each year.

As mentioned earlier in this report, under Title I law, States develop academic content and achievement standards and align their assessments to those standards. Under current law, for purposes of determining the academic progress of Title I students and schools, States develop a definition of "adequate yearly progess" that: (1) is consistent with guidelines established by the Secretary; (2) results in continuous and substantial yearly improvement of each local educational agency and school sufficient to achieve the goal of all children served under this part meeting the State's proficient and advanced levels of performance; and (3) links progress primarily to achievement on the State assessment, but permitting progress to be established in part through the use of other measures. Once a State develops its definition, it then becomes the measure for determining whether Title I school districts and schools are making adequate yearly progress.

H.R. 1 changes current law, in accordance with the President's plan and bipartisan efforts during the 106th Congress, to ensure that Title I schools are identified for help and corrective actions if they aren't helping all children, particularly economically disadvantaged and minority students. Section 1111(b)(2)(C) of H.R. 1 strengthens and clarifies adequate yearly progress requirements to ensure that no child is left behind. Under current law, a school can be deemed as making progress regardless of whether its disadvantaged and ethnic minority students are improving. H.R. 1 specifically requires States to include as part of their definition of adequate yearly progress the achievement of all students, as well as economically disadvantaged students, students from major racial and ethnic minority groups, students with disabilities, and limited English proficient students. Annual achievement objectives are re-

quired to be set for these students in order to ensure continuous and substantial yearly progress. Achievement goals are not required to be set for groups where there are an insufficient number of students to yield statistically significant results or would reveal the identity of individual students.

A State's definition of adequate yearly progress is used to measure progress at the State, district and school level. In order to hold States accountable for ensuring its limited English proficient students are improving their English language proficiency, States are to include a measure of English language proficiency. This indicator is solely for the purpose of State accountability, described in Part A of Title VII, not for measuring the progress of school districts and schools. School districts are required to annually test limited English proficient students, but such tests do not need to be the same Statewide.

According to the first annual School Improvement Report released by the U.S. Department of Education in January 2001, an important factor distinguishing how States define adequate yearly progress is "understanding whether States require schools to reach a threshold about which they will not be identified for improvement, or whether all schools are required to make progress every year." Twelve States use absolute targets, rather than levels of actual progress as the only measure of making adequate yearly progress. The remaining 37 States incorporate some measure of continuous progress in their definitions. H.R. 1 continues the flexibility States have to set definitions with absolute or continuous improvement targets. It only specifies the timeline that States should include in their definition (12 years) in order to ensure that States expect schools to make substantial and continuous progress.

Under H.R. 1 as introduced, States had to include a timeline in their definition of progress such that gains each year would be sufficient to bring all students up to the State's definition of proficient" in ten years. The Chairman's mark changes this timeline to 12 years. States differ in the percentage of students that schools are expected to bring up to the basic or proficient level. According to the Education Commission of the States, 14 States specify that 90–100 percent of students are expected to reach proficiency. States also set different timelines for meeting their performance goals, ranging from six to 20 years. According to the U.S. Department of Education, the modal target is ten years. H.R. 1 strikes a balance by requiring States to include in their definition a timeline that is longer than the target States most frequently set.

H.R. 1 further strengthens accountability by requiring States to not only show progress for all students and to get all students to proficient within 12 years, but to also be closing achievement gaps at the same time. Recent NAEP results in reading showed that while performance improved for non-disadvantaged students, scores dropped for disadvantaged students, thus widening the achievement gap. Title I funds are intended to improve academic achievement for the neediest students and should, at a minimum, be used to close achievement gaps, while still promoting gains for higher-achieving students.

While a State's definition of adequate yearly progress applies to all public schools in the State, only Title I schools are identified for

improvement, corrective action or restructuring, as required by Section 1116, for failing to make adequate yearly progress.

It is the Committee's view that States such as Tennessee, which administers what is known as the Tennessee Value Added Assessment System (TVAAS) and measures school progress by comparing students achievement to their past performance, would not be precluded by the Title I adequate yearly progress requirements and assessment requirements. In fact, the Tennessee system is one that more accurately measures the effects of schools and school systems on the average progress of students for which they are responsible. The Committee encourages States to move towards adopting similar assessments for holding schools and school districts accountable, as well for assessing the performance of teachers.

Mr. Scott (D–VA) offered an amendment in Committee, which passed by a vote of 26–22, to include as part of the definition of adequate yearly progress a measure of drop-out rates, as defined by the National Center for Educational Statistics.

Empowering Parents with Annual State Academic Reports and School Report Cards

In accordance with the President's proposal, Section 1111(h) of the No Child Left Behind Act of 2001 expands upon current provisions of the Elementary and Secondary Education Act, which require schools to collect and report to the public information on the academic quality of Title I schools, in order to empower parents with information about their schools. Reporting this information is crucial to empowering parents to hold schools accountable and getting them involved, and helping fix schools that fail and choose another public school if their child's school fails. Under section 1111 of current law, States must develop State student assessments that will be used to determine the adequate yearly performance of each local educational agency and school. These assessments must enable results to be disaggregated within each State, local educational agency, and school by each major racial and ethnic group, by English proficiency status, by gender, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged.

In recent years, many States have sought to provide more information to parents and other taxpayers on the quality of individual schools as a means to hold them accountable. According to the Education Commission of the States, 40 States require school districts and/or schools to report academic achievement results to the public. However, many of these reports fail to provide parents with adequate information. A recent study called, "Individual School Report Cards: Empowering Parents and Communities to Hold Schools Accountable," found that most States fail to provide parents with essential information about their children's education. A survey by Education Week found that 91 percent of taxpayers believed that "widely publicized ratings on such things as test scores and graduation rates motivate public school teachers to work harder to improve schools' performance. "However, only 24 percent of these same taxpayers indicated they had ever seen a school report card.

The No Child Left Behind Act of 2001 builds upon current law and the efforts of States and localities to provide parents and tax-

payers helpful information on the quality of public schools. The intent of the No Child Left Behind Act of 2001 is to ensure that information on academic performance of Title I schools is made available to parents and the public at large.

The information included in the annual State report and school district report cards will enable parents, taxpayers, and others to make informed judgments about the quality of education in their communities. This information will also empower parents to choose quality schools for their children. Without data on academic achievement, public school choice holds little promise for parents to find a better education for their children.

State Report Cards

In order to hold schools accountable for improving the performance of all students, State assessment results would be reported to the public disaggregated by major subgroups of students. The information on the report card would be for public schools in the aggregate for the following categories: student achievement on State assessments, by subgroup; comparison of students at basic, proficient, and advanced levels of performance on State assessments; graduation rates; completion of Advanced Placement (AP) courses and passing AP tests; professional qualifications of teachers; and percentages of students not tested.

School District Report Cards

School districts would prepare annual reports for parents and the public on the academic performance of schools in the aggregate in the school district and by school. The school district report cards would include information on: the numbers and percentages of schools identified within the school district as in "school improvement" (low performing) under Title I; in the case of an individual school, whether it has been identified for school improvement and how its students performed on the State assessment compared to the school district and State as a whole; comparisons of students at basic, proficient, and advanced levels of achievement on State assessments; graduation rates; completion of Advanced Placement courses and passing AP tests; professional qualifications of teachers; and percentages of students not tested.

The Committee is aware that some States and school districts will need to make adjustments to be able to report the required information, and accordingly, language has been included to give States and school districts until the beginning of the 2003–2004 school year to first report the information to the public.

In addition to annual State academic reports and school district reports, the No Child Left Behind Act of 2001 expands accountability through a new "parents right to know" provision. Under this provision, local educational agencies must provide parents, upon request, information on the professional qualifications of their child's classroom teacher. Such information must include whether the teacher is teaching under an emergency or other provisional status, and whether their child is being taught by a paraprofessional. Local educational agencies receiving Title I funds must also provide to parents their child's performance on each of the State assessments.

These provisions come amid a growing body of research showing that the quality of the teacher is the number one factor in determining student academic success. In fact, the impact of being taught by an unqualified teacher has been shown to have a lasting negative impact on student achievement. Therefore, the Committee believes parents in schools funded under Title I should have every right to be informed when their child is not being taught by a fully qualified teacher.

The Committee is aware of, and encouraged by, the initiative of some States to establish nonprofit education organizations that maintain websites of academic achievement data, which enable comparisons of the progress of similarly situated schools. For example, in Texas, the Just For Kids nonprofit education organization has posted student performance data since 1998 on a school-by-school basis. Their website allows parents and other members of the community to view and compare, on a longitudinal basis, how schools are performing relative to other schools with similar demographics. In addition, best practices at the successful schools are made available, through the organization, to low performing schools

Parental Rights and Notification Provisions

Over the past few years, the Committee has heard a growing number of complaints from parents whose children have been placed and retained in bilingual education courses without their permission or knowledge. In many instances, these parents faced great resistance in their efforts to remove their children from such programs.

Since the enactment of the Improving America's Schools Act, Title I, Part A has provided services to limited English proficient children. In fact, the Title I program far outdistances the Bilingual Education Act in the provision of services to limited English proficient children. For 1996–97, a total of 430,724 children received services under the Bilingual Education Act (with some children participating in several programs). At the same time, two million limited English proficient children were served under Title I, Part A. The Committee is concerned that many of the problems related to program participation that have arisen under the Title VII, Bilingual Education Act will emerge under Title I, Part A, as well.

Because of this concern, the Committee has included language in Section 1112(g), as well as under Part A of Title III, requiring local educational agencies to obtain informed parental consent prior to placing a child in an English language instruction program for limited English proficient children. This restriction would not apply to classes, which exclusively, or almost exclusively, use the English language in instruction or where instruction is not tailored for limited English proficient children. The provision does allow LEAs to serve children if a response is not obtained from their parents after written notice and reasonable effort to obtain such consent is made. In such instances, a local educational agency must document, in writing, that it has given such written notice and has made specific efforts to obtain such consent. LEAs must then provide proof of such efforts, in writing, to the parents or guardian of the child at least 10 business days prior to the actual provision of services

under this part. Such correspondence must include a final notice requesting parental consent for such services.

Section 1112(g) also contains provisions that require the parent or parents of children participating in programs under this Act to be informed of: (1) the reasons for identification of their child as being in need of English language instruction, (2) their child's level of English proficiency and how it was assessed, (3) the status of their child's academic achievement and how the program will assist their child to learn English and meet age-appropriate standards for gradepromotion 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 for children in secondary schools.

According to a November 1997, report issued by the United States Commission on Civil Rights, entitled "Equal Educational Opportunity and Nondiscrimination for Students with Limited English Proficiency: Federal Enforcement of Title VI and Lau v. Nichols:"

> School districts across the country are experiencing serious tensions between school officials and parents over placement. Many parents of students with limited English proficiency are expressing dissatisfaction with the education their children are receiving. For example, in New York City, Maria Perez, a parent who is fighting her child's placement in the city's bilingual education program recently stated: 'what bothered me was that they place children in bilingual programs and keep them there for years and years. They aren't learning English.' The problems that prevent academic success can and should be addressed by parents working together with school personnel to determine where the problems exist and how they can be solved.

The parental consent provisions in this bill make it very clear that parents should play a major role in determining the placement of their child in an English language instruction program. Schools should not be making decisions regarding the placement of English language learners unless they have reached an agreement on such placement with the child's parents. Parents want their child to learn English as quickly as possible because they know it is essential in order to succeed academically and later in the workplace. They should be able to prevent their child from being placed in a classroom which they do not believe will help them learn English and succeed in school. Parents should also have the ability to remove their child from such a classroom if they believe it is not in their child's best interest. The Committee agrees with the report of the Civil Rights Commission in stating that parents and schools should be working together to make the best possible decisions regarding the education of English language learners.

It is the view of the Committee that parents have the primary responsibility for their children's education. These new changes ensure that the parents of limited English proficient children have the same rights as other parents. At the same time, the Committee does not view these parental consent provisions as a means to deny

limited English proficient children appropriate services, especially when a response from the parent cannot be obtained. In such cases where a response has not been obtained, the Committee believes that limited English proficient children should receive appropriate services without delay.

Ranking and Priority for Grades K–6

Under current law; once Title I funding reaches the school district, all schools with over 75 percent poverty must be served first, in rank order from highest to lowest poverty. This provision is intended to increase the number of high poverty schools that receive Title I funds, and that has been the effect. According to the National Assessment of Title I, Title I funds go to nearly all (95 percent) schools with over 75 percent poverty and nearly 75 percent of Title I funds go to schools with poverty levels of 50 percent or greater. Schools with lower poverty rates are less likely to receive Title I funds. Only 36 percent of schools with 35 percent or less poverty receive these funds.

Once the schools with 75 percent and greater poverty are served, schools below 75 percent poverty are served in rank order from highest to lowest poverty. A school district may not serve a school below 75 percent poverty until all schools above 75 percent poverty are served. However, school districts may choose to serve schools below 75 percent poverty within grade span groupings or within the district as a whole, but regardless of the choice, they must serve these schools in rank order.

Section 1113 of the No Child Left Behind Act would continue the ranking requirements under current law with the modification that school districts, if they wish, may give priority to the elementary grades before serving other schools or grade levels. Essentially, this permissive authority would allow school districts to first serve elementary schools above 75 percent poverty, in rank order, before serving other schools above 75 percent poverty, and serve elementary schools below 75 percent poverty, in rank order, before serving other schools below 75 percent poverty. Given the particular importance of the early years of a child's education, the Committee believes this priority will enable many school districts to more effectively utilize Title I funding in improving student academic achievement.

Schoolwide Programs

Under current law, schools with 50 percent or more poverty may, if they wish, choose to serve all students in the school. These schools are known as "schoolwide programs." Under a schoolwide program, funds could, for example, be used to provide professional development to all of a school's teachers, upgrade instructional technology, or implement new curricula. Schoolwide programs also have the added flexibility of combining federal, State and local education funds to serve the entire school, rather than having to operate many separate federal education programs with multiple sets of rules and regulations. In addition, schoolwide programs utilize a strategic plan. Strategic plans allow Title I services to be considered within the broader context of a school's reform goals, and provide a framework for better integration of Title I within the regular academic program at the school.

In recent years, more and more schools have opted to utilize the schoolwide approach under Title I. According to the National Assessment of Title I, the number of schools implementing schoolwide programs has increased fourfold since 1995 from about 5,000 to 19,227 in 1997–98. Local school principals, teachers and administrators enjoy having the schoolwide option. As of 1997–98, 82 percent of eligible schools were using the schoolwide option and an additional 12 percent were considering implementing schoolwide programs. Forty percent of all Title I schools operated schoolwide programs in 1997–98.

Principals and teachers have found the schoolwide approach offers increased opportunities to support comprehensive efforts to upgrade an entire school, and thereby more effectively help improve the achievement levels of the lowest achieving students. The February 25, 1999, testimony of Ms. Madeleine Manigold before the Subcommittee on Early Childhood, Youth, and Families, noted that Texas schoolwide programs had been particularly successful in improving the academic performance for all students and all groups of students in reading and mathematics. Further, her testimony indicated the achievement gap has been closing at schools utilizing the schoolwide approach at an even greater rate than in the State of Texas as a whole.

The State of Maryland has also had success with schoolwide programs. In Garrett County, through use of the schoolwide approach and an Ed-Flex waiver, two elementary schools have shown achievement on the Comprehensive Test of Basic Skills (also know as TerraNova) well above national averages.

Sections 1114 would continue to authorize the schoolwide approach, and expand it so that schools with 40 percent or more poverty could operate schoolwide programs. The Committee strongly endorses this increased flexibility at the local level and recognizes that many more schools may soon utilize this model for delivering Title I services than with the current 50 percent threshold.

It has come to the attention of the Committee that some schoolwide programs have not been utilizing the authority under current law to combine federal, State, and local education funds to serve the entire school, because of State and local fiscal accounting barriers. The consolidation of funds in order to use all available resources to upgrade the entire educational program in a high-poverty school is an integral component of a "schoolwide" program. Section 1114(b)(1) addresses this concern by making it clear that schools may "consolidate" funds. Current law states that the funds "may be used in combination" with other funds, which is unclear. Section 1114(b)(3)(C) addresses barriers that may discourage schools from consolidating funds by clarifying that schools do not need to conduct separate fiscal accounting by program to demonstrate that the intent and purpose of the programs have been met. The statute does not require separate fiscal accounting records to demonstrate that the intent and purposes of all the programs that contribute funds toward the schoolwide program are met, but documentation is necessary. While the statute does not specify what type of documentation would be acceptable, the Committee anticipates acceptable documentation would include evidence that activities were conducted which address the intent and purposes of the programs. Finally, Section 1111(c)(8)–(9) also addresses

schoolwide accounting barriers to consolidating funds by requiring States and localities to reduce any such barriers that schools may be experiencing.

One of the components of a schoolwide program mentioned in Section 1114 are schoolwide reform strategies. Such strategies may include increasing the amount and quality of learning time, such as extending the school year, before and after school programs and summer programs. The Committee believes that after school, summer enrichment, and gifted and talented programs provide special opportunities for schoolwide improvement and are valuable education reform tools.

With respect to pre-kindergarten services, the Committee wishes to note that the No Child Left Behind Act retains as a component part of a schoolwide program provisions for assisting preschool children in the transition from early childhood programs, such as Head Start, Even Start, or State run preschool programs, to elementary school programs. Specifically, the Committee improves upon these provisions by requiring local educational agencies to coordinate their educational services with those provided by local Head Start agencies, mirroring a provision added to the Head Start Act. In addition, local educational agency plans must describe how local educational agencies will coordinate and integrate services relating to Head Start, Even Start, and other preschool programs, and how Title I funds will be used to support preschool programs for children.

Targeted Assistance Programs

In addition to schoolwide programs, the other major program model for delivery of Title I services is the targeted assistance program. Under a targeted program, Title I services are focused upon the lowest achieving students in the school. For example, students may be "pulled out" of their regular classroom for several hours of more intensive instruction by a specialist teacher each week, or funds may be used to hire a paraprofessional who provides additional assistance to low achieving pupils in their regular classroom. School districts and schools have substantial discretion in determining how they will select pupils to be served by Title I, as long as their methods are applied consistently to all pupils in the grades to be served.

Section 1115 would essentially continue the targeted assistance program intact with a few minor changes. However, one significant change for both schoolwide programs and targeted assistance programs would be the scientifically based research requirement as mentioned below.

Academic Accountability for Title I Schools under Section 1116

In General

The centerpiece of President Bush's No Child Left Behind education reform plan is academic accountability. His accountability blueprint, which is included in Title I, Part A and Title VII, Part A of H.R. 1, holds States, local educational agencies (LEAs) and schools accountable for ensuring that all students, including disadvantaged students, meet high academic standards. In general, schools that fail to make adequate yearly progress (as defined by

the State) are designated as low performing. The technical term for low performing schools under Title I is "school improvement." Under the accountability system, schools identified for school improvement will first receive technical assistance and may receive financial assistance to help them improve. Then, if the schools continue to fail to make adequate yearly progress, a series of corrective actions and restructuring measures are required to be taken to help turn the school around and raise the academic achievement of the school.

Funds for Turning Around Low Performing Schools

In order to assist States and school districts in their efforts to turn around low-performing schools, H.R. 1 has created a separate authorization of $500 million under Section 1002(j) to allocate to States for school improvement in order to make subgrants to local educational agencies. Additionally, the percent of funds States may reserve for school improvement under Section 1003 has been increased from one percent in 2002 and 2003, to three percent for fiscal years 2004–06. In awarding these funds, States are to give priority to those local educational agencies with the lowest achieving schools, have the greatest demonstrated need, and have the strongest commitment to helping schools meet adequate yearly progress requirements.

School Improvement

Section 1116 sets forth the requirements for LEAs to review the academic progress of schools, to identify low performing schools as in need of "school improvement," to provide technical assistance and potentially financial assistance to such schools, and to undertake corrective actions and restructuring to help improve such schools. According to the first annual "School Improvement Report" of the Department of Education (January 2001), the number of Title I schools States have identified for school improvement has grown from 7,616 in 1996–97 to more than 8,800 in 1998–99.

Section 1116(a) establishes the LEA as the key agency for reviewing the academic progress of schools. Each LEA reviews the test results from reading and math tests under section 1111, as well as other measures, to determine whether each school in the LEA is making adequate yearly progress, as defined by the State. The results of this review are then publicized in the community and disseminated to teachers, staff, parents, and students. If a school is making adequate yearly progress, then no further action is required under this section. If, however, the school is not making adequate yearly progress, then a series of steps to improve the quality of the school must be taken.

Under section 1116(b), a school that fails to make adequate yearly progress for one year, or that was in school improvement status under current law prior to the effective date of the No Child Left Behind Act, is designated for school improvement. This changes current law, which requires that school districts identify schools in need of improvement after two years of failing to make adequate yearly progress. Because of the President's commitment to turn around low performing schools, his proposal changed the timeline so that schools are identified after one year of failing to make progress in order to provide schools at risk of failure with resources

as soon as possible to improve them as quickly as possible. The Committee did not change the timeline in current law for identifying local educational agencies in need of improvement to avoid triggering an entire school district as needing improvement based on one year of data.

Once a school is designated for school improvement, then the LEA is required to provide public school choice (unless affirmatively prohibited by State law) to all students enrolled in the school not later than the first day of the school year following identification. For example, if a school receives its test scores in May of 2002, then when school starts again in August 2002, public school choice would be available. Providing choice at this early stage in the process will enable parents to quickly take steps to improve the quality of their child's education. LEAs are also required to provide transportation costs, to ensure that choice options are truly available to children in the school that is identified for improvement.

Prior to a school's identification for school improvement in section 1116 (b), the LEA is required to give the school an opportunity to review the data on which the proposed identification is based. Then, if the principal or a majority of the parents of students at the school believe the identification is in error, the principal may provide supporting evidence to the LEA, which shall be considered a final determination is made.

In keeping with current law, the Committee has continued and strengthened requirements that schools identified for school improvement develop an action plan not later than three months after they are identified for improvement. The school's action plan, developed in consultation with parents, school staff, and the LEA, is to cover a two year period and include the following: (1) scientifically based research strategies to strengthen the core academic subjects; (2) policies that will be undertaken to ensure that all groups of students will meet the State's proficient level of achievement in 12 years; (3) assurances that the school will reserve at least 10% of Title I funds to provide high quality professional development that directly addresses the academic problems that resulted in the school improvement designation; (4) a specification of how school improvement funds will be used to remove the school from school improvement status; (5) specific annual goals for progress by each subgroup of students; (6) information on how the school will provide notification to parents about the school's identification for improvement; (7) the respective responsibilities of the school, the LEA and the SEA under the plan, including the technical assistance that will be provided; and (8) as appropriate, extended learning time.

For each school identified for school improvement, the LEA has primary responsibility for providing technical assistance as the school develops the school plan and throughout the duration of the plan. In general, the technical assistance shall: (1) be based on scientifically based research; (2) include assistance in analyzing academic assessment data; (3) provide professional development and instructional strategies that are directed at lifting the school out of school improvement; and (4) include assistance in analyzing and revising the school's budget to focus on activities that will help lift the school out of school improvement. While the LEA has primary responsibility for technical assistance, the assistance may also be

provided by the SEA, institutions of higher education, and other public or private entities.

Recognizing that parents play a vital role in the success of schools, the Committee has taken significant steps to empower parents in the school improvement process. Section 1116(b) requires LEAs to provide parents of students in schools identified for school improvement with an explanation of what school improvement means, how the school compares to other schools in the district, the reasons for the school improvement designation, an explanation of what is being done by the school, how the LEA and the SEA will address low academic achievement, an explanation of how parents can help the school improve, and an explanation of a parent's right to transfer their child to another public school, including a public charter school.

Corrective action

Corrective action is reserved for those schools that have been identified for school improvement and which have still failed to make adequate yearly progress after receiving technical assistance for a year. Unlike current law, where "corrective action" describes the most drastic actions an LEA can take to turn around a low performing school, in H.R. 1, corrective action is the second of three levels of options an LEA must take to improve the failing Title I school. Public school choice would continue to be required to be offered pursuant to the school improvement requirement outlined above. Under corrective action, the LEA is required to provide transportation to the students to enable them to attend a better public school, and the LEA may use up to 15 percent of its Title I allocation to offset these costs. If all public schools to which a student may transfer are designated for school improvement, then the LEA shall, to the extent practicable, establish a cooperative agreement with other neighboring local educational agencies for students to attend public schools outside their own LEA. During the year that public school choice is offered, schools identified for school improvement would receive technical assistance throughout the school year, in an effort to improve their academic achievement. If, after receiving technical assistance for that year the school continued to fail to make adequate yearly progress, then at least one corrective action would be required. Corrective action is also required for schools that have been in school improvement for two years, or in corrective action status (under provisions of current law) as of the effective date of the No Child Left Behind Act.

Corrective actions include such measures as: (1) replacing school staff who are relevant to the failure to make progress; (2) implementing a new curriculum and providing appropriate professional development that is based on scientifically based research; (3) significantly decreasing management authority at the school; (4) appointing outside experts to advise the school; (5) extending the school year or school day; or (6) restructuring the internal organization of the school.

As with identification of a school for school improvement, the LEA is required to publish and disseminate to the public and to the parents of each student enrolled at the school, information regarding corrective actions that are being taken against the school. It is the Committee's desire that by empowering parents with informa-

tion on school quality, parents will be in a better position to make decisions about selecting the best possible schools for their children or helping to turn around their children's schools.

Restructuring

Restructuring is the final and strongest remedy for helping turn around low performing schools. This is a new third category of failing schools. Essentially, restructuring is reserved for schools that continue to fail to make adequate yearly progress even after multiple actions have been taken to help them improve. It is triggered if economically disadvantaged students in a school identified for corrective action fail to make statistically significant progress after being in corrective action for one full year. The rationale for only triggering restructuring if a school fails to make adequate yearly progress and disadvantaged student scores fail to increase by a statistically significant amount is to set a higher threshold that schools must meet in order to be identified for the more severe actions required by restructuring. A school identified for restructuring under this criterion is a school that has failed for three consecutive years. There is also a second condition that triggers restructuring. A school that is identified for corrective action and then fails to make adequate yearly progress for *two* additional years, as described in 1116(b)(7)(A)(ii), will be identified for restructuring, even if its economically disadvantaged students are making statistically significant progress. The rationale for this trigger is to ensure that schools in corrective action that continue to fail to make adequate yearly progress are identified for restructuring, even if their disadvantaged students are making some statistically significant progress. A school identified under this criterion is a school that has failed to make adequate yearly progress for four consecutive years.

Under restructuring, public school choice must be provided to all students at the low performing school along with transportation to attend another school; funds must be made available for the purchase of supplemental educational services for economically disadvantaged students enrolled at the low performing school. And, at least one of the following alternative governance arrangements must be implemented, consistent with State law: (1) reopening the school as a public charter school; (2) replacing the principal and all or most of the school staff that are relevant to the school's failure to make adequate yearly progress; (3) arranging for a private management company to operate the school; or (4) turning the operation of the school over to the State, if permitted by State law and agreed to by the State.

Supplemental educational services represent a refreshing approach to the provision of Title I services. For the first time, Title I dollars would follow the child from the low performing school to a private provider of educational services. These services provide an important "safety valve" for students trapped in failing schools. Specifically, under section 1116(d)(1), low income families that have children attending schools designated for restructuring would have the opportunity to select a private provider to provide supplemental educational services to their children. Parents would select from a list of providers that has been approved by the State educational agency. Once the parents select the provider, the parent

then notifies the LEA of their choice, and the LEA then works out an arrangement to pay for the services, as well as develops a statement of specific performance goals for the student, how the student's progress will be measured, and a timetable for improving the student's academic achievement. Up to 40 percent of a school's Title I allocation may be used to provide these services. In addition, an LEA may use Title IV, Part A funds for this purpose and may use up to 15 percent of its Title I allocation for transportation expenses.

Private school choice was included in section 1116(d)(2) in the Committee substitute to H.R. 1 as one of the required restructuring remedies. However, during Committee consideration of H.R. 1, an amendment offered by Rep. George Miller (D–CA) to strike all references to private school choice passed the Committee. The amendment struck private school choice from section 1116(d)(2) relating to students attending low performing schools, from the use of funds for the Title IV, Part A (Innovative Programs block grant), from Title IV, Part C (School Choice Demonstration Research Project), and from Title V, Part A (Safe Schools for the 21st Century), which would have provided private choice to students who have been victims of crime or who have been attending unsafe public schools.

Under restructuring, as with corrective action, if all public schools to which a student may transfer have been identified for school improvement, then the LEA shall, to the extent practicable, work out a cooperative agreement for students to attend schools in neighboring local educational agencies.

Similarly, as with corrective action, local educational agencies are required under restructuring to provide transportation for public school choice and may use up to 15 percent of their Title I funds for transportation expenses.

Duration of Corrective Action and Restructuring

Corrective actions and restructuring measures are no longer required for school improvement schools once the school makes adequate yearly progress for two consecutive years. As a corollary, the school would no longer be identified for school improvement if such progress has occurred. Additionally, if any school identified for corrective action or restructuring fails to make adequate yearly progress, but children from low income families in the school do make statistically significant educational progress for one year, then the LEA shall place the school in corrective action or continue the school in corrective action.

School Improvement and Corrective Action for Local Educational Agencies (LEAS)

Much like the process involved with LEAs overseeing schools identified for school improvement, SEAs are responsible, under section 1116(c), for overseeing LEAs as a whole and identifying whether the LEA shall be designated as in need of improvement and whether corrective actions should be taken.

As collective bargaining agreements expire, the Committee encourages and expects educators and administrators to negotiate new agreements that are consistent with the requirements of section 1116, especially as that section relates to corrective action and restructuring for failing schools.

Just a few years ago the Committee heard from Ms. Alveda King, the niece of the late Dr. Martin Luther King, Jr., and herself a former public and private school teacher, about the importance of parental choice. She said, "It has been demonstrated that when you implement a choice program, . . . that you empower the parents, the system improves, the schools begin to compete, and that hope arises." It is the Committee's hope that these choice provisions, will indeed empower parents and lead to great improvements in low performing Title I schools.

Incentives for Academic Excellence

Under current law, authority is provided in Title I school support teams and the designation and use of "distinguished educators" to help turn around low performing schools. The No Child Left Behind Act maintains these two concepts but improves upon them through the establishment of the Academic Achievement Awards Program in section 1117A. Under the Committee substitute, States may set aside up to 30 percent of any increases in Title I funding to provide cash awards for Title I schools that have significantly closed the achievement gap or that have exceeded their adequate yearly progress goals. Teachers whose students have consistently made gains in academic achievement in the areas in which the teacher provides instruction may also receive cash awards. The Committee believes that such awards and recognition will help to motivate further gains in academic performance and focus our students, teachers, and schools on success.

Local Control and Flexibility

H.R. 1 significantly expands the existing flexibility in Title I at the local level. The flexibility accorded schools which utilize a schoolwide approach (whereby a school is able to consolidate several different federal education program funds with State and local resources to serve all students at the school) is strengthened by the lowering of the schoolwide poverty eligibility threshold from 50 percent to 40 percent. Section 1114, which provides this authority, will enable more schools to consider utilizing this approach to serve Title I students. Given the growing popularity of the schoolwide approach (over 80 percent of schools eligible to implement a schoolwide program actually utilize such an approach) it can be expected that even more schools will take advantage of this opportunity. Since 1995, the number of schools implementing schoolwide programs has more than tripled, from about 5,000 to approximately 19,227. An explanation of schoolwide programs can be found under the heading of this report entitled "Schoolwide Programs."

Another area where flexibility is maintained is in how a school district or school uses Title I resources. Under current law, Title I funds may be used to employ teachers and teachers' aides, purchase supplemental reading and math instructional services from a third party contractor, purchase computers, conduct professional development activities, and other uses. This flexibility in the use of funds is preserved in H.R. 1.

The Committee would also note that for States that have become Ed-Flex States under the Education Flexibility Partnership Act (P. L. 106–25) or its predecessor, the Education Flexibility Partnership Demonstration Act, waivers may be obtained for many of the provi-

sions of Title I. Ed-Flex recognizes that there may not be one single best way to operate a federal education program. Texas and Maryland, in particular, are two States that have utilized Ed-Flex authority to allow more schools to participate in schoolwide projects and to better target Title I funds to the lowest achieving students. Such waivers as well as waivers under the Secretary's waiver authority in Title VIII of H.R. 1 would remain available to States and school districts under the bill.

Limitations Upon State and Local Administrative Funds

Under current law, States are permitted to set-aside one percent of the Title I funds received under Parts A, C and D by the State for State administrative expenses. The No Child Left Behind Act would allow States to reserve an amount equal to the greater of one percent of the amount it received for such parts in fiscal year 2001, or $400,000, including any additional funds the State might receive under a separate line item authorization provided in section 1002(i)(2).

A large portion of these federal funds have been used in the past to finance up to 80 percent of the operating expenses of some State educational agencies. While some States have reduced the relative share of federal funds used for this purpose, the Committee believes that at a maximum, no more than 50 percent of the State educational agency's operating expenses should be derived from Title I administrative funds. Section 1002(i)(3) of the No Child Left Behind Act would limit the federal share to no more than State educational agency's share of operating expenses.

At the school district level, no limit is currently placed on the amount that can be used for administrative expenses. The Department of Education's Study of Education Resources and Federal Funding: Preliminary Report, issued in June 1999, shows that about eight percent of Title I funds at the school district level are spent on administrative costs. According to the study, this percentage is greater than any other federal elementary and secondary education formula grant program except the Safe and Drug-Free Schools program. In keeping with the Committee's continuing emphasis upon sending more dollars directly into the classroom, the Committee has limited Title I administrative costs at the school district level to no more than four percent of the district's Title I allocation. This limitation is found in section 1804 of the bill. The Committee has further required, in section 1804, the Secretary of Education to develop a definition of administrative expenses in consultation with others.

Scientifically Based Research

Consistent with the Reading First Act in Part B of Title I, the Committee believes that Title I programs—whether utilizing the schoolwide approach or the targeted approach—should be based on sound scientifically-based research. Dr. Reid Lyon of the National Institute of Child Health and Development (NICHD) in testimony before the full Committee on July 27, 1999, noted that many educationally disadvantaged students continue to fail at mastering reading because the methods of instruction—though touted as "research-based"—are not of the quality and rigor that they should be

in order to bring about improvements in reading achievement. He said,

> [G]iven that the term "research-based" implies that the reading programs or approaches have been objectively evaluated to determine for which children the programs are most appropriate, why do so many disadvantaged children continue to founder in reading? One major reason is that the term "research-based" currently means many things to many people, with significant variations in the scientific quality of the research described by the use of the term. For example, some instructional reading programs touted as "research-based" may be based upon mediocre and substantially flawed scientific studies, while other instructional programs are based on studies that meet rigorous scientific criteria for research quality. The problem is that many in the field of education do not recognize the difference. To date, adherence to scientific quality and criteria has not been a strong guiding force in selecting and implementing instructional reading programs and approaches for children eligible for Title I services.

To address this shortcoming, the Committee has included language in the bill, which ensures that the instructional strategies used to provide Title I supplemental educational services must be of high quality and based on scientifically based research. This means the instructional strategies must have resulted from the application of rigorous, systematic, and objective procedures; must employ systematic empirical methods that draw on observation or experiment; involve rigorous data analyses; rely upon measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations; and have been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

Empowering Parents

For several years Title I has actively engaged parents in the education of their children through such things as parental compacts and formal parental involvement policies. School-parent compacts, which are developed by parents and school officials, typically outline how parents, the school staff and students will share the responsibility for improving student achievement at the school. Such agreements also serve as the means by which the school and parents build and develop working partnerships to help children achieve to the advanced and proficient levels on a State's assessments.

Section 1118 would generally continue the existing approach of parental involvement as outlined above, but in a more streamlined fashion. However, the Committee wishes to note that there are several other new provisions in H.R. 1, which would put more power in the hands of parents. As mentioned earlier in this report, some of the most significant parental empowerment provisions in the No Child Left Behind Act are the public school choice options. School districts may use up to 15 percent of Title I funds for transportation in the optional school choice program authorized by Section

1115A. Under current law school districts may not use Title I funds for transportation. Additional school choice options are further described in the portion of this report that addresses academic accountability under Section 1116.

Teachers, Paraprofessionals, and Professional Development

The Title I Follow-Up School Survey (Washington, DC: U.S. Department of Education, 1998) found that approximately 74,600 full time teachers were funded under Title I during the 1997–98 school year, a level that has remained fairly consistent over the past 20 years.

Given that up to half of Title I funds go toward teachers, the Committee has been keenly interested in the quality of these teachers. The U.S. Department of Education's 1999 Study of Education Resources and Federal Funding, showed that in fact all Title I teachers possess a Bachelor's degree, while half have a Master's degree—reflecting the average educational attainment of teachers nationwide. However, while it is known that nationwide, 44 percent of middle schools teacher majored in an academic field, there is not reliable data on the percentage of Title I teachers with a major in an academic field. Teacher Quality: A Report on the Preparation and Qualifications of Public School Teachers, January 1999, National Center for Education Statistics.

Although not specifically dealing with Title I teachers, a report by the Education Trust entitled Good Teaching Matters, Vol. 3, Issue 2, "Thinking K–16" A publication of the Education Trust," provides data compiled by Richard Ingersoll, a professor at the University of Georgia on the quality of teachers in poor schools. Specifically, he found that while only 15 percent of classes in low poverty schools are taught by teachers lacking a major in their field, fully 25 percent of classes in high poverty schools are taught by such teachers. As the report notes, "the very youngsters who are most dependent on their teachers for content knowledge are systematically taught by teachers with the least content knowledge."

The United States Department of Education's 1999 National Assessment of Title I noted teacher quality as one of the challenges continuing to face Title I.

> Along with the evidence that high-achieving high-poverty schools focus attention on challenging standards for all students, comes the reality that many teachers are not prepared to teach to challenging standards. In a 1998 survey, only about one-third of teachers in schools with 60 percent or more poor children believe they are well-equipped to use standards in the classroom. This is particularly noteworthy given evidence that teachers' reported preparedness in both subject matter and instructional strategies had a positive relationship with student gains.

It is the strongly held view of the Committee that each and every teacher hired using these funds be fully qualified to teach. In a series of hearings held over the past three years, the Committee has been provided the most recent findings on the difference that a qualified teacher can make in the academic lives of students.

Given the importance of teacher quality, and the high proportion of federal education dollars used to fund teachers, the No Child

Left Behind Act includes language to ensure that at a minimum, all teachers hired under Title I will meet the teaching requirements within the State they are teaching. Each State receiving Title I dollars will have to have a plan in place to ensure that all teachers are fully qualified not later than December 31, 2005. States will also have to report their progress and the agency's and schools performance in increasing the percentage of classes in core academic areas taught by fully qualified teachers. This not only raises the bar for teachers teaching under Title I, it also represents a signal to school administrators that every effort should be made to avoid assigning a teacher to a class in which the teacher has no academic subject knowledge.

The Committee believes the combination of these minimum education levels, along with the increased information provided to the parents of students being taught by unqualified or underqualified teachers, will have a significant and lasting impact on the quality of instruction under Title I and an increased level of academic achievement among students in Title I schools.

H.R. 1 also incorporates language that requires States to plan for how they will ensure all teachers in the State meet their minimum certification or licensure requirements and will be proficient in the academic subjects in which they teach.

Paraprofessionals

Teacher aides, otherwise referred to as paraprofessionals, have been a fixture of Title I since its inception. In a report prepared for the National Education Association, Paraprofessionals in the Education Workforce, 1995, Anna Lou Pickett, referring to such programs as Title I and Head Start, noted "federal legislation in the 1960's and 70's designed to carry out the War on Poverty provided significant impetus and support for the employment of paraprofessionals."

Given this historical perspective, it may not be surprising that nearly 40 years later, some leading education experts, including those within the U.S. Department of Education, are beginning to openly question whether the use of Title I aides has amounted to simply a jobs program for those within the community. This view is supported by the fact that the use of paraprofessionals is often far greater in urban, and other traditionally higher unemployment, areas.

A Los Angeles Times article ("Title I's $118 Billion Fails to Close Gap," 1/17/99) highlighted some of the concerns related to the use of paraprofessionals under Title I.

> [P]art of the problem, according to high-ranking education officials and other experts, is that schools squander Title I funds on clerical workers and classroom aides who lack the expertise to teach poor students the kind of high-level skills needed to compete with their more affluent peers.
>
> It's pretty significant that half of the instructional staff under Title I were paraprofessionals," said Val Plisko, who supervises independent evaluations for the Education Department's Planning and Evaluation Service. "For children who are most at risk, you want the best-educated, the most knowledgeable, the most effective teachers.

The 1999 National Assessment of Title I noted that there has been a growth of paraprofessionals since 1993, from 65,000 full-time aides to 76,900 in 1997–98. (52,000 of these aides in 1997–98 were in high-poverty schools). It is estimated that up to 25 percent of all Title I funds are used to hire paraprofessionals. "In California, the latest available figures indicate that the ratio of aides to teachers paid for by Title I funds is 4 to 1. At Los Angeles Unified, the nation's second largest school district, the ratio is about 7 to 1." (1/17/99 Los Angeles Times)

Nevertheless, some educators see significant value in the use of Title I funds for paraprofessionals when they are properly trained, and utilized effectively by a qualified teacher. However, there is growing evidence that the roles and responsibilities given to paraprofessionals by both teachers and principals, has gone beyond the original intent. Too often paraprofessionals are asked to carry out duties for which they are not qualified.

Currently, under ESEA, paraprofessionals employed with Title I funds must meet three criteria: have the knowledge and skills necessary to assist Title I children in meeting education goals; be within two years of having a diploma or GED (except that paraprofessionals acting as translators have no such requirement); and be under the direct supervision of a teacher.

In fact, most paraprofessionals meet the minimum education requirements under current law. According to the 1999 National Assessment of Title I, 99 percent of paraprofessionals have a high school diploma or GED. However, the educational attainment of paraprofessionals in high-poverty schools is often far below that of their peers in low-poverty schools. Specifically, while 37 percent of paraprofessionals in low-poverty schools have a bachelors' degree, only ten percent of those in high-poverty Title I schools have a bachelors' degree. Similarly, while 86 percent of teacher aides in low-poverty schools at the secondary level have a bachelors' degree, just four percent of their counterparts in high-poverty schools have a bachelor's degree.

If paraprofessionals were strictly carrying out non-instructional duties, the fact that many have a minimum level of education would not pose a significant problem. However, as noted in the 1999 National Assessment of Title I prepared by the U.S. Department of Education, paraprofessionals under Title I "spend a majority of their time teaching despite their lack of the educational background to do so." Providing detail as to the extent of this problem, the Assessment noted the following findings: 98 percent of aides were either teaching or helping to teach students; 76 percent of aides spent at least some of this time teaching on their own, without a teacher present; and 46 percent of aides in high-poverty schools spent half or more of this time on their own, without a teacher present.

Given that Title I students are being extensively exposed to paraprofessionals, (often without the direct supervision of a teacher), the Committee is concerned with growing evidence that such trends may be having a negative impact upon student achievement. An article in the The New Republic ("The Trouble with Teacher's Aides," August 9, 1999) indicated that "A recent Department of Education reanalysis of Title I data from the late '80s found 'no positive impact' for students in classes with teacher aides."

A press release issued by the Educational Research Service in April 1999, entitled the Unexpected Lessons from the Tennessee Project Star Study provided further evidence of the impact paraprofessionals may have upon student achievement. The study found that classes of 25 students with a full-time teacher aide did not improve student achievement in grades K–3 in reading or math.

In response to these and other concerns over the use of paraprofessionals, the No Child Left Behind Act of 2001 includes provisions to raise the educational level of paraprofessionals and to ensure they are provided with appropriate responsibilities.

First, the language sets a higher threshold of qualifications for paraprofessionals, surpassing that of simply a high school diploma or its equivalent. Specifically, it requires paraprofessionals to have completed either two years of college, an associate's degree, or met a rigorous standard of quality through a formal assessment, have knowledge of and the ability to instruct in reading, writing, or math, or reading readiness, writing readiness, or math readiness. The Committee emphasizes that such assessment shall not simply be met by receipt of a high school degree, or its equivalent.

Secondly, the language sets clear guidelines for duties that paraprofessionals may carry out. The Committee believes that if paraprofessionals are hired under Title I, they should not simply serve in an administrative or child-supervisory capacity. Instead, paraprofessionals should, when qualified, assist primarily in providing instructional services to students. The Committee emphasizes language included under the Act which prohibits paraprofessionals from providing instruction if not working under the direct supervision of a fully qualified teacher. The language goes further with respect to instructional services in the area of reading, a subject in which 88 percent of paraprofessionals assist in providing instruction. Specifically, paraprofessionals may not provide instructional services to students in the area of reading unless the paraprofessional has demonstrated, through a State or local assessment, the ability to effectively carry out instruction in reading, writing, and math. This provision comes amid a growing consensus of the importance that students receive instruction founded upon scientifically based research and from fully qualified teachers.

It is the intent of the Committee that the SEA carefully monitor the quality of the local formal assessment of paraprofessionals to ensure that the assessments are rigorous. The Committee intends that only qualified teachers provide instructional services to Title I students and that instructional services provided by paraprofessionals be restricted to one-on-one tutoring that reinforces and supports the instruction provided by the teacher.

The Committee notes language that has been added to the No Child Left Behind Act prohibiting the Secretary from imposing any mandatory national certification of paraprofessionals.

Finally, in an attempt to stem the continued growth of paraprofessionals hired under Title I, the provisions include a freeze on the hiring of paraprofessionals. The language does however, allow for vacancies created by departing paraprofessionals to be filled. The intent of the Committee is that local educational agencies could fill vacancies caused by the departure of a paraprofessional from a school, but would not be allowed to create "new" vacancies

which would result in an increase in the number of paraprofessionals above what existed before departures. The Act provides an exception to this hiring freeze if the local educational agency is able to demonstrate that all teachers within the local educational agency are fully qualified. In any event, this exception does not waive the minimum qualifications paraprofessionals must meet, as described above and under subsections (b) and (c) of section 1119.

The Committee believes that these provisions, along with the increased information on the quality of paraprofessionals provided through report cards under this Act, will significantly increase the quality of paraprofessionals within Title I schools. During the course of the next several years, the Committee intends to continue to closely examine the role of paraprofessionals to determine if further changes to Title I need to be made in this area.

Professional Development

The Study of Education Resources and Federal Funding 2000 found that for the 1997–98 school year, Title I expenditures on professional development at the district and school levels amounted to $212 million, 27 percent of all federally funded expenditures for professional development. The study noted that use of Title I funds for professional development was widespread, with 86 percent of district coordinators reporting using at least some portion of their Title I funds for this purpose.

Although widespread, the intensity of professional development provided to Title I teachers appears to be limited. The 1999 National Assessment of Title I found that "55 percent of teachers in high-poverty schools reported spending less than nine hours per year on training in the content areas. Moreover, 70 percent of teachers in high-poverty schools report receiving less than nine hours per year of professional development related to State or district curriculum and performance standards . . ."

With the focus on teacher quality and the increased attention on ensuring fully qualified teachers in every classroom, it can be expected that professional development will constitute a growing proportion of the use of Title I funds in the coming years. In anticipation of this growth, the No Child Left Behind Act of 2001 builds upon current Title I provisions to ensure that professional development under Title I is worthwhile.

The No Child Left Behind Act of 2001 builds upon research that has been proven to have the common characteristics of effective professional development. This research is discussed in detail under the section of this report on Title II. Specifically, under Section 1119A and also under Title II, professional development must: (1) support professional development activities that give teachers, principals, and administrators the knowledge and skills to provide students with opportunity to meet challenging State content standards and student 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; (4) be directly related to the curriculum and content areas in which the teacher provides instruction; (5) 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; (6) be tied to scientifically based research demonstrating the effectiveness of such professional development activities or programs in increasing student achievement; (7) be of sufficient intensity and duration (not to include one-day or short-term workshops and conferences) to have a positive and lasting impact; (8) be developed with extensive participation of teachers, principals, parents, and administrators; (9) be designed to give teachers of limited English proficient children the knowledge and skills to provide instruction and appropriate language and academic support services to such children; (10) to the extent appropriate, provide training for teachers and principals in the use of technology; (11) be regularly evaluated for their impact on increased teacher effectiveness and improved student achievement.

With respect to the requirement that the activity "be of sufficient intensity and duration (not to include one-day or short-term workshops and conferences) to have a positive and lasting impact," the Committee notes that exceptions may be provided if such single activity is a component of a long-term comprehensive professional development plan established by the teacher and the teachers' supervisor based upon an assessment of their needs, their students' needs, and the needs of the local educational agency. This provision is based upon the National Eisenhower evaluation which found that traditional types of professional development (such as conferences), are less likely to be associated with positive teacher outcomes, unless they occur over a long time span and involve a significant number of hours.

The Committee believes that with the focus on quality under both Title II of ESEA and the changes made under this Act to Title I, teachers will have the opportunity to participate in high level programs that have a direct impact in not only raising their own skills but also translating those skills into gains in academic achievement of their students.

Participation of Children Enrolled in Private Schools

In general, under current law Title I services are provided to eligible private school children directly by the local educational agency or through a third party contract with the school district. As a part of the process, the local educational agency is required to provide timely and meaningful consultation with private school officials on how the needs of private school children will be identified, what kinds of Title I services will be offered, how and where the services will be provided, how the services will be assessed, the size and scope of the services, and the proportion of funds allocated.

The 1998 Department of Education publication Title I Services for Private School Students under the Reauthorization of ESEA: A Snapshot of Federal Assistance in Transition indicates that there is serious disagreement among public, private, and religious school representatives on the extent to which Title I consultations have been meaningful and timely. Catholic school officials have informed the Committee that in some areas of the country, local educational agencies provide little or no consultation with private school officials, and where consultation does occur, it can hardly be considered meaningful. In written testimony submitted to the Committee on Education and the Workforce on June 10, 1999, Mr. John R.

Clark, Assistant Superintendent for the Diocese of Allentown Pennsylvania and Chairman of the United States Catholic Conference Federal Assistance Advisory Commission told how public and private school officials developed and implemented a specific signoff form by both parties as to the issues on which consultation takes place. This approach has worked well in Pennsylvania and the Committee encourages school districts to consider such an approach.

The Committee has included language in Section 1120(b), which tightens the requirements for "timely and meaningful consultation." Under H.R. 1, the local educational agency must consult with private school officials not only on how and where the services will be provided, as under current law, but they must also consult on the selection of the contractor that provides the services, in situations where contractors are utilized. In addition, the local educational agency must tell how the Title I services will be assessed, and how the results of that assessment will be used to improve the services to private school children. The consultations must involve not only meetings prior to the school district making a decision on the services, but also throughout the implementation and assessment of the services. Such measures will help ensure that high quality services are provided to private school children. The requirement that the services be assessed and that the district use the results to improve the services should help guard against private schools receiving poor quality services, and having no recourse. The Committee is aware of a situation in Compton, California where several years ago private schools had no choice but to continue to tolerate ineffective and poor quality services for an extended time, prior to the U.S. Department of Education reviewing the situation. Such situations should be less likely with these new provisions in place.

H.R. 1 also provides a phase out over a two year period of the capital expense account for private schools, which had been used to offset the costs, for example, of renting space in "neutral" sites to deliver instruction. With the June 23, 1997 United States Supreme Court decision in *Agostini* v. *Felton* (521 U.S. 203 (1997)), such rentals are no longer essential to meeting federal constitutional requirements. In *Agostini*, the court abandoned the presumption that placing public employees within religious institutions inevitably leads to either indoctrination, excessive entanglement, or a symbolic union between government and religion. However, the Committee is informed that in some school districts, long-term contracts for the rental of neutral sites for the provision of services continue to exist, and in an effort to address such situations, the Committee has chosen to continue the authorization for capital expenses but only for a two-year period, through 2003.

Title I, Part A Allocation Formulas

H.R. 1 makes minor changes to the Title I Part A formula because the Committee believes that the significant changes made to the formula in the 1994 amendments have not been implemented due to extraordinary hold harmless provisions and lack of funding for the Targeted Grant formula since FY1995. In an effort to break that trend, the Committee has made a change in how new funds are to be distributed which is described below. The Committee is

hopeful that the Appropriations Committees will abide by the authorizing statute so that Title I funds can be distributed to those areas where the most disadvantaged children live so those children who need these educational services the most can receive them.

With respect to the share of Part A funds to be allocated under each of the authorized formulas—Basic, Concentration, and Targeted Grants—the bill provides that an amount equal to the FY 2001 appropriation will be allocated under the Basic and Concentration Grant formulas (and in the same proportions as for FY 2001—85 percent Basic Grants and 15 percent Concentration Grants). Next, any increases in funds over the FY 2001 appropriation for Part A will be allocated under the Targeted Grant formula.

The major provisions of the Basic, Concentration, and Targeted Grant formulas in H.R. 1 are generally the same as under current law. However, the bill does make the following modifications to the current provisions of these formulas. First, a hold harmless rate, of 85 percent of previous year grants, will be applied to Concentration Grants. Currently, the ESEA provides a hold harmless rate of 85–95 percent of previous year grants for Basic and Targeted Grants, but no hold harmless for Concentration Grants. In addition, for the Concentration Grant formula only, H.R. 1 provides that hold harmless amounts would apply to all local educational agencies, including those which do not meet "primary eligibility criteria"—i.e., the 6,500 or 15 percent thresholds for receipt of Concentration Grants; however, this provision would no longer apply if a local educational agency does not meet the eligibility thresholds for four consecutive years.

Third, the expenditure factor used in all of the Title I allocation formulas will be increased for Puerto Rico in stages over the FY 2002–2005 period. As a result, at the end of this period, the Puerto Rico expenditure factor will be at least 85 percent of the minimum expenditure factor applicable to the 50 States and the District of Columbia (for FY 2001, it is 75.1 percent of this minimum). However, this provision will not be implemented if it would result in any State receiving less than its previous year grant under Part A.

Fourth, the bill eliminates a number of provisions that were in effect only for past years and are no longer relevant. Further, some provisions are simplified, updated, and/or clarified, with no substantive amendment.

H.R. 1 deletes provisions for the fourth Title I, Part A allocation formula which is currently authorized, although no funding is provided for it—the Education Finance Incentive Grant formula. It also deletes the current provision for the reservation of $5 million each year for grants to the freely associated States (Palau, Federated States of Micronesia, and the Republic of the Marshall Islands), which are no longer U.S. territories, replacing it, through 2003 only, with a requirement for a similar amount of each year's Part A grant to be distributed through a competition among these areas as well as other outlying areas. However, the Committee wants to make clear that the outlying areas (U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Marianas) will receive their full allotment under the one percent reservation and do not have to compete for their share. The outlying areas, however, are eligible to compete for additional funds under the competition described above.

TITLE I, PART B—READING FIRST; EARLY READING FIRST; EVEN START AND THE INEXPENSIVE BOOK DISTRIBUTION PROGRAM

Background

Reading First and Early Reading First will provide assistance to States and local educational agencies in establishing reading programs for students in grades kindergarten through 3 that have the highest number of students who cannot read, on the latest scientific research in reading instruction. Funds will be used for professional development, diagnostic assessments, and instructional materials to effectively teach the essential components of reading instruction in the classroom. Students who can read fluently are more likely to develop a lifelong love of books, and be successful in school.

The Reading Deficit

In April of 2001 the National Assessment of Educational Progress (NAEP) statistics once again sounded out the alarm: "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." There are many adults who have already been left behind as reported by the National Adult Literacy Survey which found that nearly one half of the American population have some significant limitation in their reading skills.

Americans have almost become numb to such startling statistics. How can it be that a nation that has such vast financial resources dedicated to educating its children could allow so many to be left behind because they have not learned to read? At the dawn of the 21st century, with technology available for instant global communication, why are so many children not mastering a skill as basic as reading?

This issue is not new to the body politic. For the last third of the 20th century billions of dollars were appropriated by Congress to improve reading instruction. It is estimated that nearly three quarters of the $130 billion of Title I funds have been used to attempt to improve reading instruction, and yet student's reading scores have remained flat since 1972 when the NAEP began collecting such statistics.

The private sector pumps millions of dollars into communities to encourage reading through programs like Book It!, sponsored by Pizza Hut, and HOSTS, designed to offer one-on-one tutoring in reading to struggling students. For example HOSTS encourages parental involvement in reading with their children, and their programs have dramatically improved students' reading levels. There are many other dedicated Americans who help adults in organizations like Literacy Volunteers of America, Laubach Literacy, and scores of other private sector programs and corporations which seek to do the same. Yet, even with all this attention to reading, the problem of illiteracy worsens every year. The Committee recognizes that the love of books and the wealth of information that can be found in community and school libraries can only be accessed when children learn to read with fluency and ease. Providing books to children from disadvantaged backgrounds through early learning and child-care programs, preschools, Head Start Centers and

throughout a students school years by including interesting books to read as part of the instructional materials available to them, will help them establish a solid foundation for formal reading instruction.

Reading First and Early Reading First

Under H.R. 1, 80 percent of the funds under Reading First will be allocated to States in five-year grants. There is a limitation that funds be allocated to areas where there are the highest percentages of children in kindergarten through grade three who are reading below grade level or whose families have incomes below the poverty line; or which have been designated an empowerment zone or enterprise community; or which have schools in school improvement (section 1203(c)(4)). Twenty percent of the funds are awarded to States as competitive grants that will be available to schools that have made the most progress in reducing the number of students who can't read proficiently (section 1205).

A peer review panel as defined in section 1204(c)(2) will review all grants submitted by States to determine whether their professional development programs, diagnostic assessment and screening tools, and instructional materials meet the standards of scientifically based reading research and include all the essential components of reading instruction. The Panel will submit its recommendations to the Secretary for his consideration.

States will submit annual progress reports to the Secretary to identify those schools and local educational agencies that report the largest gains in reading achievement, based on valid assessments of reading proficiency. The essential components of reading instruction, defined in section 1209(2), can be taught in many diverse ways, but to become successful readers, students need to be taught each component effectively.

Reading First is Grounded on Nearly a Half Century of Reading Research

There are at least six major research reports on reading instruction that have been funded and released by the federal government over the past two decades. These reports cite findings on which researchers have reached consensus. 1985—Becoming A Nation of Readers; 1990—Beginning to Read: Thinking and Learning About Print; 1998—Reading: A Research-Based Approach (National Institute For Child Health and Human Development); 1998—Preventing Reading Difficulties in Young Children (National Research Council); 1998—Every Child Reading: An Action Plan of the Learning First Alliance. The findings of these reports come from quantitative, scientifically based reading research as defined in section 1209(6), and represent a consensus on the essential components of reading instruction.

2000—Report of the National Reading Panel

The National Reading Panel staff reviewed more than 100,000 research studies on reading since 1966, from which the panel identified 6007 that were scientifically valid. The findings of a careful analysis of those studies indicated that the following five instructional components are essential for effective reading instruction: phonemic awareness; systematic phonics instruction; oral reading for fluency; vocabulary development; and comprehension strategies.

Listed below are the essential components of reading instruction as defined in section 1209(2), and identified as such by the National Reading Panel and upon which the Reading First and Early Reading First programs are based.

Phonemic Awareness

Correlated studies have identified phonemic awareness, as one of the best predictors of how well children will learn to read during the first two years of instruction. Results of experimental studies led the Panel to conclude "phonemic awareness training was the cause of improvement in students' phonemic awareness, reading, and spelling following training."

Systematic Phonics Instruction

The Panel reaffirmed previous findings: "Systematic phonics instruction produces significant benefits for students in kindergarten through sixth grade and for children having difficulty learning to read. The ability to read and spell words was enhanced in kindergartners who received systematic beginning phonics instruction. First graders who were taught phonics skills systematically were better able to decode and spell, and they showed significant improvement in their ability to comprehend text."

Oral Reading to Build Fluency

The Panel found that, "fluent readers are able to read orally with speed, accuracy, and proper expression. Oral reading fluency is another critical factor necessary for reading comprehension."

Vocabulary Development

The Panel found that "vocabulary should be taught both directly and indirectly. Repetition and multiple exposures to vocabulary items are important. Learning in rich contexts, incidental learning, and use of computer technology all enhance the acquisition of vocabulary."

Comprehension

The Panel identified three prominent research themes on the development of reading comprehension skills: "comprehension is a complex skill that depends on vocabulary development; it is an active process that requires intentional and thoughtful interaction between text and reader; and teacher preparation is intimately linked to students' achievement in comprehension."

The Research is Conclusive

Although knowledge will continue to expand, we now have enough information to help almost all children learn to read, write, speak, and spell accurately and fluently. Dr. Benita Blachman (1996) in a chapter, "Preventing Early Reading Failure," in Learning Disability: Lifelong Issues, explains: "The good news is that there have been scientific breakthroughs in our knowledge about the development of literacy. Direct, systematic instruction about the alphabetic code is not routinely provided in kindergarten and first grade, despite the fact that, given what we know at the moment, this might be our most powerful weapon in the fight against illiteracy."

Common Beliefs Not Supported by Scientifically Based Reading Research

Dr. Louisa Moats has succinctly outlined some of the most prevalent principles that are fundamental to whole language or balanced instruction in reading in: Whole Language Lives On: The Illusion of "Balanced" Reading Instruction. "Learning to read is not natural. The alphabetic principle is not learned simply from exposure to print. Context is not the primary factor in word recognition." Instructional materials or tutorial programs that persist in including these unproven practices should not be eligible for funding under the Reading First or Early Reading First programs.

Professional Development and Instructional Materials

In section 1203(8)(d)(1) States may use up to 15 percent of their formula grant funds for professional development. To eliminate the reading deficit, these findings need to become a part of routine elementary teacher pre-service education and in-service professional development. For this reason, the Committee has structured the Reading First and Early Reading First programs to provide both of these opportunities, at the State level, for reading teachers to become informed on how to teach the essential components of reading instruction. States like California, Texas, Georgia and Virginia have already developed excellent programs for reading teachers. There are summer institutes such as the Greenwood Institute in Putney, Vermont, where teachers can gain the knowledge of reading instruction that is based on the latest research. The most important objective is to provide reading teachers with the background in the alphabetic principle that is fundamental to the English language, and how to teach that principle to beginning readers.

Instructional materials may be purchased under section 1203(c)(7)(A)(ii) and are critical to the success of Reading First. It is important that instructional programs include all the essential components of reading instruction. Some students need intensive instruction to learn decoding skills; others may come to school with these skills already mastered. Still other students may have a deficiency in spoken vocabulary, or lack the ability to read fluently. Care should be taken to review text materials to make sure that the approach to reading instruction is based on the latest valid, scientific research in reading instruction.

Diagnosing and Measuring Student Progress in Reading

It is the Committee's view that objective diagnosis and measurement of student progress in the essential elements of reading instruction is necessary, but the determination of what assessment instruments to use should be left to States and local schools. Most research based reading instruction already includes regular assessment instruments to measure student progress in improving their reading skills. Funds to purchase rigorous diagnostic reading and screening assessment tools in section 1203(c)(7)(A)(i) are included in Reading First Grants because the Committee believes that without an accurate diagnosis and assessment of a student there is no way to determine what skills are missing and still need to be taught, and when a student has gained the ability to read independently, fluently, and with comprehension.

Limited English Proficient Students Learn to Read

At a field hearing in Bradenton, Florida, the Committee heard from Bertha Zapata, a reading teacher in Broward Elementary School, Tampa, Florida. Most students in her class speak little or no English and the majority are Hispanic and Asian. By the end of one year, the majority of her students are speaking, reading and writing English. Ms. Zapata told the Committee: "It is not magic. It is not because all these children are extremely bright, though many of them are. It is because the method that I have been using to teach non-English speaking children since 1994 incorporates the essential components of reading instruction to help them become accurate spellers, fluent readers, and accomplished writers."

In a letter to the Committee a first grade bilingual teacher wrote: "I teach first grade in San Jacinto Elementary school. I have 45 students in my class, few of the parents of these children speak English, and one third of them have at least one parent in jail. I teach entirely in English. I began supplementing my regular classroom curriculum with a book I got from the library titled Phonics Pathways, and after only four months all of my first-graders read at grade level." This story is repeated over and over in schools all across America.

Specific Learning Disabilities

It is estimated that effective reading instruction, that includes the essential components of reading instruction, could prevent as many as 70 percent, or more than 1.5 million students, from developing a severe reading disability and therefore having to be identified as learning disabled (section 1203(c)(7)(ii)(II)(cc) under the Individuals with Disabilities Education Act (IDEA). This kind of remarkable success has been documented in research projects conducted over the past thirty years and funded by the federal government. The Committee notes that some children may need eye screening or eyeglasses to make sure students have no physiological impediment to learning to read.

External Evaluation of Reading First

The Committee believes that it is essential that an external evaluation of the Reading First program be conducted. Objectivity is often lost when agencies evaluate the programs they administer. The Committee believes that the ability to reform or modify federal programs is most effectively done when an external evaluation is conducted. The Reading First program gives the Secretary of Education the funds and the authority to order this External Evaluation of Reading First in section 1206. The cost and effort required to conduct this review is substantial, but its results would offer the Congress a roadmap for continuing or revising or changing these vital programs for the better in the future.

Early Reading First Develops Important Pre-Reading Skills

The purpose of subpart 2 is to improve pre-reading skills in children ages 3 through 5, particularly children from low income families, in high-quality oral language and literature-rich environments. Through scientific research, much has been learned about the way children learn to read, and the strong foundation that is important before children are given formal reading instruction in

kindergarten and first grade. Child-care centers, public and private, and Head Start centers can help. In addition to caring for the emotional and social needs of children under their care, they can encourage and promote cognitive development activities along with professional development for teachers and staff based on scientific research in reading.

Children who have poor beginning reading skills are less likely to develop better reading skills through their school careers. Early Reading First is specifically designed to help them reverse that trend. There are several generalizations about reading instruction that should be taken into account by pre-school and child-care teachers. For example, if children can correctly identify letters of the alphabet before they enter kindergarten, it is more likely they will learn to read words in school faster than children who do not possess this knowledge. Experimental findings consistently confirm that children's knowledge of the alphabet is a "strong predictor" of their later progress in learning to read words accurately, quickly and automatically. Professional development and instructional activities should include an understanding of semiotic concepts, a term to describe the general theory of signs and symbols that represent written language, comprised of syntactics, semantics and pragmatics.

One of the optional uses of funds, section 1222(e)(2) in the Early Reading First initiative, is to provide access to scientific, research-based screening tools. One such screening tool is the National Center for Learning Disabilities Get Ready to Read! early literacy program. This allows teachers to screen four-year-olds to determine their familiarity with pre-reading concepts and provide parents, early childhood teachers and caregivers with research-based information about how to build young children's pre-reading skills.

William F. Goodling Even Start Family Literacy Programs

The Even Start Program has been transferred and re-designated under Title I, Part B, subpart 3. H.R. 1 extends and modifies the Even Start Family Literacy Programs until 2006 to reflect the ESEA authorization cycle. During the 106th Congress the Literacy Involves Families Together Act was enacted into law. Family literacy maintains its place as an important tool for educators and parents to utilize in ensuring children and families are able to read. The National Center for Family Literacy continues to provide quality assistance to school districts requesting such services.

Inexpensive Book Distribution Program

The Inexpensive Book Distribution Program is operated under a single, noncompetitive award to Reading is Fundamental, Inc. (RIF). It supports, through subcontracts, local private nonprofit groups or organizations, or public agencies that distribute inexpensive books to children with the objective of motivating children to read. Federal funds pay for up to 75 percent of the cost of books, except that the federal share for programs serving children of migrant and seasonal farm workers is 100 percent. Contractors are to give priority to programs that serve a substantial number or percent of children with special needs, such as children with disabilities, low-income children, and children at risk of school failure.

The Committee has made several minor changes to the Inexpensive Book Distribution Program to improve its ability to operate in low-income and rural communities where it is often difficult to obtain local support.

The first change to the program would allow subcontractors operating programs in low-income communities to use other federal dollars in order to meet the non-federal share of the cost of the program. However, federal dollars could not be used for more than 50 percent of the non-federal share used to meet the cost of acquiring and distributing books. The Committee believes it is important that local communities demonstrate their support of the Inexpensive Book Distribution Program by paying a portion of the cost of the program. The Committee acknowledges there may be instances where local communities support the Inexpensive Book Distribution Program, but have limited resources. In such instances this legislation would permit Reading is Fundamental (the federal grantee) to waive, in whole or in part, the cost sharing requirement for a local program if the subcontractor demonstrates that it would not otherwise be able to participate in the program.

In addition, the Committee understands that there are instances where local private nonprofit groups or organizations operating local programs have difficulty in obtaining local financial support for the Inexpensive Book Distribution Program. This generally happens because there is only a small amount of funding available for a limited period of time. The Committee bill allows Reading is Fundamental to enter into multi-year subcontracts with small local sub-grantees in order to provide them with additional leverage in seeking local commitments. This legislation would not permit such agreements in instances where it would undermine the finances of the national program. It is the hope of the Committee that this provision will help ensure the operation of the Inexpensive Book Distribution Program in small, rural communities or other communities that have difficulty obtaining support for the program.

TITLE I, PART C—EDUCATION OF MIGRATORY CHILDREN

Title I, Part C, of the ESEA, program for the children of migrant workers, was created to assist migrant children in overcoming problems associated with multiple moves which interrupted their education and prevented them from performing well in school. The program serves migrant children ages 3–21, as well as emancipated youth and formerly migrant children. Most migrant programs are administered by local educational agencies (LEAs) and operate during the summer months as well as the regular school year.

The children of migrant workers are some of the most vulnerable children in schools throughout the United States. Migrant children at greatest risk are those whose education is interrupted as they follow their parents along the migrant stream. According to the Department of Education, for 1996–97 States reported approximately 580,000 Migrant Education Program participants, including 475,000 served during the regular school year and 285,000 served in the summer program.

H.R. 1 extends the Title I, Part C, program serving the needs of migrant children and makes modest changes directed at improving services to this at-risk population. The dropout rate for migrant students is very high. The additional academic assistance they re-

ceive under this Act is often the determining factor in whether or not they stay in school and graduate.

Of key interest to the Committee has been the ability of States to rapidly transfer student records in the absence of the costly Migrant Student Records Transfer System (MSRTS). MSRTS was eliminated in 1994 as a part of the Improving America's Schools Act because it was found to be ineffective in completing its primary responsibility of transferring student records. Changes to this Act during the 103rd Congress directed the Secretary to pursue alternative strategies for the effective and efficient transfer of student records. Report language also encouraged States to develop agreements on transferring credits from one school to another. In the absence of MSRTS, the Department of Education found that most States and school districts have relied on mail, telephone and fax to transfer records for migrant students. Although 19 States have some type of electronic system in place, many of these systems are used for maintaining, rather than transferring, student records.

The Committee believes the transfer of student records is key to the ability of schools to adequately serve the educational needs of migrant students. If basic, essential information regarding a child's grades, test scores, and vaccination records are not transferred in an efficient manner, a child may be subjected to additional vaccinations and be incorrectly placed in a classroom above or below their actual academic abilities.

As such, the Committee has modified the Title I, Part C, Migrant Education Program to require the Secretary to 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 is also required to work with States in order to determine the minimum data elements for records to be maintained and transferred when funds under this part are used for record transfer. The Secretary is further required to assist States in linking their records systems for the purpose of electronic maintenance and transfer.

In addition, the Committee has included language in H.R. 1 to require a local educational agency receiving assistance under this Part to make student records available at no cost to another local educational agency requesting such records in order to meet the needs of a migratory child. The Committee wants to make it very clear that the timely transfer of student records is an important element of the Migrant Education Program. It expects States and local educational agencies to work together to ensure that student records are transferred as quickly as possible through the most effective possible means. It would further encourage States and local educational agencies to develop effective means of electronically transferring student records. The Committee believes that an additional focus on the electronic transfer of student records is vitally important to ensure that migrant children have access to a high quality education.

The Committee has also adopted language for simplifying the formula for distributing funds to the States. Under current law, counts of migrant students are based on estimates and full-time equivalents (FTES) of these children. Current law requires either a burdensome collection of data or the continued use of increasingly dated FTE adjustment factors based on 1994 data. Under H.R. 1,

a State's child count would be based on the number of eligible children, aged 3 through 21, residing in the State during the previous year, plus the number of children who received services in summer or intersession programs provided by the State. This approach is easier to understand and administer, minimizes the data-collection burden on the States, and encourages the identification and recruitment of eligible children. Only funding appropriated for this program over and above the amount appropriated for fiscal year 2001 will be distributed based on the new formula.

The Committee has also modified the Title I, Part C, program for migrant children to eliminate the requirement that States develop both a comprehensive service delivery plan and a program application. Key elements of the plan have been incorporated into the application requirements. This streamlining should reduce the paperwork burden on the States. The bill also provides States with greater flexibility in determining the activities to be provided with funds under this Part as long as they are first used to meet the identified educational needs of migratory children. Over the years since the enactment of the Migrant Education Program, the number of migrant students graduating from high school has increased dramatically. However, these graduation rates still lag significantly behind that of the general population. The Committee believes these changes will allow States and local schools to better meet the needs of this population and insure they receive the best possible education.

TITLE I, PART D—NEGLECTED AND DELINQUENT YOUTH

The Title I, Part D, program provides formula grants to States for neglected and delinquent children being educated in State agency programs. These programs serve neglected and delinquent children and youth in institutions or community day programs, as well as those who are in adult correctional facilities. Funds are allocated to States on a formula based primarily on the number of children and youth in their State agency program who are enrolled in a regular program of instruction operated by the agency for at least 20 hours a week for children and youth, or 15 hours a week if the participant is in an adult correctional facility. There is also a Subpart 2 program for local educational agencies (LEAs), funded with allocations from the Title I, Part A, program for districts with high numbers or percentages of children in locally operated correction facilities. Funds are provided to LEAs for meeting the educational needs of youth returning from correctional facilities, and for meeting the unique educational needs of students at risk of dropping out.

The Committee believes that far too many youth who spend time in correctional facilities do not graduate from high school. According to the Department of Education, one-third of 16 and 17 year olds do not return to school after their release from a correctional facility, and one-third of the enrolled 16 and 17 year olds dropped out within 10 months. It is the view of the Committee that many of these students would stay in school and graduate if they received quality educational support during their incarceration and assistance in transitioning back into the school environment.

To address these concerns, the Committee has made several changes to Subpart 1 and Subpart 2 of current law. Specifically, in

Subpart 1, the Committee has increased from 10 percent to 15 percent the reservation of funding for each State agency to support projects that facilitate the transition of children from State-operated institutions to local educational agencies. The Committee believes that transition assistance plays a key role in determining whether or not delinquent youth will succeed in school and graduate.

During the last reauthorization, a new Subpart 2 was added to Part D to address the academic needs of youth in local correctional facilities. Its creation was based on evidence that children in local correctional facilities who were counted for the purpose of generating funds in Title I, Part A, were in most instances not receiving services from Title I. Programs operated under this new Subpart are to address the academic needs of such youth while they are incarcerated and upon return to their local school. The portion of the program operated in local schools is intended to provide support to delinquent youth that are transitioning back into the regular school setting and to provide assistance to other youth at risk of dropping out.

Concerns have been raised that the school portion of the Subpart 2 program has more often than not become a dropout prevention program that does not focus on assisting youth returning from correctional facilities. The Committee believes that other at-risk youth would benefit from the types of programs operated for delinquent youth under Subpart 2. However, it is the view of the Committee that programs under this Subpart should serve at-risk youth secondarily to serving youth returning from correctional facilities. As such, the language in Subpart 2 has been revised to focus on the provision of services to youth returning from correctional facilities. If participating schools are able to serve other at-risk students at the same time, they may do so. The Committee has also modified the Subpart 2 program to allow the use of funds for several new activities, including curriculum-based youth entrepreneurship education, peer mediation, and mentoring.

To be successful, it is the view of the Committee that curriculum-based youth entrepreneurship education programs must include organized academic materials that are sequentially based and which have been field tested and based on sound educational practices. Additionally, such programs must have a demonstrated record of empowering disadvantaged youth with math and other analytical skills. There is growing evidence that innovative organizations and institutions working to instill entrepreneurial behavior, through classroom and practical experiences, are highly effective in teaching some youth. Through such programs, students learn the basic skills required of entrepreneurs and gain a greater understanding of the relationship between academic subjects and the business world.

In addition, mentoring programs have proven to be highly effective in assisting at risk and delinquent children to overcome academic and other problems by providing them with a strong adult role model. The Committee believes mentors, including senior volunteers, are highly effective in helping these youth.

Delinquent youth are a high-risk population and the Committee believes they can turn to further involvement in criminal activities if they are not provided the support they need to stay in school and

turn their lives around. The purpose of Subpart 2 is to insure they receive the assistance they need to graduate and lead productive lives.

TITLE I, PART E—EVALUATIONS AND DEMONSTRATIONS

Section 1501—Evaluations

Section 1501 authorizes the Secretary to conduct evaluations and assessments, collect data, and carry out other activities that support the Title I programs and provide information useful to those who would support the activities that are essential for the Title I programs.

H.R. 1 amends current law to ensure that the assessments and evaluations of programs funded under Title I look at the role of public school choice programs, comprehensive school models, and schoolwide programs in improving the academic achievement of students in Title I schools.

It is the Committee's view that the Secretary will continue the Department of Education's work already started on the Title I assessment and evaluation to the extent that it meets the requirements of this part. It is not the Committee's intent that the Secretary discontinue all of the department's current efforts. However, these efforts should be modified as necessary to comply with this part, and to follow the recommendations of the U.S. General Accounting Office (GAO) report on the longitudinal evaluation to ensure that future reports are of a high quality and useful for improving the Title I program.

GAO examined the Longitudinal Evaluation of School Change and Progress (LESCP) and found that it had limitations that will restrict researchers' ability to draw strong conclusions from the data, especially regarding Title I or standards based reform. It is the Committee's view that future evaluations should ensure that their purposes are clear and that whenever possible, produce findings that can be generalized to Title I schools taken as a whole. The GAO study found that because the LESCP used a smaller, non-representative sample, it suffered from design limitations that would "restrict its ability to fully satisfy any of the three potential purposes . . . envisioned by [the Department of] Education, contractors and panel members."

It is the Committee's view that the Secretary should ensure that the Independent Review Panel is composed of individuals with knowledge of Title I and other ESEA programs. However, in order to ensure that Title I evaluations meet the highest standards of methodological rigor, in Subsection (d) of Part F, a simple majority of individuals on the panel should represent fields other than education. It is also the Committee's view that while the panel should include practitioners, as the purpose of the panel is technical in nature, such individuals should be limited to no more than one third of the panel.

The final evaluations should be submitted to outside reviewers, as required under subsection (d)(3), so that Congress and taxpayers will have an independent source of information as to the quality of the evaluations conducted by the Secretary.

Section 1502—Demonstrations of Innovative Practices

It is the Committee's view that the Secretary should have the ability to demonstrate innovative educational practices. H.R. 1 streamlines language in current law and eliminates references to programs and practices that have been repealed.

Section 1503—Ellender-Close Up Fellowship Program

This program, administered by the private non-profit Close Up Foundation, provides financial aid to enable low income students, their teachers, recent immigrants, and children of migrant parents to come to Washington, DC, to study the operations of the three branches of government. Activities include attending seminars on government and current events, and meeting with government leaders. H.R. 1 changes the name of the Allen J. Ellender Fellowship Program to the Ellender-Close Up Fellowship Program to better reflect the role of the Close Up Foundation in the program.

The Close Up Foundation is the nation's largest non-profit (501(c)(3)), non-partisan citizenship education organization. Since its founding in 1970, Close Up has worked to promote responsible and informed participation in the democratic process through a variety of educational programs. Close Up's mission is built on the belief that textbooks and lectures alone are not enough to help students understand the democratic process and make it work. Students need a "close up" experience in government. Close Up's national, State, and local government studies programs strengthen participants' knowledge of how the political process works, increases their awareness of major national and international issues, and motivates them to become actively involved in the world around them. Each year, more than 25,000 students, teachers, and other adults take part in Close Up's programs in Washington, D.C. Since the inception of its Washington-based programs in 1971, the Close Up Foundation has welcomed more than 500,000 students, educators, and other adults to the nation's capital.

Section 1504—Dropout Reporting

An amendment offered by Mr. Scott (D–VA) was adopted in Committee by a vote of 26–22, that creates a new Section 1504 of Part E. This section requires State educational agencies receiving funds under Title I to report to the National Center of Education Statistics (NCES) on the dropout rate of students in the State as defined in NCES's annual survey known as the Common Core of Data.

TITLE I, PART F—COMPREHENSIVE SCHOOL REFORM

The Comprehensive School Reform program (CSR) was first funded in FY 1998 as part of the Departments of Labor, Health and Human Services, and Education Appropriations Act (P.L. 105–78). The language in the appropriations bill in 1998 did not specifically amend Title I of the Elementary and Secondary Education Act. Rather the program was included in narrative, paragraph-style text in the conference report of the appropriations legislation. In H.R. 1 the Committee has incorporated the policy from that legislation into a categorical grant program included in the statutory text of Title I, Part F. The Committee has created a new part of Title I for this program because in general, federal education pro-

grams should not be funded apart from authorizing language to ensure that federal dollars are used effectively.

In order to improve the quality of the entire school, CSR provides financial incentives for schools to develop a plan to implement comprehensive reforms based upon reliable research and effective practices. These reforms emphasize core academic subjects and parental involvement, and are called "comprehensive" because they are intended to affect all aspects of school operations, including curriculum and instruction, school organization, professional development and resource use, instead of improving certain school functions independently of others. The intent is to provide schools with another means by which they may ensure that all children in a school meet State academic achievement standards.

The Committee is aware that schools throughout the country are implementing a number of preexisting comprehensive reform models. While no one model fits all school situations, schools are encouraged to consider the positive aspects of existing design models with a proven track record or new approaches grounded in scientific research and effective practices. The Committee is aware that some States have attempted to limit schools to certain comprehensive school reform models or approaches. States should allow schools to select any model that is based on scientific research and effective practices and otherwise meets the requirements of this part.

Nearly 6,000 schools, serving more than two million students, have in recent years adopted and begun to implement "research-based" comprehensive reforms intended to improve student achievement. As this trend has continued to grow, so too has the demand by local educators to gain a better understanding of which programs are most suited to their unique circumstances and needs. To better enable schools to implement "research-based" comprehensive reforms, H.R. 1 authorizes the Secretary to reserve two percent of funds made available under this part to support initiatives that accomplish this goal. One such entity is the Education Quality Institute (EQI). The goal of EQI, an independent, non-profit organization, is to assist local schools in these efforts by providing the support and tools necessary to critically evaluate, adopt, and implement research-based programs more effectively. To accomplish this, the EQI is developing a process that "raises the bar" for independently reviewing the existing evidence based on educational programs claiming to be research-based or research-proven. EQI will widely disseminate these findings along with descriptive information on programs and decision making tools leading to the selection and implementation of more effective school improvement. In addition, EQI will offer technical assistance to State education officials, district- and school-based administrators, school staff, and others so that they can more effectively conduct needs assessments, identify potential solutions, and evaluate the quality of evidence provided to them by program developers.

The Committee has also made changes to the State application requirements in subsection (c) to require States to ensure that schools are selecting comprehensive school providers that have the capacity to provide high quality technical assistance over the three-year reform period. This change refines CSR to ensure the quality

of these reform efforts while maintaining the ability of schools to choose from a broad and growing number of providers.

It is the Committee's view that it is no longer necessary to prioritize CSR funds for local educational agencies that plan to use the funds in schools in need of improvement, corrective action, or restructuring under Section 1116. Many high-poverty Title I schools can benefit from CSR before they are identified for improvement. Therefore States may give priority either to local educational agencies that are in need of improvement, or to local educational agencies that demonstrate a commitment to assist schools to ensure that programs are well implemented and sustained.

The Committee clarified that local educational agencies that apply for grants should ensure that schools implement models grounded in scientifically based research and effective practices. Additionally, the Committee added language that requires schools to implement models that have a strong evidentiary basis for significantly improving academic achievement. Specifically, the components of effective schoolwide reform are as follows: (1) utilization of innovative strategies and proven methods of learning, teaching and school management that are based on scientifically based research and effective practices; (2) integration of a comprehensive design for effective school functioning; (3) provision of high quality and continuous professional development; (4) inclusion of measurable goals for student performance and benchmarks for meeting such goals; (5) support by teachers, administrators and other professional staff; (6) provision for the meaningful involvement of parents; (7) use of high quality external technical support; (8) inclusion of a plan for the evaluation of the implementation of school reforms and student results achieved; (9) identification of how other resources will be used to coordinate services to support and sustain the school reform effort; and (10) a demonstration of how the comprehensive reform model has been found, through rigorous field experiments, to improve academic performance or that the model to be used otherwise has a strong evidentiary basis for significantly improving academic performance.

TITLE I, PART G—RURAL EDUCATION

Each year, many rural school districts forgo federal funding because they lack the enrollment, financial resources, and poverty data needed to compete against larger school districts for federal education programs. Rural school districts find it particularly difficult to fully benefit from federal funds because the unique needs of rural school districts are not addressed in federal formula programs. Generally, current federal education formulas do not adequately address the needs of small, rural school districts because the formulas do not allow sufficient revenue to substantially support education reform efforts designed to improve academic achievement. These school districts lie in remote areas distant from commercial centers, making it particularly difficult for teachers and administrators to utilize consortia, pooled resources, and technical assistance. Rural school districts also have unique technology and communications infrastructure challenges due to their remote locations. In addition, rural school districts cannot adequately compete for federal grants since they lack resources and do not have access to specialists in federal grant writing as do larger school dis-

tricts. H.R. 1 provides rural school districts with increased flexibility and funding to enhance academic achievement and addresses the unique needs of those districts that cannot compete for federal education grants because they do not have adequate resources.

Title I, Part G of the No Child Left Behind Act of 2001, a combination of H.R. 692, the Rural Education Initiative Amendments Act of 2001, introduced by Rep. Tom Osborne (R–NE) and H.R. 1148, the Low-Income and Rural School Program, introduced by Rep. Van Hilleary (R–TN), addresses the unique problems associated with the education of students in rural school districts. Specifically, this program addresses the different needs of: (1) small, rural school districts; and (2) low-income, rural school districts. Under Subpart 1, eligible LEAs would be able to combine funding under various formula grant programs to support local or Statewide education reform efforts intended to improve the academic achievement of elementary and secondary school students and the quality of instruction provided for these students. Under Subpart 2, eligible LEAs could use funds for such things as: educational technology; professional development; technical assistance; and teacher recruitment and retention. This program is authorized at $300 million for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006 to be equally distributed between Subparts 1 and 2.

TITLE I, PART H—GENERAL PROVISIONS OF TITLE I

The general provisions of Title I relate to all parts of Title I.

Under section 1801 of Part H of Title I, the Secretary is authorized to issue such regulations as are necessary to ensure reasonable compliance with Title I, and is authorized to establish a negotiated rulemaking process on a minimum of three key issues: (1) accountability; (2) implementation of assessments; and (3) use of paraprofessionals. The authority to issue regulations is a continuation of authority in current law, the authority is a slight modification of current law which had allowed for negotiated rulemaking on schoolwide programs and standards and assessments. Negotiated rulemaking gives interested parties an opportunity to be involved in negotiations and discussions on the text of regulations issued by the Department of Education.

In addition, the Committee has continued the authority for each State to have a Committee of Practitioners to advise the State in carrying out its responsibilities under Title I.

Provisions in current law, section 1603(c), relating to a 1 percent set-aside for State administrative expenses have been transferred to section 1002 of Title I, Part A.

With respect to local administrative expenses, the Committee has included a new provision which limits local educational agency administrative expenses to no more that four percent of the funds they receive under Title I, Part A, thereby ensuring that at least 96 percent of the school district's Title I, Part A funds are used for classroom activities or related services.

The Committee has made it absolutely clear that nothing in this Act affects home schools. In addition, the Committee made changes to ensure that private schools that do not receive ESEA funds are not affected either. H.R. 1 includes three rules of construction relating to home schools, private schools, and the privacy of assess-

ment results. First, home schools and students who are home schooled do not receive any funds or services under the Elementary and Secondary Education Act. Accordingly, to be clear about the non-applicability of ESEA to home schools, the Committee has included language in section 1805 which clarifies that nothing in Title I is intended to affect home schools, nor are home schooled students required to take any of the assessments referenced in Title I. Similarly, nothing in Title I is intended to affect private schools that do not receive ESEA funds or services under Title I, nor are students at private schools that do not receive funds or services required to participate in any assessments in Title I. Similar provisions to each of these latter two rules of construction are also included in the General Provisions of Title VIII.

With respect to individual assessments, students and their parents will have the protections provided in section 444 of the General Education Provisions Act for test results that become part of the education records of the student. While this would be the case through the independent application of Section 444 apart from mentioning it in H.R. 1, the Committee has chosen to give emphasis to the protections through a cross reference. Under section 444 of the General Education Provisions Act, a student's education records may not be disclosed to third parties unless parental consent is given.

TITLE II, PART A—TEACHER QUALITY TRAINING AND RECRUITING FUND

Title II of the No Child Left Behind Act of 2001 is based upon three principles: teacher excellence, smaller classes, and local choices. It will provide a major boost to schools in their efforts to establish and support a high quality teaching force. The No Child Left Behind Act of 2001 consolidates and streamlines the Eisenhower Professional Development program and the Class Size Reduction program into a single program to provide States and local schools additional flexibility in the use of these funds, in exchange for increased accountability by demonstrating that student achievement is increasing. Using these funds, local officials will have the support and flexibility necessary to improve academic achievement through such initiatives as providing high quality training for teachers and reducing class size.

The Committee notes that efforts to improve academic achievement take many forms. There is no single solution or program to accomplish this. Indeed, for every school there are different approaches that are appropriate to their particular circumstances. H.R. 1 reflects this reality and provides the flexibility to local school districts in how these funds may be directed. However, the No Child Left Behind Act of 2001 encourages schools to focus upon efforts, such as improving teacher quality and class size reduction, that have been scientifically proven to lead to academic success, while not imposing any one-size-fits-all approach dictated from Washington upon schools on how to carry out such efforts.

Teacher Quality

The importance of teacher quality was consistently highlighted by the many witnesses testifying before the Committee on Education and the Workforce during the 106th Congress. It was made clear that teacher quality, above all other factors within schools, is

the most important determinate of student academic achievement. Dr. Sandra Horn, University of Tennessee, Value Added Research and Assessment Center in Knoxville, Tennessee, provided one such example. In her remarks, she stated:

"In the past few years, the team at the University of Tennessee Value-Added Research and Assessment Center (UT–VARAC) has examined the effects of class size, class heterogeneity, past achievement levels of students, building change, and several other factors on the academic growth of students. Although several of the factors studied affect student gains to some degree, in every case, the effect of the teacher has been found to be far and away the most important determinant of student academic growth. Effects of ineffective teachers are cumulative and very large and can be seen years after a student moves on to other teachers. There is no evidence that effective teachers can ever rectify the retardation of academic growth that occurred under a previous poor teacher. And there is evidence that teacher assignment patterns may indeed be perpetuating and sustaining the achievement gap between white students and minority students."

The impact of quality teachers was also highlighted in a report issued by The Education Trust, entitled, "Good Teaching Matters—How Well-Qualified Teachers Can Close the Gap." Among the findings highlighted in the report were those from a large-scale study in Texas conducted by Ronald Ferguson of Harvard University. His study "found that teacher quality—as measured by education, experience, and test scores on initial teacher licensing exams—has more impact on student achievement (explained some 43 percent of the variance) than any other single factor, including family income and parent education."

Based on the same work outlined by Dr. Horn, the Education Trust report also noted that Dr. William Sanders of the University of Tennessee found that "students who scored at roughly the same level on mathematics tests in third grade were separated by differences of as much as 50 percentage points on sixth grade tests depending on the quality of the teachers to whom they were assigned. Scoring differences of this magnitude can represent the difference between placement in the 'remedial' and 'accelerated' tracks."

Last year, a consortium of research groups, including the Rand Corporation, released a study, entitled, "Class Size Reduction in California: The 1998–99 Evaluation Findings," that reviewed California's multi-billion dollar class size reduction program. The researchers found slight academic gains from the program, but at a very high cost in terms of compromising teacher quality. Specifically, while 98.2 percent of K–3 teachers in schools evaluated were 'fully credentialed teachers' in 1995, this percentage plummeted to just 86.6 percent by 1999. The report also found that during the same period, 4th and 5th grade teachers with full credentials dropped from 98.7 percent to 85.6 percent. Even in the upper grades, the percentage of qualified teachers dropped from around 98 percent to just over 90 percent. The impact of declining teacher quality was found to be the greatest in low-income schools, where the percentage of qualified teachers dropped from 97 percent to 78 percent.

The Committee notes that under H.R. 1, local officials have significant flexibility in determining the best approaches to improving teacher quality and improving student academic achievement. Accordingly, the Committee recognizes that reducing class size can also be an effective tool for school reform, if implemented properly. Rigorous, peer reviewed scientific research, especially Tennessee's longitudinal STAR (Student-Teacher Achievement Ratio) study and Wisconsin's SAGE (Student Achievement Guarantee in Education) program, has shown reduced class sizes with qualified teachers to be effective in substantially raising student achievement, particularly for poor and minority students. These gains have been observed primarily in the early grades. Furthermore, follow-up research of the STAR study has shown class-size reduction to have a lasting effect well into high school, resulting in higher academic performance, higher graduation rates, and a greater likelihood that students will take steps to prepare for college.

Even in California, where implementation problems clearly weakened the benefits of class-size reduction by lowering the teacher quality in the State, the evaluation found that students overall showed slight, but significant, academic gains two years in a row, and these gains were found to persist after the students returned to larger classes.

Given the clear importance of teacher quality, it is crucial that initiatives at the federal, State, and local levels help produce high quality teachers. Many other factors need to be examined in an effort to impact and improve teacher quality. A large percentage of the 2.8 million public school teachers currently in the classroom will be there for many years to come. Therefore, we cannot ignore the need to ensure that existing teachers have the skills and knowledge necessary to provide opportunities for every child to succeed academically. H.R. 1 recognizes this fact and promotes activities at the federal, State, and local levels to address quality ranging from the hiring and recruiting of new teachers to efforts to help teachers once they enter the classroom.

Authorized State Activities

Under H.R. 1, States are authorized to retain up to five percent of funds for State activities. Among other things, authorized State activities include: Reforming teacher certification, recertification, or licensure requirements; expanding, establishing, or improving alternative routes to State certification for teachers; carrying out programs that include support during the initial teaching and leadership experience, such as mentoring programs; assisting local educational agencies and schools in effectively recruiting and retaining highly qualified and effective teachers and principals; reforming tenure systems; developing professional development programs for principals; and developing teacher advancement initiatives that emphasize multiple career paths and pay differentiation.

States like Texas have already made great progress in implementing reforms related to teacher preparation programs and certification. Dr. Pamela Tackett, Executive Director of the Texas State Board for Educator Certification, testified before the Committee on Education and the Workforce during the 106th Congress and provided an overview of their efforts. Recognizing that Texas faced over 43,000 vacant teacher positions, and an attrition rate

among teachers of approximately 32 percent after three years, Texas is pursuing an effort to support new teachers with mentors and on-going training. These efforts are based on model induction programs in several Texas schools which resulted in a 95 percent retention rate among beginning teachers after three years. However, despite the need for Texas to find more teachers, they are not lowering their standards in order to increase the number of teachers. In fact, Texas is one of the few States that has implemented tough standards for teacher preparation programs. In order to be certified, these institutions are held accountable for the performance of their teacher candidates in taking the State's certification examinations. These examinations are also being strengthened to ensure teacher candidates are able to demonstrate specific knowledge and skills in the subjects in which they plan to teach.

Math and Science Partnerships

Although the *No Child Left Behind Act of 2001* consolidates funds from the Eisenhower Professional Development program into a larger grant to States and localities, it maintains some of the best aspects of this program. One example is the emphasis that H.R. 1 places on math and science activities funded through partnerships which include State educational agencies, institutions of higher education and high need local educational agencies.

The purpose of the math and science partnerships program is to improve the achievement of students in the areas of mathematics and science. Activities that can be undertaken include encouraging States, institutions of higher education, and local educational agencies to participate in programs that focus on education and training of mathematics and science teachers; encouraging institutions of higher education to assume greater responsibility for improving mathematics and science teacher education; and bringing mathematics and science teachers together with scientists, mathematicians, and engineers to expand content knowledge and research in science and mathematics.

The Committee notes the findings from the "National Evaluation of the Eisenhower Professional Development Program," conducted by the American Institutes of Research. The evaluation found professional development sponsored through institutions of higher education to be more effective than district-sponsored activities. The study noted that these programs "are more likely to focus on content, to provide more opportunities for active learning, to be more connected to teachers' other experiences, and to involve a greater number of hours, and to occur over a longer time span."

Under H.R. 1, States, working in conjunction with State agencies for higher education, must award at least 15 percent, but not more than 20 percent, of the funds (at the discretion of the State) on a competitive basis to eligible partnerships for math and science programs. Required participants of the eligible partnerships must include at least: (1) a State educational agency; (2) a mathematics or science department of a private independent or State-supported public institution of higher education; and (3) a high need local educational agency. In addition, partnerships may include: (1) another institution of higher education or the teacher training department of such institution; (2) additional local educational agencies, public charter schools, elementary or secondary schools; (3) a busi-

ness; or (4) a nonprofit organization of demonstrated effectiveness including a museum or research institution.

The Committee notes that science education ought to reflect the scientific process and be object-oriented, experiment centered, concept-based; and should involve students in scientific inquiry and analysis. Students should learn the basic theories and operations of mathematics, as well as develop the understanding that numeric systems have intrinsic properties that can represent objects and systems in real life and that the basic principles of mathematics can be applied in solving real world problems. Mathematics and science education can and often should include the study of engineering and technology. Engineering education, reflecting the realities of real world design, should involve hands-on projects and require students to understand and make trade-offs based upon evidence. Students should learn technology as a tool to solve problems and a process by which people adapt the natural world to suit their own purposes. Computers represent a particularly useful form of technology, enabling students and teachers to acquire and tabulate data, model systems, visualize phenomena, communicate and organize information, and collaborate with others in powerful new ways. A background in the basics of information technology is essential for success in the modern workplace and the modem world.

Local uses of funds

Recognizing that the most important decisions in education occur at the local level, H.R. 1 provides the majority of its funds directly to local educational agencies, and allows considerable flexibility in how these funds are used. Local educational agency allotments would have to be equal to funding received under the Eisenhower Professional Development program and the Class Size Reduction program. 80 to 85 percent of the funds (at the discretion of the State and based on the amount reserved for math and science partnerships) are sent to local educational agencies by formula (80 percent based on poverty and 20 percent based on population) for local uses of funds. Among other things, local uses of funds include: Initiatives to assist recruitment of principals and fully qualified teachers; initiatives to promote retention of highly qualified teachers and principals; programs and activities that are designed to improve the quality of the teacher force; teacher opportunity payments; professional development activities designed to improve the quality of principals, including developing leadership academies for principals and superintendents; teacher advancement initiatives that emphasize multiple career paths and pay differentiation; and hiring fully qualified teachers in order to reduce class size.

Given the flexibility provided under H.R. 1, local educational agencies and schools will have the opportunity to use these funds for reforms and innovative projects aimed at increasing teacher quality and student academic achievement.

One such area involves alternative certification programs. These programs provide opportunities for experienced professionals from other fields to enter teaching without having to go through the traditional schools of education. Dr. C. Emily Feistritzer, President, National Center for Education Information, testified before the Committee on Education and the Workforce during the 106th Congress on the benefits of these programs and key characteristics of

the best programs. Specifically, she noted the successful efforts in New Jersey, Texas, and California, where alternative route programs have had a significant impact on the recruitment and retention of highly qualified individuals for teaching. She noted, "all three of these States report that teachers certified through their alternative routes perform as well, and, in some cases, better, on certification examinations as their counterparts who completed traditional teacher education programs." Dr. Feistritzer also provided the specific characteristics of highly effective alternative teacher certification programs. Specifically, she noted they have "a strong academic coursework component; they are field-based programs, meaning that individuals get into classrooms early in their training; teacher candidates work with a qualified mentor teacher; candidates usually go through their program in cohorts, not as isolated individuals; most of these programs are collaborative efforts among State departments of education, whose responsibility it is to license teachers, colleges and universities that historically have had the responsibility for educating and training teachers, and school districts who actually hire teachers." The Committee urges States and localities to promote these characteristics in any alternative certification program supported with funds under this Title.

H.R. 1 gives local educational agencies the flexibility to use funds to help recruit, reward and retain the most qualified teachers. The area of recruitment is becoming especially important as more and more of the nation's top graduates from education institutions never end up in the classroom. Instead, they are pursuing other careers, which may offer more competitive salaries. Under the No Child Left Behind Act of 2001, local funds may be used to set up incentive programs to enable schools to attract these types of new teachers. The ability to implement differential pay programs with ftmds from H.R. 1 is important if schools are to find and retain teachers in areas such as math and science, where competition from the private sector has made it especially difficult for schools to hire these individuals.

Ensuring the best teachers stay in the classroom is also important. Increasing retention through mentoring and induction programs are just some examples of the types of activities schools will have the flexibility to implement under H.R. 1. However, if the best teachers are to be justly rewarded, schools need to establish systems which effectively recognize those teachers having the greatest impact on student academic achievement, including those having a firm grasp of the subject areas in which they teach. To this end, the No Child Left Behind Act of 2001 permits schools to consider approaches such as testing teachers and merit-based systems focused on rewarding teachers whose students excel.

Under H.R. 1, teachers will be empowered to play a role in the decisions made regarding professional development activities provided by local educational agencies. If a State determines that professional development programs funded by a local educational agency fail to meet requirements for professional development activities, the State must notify such agency that technical assistance is available to help meet those requirements. If the local educational agency fails to meet requirements for professional development activities for two consecutive years, then such agency must direct these funds through Teacher Opportunity Payments (TOPs)

directly to the teachers themselves. In addition, local educational agencies may choose to use all of their professional development funds through the TOPs program.

Teacher Opportunity Payments allow a teacher, or a group of teachers (within the school or district), to have the ability to have direct access to these funds for use toward a professional development program of his or her choice. For example, a group of teachers may decide to put their funds toward a program at an institution of higher education that has proven it can provide exceptional training for the effective teaching of State math standards. However, such a program would have to meet the quality standards set forth in the legislation.

The TOPs program also recognizes that many schools have comprehensive reform plans in place, such as schools that have implemented a school-wide program, that are a school-improvement school working under a school improvement plan, or have enacted a Comprehensive School Reform Demonstration program. In many of these schools, the actions of all teachers may be tied to a particular reform model, such as Success For All, and in these schools, individual teacher professional development is an important component of the whole school. In light of these and other school-based reform efforts, the TOPs program requires teachers to regularly consult with their principal, both on the activity to be selected, and throughout the training, to ensure the TOPs program provides benefits for both the teacher individually, and the school as a whole.

Under the TOPs program, local educational agencies must provide notice regarding the availability of funds to all teachers within the schools identified by the agency. The Committee highlights the provision which will ensure that the principals of these schools actively recruit for TOPs, those teachers who are either not fully certified in their subject areas or who are otherwise in need of assistance to ensure the academic success of their students. In the event the local educational agency does not have adequate funding to meet the demands of all teachers seeking this assistance, the TOPs program provides a priority to assist those teachers who need such training the most.

The TOPs program is based upon the belief that teachers are often in the best position to determine their particular professional development needs. The Committee has learned that too often professional development is selected without the participation of teachers, and as a result, leads to programs that fail to provide the maximum benefit to these teachers. The time available to teachers and the resources needed for professional development are too limited resulting in widespread mediocrity in the quality of programs provided to teachers. The TOPs program gives more authority to teachers and ensures quality in the professional development programs. The Committee also notes the increased accountability given to teachers across the country in improving the academic achievement of their students. If this is the case, it simply makes sense to also provide them with the ability and opportunity to attend professional development programs which they know will best help them meet this new level of accountability.

Professional Development for Teachers

The relationship between high quality professional development and student achievement has been the focus of extensive research. Dr. Jane Butler Kahle, Condit Professor of Science Education at Miami University in Oxford Ohio, testified before a joint hearing with the Committee on Science during the 106th Congress, and provided an overview of the leading research in this area. She noted results from a systemic initiative in Ohio, which found that teachers participating in sustained professional development, when compared to those who had not, had students with higher test scores. For example, she noted, "African-American girls in classes of teachers with sustained professional development scored nine percent higher on the science achievement test than did their peers in classrooms of teachers who had not participated."

While some professional development can lead to higher student achievement, it is clear that not all professional development leads to such results. Dr. Kahle also noted the work of Dr. D.H. Monk, which concluded that "additional coursework in specific areas (e.g., the number and kinds of science and mathematics courses) has a positive effect on student learning, while additional coursework by teachers in unrelated subjects has no, or a negative, effect on student learning." Dr. Kahle concluded that "short-term, finite programs usually do not result in improved content knowledge for teachers, or changed teaching practice, or enhanced student learning."

The No Child Left Behind Act of 2001 builds upon research that has been proven to have the common characteristics of effective professional development. Specifically, under Title II, professional development must: (1) ensure that all teachers teaching within the State are fully qualified not later than December 31, 2005; (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 academic 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; (5) be directly related to the curriculum and content areas in which the teacher provides instruction; (6) be designed to enhance the ability of a teacher to understand and use the State's standards for subject areas 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; (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; (9) be developed with extensive participation of teachers, principals, parents, and administrators; (10) be designed to give teachers of limited English proficient children the knowledge and skills to provide instruction and appropriate language and academic support services to such children; (11) to the extent appropriate, provide training for teachers and principals in the use of technology; and (12) be regularly evaluated for their impact on increased teacher effectiveness and improved student achievement.

With respect to the requirement that the activity "be of sufficient intensity and duration (not to include 1-day or short term workshops and conferences) to have a positive and lasting impact," the Committee notes that exceptions may be provided if such activity is a component of a long-term comprehensive professional development plan established by the teachers and the teachers' supervisor based upon an assessment of their needs, their students' needs, and the needs of the local educational agency. This provision is based upon the national Eisenhower evaluation which found that traditional types of professional development (such as conferences), are less likely to be associated with positive teacher outcomes, unless they occur over a long time span and involve a significant number of hours. The Committee does not expect such exceptions to be the norm, however.

The 1994 reauthorization of the Eisenhower Professional Development Program provided an important push toward increasing the accountability of professional development. Specifically, it outlined the characteristics of high quality professional development and stressed that local schools only fund those activities with such characteristics. A report of the National Evaluation of the Eisenhower Program found reasons to be optimistic, while at the same time highlighted the realities of how much more needs to be done in this area. Testifying before the Committee on Education and the Workforce during the 106th Congress, Dr. Beatrice F. Birman, from the American Institutes for Research (AIR), stated the following regarding the overall quality of professional development under the Eisenhower program: "While on average, districts may have improved some features of their professional development activities since the last reauthorization, the national evaluation's survey of district Eisenhower coordinators indicates that the features of Eisenhower-funded professional development activities vary substantially across districts." She went on to discuss how short-term, one-day workshops are still the norm in some districts, and that just over half of teachers in district level programs "reported that participation enhanced their knowledge and skills in curriculum content." This evaluation has assisted the Committee in raising the awareness of the need to increase the quality of programs assisted with these federal funds. H.R. 1 helps promote the improvement of these programs by setting clear guidelines and requirements for professional development programs.

Troops to Teachers and Transition to Teaching

Despite the fact that as many as two million new teachers may be needed in the next decade, many skilled individuals are prevented from entering the teaching profession because they do not have the time or resources to get a formal education degree or teaching certification. The Troops to Teachers program was designed in 1993 as a partial response to this problem, facilitating the placement of qualified military personnel in classrooms across the country by matching them with school districts that need more instructors, and by providing a stipend as they undergo training and certification. A 1998 National Center for Education Statistics study found that more than 60 percent of Troops-to-Teachers participants were rated by administrators as "among the best," "well

above average," or "above average." H.R. 1 updates and continues the Troops to Teachers program.

In addition, H.R. 1 reauthorizes the Transition to Teaching program. The purpose of this program is to address the need of high-need local educational agencies for highly qualified teachers based on the model of the successful Troops to Teachers program. The Transition to Teaching program aims to recruit, prepare, place, and support career-changing professionals who have knowledge and experience that will help them become high quality teachers. Funds under this program can be used for recruiting; training stipends, and other financial incentives for program participants; 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; and placement activities for program participants.

TITLE II, PART B—NATIONAL WRITING PROJECT

H.R. 1 authorizes the National Writing Project, which encompasses a network of 161 sites at universities in 47 States. The National Writing Project provides intensive training to teachers in the area of writing. These teachers then return to their schools, where they pass along their knowledge to other teachers. The Committee notes the useful results of the National Writing Project and the fact that it provides a cost-effective mechanism by which to disseminate good teacher practices. In fact, the Project has been found to raise seven dollars for every federal dollar of support. Further, it has been reported to serve over 100,000 teachers every year at a cost of just 80 cents per participant hour.

TITLE II, PART C—CIVIC EDUCATION

H.R. 1 authorizes the Education for Democracy Act. Specifically, the purposes of this program are (1) to improve the quality and student knowledge 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 and economic education through cooperative exchange programs with emerging democracies throughout the world.

This program supports the Center for Civic Education and its education program that encourages instruction on the principles of our Constitutional democracy; the history of the Constitution and the Bill of Rights; congressional hearings simulations; and annual competitions of simulated congressional hearings for secondary school students. It also authorizes the National Council on Economic Education to conduct Cooperative Education Exchange programs that provide curricula and teacher training programs in civics education and economic education, developed in the U.S., for educators in emerging democracies.

The Committee believes that the Center for Civic Education has operated these programs effectively and encourages the Department to continue to utilize the Center for these and other related initiatives.

TITLE II, PART D—TEACHER LIABILITY PROTECTION

Research confirms that teachers have a tremendous impact on student achievement, particularly for low-income students. Yet, in too many cases, teachers are not working in an environment conducive to learning. Violence is a threat for some, while others lack the authority they need to maintain discipline in the classroom.

Between 1993 and 1997, teachers were victims of 1,771,000 nonfatal crimes at school, including 1,114,000 thefts and 657,000 violent crimes. Nearly 65 percent of public school teachers charge that discipline is a "serious" problem in their schools, and about 88 percent think that academic achievement would improve "substantially" if persistent troublemakers were removed from classes.

The problem of enforcing discipline has been compounded by the increasing incidence of lawsuits. In the last two years alone, almost one-third of all high school principals reported being involved in lawsuits or out-of-court settlements, compared with only nine percent ten years ago. And 99 percent of principals say their policy on reporting bad behavior has been modified because of liability costs and concerns.

To help teachers enforce discipline and shield them from meritless and frivolous lawsuits, H.R. 1 contains language to shield teachers, principals, and school board members acting in their official capacity from federal liability arising out of their efforts to maintain discipline in the classroom, as long as they do not engage in reckless or criminal misconduct.

Title III—Education of Limited English Proficient and Immigrant Children; Indian and Alaska Native Education

TITLE III, PART A—EDUCATION OF LIMITED ENGLISH PROFICIENT AND IMMIGRANT CHILDREN

Today there are an estimated four million limited English proficient children in the United States, with only nine percent served under federal Bilingual Education Act programs. The majority of these children are located in five States—California, Texas, New York, Florida, and Illinois. Limited English proficient children are present in almost half of the nation's school districts (46 percent). Most of these children are served in local, State, and other federal programs that address, at least in part, their special educational needs. The most recent estimate is that States spend at least $690 million on limited English proficient children for bilingual education and English as a Second Language training. The Elementary and Secondary Education Act (ESEA) Title I program for educationally disadvantaged students is reported to reach 2.1 million limited English proficient children (in 1997–1998 LEP children made up 17 percent of Title I eligible children).

The recurring question is how the federal government can best help local schools and school districts provide the best possible education for these children to ensure they obtain the English language and academic skills they need to succeed. At the present time, under the existing competitive grant program, the U.S. Department of Education decides which schools are in greatest need of assistance and provides funding to local schools and other eligible organizations based on the quality of their applications for as-

sistance. However, since funding for special alternative projects is limited to 25 percent of available funds, the opportunities for funding are severely limited for school districts and other entities that are not seeking funds for transitional bilingual education programs. The structure of the current Bilingual Education Act not only limits alternatives available to local schools, it ignores the fact that States and local schools and communities have a better sense of the needs of local schools with respect to the education of limited English proficient children. States can more closely monitor increases in populations of limited English proficient children in its school districts and can respond more quickly to requests for assistance.

It is the view of the Committee that the existing Bilingual Education Act is in need of reform. Of growing concern is the fact that nationally a large number of Hispanic students do not complete high school. In 1988, 54.4 percent of Hispanic students graduated from high school. In 1996, 55.2 percent of Hispanic students graduated. Considering that almost three-fourths of limited English proficient children speak Spanish, the Committee has great concern that graduation rates for this population of students have not increased considerably between 1988 and 1996. The "federal" approach has been tried for many years, and still dropout rates are far too high for this population of students. The Committee believes limited English proficient children should have the same opportunities for success as other students and that they should be held to the same high academic standards. It is time to let parents, States and local communities determine how to best educate these students.

During the past two Congresses, the Committee and Subcommittee on Early Childhood, Youth and Families held several hearings examining the effectiveness of the Bilingual Education Act. Witnesses at these hearings expressed the need for reform of the current bilingual education programs. Witnesses, including parents, expressed particular concerns about current law practices related to the focus on transitional bilingual education and a lack of parental involvement in deciding whether or not their children should participate in programs structured for limited English proficient children. Celia M. Ruiz, a partner in a law firm representing schools in California on a wide range of civil rights and education law issues, stated in her testimony at a Subcommittee hearing in the 105th Congress:

> The school districts I represent today believe that local autonomy is key to meeting the needs of limited English proficient children. We believe that there is more than one way to do that, and that no single approach can serve the needs of all children in our State. Moreover, we trust our local officials to exercise wisely the flexibility and discretion we give them to develop and implement unique and appropriate solutions to the unique needs our communities face. It is for that reason that we reject the efforts of some, in our State and federal departments of education, to externally mandate their preferred "solutions" to diverse and inherently local problems.

The Committee also took note that in June 1998 the State of California voters, by a margin of 61 percent to 39 percent, approved in a referendum an end to bilingual education programs. They instead chose to focus programs for limited English proficient children on teaching children English. This is a clear indication that States have a strong interest in the education of limited English proficient children and that the federal government should not dictate to the States on how best to serve the needs of these students.

By turning decisions on bilingual education over to local schools and States and strengthening parental consent provisions, the Committee believes that decisions will be made by those individuals closest to the children who are in a position to best understand their educational needs.

Formula Grant vs. Competitive Grant Program

The Committee believes a formula grant to the States will best address many of the concerns about current law practices. It will provide States maximum flexibility in deciding where the greatest needs exist for this type of assistance. At the same time, it will focus funds on teaching children and youth English as quickly as possible to allow them to transition into classrooms where instruction is not tailored for LEP children, instead of keeping them isolated from their English-speaking peers.

The formula grant contained in H.R. 1 is focused on supporting State and local programs in the development, implementation, expansion or enhancement of English language instruction programs.

Consolidation of Programs

The Emergency Immigrant Education Act was developed to provide funds to the States to assist in the education of immigrant students who have been in the United States for less than three years. Information on recent program expenditures indicates more than half of the funds have been used on English language instruction or other bilingual education services. Given this, and the fact that there is likely to be a substantial amount of overlap among students served under this program and the Bilingual Education Act, the Committee has combined these two programs in H.R. 1, the No Child Left Behind Act of 2001. The Committee continues to support programs to help meet the educational needs of immigrant children and youth and encourages States to continue providing special services to them. This is one of the primary uses of funds under this Act.

The Committee also does not wish to restrict the types of instructional programs carried out by States and eligible entities. In fact, this bill makes it very clear that such decisions are to be made at the local level, as long as they are consistent with State law. Critics of this proposal have stated that it will eliminate bilingual education altogether. Nothing could be further from the truth. H.R. 1 contains language providing that nothing in this Act shall be construed as requiring a State or a local educational agency to establish, continue or eliminate any particular type of instructional program for limited English proficient children.

H.R. 1 also provides much greater flexibility than current law with respect to the types of instruction provided to English lan-

guage learners. There are no restrictions on the types of instructional programs that can be funded. In fact, an eligible entity could decide to operate transitional bilingual programs for children who are unable to read and write in their native language, and English as a Second Language or structured immersion programs for children who are able to succeed with a moderate level of assistance.

Research on the effectiveness of different methods of instruction has produced a variety of results. There is no clear evidence that any one method of instruction is superior in teaching children English. As such, the Committee believes the federal government should not endorse one practice over another, as is the case with respect to the current Bilingual Education Act. In addition, the Committee does not believe the focus of this legislation should be on the retention of a child's native language. The focus should be on the attainment of the English language and academic proficiency that is the cornerstone for such children to achieve academic success. While there is agreement that fluency in more than one language is a benefit, this clearly is not a function of the federal government. States and local schools and communities have the responsibility for making decisions regarding foreign language programs offered in schools or programs to help children retain their native language. In addition, the role of parents in retaining native language fluency for their children is critical.

The current Emergency Immigrant Education Program is a formula grant program under which States determine which local school districts are in need of assistance and fund projects in such schools. There is no reason to believe States will not be able to make similar determinations if the Bilingual Education Act becomes a formula grant program. It is simply a matter of whether or not we want to continue to allow the federal bureaucracy to make important decisions regarding the education of limited English proficient children or to turn these decisions over to States and local schools and communities.

Parental Consent

The Committee heard from parents and other concerned individuals regarding the placement of their children in bilingual education courses without their permission or knowledge. Parents have also complained that schools have been unwilling to remove their children from such classes upon their request.

According to the United States Commission on Civil Rights report entitled, "Equal Educational Opportunity and Nondiscrimination for Students with Limited English Proficiency: Federal Enforcement of Title VI and *Lau* v. *Nichols":*

> School districts across the country are experiencing serious tensions between school officials and parents over placement. Many parents of students with limited English proficiency are expressing dissatisfaction with the education their children are receiving. For example, in New York City, Maria Perez, a parent who is fighting her child's placement in the city's bilingual education program recently stated: 'What bothered me was that they place children in bilingual programs and keep them there for years and years. They aren't learning English.' The problems that prevent academic success can and should be ad-

dressed by parents working together with school personnel to determine where problems exist and how they can be solved.

The parental consent provisions in H.R. 1 make it very clear that parents should play a major role in determining the placement of their children in English language instruction programs. Schools should not be making decisions regarding the placement of English language learners without exhausting all available means to reach an agreement on such placement with the children's parents. Parents want their children to learn English as quickly as possible because they know it is essential in order to succeed academically and in life. They should be able to prevent their children from being placed in classrooms that they do not believe will help them learn English and succeed in school. Parents should also have the ability to remove their children from such classrooms immediately if they believe it is not in their children's best interest. The Committee agrees with the report of the Civil Rights Commission, parents and schools should be working together to make the best possible decisions regarding the education of English language learners.

For instance, Mr. George Louie, who testified before the Subcommittee on Early Childhood, Youth and Families during the 105th Congress, spoke of his experiences with his son. Mr. Louie's son, Travell, was born and raised in the United States. Yet, he told the Subcommittee that his son was placed in a Chinese bilingual classroom in Oakland, California without his consent or knowledge. He told of over 75 calls he made to school officials. He also met with the administrative assistant to the superintendent and the general counsel in an attempt to have his son removed from this program. According to Mr. Louie: "Their initial response was, 'We will transfer your kid to another school district'." This was not a satisfactory resolution to the problem for Mr. Louie, who was living on disability and could not afford to take his child on public transportation to another school. At the time the hearing was held on February 18, 1998, Travell was still in a Cantonese bilingual class.

In another instance, Ms. Martha Bujanda, the former director of a community outreach program at the University of Dallas and a former bilingual education student, testified before the Subcommittee on Early Childhood, Youth and Families in the 106th Congress about numerous parents who had children in bilingual education classes. She told of how many of these parents were surprised to learn that their children were not being taught exclusively in English and not attaining English language skills. When they discovered that removing their children from such specialized classes was possible most were intimidated by the thought of having to go to their children's school and formally sign a written request stating their desire to remove their child from the bilingual education program since they themselves did not speak fluent English. She specifically stated that "Even in those rare cases where parents were willing to be proactive with school administrators about this issue, they were often discouraged by guidance counselors and teachers, or were made to feel like outcasts for wishing to place their children in mainstream classes." She went on to discuss how she assisted a parent in removing her seventh grade boy from the bilingual education program at his middle

school, "What I thought would be a relatively easy task, turned into a two and half-hour situation. Disregarding the mother's wishes, the boy's homeroom teacher, guidance counselor, and principal attempted to convince them both that it was in the boy's best interest to remain in the program instead of attending mainstream classes in English."

Accounts such as these pointed out to the Committee the need for greater parental involvement in decisions regarding the education of children who are English language learners.

To this end, H.R. 1 contains provisions that require the parent or parents of children participating in programs under this Act to be informed of: (1) the reasons for identification of their child as being in need of English language instruction, (2) their child's level of English proficiency and how it was assessed, (3) the status of their child's academic achievement and how the program will assist their child to learn 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 for children in secondary schools.

H.R. 1 specifies that local educational agencies must 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 LEP children. The bill further provides specific provisions for situations when parental consent is not obtained by requiring LEAs to maintain a written record that includes the date, manner, and specific efforts made to obtain such consent. Such proof of effort must be in an understandable form and mailed or delivered to the parent or parents, including a final request for parental consent for such services, of a child prior to placing the child in an English language instruction program for LEP children. H.R. 1 provides similar provisions for children who have not been identified as limited English proficient prior to the beginning of the school year.

The bill also requires that schools honor a parental request to have their child removed from a bilingual education program immediately should the parent or parents decide they no longer wish their child to participate in such a program. Finally, H.R. 1 provides that schools must allow the parents of limited English proficient children to select the method of English language instruction their child will receive if more than one method is offered.

It is the view of the Committee that parents have the primary responsibility for their children's education. These new changes ensure that the parents of limited English proficient children have the same rights as other parents. In such cases where a response cannot be obtained, the Committee believes limited English proficient children should receive appropriate services without delay.

Testing of English Language Learners and Accountability

H.R. 1 provides that States receiving funds under this program are required to assess LEP students in English who have attended school in the United States for three or more consecutive school years in reading or language arts. However, it does permit a local educational agency to use assessments in another language and

form if they are likely to yield more accurate and reliable information on what students know and can do for one additional year. Such determinations are to be made on a case-by-case basis. The Committee is concerned that there will not be an accurate picture of the progress made by limited English proficient children if they are not tested in the English language.

Further, testing these children will allow local school districts to determine the progress of limited English proficient children in mastering the English language. It will also allow local educational agencies to determine where they may need to improve assistance programs for these children if test scores indicate that children are not making adequate progress towards English language proficiency. The whole point of education programs for English language learners, by whatever method, is to assimilate limited English proficient children into the mainstream of society and the regular education population. Testing children permits schools to monitor whether or not there is any improvement in the child's English language proficiency and provide them with any additional support they may require.

In addition, H.R. 1 holds States and local educational agencies accountable for transitioning limited English proficient children out of specialized programs and into classrooms where instruction is not tailored for limited English proficient children. As stated above, the bill requires States to test all LEP children in English after three years that the student is attending school in the U.S. and if LEP children do not meet adequate yearly progress or are not English proficient after such time, the State may lose up to 20 percent of their total ESEA administrative funds.

The Committee strongly believes that in order to ensure that programs for the education of limited English proficient and immigrant children are serving their intended purpose States should be held accountable for results. Holding States and local school districts accountable for ensuring that LEP children are becoming proficient in English not only ensures that the program is serving its intended purpose, but also ensures that LEP children are becoming proficient in English and therefore are better equipped to have successful and rewarding academic careers.

State and Local Use of Funds

In an effort to best serve the needs of limited English proficient children, H.R. 1 drives 95 percent of available funds to the local level, to be used by eligible entities to provide assistance to children who are limited English proficient. States can use the remaining funds for a variety of activities, although the amount that can be spent on administration is limited to two percent.

In restructuring the Bilingual Education Act, the Committee eliminated the direct funding of professional development programs. However, the Committee recognizes that there is a need for additional teachers and other professionals who are trained to provide services for limited English proficient children. As such, H.R. 1 provides that States can use funds for professional development activities that assist personnel in meeting State and local certification requirements for English language instruction and other activities that provide such personnel with the skills and knowledge necessary to educate LEP children. States can also use funds to

provide scholarships and fellowships to students who agree to teach limited English proficient children once they graduate. In addition, local grantees may use funds to provide professional development to classroom teachers, principals, administrators and other school or community-based personnel to improve the instruction and assessment of limited English proficient children.

States are also permitted to use funds to provide bonuses to subgrantees whose performance has been exceptional in terms of the speed with which children attain English language proficiency. The Committee believes such bonuses will encourage local subgrantees to work even harder to ensure that limited English proficient children are taught English as quickly as possible.

Further, H.R. 1 allows States to use funds to provide other forms of assistance to local educational agencies (LEAs) that do not receive a subgrant under this Act. A growing number of schools are faced with educating limited English proficient children. Many of these LEAs have little or no experience in how to provide quality educational services to children who do not speak English. The Committee feels it is important to provide States the flexibility to use funds to provide assistance to these LEAs, be it technical assistance or curriculum materials. The Committee also encourages States to link LEAs with little or no experience. in educating limited English proficient children with schools which provide quality services to these children so they can share information and ideas on how to best address the needs of these children. While the focus of this legislation is on providing assistance to LEAs with large numbers of LEP children, the Committee does not want to overlook the needs of smaller LEAs, where the education of these children is just as important as it is in larger school districts.

In addition to professional development, local entities requesting funds under this Act may use funds to upgrade program objectives and effective instructional strategies, improve the instruction of LEP 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, developing tutoring programs, and providing family literacy services. States are also permitted to fund other activities that assist in the education of eligible children and youth.

Evaluations and Reporting Requirements

In order to follow the progress of the Education of Limited English Proficient and Immigrant Children program, H.R. 1 requires eligible entities that receive a subgrant from a State to provide the State with an evaluation every two years that indicates: (1) the programs and activities conducted by the entity, (2) the progress made by students in learning the English language, (3) the number and percentage of students in the programs and activities attaining English language proficiency by the end of each school year, and (4) the progress made by students in meeting challenging State academic content and achievement standards.

Such evaluations will be used by the States to determine if students served by the program are attaining English proficiency and are meeting challenging State academic content and achievement standards and have achieved a working knowledge of the English

language to permit them to perform well in English in a classroom not tailored to limited English proficient children. These evaluations must 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 skills in grades 2 and higher, and (4) the attainment of challenging State student academic achievement standards.

Based on these evaluations, H.R. 1 further requires States to report every two years to the Secretary a report on the programs and activities undertaken by the State as to the effectiveness of such programs and activities in improving the education of limited English proficient children.

The Committee firmly believes that in order to ensure that federal programs serve their intended purpose, measures must be in place to assess a program's successes and failures. Requiring States to evaluate and report to the U.S. Secretary of Education on the effectiveness of programs designed to provide services to LEP children in their State, ensures that States will closely monitor the progress of such programs in meeting their intended goals.

Changing the Name of the Office

Currently the name of the office within the Department of Education responsible for the Bilingual Education Act is the Office of Bilingual Education and Minority Languages Affairs. The Committee believes the name of the office should reflect the primary purpose of the program. It has, therefore, renamed the office, the Office of Educational Services for Limited English Proficient Children. Since the primary purpose of this legislation is to provide English language learners with the English language skills they need to perform well in school, the Committee believes renaming the office is appropriate and consistent with the intent of this Act.

TITLE III, PART B—INDIAN AND ALASKAN NATIVE EDUCATION

Background and Committee Views

Programs designed to enhance the educational opportunities for native populations are administered by both the Department of Education under the Elementary and Secondary Education Act (ESEA) of 1965 and the Bureau of Indian Affairs (BIA). Title III, Part B, of the No Child Left Behind Act of 2001 updates and improves these programs as follows.

Department of Education Programs

Programs administered by the Department of Education are designed to provide financial support to reform and improve elementary and secondary school programs that serve American Indian students; improve and enrich the quality of education for Indian students; research and evaluate information on the effectiveness of Indian education programs; and improve educational opportunities for adult Indians. The majority of the funds are distributed under a formula based on the number of Native American children in the LEA or BIA funded schools. For FY 1999, awards were made to 1,120 LEAs, 84 BIA grant/contract schools, and 70 BIA operated schools, and served 460,782 students in 41 States. In addition, the

department administers a number of competitive grant programs to provide supplemental education for Alaska Native children and adults.

In updating and improving these programs, the Committee focused on improving student academic achievement, targeting resources to the programs that are providing the best results, greatly increasing the flexibility of the programs at the local level, reducing the administrative burden placed on participating entities, increasing the amount of aid that actually reaches the classroom, and increasing the emphasis placed on family literacy services for the affected populations. The centerpiece of the Committee's efforts is flexibility coupled with accountability for results. Specifically, the Committee included a new provision allowing LEAs which receive formula grants under Title III, Part B, to commingle all of the federal funding they receive for educating Indian children, regardless of which agency provides it, into one coordinated, comprehensive program to meet the specific needs of Indian children. LEAs that choose to do this will submit a single plan describing how they intend to consolidate funding, and specifying the student academic achievement goals that they will meet. The Committee intends that these entities be given the maximum flexibility in implementing their plans, and expects the Secretary and the head of any affected agency to give applicants their fullest cooperation. The Committee is hopeful that the flexibility provided will allow LEAs to reduce administrative costs while improving educational services to Indian children. Additionally, the Committee has provided increased flexibility in counting eligible children for funding purposes to BIA funded schools. This is consistent with our efforts to reduce administrative burdens placed on grant recipients.

The Committee has also eliminated four unfunded programs under Part B. These programs include: Fellowships for Indian Students; Indian Gifted and Talented programs; Grants to Tribes for Administrative Planning and Development; and Special Programs Relating to Adult Education. In taking this action, the Committee recognizes that none of these programs have been funded since FY 1995, and that two of them have never been funded. This action is consistent with the Committee's philosophy of focusing resources on the programs which are providing the best results, and consistent with its responsibility to set priorities for the Appropriations Committee. The Committee notes that the services that would be provided under these programs to Indian youth and adults are currently funded through other authorities, including parts of this Act, the Higher Education Act, and through programs administered by the Bureau of Indian Affairs (BIA).

The Committee has made significant reforms to programs for Alaska Natives. Specifically, the Committee has consolidated the three competitive grant programs serving Alaska Natives into a single, more efficient and flexible program to improve services.

In an effort to ensure that more of the money provided reaches the classroom and serves the intended students, the Committee has limited recipients of funding under Title III, Part B, to using not more than 5 percent of the funding for administrative costs. This is consistent with the philosophy that a minimum of 95 percent of federal education funds should reach the classroom.

The Committee has also eliminated the Native Hawaiian specific programs formerly authorized under Title IX, Part B, of the Elementary and Secondary Education Act. This action is consistent with attempts to reduce duplication of effort and focus scarce federal resources on those in greatest need. The Committee's rationale for repealing these programs is the fact that similar assistance is available to all students, including Native Hawaiians, under programs such as Title I, the Gifted and Talented program, Even Start, Special Education, the Higher Education Act, and other, broader authorities. Unlike other indigenous populations, Native Hawaiians have a trust, established by the last Hawaiian princess, which exists solely to educate Native Hawaiian children. The Bishop Trust is currently one of the largest charitable trusts in the world, valued in excess of $ 10 billion, and holds approximately 8 percent of all land in the State of Hawaii as well as a 10 percent share of Goldman Sachs. The Committee urges the Trust to redouble its efforts to educate Native Hawaiian children. The Committee also believes that these children should be given the same opportunities afforded to all of our children under the programs authorized in this and other acts.

Family Literacy Services

Family literacy is a very effective method of stopping the cycle of illiteracy. It not only builds on the literacy skills of parents, but it insures their children will have every opportunity to succeed in school. Family literacy programs throughout the United States assist parents in obtaining the literacy and other skills they need to get a job, reduce their dependence on public assistance, and most importantly, to be their child's first and most important teacher. Family literacy strengthens families. Recognizing this, the Committee has included family literacy services as an allowable use of funds under formula and competitive grant programs authorized under Title III, Part B. The Committee was pleased to recognize the success of the Family and Child Education (FACE) program operated by the Bureau of Indian Affairs. Language included in this legislation makes it clear that family literacy is a use of funds in BIA operated programs. The Committee encourages the BIA to expand the number of family literacy programs in order to ensure positive outcomes for children and their parents.

Bureau of Indian Affairs Programs

The Committee is encouraged that progress continues to be made among Indian students at schools funded by the BIA. The Committee is pleased to note that the tribes and tribal organizations continue to take increased control of the schools that serve their children through contract or grant arrangements with the bureau. The Committee recognizes that, if given the chance, these entities, working with the parents of Indian children, will do a far better job of improving student academic achievement than any federal agency. The Committee is also pleased with the continued growth in attendance at institutions of higher education of Indian students. It is estimated that current postsecondary enrollments are in excess of 130,000. In considering this legislation, the Committee has acted to increase local control of education, and to shift respon-

sibility and authority for education to tribes and tribal organizations.

Currently, bureau funded schools are generally required to meet rigid educational standards established by the bureau. In an attempt to increase local control, this legislation allows schools that choose to do so to become accredited by a tribal, State or regional accrediting body and meet the standards of accreditation rather than those imposed by the bureau. The Committee has modified the section on standards in recognition of the fact that bureau-funded schools have made substantial progress in the last twenty years in their educational programs. In contrast to 1978, when the Committee first acted on this topic and fewer than 2 percent of bureau-funded schools met accreditation standards, today, practically all schools exceed such standards.

The Committee has also included a provision such that if the criteria with respect to accreditation are observed, the local school board and the administrator may choose the standards to be applied. Standards are required to be at least those necessary to meet State standards of the State or region in which the school is located. This does not mean that these standards must be the State or regional standards; rather, State or regional standards would be used as a floor.

In addition, this legislation makes it clear that tribal entities may improve and expand educational programs at bureau funded schools using their own resources. The No Child Left Behind Act of 2001 gives tribes a greater say in repair and maintenance priorities; allows tribes to contract for training services; increases tribal authority to pick service providers for purchasing supplies; and gives tribes and local school boards more flexibility in making school staffing decisions. BIA inspectors will also be required to get a second opinion from an independent source (with tribal input) before fully and finally closing a BIA funded school for health and safety violations.

In keeping with the philosophy of parental choice and local control, the Committee has included a provision to give tribes and parents of eligible students the choice of which bureau funded school their children attend. In carrying out this provision, the Committee expects the bureau's full cooperation in assuring that funding follows the child.

The Committee remains concerned that, despite Congressional direction, the bureau has never established a Division of Budget Analysis within the Office of Indian Education Programs. This legislation mandates the creation of this entity within one year of the date of enactment of the No Child Left Behind Act of 2001. Some are concerned that the bureau's budget requests may not be sufficient to provide a quality education for Native American students. Therefore, in addition to the creation of the Budget Division, the Committee has provided that the Comptroller General examine the funding of these schools in relationship to other comparable facilities, and examine the criteria used by the bureau in developing its budget for education programs.

The Committee has taken a number of actions to modify the school boundaries provisions. All such actions are intended to assure that schools take a proactive stance on identifying and pro-

viding services to all Indian students in their geographic service area.

Finally, the Committee greatly increased the consultation required throughout these Acts. In considering future changes to Indian education programs, the Committee expects that the bureau will take into account the full range of views of all interested parties, and will engage in a consultative process prior to taking action.

TITLE IV, PART A—INNOVATIVE PROGRAMS

Subpart 1—State and Local Innovative Programs

Innovative Education Program Strategies (Title VI under current law) is the most flexible program contained within the Elementary and Secondary Education Act. It is the only formula program that allows recipients to use funds to benefit any and all student populations, in any and all schools. This program is the "innovation money" needed to help schools implement broad based accountability plans that are essential for education reform.

There is ample evidence to demonstrate that this program is meeting the unique needs of States and local school districts as they implement innovative education reform efforts to improve student academic achievement. Pursuant to the requirements of the statute, the Title VI National Steering Committee conducted an evaluation of the effectiveness of Title VI for FY 1998. Forty-four States participated in the survey. The national compilation of survey data summarizes the impact of Title VI on over 19.1 million students in 5,247 public school districts and nearly 1.4 million students in private nonprofit schools. The survey, Title VI Evaluation of Effectiveness, National Summary, 1998, notes that public school districts, as well as private nonprofit schools, allocated the majority of their Title VI finds for library services and materials (including media materials). The second highest use of funds was for computer software and hardware for instructional use. The greatest benefit provided by the flexibility of Title VI at the local level is the ability to use funds to meet locally identified needs without the restrictions inherent in most other federal education programs.

In an effort to increase local control and flexibility of funds under the Innovative Education Program Strategies, H.R. 1 adds additional "uses of funds" to current law to broaden the scope of the program for local educational agencies.

Professional Development

The bill provides for 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 necessary to provide students with the opportunity to meet challenging State or local academic content standards and student academic achievement standards. Local educational agencies will now have the flexibility to focus on initiatives they believe will improve both teacher quality and student academic achievement, such as programs to recruit principals and fully qualified teachers; initiatives to promote retention of highly qualified teachers and principals; programs to improve the quality of the teacher force; teacher opportunity payments; professional de-

velopment activities to improve the quality of principals; teacher advancement initiatives that promote professional growth and emphasize differential pay.

Community Service

The No Child Left Behind Act of 2001 provides for community service programs that train and mobilize young people to measurably strengthen their communities through nonviolence, responsibility, compassion, respect, and moral courage. The Committee recognizes the accomplishments of the Do Something organization in engaging students in community-building activities in urban, rural, and suburban school districts around the country. Do Something is a national nonprofit organization that inspires young people to believe that change is possible, and trains, funds, and mobilizes them to be leaders who measurably strengthen their communities. The Committee believes that the inclusion of increased community service opportunities within the Elementary and Secondary Education Act will help to strengthen schools and communities across the nation.

Youth Entrepreneurship Education

H.R. 1 provides for curriculum-based youth entrepreneurship education programs with demonstrated records of empowering disadvantaged youth with applied math, entrepreneurial, and other analytical skills. To be successful, it is the view of the Committee that curriculum-based youth entrepreneurship education programs should include organized academic materials that are sequentially based and which have been field-tested and based on sound educational practices. There is growing evidence that innovative organizations and institutions working to instill entrepreneurial behavior through classroom and practical experiences highly effective in teaching some youth.

Financial Literacy Education

The No Child Left Behind Act of 2001 provides for activities to promote consumer, economic, and personal finance education. Such activities include 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.

In order to succeed in our dynamic American economy, young people must obtain the skills, knowledge, and experience necessary to manage their personal finances and obtain general financial literacy. Yet, despite the critical importance of financial literacy to young people, the average student who graduates from high school lacks basic skills in the management of personal financial affairs. A nationwide survey conducted in 1997 by the Jump$tart Coalition for Personal Financial Literacy, examined the financial knowledge of 1,509 high school seniors. On average, survey respondents answered only 57 percent of the questions correctly and only five percent of the respondents received a "C" grade or better. A similar survey conducted in the spring of 2000 found financial skills declining among 12th graders, with an average of only 52 percent of the questions answered correctly. As a result, many State educational

leaders have recognized the importance of providing a basic financial education to students and have begun integrating financial education into State educational standards.

Mental Health Services

Subpart 1 of Title IV, Part A allows States and local educational agencies to use these funds to expand and improve school-based mental health services, including early identification, assessment, and direct individual or group counseling services provided to students, parents, and school personnel by qualified school-based mental health services personnel. The Committee recognizes that LEAs may find that school-based mental health services are a necessary and appropriate component of improving student learning experiences and outcomes.

In addition to expanding and improving school-based mental health services, the Committee notes that local educational agencies may use funds for eating disorder prevention, awareness, treatment, and education programs. These types of programs can be an effective way to improve the education, health, and well being of students at-risk or suffering from eating disorders.

The Committee also recognizes the continuing advancements in brain science and its application to learning. Consequently, it is the Committee's view nothing in this Subpart shall be construed as limiting or preventing schools or local education agencies to use funds under this Subpart to implement scientifically based research programs that assesses and develop the specific intellectual abilities of students to help them learn more effectively in order to meet State academic achievement standards.

Subpart 2—Arts Education

The Arts Education program (Title X, Part D under current law) supports student competency in the arts by encouraging the integration of arts education into elementary and secondary school curricula. In its deliberations, the Committee has focused on increasing the involvement of local arts educators and State and local arts organizations, and on targeting resources to the programs that are providing results. H.R. 1 updates and improves the program in a number of ways.

The Committee bill continues the Arts Education program at its current funding level. It updates the congressional findings with respect to arts education. In addition, H.R. 1 eliminates a number of outdated references to "Goals 2000," "National Education Goals," and "national efforts," and instead focuses the program on improving school-based programs using State academic standards.

Encouraging Local Participation and Increasing Local Control

The Committee bill maintains the current list of eligible entities, and retains most of the current allowable uses of funds. However, consistent with the Committee's philosophy of increasing local involvement and local control, the focus of collaborative activities allowed under the Act has been shifted away from specific federal agencies and specifically named organizations, to arts educators and arts organizations including State and local arts agencies.

While this legislation does not specifically mention the purchase of instruments or other supplies, H.R. 1 allows local flexibility, and

the Committee believes such purchases are allowable in the event that local schools choose to use program funds in this way.

H.R. 1 eliminates a restrictive special rule which has had the effect of limiting involvement by individuals and local organizations, and replaces it with a requirement that the Secretary consult with arts educators (including professional arts education associations), and organizations representing State and local arts agencies involved in arts education when making grants.

In taking these actions, the Committee highlights the importance of consultation with the individuals and entities that have the primary responsibility and accountability for delivering a quality education in the arts. The Committee notes that there are currently four professional associations representing arts educators: MENC: the National Association for Music Education; the National Art Education Association; the American Alliance for Theater Education; and the National Dance Education Organization. The Committee believes that the Secretary, grant recipients, and ultimately America's children will benefit from this consultative process.

Simplification and Flexibility

H.R. 1 eliminates an outdated funding threshold that required in any year that appropriations for the Arts Education program are below $9 million, all appropriated funds are to be spent on programs operated by the Kennedy Center and VSA arts. In taking this action, it is not the intent of the Committee to increase or reduce federal funding to any specific entity. Rather, the Committee's goal is to simplify the Act and increase flexibility by eliminating a provision that is no longer necessary or even in effect. The Committee notes that funding for Arts Education has exceeded the $9 million threshold in each of the four prior fiscal years. During that same time, combined funding under the program for the Kennedy Center and VSA arts has also grown beyond the $9 million threshold.

The Committee eliminated the Cultural Partnerships for At-Risk Children and Youth program. This program was created as a separate Subpart 2 during the last reauthorization of the ESEA, but has never been funded. This action is consistent with the Committee's philosophy of targeting resources to the programs that are providing the best results, as well as with its responsibility to set priorities for the Appropriations Committee.

Leveraging Funds

Finally, the Committee bill includes a new provision stating that funds provided under this program must be used to supplement and not to supplant non-federal funds used for arts education programs. This provision was added after consultation with arts educators who expressed concern that a few providers might reduce their own efforts if or when federal funding became available. It is the intent of the Committee that initiatives provided for under this program should complement the ongoing efforts of schools and school districts across the country.

Subpart 3—Gifted and Talented Children

H.R. 1 continues the Jacob K. Javits Gifted and Talented program (Title X, Part B under current law). The Committee recog-

nizes that ongoing research, model projects, and exemplary programs are a necessary foundation for quality gifted and talented education programming. The Committee also acknowledges the importance of identifying gifted and talented students who may not be identified and served through traditional assessment methods; mentoring programs; modifications to curriculum; acceleration; distance learning programs; dual enrollment; teacher education; and other educational activities designed to meet the needs of gifted and talented students.

TITLE IV, PART B—PUBLIC CHARTER SCHOOLS PROGRAM

The Public Charter Schools Program provides three-year competitive grants for the planning, program design and initial implementation of charter schools to those States that have a State charter statute. Charter schools are nonsectarian public schools. The "charter" establishing each school is a written performance contract that provides publicly funded support for the school for a specified period of time. The school's charter gives autonomy over its operation and frees the school from regulations that other public schools must follow. In exchange for autonomy, charter schools are held accountable for meeting the terms of their charters including increasing student academic achievement. Currently, 37 States, the District of Columbia and the Commonwealth of Puerto Rico have passed laws authorizing charter schools.

The Committee strongly believes that charter schools embody the principles of freedom and accountability, and empower parents with the ability to seek out the best education possible for their children. By allowing parents to make decisions concerning their child's education, they encourage parental involvement. Not only do charter schools encourage academic achievement and parental involvement in their own schools, but they also help traditional public schools to improve. As a result of their freedom to innovate, charter schools provide a valuable source for determining what reforms should be replicated at other schools.

Since the 105th Congress passed the Charter Schools Expansion Act of 1998 (P.L. 105–278), which authorizes the Public Charter Schools program through FY 2004, the Committee also believes that only five noteworthy modifications are in order. First, H.R. 1 clarifies that the definition of a charter school is, among other things, a public school 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.

Second, the bill adds new language prohibiting local educational agencies from deducting funds for administrative fees or expenses from a subgrant awarded to an eligible applicant. The Committee notes that State educational agencies may reserve not more than 5 percent of grants for administrative expenses associated with the grant program. States may use these funds for technical assistance to eligible applicants and operating charter schools either directly, or indirectly, through grants or contracts with charter school resource centers, charter school associations or other charter school support organizations. In some States, eligible applicants and schools have found it beneficial to pool a portion of their grants or subgrants to purchase or provide technical assistance or other serv-

ices provided by charter school support organizations. In both cases, the Committee believes the Department should be responsive to States and schools wishing to exercise such discretion.

Third, H.R. 1 clarifies that an eligible applicant is the actual charter school or school planning group. Applicants must notify their sponsor or prospective sponsor of their interest and submit an application, but a potential sponsor's approval is not needed for an application to be considered. In some States, districts are delaying, preventing or discouraging planning groups and approved schools from applying for planning and start-up grants. The Committee wishes to discourage such action and believes that the Department should be responsive to States wishing to exercise discretion and flexibility in awarding planning grants to charter school developers, without reducing their overall eligibility for start-up grants once the schools actually open.

Fourth, Mr. Hoekstra (R–MI) successfully offered an amendment in Committee, which clarifies that upon written parental consent, a charter school or traditional public school must transfer a student's records to a private school if that student transfers from a charter school or a traditional public school to a private school.

Finally, H.R. 1 removes outdated language authorizing a multi-year study of charter schools that has already been completed, leaving in place general authority to provide for additional evaluations or studies pertaining to charter schools. The Committee recommends that such evaluations or studies include an examination of the extent to which charter schools receive federal funding for which they are eligible. The Committee also notes that the Secretary may use national activities funding to provide information and technical assistance to charter schools, either directly by the Department or indirectly, through State educational agencies, charter school resource centers, charter school associations or other charter school support organizations.

TITLE IV, PART C—MAGNET SCHOOLS ASSISTANCE; WOMEN'S EDUCATIONAL EQUITY

Subpart 1—Magnet schools assistance

The Magnet Schools Assistance Program (MSAP) provides competitive grants to local educational agencies (LEAs) for magnet schools that are designed to reduce, eliminate, or prevent minority group isolation in elementary and secondary schools, and to provide strengthened academic or vocational programs for students. Magnet schools utilize a special curriculum intended to attract students of different races. In order to be eligible for a MSAP grant, a LEA must be participating in a court ordered or voluntary desegregation plan.

The Committee has made a number of revisions to the Magnet Schools Assistance Program, while keeping the basic structure intact. These revisions include an additional emphasis on student academic achievement and a renewed focus on serving magnet schools.

Specifically, H.R. 1 reinstates the program's commitment to student academic achievement by stressing the need to reduce minority group isolation in elementary and secondary schools, and by strengthening the applications and requirements section in relation

to student academic achievement. In addition, the bill allows MSAP funds to be spent on professional development.

As for renewing the program's focus on magnet schools, the bill eliminates two outdated priorities and repeals the Innovative Programs. However, any grant recipient that has an agreement in effect under the Innovative Programs will continue to receive funds through the end of the applicable grant cycle.

Subpart 2—Women's Educational Equity Act

H.R. 1 reauthorizes the Women's Educational Equity Act. This program promotes gender equity in education and provides financial assistance to enable educational agencies and institutions to comply with Title IX of the Education Amendments of 1972 (which prohibits sex discrimination in educational programs and activities that receive federal financial assistance). The program promotes educational equity for women through competitive grants to public agencies, private non-profits, individuals, and through dissemination of materials by a national equity resource center. H.R. 1 authorizes the Secretary of Education to award two types of grants: (1) to develop and implement gender equity programs; and (2) to provide "support and technical assistance" in areas such as teacher training and evaluation of exemplary programs, as well as for research and development.

Title V—21st Century Schools

TITLE V, PART A—SUPPORTING VIOLENCE AND DRUG PREVENTION AND ACADEMIC ENRICHMENT

The Committee held several hearings during the 106th Congress regarding the Safe and Drug-Free Schools and Communities Act and the 21st Century Community Learning Centers Act. These hearings examined the drug and violence prevention needs of our nation's youth, both during school hours and out-of-school hours. Predictably, the Committee found that drug and violence prevention needs across the country varied, as did the successes and shortcomings of drug and violence prevention programs.

Current research shows that youth drug use and violence remains a significant societal problem. Additionally, drug use by youth increases the likelihood that a child will be delinquent, engage in high-risk sexual activity, drop out of high school, and commit theft, violence, and vandalism. Drug use among rural youth is higher than that of youth in large urban centers, and many of these rural youth abuse serious drugs, including methamphetamine and cocaine. The National Center on Addiction and Substance Abuse at Columbia University (CASA) issued in January, 2000 a report, entitled No Place to Hide: Substance Abuse in Mid-Size Cities and Rural America, which found that eighth graders living in rural areas are 104 percent more likely to use amphetamines and 50 percent more likely to use cocaine, than eighth graders in urban areas. According to the CASA report, the health, social service, and law enforcement agencies in rural communities are less equipped to deal with youth drug use than their counterparts in urban areas, which already have established drug prevention systems.

Regarding youth violence, schools may be one of the safest places for youth to be, but students continue to report that violence,

gangs, and drugs are prevalent in some schools (National Center on Education Statistics, Indicators of School Crime and Safety, 2000). If students are using drugs, committing violent acts, or are in fear of these behaviors, then they cannot focus their attention on maximizing their academic performance and their future opportunities. While the purpose of schools remains academic, schools clearly must also respond to the safety needs of students and communities. Drug and violence prevention programs and activities are increasingly necessary.

This is not to imply that the Committee believes schools have the sole responsibility for preventing youth drug use and violence. In fact, studies point to the role of the family as the most important factor in preventing youth drug use and violence. The National Longitudinal Study of Adolescent Health (1997) found that drug and violence prevention programs that incorporate "protective factors" tend to reduce drug use and violence. Protective factors include a student feeling connected to parents and family, having parents present at key times of the day, having high educational expectations, feeling part of the school, and having high esteem. The good news is that this comprehensive survey of adolescent youth found that the benefits of these protective factors reached beyond drug and violence prevention to preventing such behaviors as suicide and sexual activity among youth.

Promoting Coordination of Programs Under the Safe and Drug-Free Schools and Communities Act and the 21st Century Community Learning Centers Act

The Safe and Drug-Free Schools and Communities Act was created as the nation recognized that it needed a concentrated and united effort to prevent a generation from being lost to drugs and violence. Congress created the act to assist local schools in their efforts to ensure that every student attends a drug-free and safe school, with the ultimate goal to help students raise their academic performance and achievement.

Originally designed as a school-use facilities program for individuals of all ages, the 21st Century Community Learning Centers Act has evolved rapidly into an after-school program with goals similar to those of the Safe and Drug-Free Schools Act—youth drug and violence prevention. This transformation occurred in large measure due to the Department of Education's—during the Clinton Administration—absolute priority on "activities that offer significant expanded learning opportunities for children and youth in the community and that contribute to reduced drug use and violence."

However, the interconnectedness of youth drug and violence prevention and after school activities is not new. In a hearing before the Subcommittee on Early Childhood, Youth and Families on February 10, 2000, Dr. Marianne Kugler, Program Officer of the C.S. Mott Foundation, stated,

> During the Depression, Mr. Mott noticed the many youth who spent their time on street comers and in vacant lots playing ball, smoking, and sometimes getting into serious trouble. At a suggestion from the then-Assistant Superintendent, Dr. Manley, Mr. Mott gave his first small community school grants to encourage schools to stay open

after regular hours so that these youth would have somewhere to go.

The Committee believes the interconnectedness between youth drug and violence prevention and after school activities must not be ignored. The Committee acknowledges the findings of reports such as the Departments of Education and Justice's Safe and Smart: Making After-School Hours Work for Kids (June, 1998), that notes: "First and foremost, after-school programs keep children of all ages safe and out of trouble. The after-school hours are the time when juvenile crime hits its peak, but through attentive adult supervision, quality after-school programs can protect our children."

The report also points out that "school-age children and teens who are unsupervised during hours after school are far more likely to use alcohol, drugs, and tobacco, engage in criminal and other high-risk behaviors, receive poor grades, and drop out of school than those children who have the opportunity to benefit from constructive activities supervised by responsible adults."

Through its decision to bring the Safe and Drug-Free Schools and Communities Act and the 21st Century Community Learning Centers Act into the same title of the Elementary and Secondary Education Act, the Committee seeks to encourage State and local government officials, school administrators and teachers, community and religious organizations, and parents and students to work together to develop a unified approach to youth drug and violence prevention and education efforts and to improve the quality of these federally supported efforts. Only by coordinating activities and defining goals can the full benefits of federal funding be realized.

Safe and Drug-Free Schools and Communities Act

Title V of H.R. 1 maintains the federal funding formula for the Safe and Drug-Free Schools and Communities Act. The bill provides separate authorizations for the States and for the Secretary of Education; $475,000,000 and $60,000,000 in FY 2002 respectively. The States receive funds through a formula grant based 50 percent on the school age population of each State and 50 percent based on the amount each State receives under Title I, Part A. Of the funds a State receives, the bill provides that up to 20 percent may be reserved by the governor to fund competitive grants to local educational agencies, community-based organizations, other public entities and private organizations who operate drug and violence prevention programs. Unlike current law, governors will no longer be required to spend a portion of their funds for law enforcement education partnerships such as Project Drug Abuse Resistance Education (DARE). While maintaining such programs as an allowable use of State funds, the Committee seeks to increase the flexibility of States and governors to fund programs they expect to be successful for their populations.

H.R. 1 also authorizes the State to reserve up to one percent of the federal grant for administrative expenses and four percent for State activities including planning, development, and implementation of capacity building, technical assistance, evaluation, program improvement services, and activities promoting the coordination of services among local educational agencies as well as data collection.

The remainder of the funds must be sent to local educational agencies by formula. The formula reflects the Committee's desire—evident throughout H.R. 1—to target federal resources to schools with high proportions of low income students. The Committee does not intend to imply that drug abuse and violence are only persistent at such schools. Instead the Committee seeks to assist local educational agencies that tend to have more difficulty accumulating financial resources than more affluent areas.

The State-to-local formula is based 60 percent on Title I funds and 40 percent on population. In order to receive funds, a local educational agency must submit an application to the State which includes a detailed explanation of the LEA's drug and violence prevention plan, including how it will support academic achievement, be coordinated with other drug and violence prevention programs, and be targeted to serve the schools and children with the greatest needs for drug and violence prevention programs. The Committee has also asked local educational agencies to develop performance indicators tied to the Principles of Effectiveness (see below) to ensure that programs funded under this part produce results. Local educational agencies will also be required to have a student code of conduct policy in place in order to receive a grant.

The funds received by the local educational agencies may be used for a variety of drug and violence prevention activities (up to one percent may be used for local administrative expenses). Authorized activities include drug and violence prevention programs tailored to the academic and developmental level of the targeted children; prevention training for parents and school personnel; law enforcement and security activities; mental health services; activities that reduce truancy, suspensions, and expulsions; and emergency intervention services following traumatic crisis events. Additionally, the Committee has included language which will promote public information about the safety of local schools and allow those students trapped in unsafe schools to attend another public school which is safe. Specifically, States are required to develop, in consultation with a representative sample of local educational agencies, a Statewide definition of "persistently dangerous schools". Students who attend schools that meet the definition of "persistently dangerous schools" must be allowed to transfer to a safe public school. The local educational agency must also cover reasonable transportation and tuition costs for students who exercise the option of transferring. In addition to students who attend "persistently dangerous schools," any student who is the victim of a violent criminal offense while their school would also have the right to attend another safe public school.

Mental Health Services

The Committee has done much to address the mental health needs of youth. The Committee believes that the primary purpose of schools is to further student academic achievement and that schools should not be held responsible for providing mental health services. Nevertheless, the Committee does recognize that some schools and communities may find it appropriate and necessary to provide mental health services to students. This is a local choice and not a requirement to be imposed upon schools. In order to assist youth in need of mental health services, the Committee has

maintained the provision allowing funds to be used for counseling services. To address the growing mental health needs of youth, the Committee has added a provision allowing funds to be used to expand and improve school based mental health services. Effective mental health services help to reduce classroom disruptions, deter students from delinquent behavior, and help students avoid distraction from learning. These provisions fit nicely with the counseling provisions in Title V, Part A (the Fund for the Improvement of Education) that support best practices in elementary and secondary school counseling demonstration projects.

The Committee included a definition of school-based mental health services providers in Title V. While some have called for the federal government to set a national professional qualifications standard for school-based mental health services providers, the Committee does not find that appropriate. Instead, the Committee prefers to allow State law to determine what professional qualifications are necessary to provide school-based mental health services. Leaving this decision to State law will allow local communities to provide the appropriate range of services for youth by appropriate providers.

21st Century Community Learning Centers Act

The 21st Century Community Learning Centers Act has proven to be one of the most popular programs among school administrators and educators. The flexibility in focus, funding, and administrative requirements allow those with the greatest understanding of community needs to design programs that meet those needs. While the Committee did receive testimony which raised some questions about the program, the vast majority of 21st Century programs are popular and effective. The Principles of Effectiveness (see below) included in this Subpart are likely to improve results further.

The 2lst Century program was created as a grant program administered directly by the U.S. Department of Education. Local educational agencies wishing to receive a grant applied directly to Washington. This detached process has the potential to reduce the quality of programs and, despite legislative direction, skew the distribution of funds among the 50 States as well as among rural, suburban, and urban populations. In order to drive decision-making processes back to States and local communities, the Committee charges States with distributing funds under this Subpart through competitive grant programs run by State educational agencies. The Committee would encourage Congressional appropriators to allow States to administer grants and would discourage the continued practice of earmarking funds for specific grantees in annual appropriations legislation. Only by allowing all applicants to compete fairly, without the intervention of Congress in the application process, can we ensure that quality programs will be supported.

The Committee wants to acknowledge significant contributions by the private sector to this program. For example, the Charles S. Mott Foundation in Flint, Michigan has invested significant financial resources in providing technical assistance and training to grantees and prospective grantees under this program. The Committee encourages continued and additional private sector support for this program.

The Committee also provides additional flexibility to the competitive grant process and to grant recipients in operating their programs. Under current law, the Department of Education is allowed to make grants only to local educational agencies. H.R. 1 authorizes grants to "community-based organizations, and other public entities and private organizations" as well as local educational agencies. Under H.R. 1, States will also have the authority to determine the length of the grant as long as it exceeds three years, but is not more than five. Under current law, all grants are three year grants. Finally, States will be authorized to require grant recipients to match the State grant. The Committee has included limits on what a State can require a grantee to contribute, which protects grantees with limited resources or who propose to serve communities with significant need. Significantly, under no circumstances may a State discriminate against a grant applicant because of the applicant's inability to provide matching funds. The matching fund requirement will allow States, in some circumstances, to enhance the resources supporting local programs.

Maintained in the 21st Century Community Learning Centers program is its emphasis on community consultation and involvement. H.R. 1 strongly encourages meaningful consultation with the community over the needs that should be addressed by the 21st Century program. Included as part of this effort should be consultation with business, school and community officials.

Grant recipients will also find additional flexibility in the 21st Century Community Learning Centers program under H.R. 1. Grantees will have more flexibility in designing their programs to meet local needs. Under current law, grantees are required to include at least four different activities enumerated in the law in their programs. While the intent was to ensure that the programs met a variety of community needs, the Committee believes the changes made by H.R. 1 will better focus programs on needs they can properly address.

Under H.R. 1, grant recipients will be required to simply establish or expand community learning centers that provide extended learning opportunities and additional recreational activities to students. In order to provide direction to grant recipients, the Committee has included a variety of authorized activities including remedial education activities; math, science, arts, entrepreneurial, or technology education activities; recreational activities; mentoring and tutoring services; expanded library hours; programs that promote parental involvement; and programs that provide assistance to students who have been truant, suspended, or expelled. The authorized activities included in the legislation are not intended to be an exhaustive list of allowable uses under the 21st Century Community Learning Centers program. Any program that provides extended learning opportunities to students, meets community needs, and is focused on academic activities that help children meet State academic content standards are encouraged and allowed.

Principles of Effectiveness

The Committee included in H.R. 1 "Principles of Effectiveness" to guide the implementation of programs in the Safe and Drug-Free Schools and Communities Act and the 21st Century Community Learning Centers Act. These principles are similar to those being

implemented through Department guidance for the Safe and Drug-Free Schools and Communities Act since 1998. The Principles of Effectiveness establish a basic set of considerations for a school or community to make when determining their needs under Title V programs. First, the school or community must assess the problems among youth, the current prevention strategies targeting youth, and the academic achievement of youth. Second, the Principles call for any program or activity to be based on performance measures for a drug free and safe learning environment or ensuring the availability of quality extended learning opportunities. Third, each program or activity must be based on scientifically based research that provides evidence that the program will have effective outcomes. Finally, the program or activity must undergo a periodic evaluation of effectiveness.

The Principles of Effectiveness promote best practices in programs and activities funded under this Title. Codifying these principles is essential to encouraging improvements in the program quality. In its request for public comment on July 16, 1997, the Department of Education gave a very succinct rationale for why the Principles should be adopted. It wrote, "The administration also has a responsibility to promote the most effective possible use of these limited resources, which in many instances are the only funds available to local schools to address their youth drug and violence problems."

The definition of scientifically based research requires that a program satisfy several elements of quality research, including that the program be tested though "rigorous, systematic, and objective procedures to obtain valid knowledge relevant to youth drug and violence prevention activities and programs." The definition of scientifically based research and the rigorous, but attainable, standard it sets are essential to ensuring program quality under Title V, and will have the greatest impact on improving the quality of these programs implemented in local schools and communities.

While some may be concerned that this definition sets a standard that all but a few programs will fail, the evidence is to the contrary. In just one project, "Science-based Practices in Substance Abuse Prevention: A Guide," developed by the Center for Substance Abuse Prevention (CSAP) in the Substance Abuse and Mental Health Services Administration, at least 75 programs of youth drug and violence prevention, including before and after school activities, were found to meet the high standards of "scientifically based research." These are not the only programs that fit this standard. In another project, CSAP reviewed program outcomes and evaluations in order to determine whether the program is worthy of inclusion in the National Registry of Effective Prevention Programs. The Committee concludes that schools and communities should not be concerned about a lack of quality model programs.

The Committee also recognizes that innovation in youth drug and violence prevention programs and activities must be encouraged and supported. For this reason, the Committee included a waiver to the scientifically based research requirement. Grantees may apply to the State for a waiver of the scientifically based research requirement "to allow for innovative activities or programs that demonstrate substantial likelihood of success." The Committee intends that waivers be used to encourage the development of new

approaches to youth drug and violence prevention. While a State should provide waivers to worthy programs, it should also require that programs receiving waivers undergo scientifically based research evaluation in order to judge the quality of the program in future funding applications.

The Committee believes that consideration of factors presented in studies such as the National Longitudinal Study of adolescent Health can greatly assist local schools in their development of innovative approaches to youth drug and violence prevention. That study, cited in the Journal of the American Medical Association of September 10, 1997 (pp. 823–32), provides information on the characteristics of students who successfully avoid drugs and violence and the characteristics of those who do not. This scientifically based study is nation-wide and ongoing, ensuring an up-to-date, comprehensive view of the health of our nation's youth. Schools can use information such as this when they consider the needs of their students and how to design the best prevention program for their students.

The Safe and Drug-Free Schools and Communities Act programs and activities have a history of questionable effectiveness. To begin with, the Act has suffered from a lack of program evaluation. The General Accounting Office, reporting on the lack of evaluation information in October of 1997, stated that the "lack of uniform information on [Safe and Drug-Free Schools and Communities Act] program activities and effectiveness may, however, create a problem for federal oversight." (Safe and Drug-Free Schools: Balancing Accountability with State and Local Flexibility. GAO/HEHS–98–3)

Other researchers have found that the Act has been poorly implemented. An evaluation of Safe and Drug-Free Schools and Communities Act programs found that few schools implemented programs proven effective through research, and that few had even evaluated the effectiveness of the programs they were using (E. Suyapa Silvia and Judy Thorne, School-based Drug Prevention Programs: A Longitudinal Study in Selected School Districts, Research Triangle Institute, Research Triangle Park, NC, 1997). The reasons found for not implementing quality programs include lack of sufficient funds, heavy marketing of poor prevention activities, and lack of adequate teacher training to properly implement programs.

National Activities

The Committee purposefully rewrote the Secretary's national programs authority from the current Safe and Drug Free Schools and Communities Act. In Title V, the Secretary's program authority is narrowly focused on those activities for which States and local educational agencies have reported needing assistance. These activities must fall within scientifically based evaluations of prevention programs, assistance in dissemination of drug and violence prevention information, and technical assistance to States, local educational agencies, and other grant recipients.

Throughout H.R. 1, the Committee has sent a greater percentage of funds and more program authority down to the local level. Title V is certainly no different. The Committee believes that the federal government can provide assistance in youth drug and violence prevention, but the responsibility for establishing prevention programs and setting priorities for prevention programs should remain at the

local level. This philosophy supports a locally created drug and violence prevention effort, rather than a nationally driven agenda and related initiatives.

H.R. 1 takes a constructive approach toward preventing hate crimes and prejudice and intolerance. It allows local funds to be used for promoting positive behaviors in students.

Specifically, it allows funds to be used for activities and programs regarding character education, including teaching honesty, citizenship, courage, justice, respect, personal responsibility, and trustworthiness. Additionally, funds may be used to develop education programs that prevent school-based crime, including preventing crimes motivated by hate. In addition, the Committee specifically prohibits any programs or publications that abridge or infringe upon the constitutionally protected rights of free speech, religion, and equal protection.

Gun Free Schools Act

The Committee retains the current Gun Free Schools Act requirements. Current law requires a State that receives federal ESEA funds to have a State law requiring local educational agencies to expel for a year a student who brings a gun to school. H.R. 1 makes minor changes to the Gun Free Schools Act. It eliminates the section that requires the Secretary to disseminate policy guiding the implementation of the Act and its connection to the Individuals with Disabilities Education Act (IDEA). Additionally, it codifies the current practice of exempting home schools from the Act, by stating, "The term "school" does not include a home school, regardless of whether a home school is treated as a private school under State law." Finally, the Committee has incorporated the suggested clarifications included in a report on the implementation of the Gun Free Schools Act by the U.S. Department of Education's Office of the Inspector General.

Definitions

It has been brought to the Committee's attention that some schools believe they cannot use current Safe and Drug Free Schools and Communities Act funds for activities to prevent the use of inhalants. This is a mistaken belief. The Committee intends that schools continue to have the ability to use Title V funds for activities to prevent the use of inhalants. Communities across the nation are facing a growing problem of youth using inhalants. Because they are uncontrolled, common household products, inhalants are easily accessible by youth. Coupling this with the lack of knowledge of the deadly effects of inhalant use results in a dangerous situation. The Committee urges schools and communities to add inhalant use to their drug and violence prevention programs and activities.

Second, the Committee has included in the term "drug and violence prevention" a reference to before and after school activities and continuing education activities. These are "educational activities for individuals of all ages in the community that operate with a goal of drug and violence prevention in the school or community." The Committee notes that this definition is key to understanding how it intends before and after school programs and continuing

education activities to operate in the context of drug and violence prevention.

Third, the Committee wishes to clarify that the term "school personnel" includes school bus drivers because it includes "other support staff who are employed by a school or who perform services for the school on a contractual basis." Student drug use and violence is not confined to the school building, and can easily occur while students are on the school bus traveling to and from school. The Committee encourages schools to include school bus drivers in their drug and violence prevention strategies and training.

Wrong and Harmful Message

The Committee has become aware that some local schools, in implementing their drug prevention activities, are not conveying the message that "the use of drugs is wrong and harmful." For instance, the Committee has reviewed an article published February 26, 2000 in the San Diego Union-Tribune reporting that a program funded under the Safe and Drug-Free Schools and Communities Act teaches that "drugs are likely to remain a part of American culture and the key measure of success of any drug education program should be a reduction in drug problems, not abstinence." The Committee strongly disagrees with this perspective. Students need clear and consistent messages that teach them to resist drug use because the use of drugs is wrong and harmful. Students are not well served by confusing messages. To remedy this situation, the Committee has included in the governor's application and the local educational agency application a requirement to provide an assurance that drug prevention programs and activities funded under the Safe and Drug-Free portion of Title V convey a "clear and consistent message that the use of drugs is wrong and harmful."

Parental Consent

H.R. 1 also requires a local educational agency, upon written notification from a student's parent, to withdraw the student from any program or activity funded under the Safe and Drug-Free part of Title V. Under the amendment, the local educational agency must make reasonable efforts to inform parents of the content of non-classroom instruction funded under Title V. The Committee believes that with the variety of activities a school can implement under Title V, including services such as mental health services, that it is wise to ensure that parents are aware of the services a child receives and has the option of withdrawing there child from such programs.

TITLE V, PART B—ENHANCING EDUCATION THROUGH TECHNOLOGY

The Committee firmly believes that technology can be a powerful means for improving student academic achievement. In fact, States and local school districts are already experimenting with promising technology programs—everything from online research to distance learning. The Committee believes that such innovation should be encouraged by the federal government and bolstered by federal funding. However, the Committee also believes that technology is not a means unto itself, and that it needs to be fully integrated into the curriculum in order to increase student academic achievement.

According to the General Accounting Office, there are 35 federal programs spread across eight federal agencies that may be used as a source of support for telecommunications and information technology in schools and libraries. Unfortunately, despite the significant increase in the number of educational technology programs, little has been learned as to what works and what doesn't. Moreover, according to a recent survey by the National Center for Education Statistics, only 20 percent of American teachers feel prepared to use new computer applications and know how to integrate them into their teaching and classrooms.

Great strides have been made to ensure that schools have access to technology and the Internet, but clearly more needs to be done, especially in the most disadvantaged communities. Similarly, as technology has begun to play a larger role in schools, more attention has been paid to the fact that teachers need to be given proper training in how to best use technology in teaching. National, State and local educational technology efforts have begun shifting in the direction of preparing teachers in using this new tool, but as the Web-Based Commission and others have pointed out, more needs to be done.

To help further the effort to integrate technology into teaching, make sure teachers know how to use technology in their teaching, and increase access to technology, the Committee has made several significant changes to the current technology programs under the Elementary and Secondary Education Act (ESEA).

Increasing Flexibility at the Local Level

One of the most noteworthy changes is the consolidation of all the existing ESEA technology programs (except for Ready-To-Learn Television and the Telecommunications Program for Mathematics) into a single performance-based grant program that sends more money directly to schools. These consolidated programs include the Technology Literacy Challenge Fund, the Local Innovation Challenge Grants, Regional Consortia, Technology Leadership Activities, Preservice Teacher Training in Technology, Community-Based Technology, and Star Schools. With a single performance-based technology program, schools will no longer have to submit multiple grant applications to obtain education technology funding. In addition, the funds will no longer be segmented so that comprehensive education technology strategies will be easier to implement.

With the funds provided under this title, schools will have the ability to focus on projects and initiatives which best meet their particular needs within a framework established by States. This recognizes the fact that every school district is at a very different level in its use of technology in the classroom. While some schools have just begun to acquire computers, others will choose to focus these funds solely on ensuring teachers have the skills and support necessary to effectively use technology. The Committee believes the flexibility provided under the Enhancing Education Through Technology initiative is significant because it recognizes these differing needs.

Improving Student Academic Achievement

The Committee believes that if technology is properly integrated into the classroom, it can greatly enhance the degree to which cur-

ricula and instruction are engaging and individualized. This type of integration provides real-time and real-world content and exploration, and promotes student collaboration and problem solving. It also encourages students to become technologically literate, a crucial skill in the 21st Century.

For example, in 1990, West Virginia implemented the first stages of the Basic Skills/Computer Education (BS/CE) program. Their success is often cited as the primary example of how technology—when implemented with the right focus—may have the potential to improve student academic achievement.

A 1999 study commissioned by the Milken Exchange on Education Technology, entitled "The West Virginia Story: Achievement gains from a Statewide comprehensive instructional technology program," found several positive aspects of the BS/CE initiative. In particular, the study found that "the more students participated in BS/CE, the more their test scores rose on the Stanford 9." The report also found the, "BS/CE was more cost effective in improving student achievement than (1) class size reduction from 35 to 20 students, (2) increasing instructional time, and (3) cross age tutoring programs." One of the main reasons cited for West Virginia's success was the program, "clearly articulated goals focused upon increased student achievement in reading, mathematics and composition."

Enhancing Education Through Technology draws from the success in States like West Virginia by ensuring the first and foremost focus of these funds is to implement technology for the purpose of improving student academic achievement. Specifically, States and local school districts receiving these funds must include in their plans a description of how funds will be used to improve student academic achievement. In addition, State and local funds may be used for developing and implementing enhanced performance measurement systems in order to determine the effectiveness of technology in improving student academic achievement.

The Committee also recognizes the ability of schools to use these funds for projects that focus on core academic subjects, along with components that may include practical applications of those subjects. This Part also includes funds for the Secretary of Education to conduct a much needed independent, long-term study, utilizing scientifically based research methods and control groups, on the effectiveness of the uses of educational technology on improving student academic achievement. The Committee urges the Department to consult with appropriate agencies, such as the National Science Foundation, in conducting this evaluation.

Increasing Access to Technology

The nationwide increase in access to technology has been significant. In 1994, just 35 percent of schools had Internet access but, by 1999, this had risen to 95 percent. This high percentage held true even in schools where more than 70 percent of the children received free or reduced price school lunch. During this same period, the percentage of instructional rooms with Internet access increased from just three percent to 63 percent. Additionally, the student-per-computer ratio dropped from 12 to just nine. However, in both of these indicators, schools in the highest poverty areas were far less likely to have computers in every room (just 39 percent)

and the student-per computer ratio remained relatively high at 16 to one (National Center for Education Statistics, "Internet Access in U.S. Public Schools and Classrooms 1994–99," February 2000).

These figures indicate that although there have been tremendous gains over the past several years in expanding access to technology, students in the poorest school districts are still lagging far behind the national average. It is for this reason that the Enhancing Education Through Technology initiative's new performance-based grant program targets funds to those schools with the greatest need.

At the federal level, 95 percent of the consolidated funds are provided to the States through a formula based 50 percent on the State's school age population and 50 percent on Title I. The Secretary may spend the remaining five percent on evaluations, technical assistance, and programs of national significance. At the State level, States may spend five percent on activities such as providing technical assistance and funding innovative programs. From the remainder of the State's allocation, 95 percent of the funds are to be directed to local educational agencies. Of the total funds going locally, 60 percent is distributed through a State formula based 100 percent on Title I, while the remaining 40 percent is competitively distributed by the State. Funds may be used for increasing access to technology (particularly in high-need schools), improving teacher professional development in technology, and/or promoting innovative State and local initiatives that use technology to increase student academic achievement. Under the current program, nearly 42 percent of funds are awarded through a grant process by the Secretary as opposed to a formula for all States.

This targeting of funds is a departure from the current practices under the two major ESEA technology grant programs. A recent GAO study (U.S. General Accounting Office, GAO/HEHS–00–55, Education Discretionary Grants: Awards Process Could Benefit from Additional Improvements, March 2000), reported that of 20 current grants under the Technology Innovation Challenge Grant program, none had been reported as being awarded to grantees with greater than 51 percent poverty. In addition, the Department of Education reported in its recent program performance report, that only 27 States reported awarding 66 percent or more of their FY 97 funds under the Technology Literacy Challenge Fund (TLCF) to districts they designated as high-poverty (U.S. Department of Education Volume II—Individual Programs: 1999 Performance Reports and 2001 Plans, March 2000, Washington, D.C.). The Enhancing Education Through Technology initiative will ensure more funds get to the schools that are most in need of obtaining and using education technology.

Using Technology to Increase Access to Rigorous Coursework

An important use of funds under this program is to give students access to the highest quality teachers and courses possible, regardless of where in the State the students live. Using distance-learning technology, many communities are already reaching beyond the walls of their local schools to tap the best talent and curriculum the State has to offer. The Enhancing Education Through Technology initiative recognizes the impact this is having around the

country, but also the potential to reach even more students, and makes funds available under this part for such technology.

Students may be limited in their choice of course offerings due to geographic remoteness, or simply a lack of resources at their school to offer challenging courses. In this age of advanced technology and interconnectivity, no child should have to settle for not having access to advanced placement (AP) courses or advanced mathematics, science, or other courses simply because they live in a remote or rural community, or in a poor school district. Often, lack of access to these rigorous courses can determine the likelihood of going on to college. Distance learning technology can bring in the best teachers and courses from any part of the State, and help schools. The Committee encourages the use of computers, video conferencing technology, and other distance learning technology to increase access for all students to the best teachers and curriculum a State has to offer.

Enhancing Professional Development in Technology for Teachers

The Committee believes that the teachers themselves must feel comfortable with the technology at hand, and until they do, further expenditures in technology are, by and large, misplaced. For this reason, under the Enhancing Education Through Technology initiative, local school districts are required to use at least 20 percent of their funds from a given grant, to provide—

> . . . 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 . . . which effectively prepare students to meet challenging State academic content and student academic achievement standards.

Protecting Students From Harmful Material on the Internet

The Committee strongly believes that it would be irresponsible not to require blocking or filtering technology if a local educational agency or school chooses to use ESEA funds for Internet access under this part. The goal of this particular part is to provide technology to schools in order to improve student academic achievement, not to expose students to pornographic images and other harmful materials.

Therefore, the Enhancing Education Through Technology initiative maintains the current legal requirement that recipients of funds must have technology in place for the protection of minors, to filter or block obscenity, child pornography, and material that is harmful to minors. For adults, recipients of funds must have in place technology to filter or block obscenity and child pornography. It also allows ESEA technology funds to be used for the purchase of blocking or filtering technology.

Ready To Learn, Ready To Teach

During the mark up of H.R. 1 in Committee, Mr. Fletcher (R–KY) successfully offered an amendment, co-sponsored by Mrs. Roukema (R–NJ) and Mr. Wu (D–OR), to restore the "Ready To Learn Television" program under a new Subpart in Title V entitled

"Ready To Learn, Ready To Teach." The Ready To Learn Television program authorizes the Secretary to award grants to or enter into contracts or cooperative agreements with nonprofit entities (including public telecommunications entities) to develop, produce, and distribute educational and instructional television programming and support materials for preschool and elementary school children and their parents.

Under this Subpart, the Secretary is required to fund the Ready To Learn Television program and may also fund the development of digital content and a national telecommunications-based program to improve the teaching of core academic subjects (similar to that of the Telecommunications Demonstration Project for Mathematics). The amendment also includes new language, which ensures that an eligible entity must have the capacity to negotiate contracts in a manner that returns to the program an appropriate share of any ancillary income from the sales of any program-related products.

TITLE V, PART C—CHARACTER EDUCATION

With the growing concern for the safety of students and teachers in our schools, many have looked to character education in the schools as a solution. Making appropriate and good choices in life relies upon a strong character, yet some children do not get much guidance or support for character development. Supporting the ethical, social, and emotional development of children will help to create better schools and a more compassionate and responsible society.

Research indicates that character education can help to improve behavior and academic achievement. A University of Illinois study of four schools using the "Positive Action" character development program found that the average number of incidents requiring disciplinary referral dropped by 74 percent after one year, and achievement scores improved by an average of 28 percentage points. Standardized test scores of students exposed to the "Responsive Classroom" program, which emphasizes good character, increased 22 percent on average, versus just three percent for students not participating in the program. A 1997 study demonstrated that students trained in "Second Step," a character-based violence prevention program, used less physical aggression and engaged in more pro-social interactions than peers who were not exposed to the character curriculum.

Although character education has traditionally been a component of American education, the number of schools specifically teaching it has increased over the past few years. More than 70 percent of States support character education through federally funded pilot programs or legislative measures. Federal funding for character development programs totaled about $9 million in gants for States or districts for fiscal year 2001. In addition, current federal regulations limit the number of States that can receive grants each year to 10.

H.R. 1 removes the limit of 10 character education grants per year and the maximum award of $1 million to States, and instead authorizes the Secretary to make up to five-year grants to States, LEAS, or consortia of educational agencies for the design and implementation of character education programs. Under current law,

character education programs are authorized as part of a group of programs under the Fund for the Improvement of Education. H.R. 1 authorizes character education as a separate, stand-alone program at $25 million (nearly tripling the amount of current funding).

Specifically, H.R. 1 authorizes the Secretary of Education to award grants to State educational agencies, local educational agencies, or a consortia of such agencies for the design and implementation of character education programs that can be integrated in State academic content standards and can be carried out in conjunction with other educational reform efforts. Each agency or consortium may contract with outside sources, including institutions of higher education and private and nonprofit organizations (including religious organizations), for assistance with evaluation, developing secular curricula, and integrating secular character education into the curriculum and teaching methods. H.R. 1 ensures that decisions about character education and curriculum are made at the local level and involves individuals who have daily contact with students. In developing local character education programs, each recipient of assistance must take into consideration the views of the parents of students when selecting elements of character that will be taught under the program. Elements of character selected under the program may include the following: trustworthiness, respect, responsibility, fairness, caring, citizenship, and giving.

The Committee supports the efforts of President Bush to improve the academic achievement of our nation's youth and his plan for improving our student's character. As Governor Bush noted in 1999, "Yes, we want our children to be smart and successful. But even more, we want them to be good and kind and decent. Yes, our children must learn how to make a living. But even more, they must learn how to live, and what to love. 'Intelligence is not enough,' said Martin Luther King, Jr. 'Intelligence plus character—that is the true goal of education.'"

TITLE V, PART D—ELEMENTARY AND SECONDARY COUNSELING PROGRAMS

During Committee consideration Mrs. Roukema offered an amendment, which was adopted, to reauthorize the Elementary School Counseling Program, currently located in Title X of ESEA. The amendment authorized such sums as necessary to carry out the program in which the U.S. Department of Education makes grants directly to local educational agencies to increase the access of students to qualified school-based mental health professionals.

TITLE V, PART E—MENTORING PROGRAMS

During Committee consideration, Mr. Osborne offered a "Mentoring for Success" amendment, which was adopted, to encourage schools and communities to be involved in the formation of mentoring programs. The amendment creates a new federal program for competitive grants from the U.S. Department of Education to local educational agencies, community-based organizations, or partnerships of the two. All the funding goes to the local level for local decision-making.

Research proves that mentoring works. Evaluation research completed by Public/Private Ventures scientifically demonstrated what most of us know through experiences—that mentoring dramatically improves the lives of children. Youth with mentors are 46% less likely to begin using illegal drugs, 52% less likely to skip school, and 33% less likely to get into fights. Students with mentors reported greater confidence in their performance at school and better relationships with their families. In the United States, about 14 million youth under 18 are defined as "at risk" of getting into trouble and in need of a caring adult in their lives. However, today there are only approximately 500,000 youths in mentoring relationships.

Title VI—Impact Aid

During the 106th Congress, the Impact Aid Reauthorization Act of 2000 was enacted as part of the Floyd D. Spence National Defense Authorization Act for fiscal year 2001. Substantial changes were made to the Impact Aid program in this reauthorization act. However, after the bill was enacted into law (P.L. 106–398) new data and information was received that revealed some of the changes implemented did not serve their fully intended purpose. H.R. 1 includes the technical changes needed to correct these oversights as well as technical corrections to the Impact Aid construction program.

Technical Changes to Section 8002 (Payments for Federal Acquisition of Real Property)

As enacted in the 106th Congress, the bill established a new "hold harmless" formula for distributing funds to eligible school districts. Recipients of funds under Section 8002 supported this formula change. After enactment, the U.S. Department of Education received information that more recent assessments indicated that the new formula would not provide the intended equitable distribution of funds. Therefore, the Committee has included a small modification to current law that will ensure that school districts of all sizes receive a fair share of funds under Section 8002.

The formula in Section 8002(h) [Payments With Respect To Fiscal Years when there are Insufficient Appropriations] provides a foundation formula that will insure that small-rural school districts are not unfairly discriminated against when pro-rating funds under subsection (h). In both the second tier of the formula that distributes a portion of funds to 1995 recipients, and in the second half 4(B) of the last tier that distributes a portion of funds to all recipients, payments are based upon the proportion that a district's assessed value of its federal property is to the "total eligible national assessed value of the eligible federal property" of all eligible districts. Because tax assessment practices differ substantially among localities and States, and because the equalizing effect of a locality's tax rate for different types of property is not taken into account in these elements of the foundation formula, the formula is likely to result in an inequitable distribution of Section 8002 funds.

H.R. 1 addresses this issue by changing the formula (in the final tier only) to base these proportions on a district's Section 8002 maximum amount, which reflects both the assessed value of the eligible federal property and the local real property tax rate for cur-

rent expenditures, rather than only upon the assessed value of the eligible federal property. This will ensure that 75 percent of the new money will be distributed under the same philosophy used in the base Section 8002 program which uses both property assessment plus the local tax rate when determining a district's maximum payment.

Other Technical Changes to the Impact Aid Program

H.R. 1 also includes other minor technical changes to the Impact Aid Reauthorization Act of 2000. These include minor modifications to the section of the formula benefiting small school districts; and modifications to Section 8009 (equalized States) to clarify that funds provided to school districts based on their identification as "heavily impacted" would be exempt from State equalization. H.R. 1 also extends the authorization for the Impact Aid program through FY 2006 to make it conform to the other titles of the Elementary and Secondary Education Act.

Technical Changes to the Impact Aid Construction Program

Title VI of H.R. 1 also makes technical corrections to the Impact Aid construction program to correct a misinterpretation of the eligibility requirements for certain grants made by the Department of Education. Specifically, it clarifies that an LEA is considered to be unable to fund construction needs through bond issues if the assessed value of the taxable property within the LEA is less than $25 million. This ensures that federally impacted LEAs with the greatest need can qualify for the full cost of repairs to correct emergency situations that threaten the health or safety of their students. H.R. 1 also clarifies that an LEA is considered to have minimal capacity to fund construction needs through bond issues if the assessed value of the taxable property within the LEA is greater than $25 million but less than $50 million, and the LEA has already used at least 75 percent of its existing bonding authority for other construction needs. This will allow federally impacted LEAs with low bonding capacity that are making an effort to meet their own construction needs to qualify for some federal funding to address health or safety needs within their schools. Title VI also separates the application process for emergency grants from that of modernization grants, and clarifies that the Secretary is to fund projects that address threats to the health and safety of students or school staff prior to funding grants intended only for school modernization. These provisions will improve the application process and ensure that scarce federal funds are targeted to LEAs with the greatest need for assistance.

Title VII—Flexibility and Accountability

Part A—State Accountability for Improving Academic Achievement

The Committee views this Part as critical to the effective implementation of the President's plan because it provides for real and significant consequences for success or failure. These rewards and sanctions are designed to change the long and anti-productive trend in federal programs of rewarding failure and ignoring success. Under Title VII, Part A, the rewards are neither too easy to get, nor so powerful as to give the federal government excessive

sway over State decision-making. Likewise, the sanctions are not easily applied, or so punitive that reform and improvement are impaired. Both the rewards and sanctions are designed to fit within the overall context of the bill and to support a productive relationship between the federal government and the States.

Rewards

Part A of Title VII provides rewards for States that make significant progress in academic achievement for students primarily based on State academic assessment results. Reward funds are allocated to States based on the progress of students from low-income families and from racial or ethnic minority groups, for students as a whole and for limited English proficient students. In order to receive a reward, progress on State assessments must be confirmed by a second indicator consisting of the National Assessment of Educational Progress (NAEP) or another assessment selected by the State.

The Committee believes the ability of the State to choose an assessment other than NAEP as a confirmation of State assessment results is key to allowing States flexibility in achieving the goals of the bill. The alternative assessment must meet, however, strict criteria that ensures it will be valid, reliable, and able to produce results that can be both disaggregated and expressed in terms of the achievement levels described in Title I.

Under Title VII of H.R. 1, NAEP assessments (or an alternative, independent assessment selected by the State) would be administered annually in reading and mathematics in fourth and eighth grade to serve as a "second snapshot" of how the State is doing academically. As Mark Musick, Chairman of the National Assessment Governing Board, which administers NAEP, told the Committee at a hearing on March 8, 2001, "this is about seeing if achievement in America is moving in the same direction. This is about confirming that gaps are closing, particularly the ethnic and the socioeconomic student achievement gaps." The "first snapshot," or measure of how students in the State are doing academically, would be the annual State assessments in reading and mathematics developed under Title I, Part A. If a State is making significant progress on the Title I, Part A assessments and the "second snapshot" assessment (NAEP or the independent assessment), as well as making progress in improving the English proficiency of students with limited English proficiency, then the State would be eligible for a financial reward from the Secretary of the Department of Education. The Committee emphasizes that rewards are provided when both indicators show progress. The "second snapshot" cannot, by itself, provide the basis for rewards even though it may show increases in academic achievement. In addition, the Secretary may take into account other considerations in determining the size of the reward, such as graduation rates and the percentage of students who take Advanced Placement (AP) or International Baccalaureate (IB) courses and pass exams associated with the AP and IB classes.

It is the Committee's view that the "confirmation" of State assessment results with NAEP or an independent assessment is not to be a complex statistical process, but rather a simple comparison that the average person would agree with by simply looking at the

direction of student academic achievement gains on both assessments.

While the rewards are primarily based on a State's progress as compared to its own past performance, the Secretary is granted some discretion to grant larger awards to States based on population, as well as the relative amount of progress a State has made.

A State that receives an award from the Secretary under this part is required to then provide awards to public elementary or secondary schools in the State that made the most significant progress in raising student academic achievement. The schools, once they have received the award from the State, may use the funds for any educational purpose allowed by State law.

NAEP and the Independent Assessment

The National Assessment of Educational Progress (NAEP) is a series of random sample tests commonly referred to as the "Nation's Report Card," which measures the academic progress of elementary and secondary students in the United States. NAEP consists of tests of students in grades four, eight, and 12 in reading, writing, science, mathematics and other subjects. The NAEP tests are voluntary and administered to a representative sample of students. By design, no student takes an entire test and accordingly there are no individualized test results.

The Committee recognizes the concerns of those who fear that the second snapshot test, and the use of State NAEP especially, will lead to a national test or curriculum. Although the President proposed in his No Child Left Behind initiative that NAEP alone be used for the purpose of confirming State assessment results for rewards and sanctions and shining a spotlight on States' progress in narrowing achievement gaps, the Committee has provided States with the option to select an alternative assessment that meets certain criteria. Many States, school districts and other groups such as the Business Coalition for Excellence in Education support using NAEP alone for purposes of the "second snapshot." The Committee heard from Lisa Graham Keegan, Superintendent of Instruction in Arizona, who testified before the Committee on March 14, 2001, that "in Arizona, we do have a lot of confidence in the standards on which NAEP is based. We've been using it for years, you all use it in your statistics all the time. For the moment, it's quite strong . . . So we would recommend using it as sort of a sunshine instrument."

However, the Committee heard from many who opposed the use of NAEP alone, and thus H.R. 1 allows States to select an independent assessment other than NAEP for purposes of confirming their State assessment results. The criteria for such a test is included in Section 1111(c) as well as this part. These criteria are designed to ensure that States select a high quality test that is not specifically designed to match their standards. Specifically, the independent assessment must (1) be administered annually; (2) yield high quality data that are valid and reliable; (3) meet widely recognized professional and technical standards, including specific and rigorous test security procedures; (4) be 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; (5) have no test questions that are identical to the test questions used

by the assessment used to meet the State assessment requirements under section 1111; (6) provide 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; (7) provide results in such a form that they may be disaggregated, at a minimum, according to income level and major racial and ethnic group; and (8) be 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.

The Committee encourages States to select an independent assessment or NAEP to provide a rigorous assessment of student progress in that State. The purpose of the second assessment is to encourage States to set high standards and academic achievement and therefore States should select an assessment with that goal in view.

It is not the Committee's intent that this legislation would reduce participation in the national NAEP assessment, or other subject areas assessed by NAEP.

Sanctions

Section 7102 provides sanctions for States that fail to make adequate yearly progress for their disadvantaged students and students from racial and ethnic minority groups. If the State declines on both the annual State assessments under Section 1111 and the second indicator (NAEP or the alternative assessment) for two consecutive years, then the State would be subject to a 30 percent reduction in the amount of funds that it may reserve for administrative purposes. States receiving a sanction do not lose these funds. Instead of spending the funds on administrative purposes the funds must be reallocated to local educational agencies for school improvement purposes under Section 1116.

If a State continues to fail to make adequate yearly progress on their Title I, Part A assessments and the second indicator for the two years following the initial failure of two consecutive years outlined above, then the Secretary may further reduce a State's administrative funds up to an additional 45 percent.

Again, the Committee would emphasize that the State must fail to improve on both the annual State assessments required under Title I, Part A and the second indicator (NAEP or the alternative assessment) to be sanctioned under this Part.

Furthermore, in order to hold States accountable for the important goal of improving English language proficiency, there are additional sanctions. If a State fails to meet the adequate yearly progress required under Title I, Part A for limited English proficient (LEP) students for two consecutive years, or the State fails to meet the acquisition of English language proficiency required under Title I, Part A for LEP students for two consecutive years, then the State is subject to an additional 20 percent reduction in administrative funds.

Development of State Standards and Assessments

Section 7103 directs the Secretary to provide States with funds to develop the annual assessments required under Title I, Part A,

or if a State has developed those assessments, to carry out other activities related to ensuring accountability for results in the State's schools and local educational agencies, including the costs of administering such assessments. States that have already developed their annual assessments may also use these funds to improve the quality of their assessments, and are encouraged to do so by the Committee.

This section was amended in Committee by Mr. Schaffer (R–CO) to clarify that while States may enter into partnerships with other States, such partnerships are not required. Partnerships, while encouraged by the Committee as a means of saving costs and developing higher quality assessments, are not required. Mr. Schaffer's amendment also makes it clear that H.R. 1 provides funds for States to strengthen the capacity of local educational agencies and schools to provide all students the opportunity to increase educational achievement. The bill does not authorize the Secretary to require States to provide educational facilities, instructional materials, or curriculum to all students.

In addition, the Secretary is authorized to provide bonuses for States that have annual assessments for grades 3 through 8 in place prior to the 2004–2005 school year. Section 7104 authorizes $40 million for these bonuses for fiscal year 2002.

Funding

Under H.R. 1, the expenses of NAEP for purposes of Title VII accountability would be covered 100 percent from federal resources. In addition, the costs of the alternative, independent assessment that may be selected instead of NAEP would be offset. Sixty-nine million dollars are authorized for such purposes. If the alternative assessment is chosen, funds would be provided to offset the cost of administering such an assessment, provided such costs do not exceed the cost the State would incur if it had used NAEP. The Secretary is authorized under Section 7101 to develop a methodology for allocating funds to States that select an independent assessment instead of the NAEP.

Section 7104 also authorizes 400 million dollars for fiscal year 2002 to allocate funds for States to develop their assessments, as described in Section 7103. Because test development costs are somewhat independent of the population of a State, 50 percent of these funds are to be divided equally among the States. The other 50 percent is to be allocated on the basis of population.

TITLE VII, PART B—FUNDING FLEXIBILITY FOR STATE AND LOCAL EDUCATION AGENCIES

Part B of Title VII grants States and local educational agencies unprecedented flexibility to target federal dollars to meet State and local priorities. It dramatically enhances flexibility for local school districts, giving them the freedom to make spending decisions with up to 50 percent of the federal education dollars they receive, as long as they demonstrate results. Under current law, federal rules frequently can prevent States and local school districts from spending federal dollars as effectively as possible to meet the unique needs of students.

This funding flexibility option is based on a little-used provision in current law. Under current law, if a State educational agency

approves, the unneeded funds provision in Section 14206 of Title XIV of ESEA of 1965 allows school districts to shift a percentage of funding from one ESEA program to another in any fiscal year. In order to be granted permission to shift these funds, a school district must demonstrate that the funds are not needed for their original purposes. Up to five percent of these programs' funds may be shifted to any of these programs:

Title I, Part C (Education of Migratory Children)

Title II (Eisenhower Professional Development program)

Title III, Subpart 2 of Part A (Technology Innovation Challenge Grants)

Title IV, Subpart I of Part A (Safe and Drug-Free Schools, Grants to LEAS)

Title VI (Innovative Education Program Strategies)

Five percent may also be transferred into, but not out of, Title I, Part A (Grants to LEAS).

The unneeded funds provision is too limited to provide useful flexibility to school districts or States. In September 1998, the GAO reported that the "unneeded funds" option is "often unavailable and seldom used." In their survey of 50 State educational agencies, only half reported that they allowed local school districts to take advantage of this provision. Even when it was offered, it was rarely used. Districts took advantage of this option in only one third of the States that allowed them to do so. One State (not named by GAO) did make use of this provision, with more than ten percent of its districts exercising the provision.

The Committee has heard from school districts around the country that they want meaningful flexibility in using their federal dollars. The unneeded funds provision is insufficient because it only allows a small percentage to be transferred, which for all but the largest school districts means that a very small amount of money is flexible. Limiting this option to a small amount of funds provides little in the way of an incentive to school districts to jump through the appropriate bureaucratic hoops to shift funds from one account to another. Five percent is simply too little to make a difference. In addition, States are not given the option of shifting State activity dollars, even though they are free to consolidate administrative funds from different programs.

Several groups representing people involved in education at the local level have been supportive of this flexibility provision in the past, including the: American Association of School Administrators, the Association of Educational Service Agencies, the Council of the Great City Schools, the National Association of Secondary School Principals, the National School Boards Association, and the Rural Education Association. In a May 7, 2001, letter supporting H.R. 1 sent to Members of Congress, the American Association of School Administrators wrote that the bill "offers substantial flexibility at the LEA level that will have an enormous effect on the ability for individual districts to respond to what is needed . . . [b]y allowing the LEA to shift money around according to their needs, they are able to maintain the most appropriate education for their students in need." Their support is extremely significant, as they represent the people on the front lines who have to administer these federal programs. Clearly, it is those closest to the schools that see the need and the value of transferability.

The State and Local Transferability Act in H.R. 1 provides meaningful flexibility to States and local school districts by significantly increasing the percentage that they may transfer from one program to another. SEAs may transfer up to 50 percent of their State activity dollars into another program. LEAs may transfer up to 50 percent from one program to another without SEA permission. Title I remains protected.

State Transferability

In H.R. 1, States are permitted to transfer up to 50 percent of their State activities funds between formula grant programs (i.e. formula grant to the State). These programs are:

Title II (Teachers)
Title IV, Part A (Innovative Programs)
Title V, Part A (Safe and Drug Free Schools and 21st Century Schools)
Title V, Part B (Technology)

Title I funds would not be transferable to non-Title I programs, but non-Title I funds may be transferred into Title I programs.

This provision provides States with flexibility that they currently only have with their federal administrative dollars, giving them the freedom to target resources and focus on State priorities, such as accountability and testing, teacher quality, or school safety.

It is the Committee's intent that only the non-administrative portion of the funds explicitly setaside for use at the State level by the statute could be transferred under this authority, not funds that are required by the statute to be allocated to local educational agencies. States transferring these funds must modify their consolidated plans to reflect the transfer of funds.

Local Transferability

Local educational agencies may transfer up to 50 percent out of a program's fiscal year allocation, to another program or programs, without requesting permission from the State. By allowing school districts to transfer a portion of funds without the permission of their State, the Act provides them with flexibility to tailor their federal dollars to their needs while still meeting the specific program requirements of each federal program.

H.R. 1 permits school districts identified as being in need of improvement to transfer 30 percent of their federal funds rather than 50 percent, and only for the purpose of funding school improvement activities. Schools identified for corrective action and restructuring under Section 1116 may not transfer funds.

School districts may transfer funds from one of the following federal formula grant programs to another:

Title II (Teachers)
Title IV, Part A (Innovative Programs)
Title V, Part A (Safe and Drug Free Schools)
Title V, Part B (Technology-formula portion only)

Because the 21st Century Community Learning Centers program is a competitive grant program within States, local educational agencies would not be able to transfer those funds.

Title I funds would not be transferable to non-Title I programs, but non-Title I funds may be transferred into Title I. This grants local school districts the flexibility to target additional resources, if

they so choose, to meet the needs of the most disadvantaged students.

A local educational agency can make more than one transfer out of a single federal program with out requesting State permission, as long as the total amount of the funds transferred does not constitute more than 50 percent of the total amount allocated to them for a fiscal year. Such transfers would allow school districts to focus resources on federal programs that most effectively address their most pressing needs. This threshold applies to the total amount transferred out of one program regardless of the amount of a single transfer.

It is the Committee's intent that, whenever a State or local educational agency intends to transfer funds to or from a program that has a provision requiring consultation with appropriate private school officials, the provision requiring such consultation shall apply to the transfer of such funds in accordance with Section 8503(c).

As provided in the unneeded funds provision in current law, State and local school districts may transfer funds from the above programs into any part of Title I, but no funds can be transferred out of Title I into another program. States and school districts would be free to allocate transferred funds to supplement any aspect of their Title I program activities. The purpose of this provision is to protect funding for Title I programs. However, by allowing transfers into Title I, it also grants local educational agencies the flexibility to focus their limited federal resources on meeting the needs of disadvantaged students and meeting State and Title I accountability requirements.

When funds are transferred to another program, they assume the identity of the program to which they were transferred, and are governed by the requirements of that program. However, LEAs must continue to meet the requirements of all federal programs with the remaining funds that are not transferred to another program.

Title VIII—General Provisions

Title XIV of current law of the Elementary and Secondary Education Act (ESEA) contains general provisions that affect all federal K–12 education programs. These general provisions are modified and moved to Title VIII of the ESEA under H.R. 1. The general provisions are divided into several parts: Part A—Definitions; Part B—Flexibility in the Use of Administrative and Other Funds; Part C—Coordination of Programs and Consolidated State and Local Plans and Applications; Part D—Waivers; Part E—Uniform Provisions; Part F—Sense of the Congress; and Part G—Evaluations.

TITLE VIII, PART A—DEFINITIONS

The Committee has added several new definitions to the list of defined terms for the ESEA programs, modified other definitions, and moved some definitions from various individual programs into the general provisions.

Definitions which have been moved to the general provisions from individual programs or which are new to the general provisions include "child with a disability," "effective schools program,"

"essential components of reading instruction," "family literacy services," "fully qualified" in reference to teachers, "limited English proficient student," "Native American and Native American Language," "reading," "rigorous diagnostic reading and screening assessment tools," and "scientifically based research." Definitions which appear in the general provisions of current law and which have been modified include "covered program" "outlying area," "parent," and "technology."

TITLE VIII, PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

Under current law, section 14201 of ESEA, a State may consolidate its administrative funds from Title I of the ESEA, the Eisenhower professional development program, the technology programs, the Safe and Drug-Free Schools program, and the Innovative Education Program Strategies grants, and apply the consolidated funds to the State's costs of administering this group of programs, rather than applying each funding source only to the administrative costs for that one program.

According to a study prepared for the Department of Education and entitled Living in Interesting Times: Early State Implementation of New Federal Education Laws, only nine States have completely consolidated their administrative funds, and many State administrators appear to be confused as to what extent, if at all, administrative funds have been consolidated in their States. However, for States that have consolidated administrative funds, they have found the experience to be a positive one. Consolidation has eliminated the requirement of tracking time and effort of personnel assigned to individual federal education programs. Collaboration across federal education programs has also increased. In many cases, consolidated administrative funds have made it easier for States to fund salaries, fringe benefits, and training and conference expenses.

While the provision in current law is a positive one, the Committee finds no sound reason why the authority to combine administrative funds at the State level should not be extended to all ESEA programs. Section 8201 would extend such authority to all ESEA programs for which funds are authorized to be used for administration at the State level.

Similarly, current law section 14203 allows for consolidation of funds for local administration for certain ESEA programs. As with State administrative funds, the Committee has included language in section 8203 allowing all ESEA administrative funds at the local level to be combined. A 1998 General Accounting Office report on the usefulness of federal flexibility provisions found the current law provision, in practice, to be frequently unavailable and seldom used by local educational agencies (LEAs). In GAO's survey of State educational agencies, about one third reported that they did not allow LEAs to combine administrative funds. It is the Committee's understanding that in some States, a barrier to the use of this option is the State or State educational agency's failure to establish an additional fiscal account line for managing these combined funds. This is largely an implementation problem. Accordingly, the Committee would strongly encourage States to take all necessary steps,

including the modification of accounting procedures, to make this option available to LEAS.

TITLE VIII, PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

In general, to receive funding for most federal education programs, States and LEAs must submit plans or applications to either the State or federal government. These plans or applications typically describe how the funds will be used, certify that federal procedures will be followed, and provide assurances that the funds will be spent in accordance with the purpose or purposes of the program.

Section 14302 of current law gives States the option of consolidating State plans or applications that they submit to the United States Department of Education for specified ESEA education programs. This means that a State educational agency, in consultation with the Governor, may submit one plan that covers two or more of the specified programs. In similar fashion, section 14305 gives LEAs the option of consolidating local plans or applications that they submit to the State. As with the provisions on consolidated administrative funds, the Committee has expanded and rewritten current law sections 14302 and 14305 as sections 8302 and 8305 to allow all ESEA programs to be included in a single State or LEA plan. Consolidated plans eliminate bureaucratic paperwork requirements, promote greater coordination between programs, and in general, give States and localities the flexibility they need to better administer federal education resources. As with consolidation of administrative funds, States that have used consolidated plans have found the benefits to be quite positive. In Virginia, for example, the use of a single consolidated plan has allowed funding for cross program planning, eliminated the need to track personnel time and effort in individual programs, and eliminated the need to develop separate program plans.

It is the view of the Committee that all States must allow all LEAs to submit consolidated plans. The statute requires this in current law section 14305 (section 8305 in H.R. 1). On February 16, 1999, Carlotta Joyner of the General Accounting Office (GAO) sent then-Secretary of Education Richard Riley a memo concerning several States that may not have been implementing these flexibility provisions. GAO reported in its memo that in a survey of 50 State educational agencies, ten States reported that they require LEAs to submit separate plans for at least one of the programs covered under the law, in order to receive federal program dollars. Under ESEA, though, States may require LEAs to submit consolidated plans, but they cannot require them to submit separate plans for each of these covered programs. As a result, school districts in these States are not able to take advantage of the reductions in paperwork requirements that have been available under current law for several years. Consequently, in an effort to address this problem, H.R. 1 clearly states in section 8305 that States cannot require local educational agencies to submit separate plans for each federal program. The Committee strongly recommends that the Secretary communicate this to States so LEAs can take advantage of this flexibility.

Part C of the general provisions also includes a new provision on consolidated reporting. Section 8303 gives the Secretary authority to establish procedures for allowing a State educational agency, in consultation with the Governor, to submit consolidated annual reports on ESEA programs. This bill language reinforces efforts already underway at the Department to use a single report in lieu of separate individual annual reports.

TITLE VIII, PART D—WAIVERS

The general authority of the Secretary of Education to waive statutory and regulatory requirements of federal K–12 education programs is found in Part D, section 14401, of the current ESEA. Under H.R. 1, this waiver authority is found in section 8401. The basic concept behind waiver authority is that States and LEAs may have a better way of implementing federal education programs and this authority enables them to do so. For too many years, the federal government has had a top-down, one-size-fits-all approach to education that has proven itself flawed. In recognition of this fact, Congress has begun to provide more flexibility to States and LEAs via the waiver process. Generally, the Title VIII waiver authority in H.R. 1 allows the Secretary to consider requests from States and LEAs for waivers of any statutory or regulatory requirement with several exceptions. The Committee has continued the waiver authority and made minor conforming changes so that the Secretary's waiver authority is generally consistent with the waiver authority granted to States under the Education Flexibility Partnership Act (P.L. 106–25).

Under current law, the Secretary may not waive statutory or regulatory requirements relating to the following: (1) allocation or distribution of funds to State educational agencies, local educational agencies, or other recipients of ESEA funds; (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) charter school requirements; (9) prohibitions regarding State aid and the use of funds for religious worship or instruction. In section 8401(c)(9) the Committee has added to the list of things that cannot be waived. The prohibitions that are included are: prohibition on funds being used to develop or distribute materials or operate programs or courses of instruction directed at youth that are designed to encourage sexual activity, whether homosexual or heterosexual; prohibition on funds being used to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds; prohibition on funds being used to provide sex education or HIV prevention education in schools unless such instruction is age appropriate and emphasizes the health benefits of abstinence; and prohibition on funds being used to operate a program of contraceptive distribution in schools.

TITLE VIII, PART E—UNIFORM PROVISIONS

Part E includes what is commonly referred to as the "uniform provisions." These provisions include maintenance of effort, the participation by private school students and teachers in ESEA programs, prohibitions against funds being used for religious worship

or instruction, rules of construction relating to home schools and private schools, prohibitions against federal control or endorsement of curriculum, prohibitions against the federal government requiring States to have academic content standards or achievement standards approved or certified by the federal government, privacy protections for individual assessment results, and prohibitions relating to sex education and contraceptive distribution, and other matters.

With respect to the uniform provisions, the Committee wishes to make clear that the intent of this Act is that the standards and assessments mentioned in the Act measure academic knowledge of math and reading, as opposed to applied and contextual learning that focus on student workplace skills and competencies. To the extent such research is available, classroom instruction should be based on rigorous scientifically based research. The bill does not authorize the Secretary to define the term "academic" for the States. States may define the term "academic" as they see fit, or not at all.

The Committee has made several significant changes to current law. The Committee has included language on private school consultations with school district officials that is parallel to the language in Title I Part A (Improving the Academic Performance of Disadvantaged Students). In general, LEAs are required to consult with private school officials when arranging for the provision of equitable services under ESEA programs to private school students and staff. However, Catholic school officials have informed the Committee that in some areas of the country, public school districts provide little or no consultation with private officials.

To help address these concerns, H.R. 1 requires LEAs to consult with private school officials not only on how and where the services will be provided, as under current law, but also on the selection of the contractor that provides the services, in situations where contractors are utilized. In addition, the LEA must tell how the services will be assessed, and how the results of that assessment will be used to improve the services to private school children. The consultations must involve not only meetings prior to the public school district making a decision on the services, but also throughout the implementation and assessment of the services. Such measures will help ensure that high quality services are provided to private school children.

The bill also makes an additional clarifying change to private school participation and bypass provisions under Title VIII. The change would add the word "entity" to such provisions. The Committee does not intend for the addition of this word to change how section 1309(1)(B) is implemented relative to local operating agencies.

Earlier this year, the Committee heard from many organizations representing private schools and home schools who expressed concerns that the bill be clear that its requirements should not apply home schools, nor should the requirements apply to private schools if private schools do not receive ESEA funds or services. Accordingly, the Committee has made absolutely clear that the requirements do not apply to home schools nor to private schools that do not receive ESEA funds or services. The bill language that clarifies these points is found in sections 8508 and 8509.

During mark-up of H.R. 1, Rep. Pete Hoekstra (R–MI) offered an amendment which further strengthened the home school protections. The amendment passed by voice vote. The amendment modified section 8508 to ensure that regardless of whether a home school is treated as a home school or private school under State law, a home school is not be affected by the ESEA. In addition, students who are home schooled are not required to participate in the assessments referenced in the ESEA. The amendment also strengthened section 8511 by clarifying that nothing in the ESEA nor in any other act administered by the Department of Education is to be construed as authorizing any federal control over any private, religious or home school.

The Committee has also heard from many individuals who are concerned that individual assessment results be protected from disclosure to third parties. Section 8510 protects the privacy of assessment results by reiterating the applicability of the parental consent and other requirements of General Education Provisions Act to individual assessment results that become a part of a student's education records.

The Committee has included new language on school prayer protections. Current law states that any State or school district that has been found by a federal court to have willfully violated a court order with respect to school prayer is ineligible to receive ESEA funds. Sadly, this law erects several hurdles in the paths of students who wish to exercise their right to pray at school. First, current law requires one to have first gone to federal court and previously obtained an order against a school district or State. Second, one must additionally prove in court that a State or school district has willfully violated the order, before the State or school district would be subject to losing education funds. This framework is flawed. It provides a remedy only after a student has been compelled to go to court two times—once to get an initial court order and the second time to show there has been a violation of the court order. This puts a burden upon students who are simply trying to exercise a basic constitutional right.

The Committee has replaced the school prayer provision from current law with a simple provision in Section 8512 which requires, as a condition for receipt of funds under ESEA, that a LEA certify in writing to the Secretary of Education that no policy of the agency prevents or otherwise denies participation in constitutionally protected prayer in public schools. Nothing in this provision is to be construed as affecting or altering the Equal Access Act.

During the mark-up of the No Child Left Behind Act of 2001, an amendment was offered by Rep. Bob Schaffer (R–CO) to make clarifying changes to Title I (Improving the Academic Performance of the Disadvantaged), Title VII (Accountability) and Title VIII (General Provisions). With respect to Title VIII's general provisions, the amendment makes clear that under section 8514, officers and employees of the federal government are prohibited from mandating, directing, or controlling any curriculum, programs of instruction or allocation of State and local resources. The amendment passed by voice vote.

The Committee has added new language in Section 8515 which ensures that regulations may be promulgated by the Secretary only to the extent that such regulations are necessary to ensure compli-

ance with specific requirements and assurances required under the ESEA. This provision is consistent with language that has been included separately in individual education programs in recent years. It is included here to cover all elementary and secondary programs.

Section 8516 requires the Secretary to report to Congress on how the Secretary will go about ensuring that audits comply with changes in H.R. 1.

Section 8517 of the bill ensures that under no circumstances may the federal government require any States to have their academic standards approved or certified by the federal government. This further ensures the autonomy and control of States over their academic standards.

The Committee has added new language in Section 8518 prohibiting the endorsement or approval of any curriculum by the U.S. Department of Education. A few years ago, pursuant to authority under federal law, the Secretary of Education identified as "exemplary" and "promising" several questionable math programs that had been supported by the National Science Foundation. These programs were referred to as "fuzzy math," in part, because they adhered to a philosophy of math that minimized essential computational skills, were not based on sound scientific research, and promoted lower levels of proficiency in mathematics. Section 8518 will protect against any federal funds being used to endorse, approve or sanction any curriculum.

Decisions about school curricula have been and continue to be local decisions. The federal government must take care not to have its heavy hand override State, local or parental choice in curricula, or use its influence or imprimatur to pressure State and local schools to implement national math standards.

Section 8519 clarifies that nothing in H.R. 1 gives authority for any kind of development of a national database of personally identifiable information on individuals involved in studies or data collection efforts. This has been a concern in recent years and accordingly, the Committee has made abundantly clear that there is no authority in ESEA for the Department to develop national databases of personally identifiable information

Section 8520 is a severability clause. It provides that if any provision of the legislation is held invalid, then the remainder of the legislation shall be unaffected.

TITLE VIII, PART F—SENSE OF CONGRESS

Part F of Title VIII includes a Sense of Congress on Paperwork Reduction, a Sense of Congress regarding memorials on campus, a prohibition on any kind of mandatory national certification of teachers and paraprofessionals, and a prohibition on national tests.

With respect to the Sense of Congress on Paperwork Reduction, many superintendents, principals, and teachers continue to spend significant time in filling out paperwork for federal education programs, and accordingly, the Committee has included a statement of Congress on this matter.

The Committee has also included a Sense of Congress provision in Section 8604 regarding religious memorial services and religious memorials located on school campuses. The language was prompted by the circumstances surrounding the courageous actions of Cassie Bernall at Columbine High School in Littleton, Colorado, a few

years ago. The Committee bill states that Congress does not find religious services or religious memorials that are located on campus to honor others that may have been slain on campus to be objectionable. This statement sends a clear signal that Members of Congress believe schools and communities should be free to honor their classmates through a religious service or memorial erected on campus.

The Committee clarifies in section 8602 that the Secretary of Education is prohibited from using any federal funds to plan, develop, implement or administer any kind of mandatory national teacher or paraprofessional test or certification. This provision sends a clear message that such certifications and tests are within the authority of State and local governments, and not the federal government.

Finally, the Committee has included a prohibition on national tests to make clear that under no circumstances is H.R. 1 intended to grant any authority to the federal government to develop, implement or administer any national test. The new tests in reading and math in grades 3–8 authorized in Title I, Part A of H.R. 1 are to be developed by States, not the federal government. This prohibition on national tests is included in section 8603 and complements existing prohibitions in the General Education Provisions Act that were enacted into law a few years ago.

TITLE VIII, PART G—EVALUATIONS

Part G of H.R. 1 continues the authority of the Secretary to carry out evaluations and studies of the effectiveness of programs under the ESEA using up to one half or one percent of the amount appropriated for such programs.

Part G also transfers the authority for Title XIII programs (Comprehensive Regional Assistance Centers, the National Diffusion Network, the Eisenhower Regional Mathematics and Science Education Consortia, and the Technology Based Technical Assistance) of ESEA to Title VIII. It is the intent of the Committee that these programs will be addressed more fully during the reauthorization of the Office of Educational Research and Improvement.

TITLE IX, PART A, SUBPART I—NATIONAL EDUCATION STATISTICS ACT (NESA)

Title IX, Part A, Subpart 1, section 901 of H.R. 1 includes conforming changes to section 411 of the National Education Statistics Act (NESA). Section 411 of NESA provides the authority under current law for the National Assessment of Educational Progress (NAEP), which is a series of random sample tests commonly referred to as the "Nation's Report Card" which measures the academic progress of elementary and secondary students in the United States. NAEP consists of tests of students in grades 4, 8, and 12 in reading, writing, science, mathematics and other subjects.

The NAEP tests are voluntary and administered to a representative sample of students. By design, no student takes an entire test and there are no individualized test results. Results are provided in the aggregate for the nation as a whole and on a State-by-State basis.

With respect to the rewards and sanctions under Title VII, section 411 of the National Education Statistics Act is amended by

section 901 of H.R. 1 to specifically authorize the annual use of NAEP reading and mathematics assessments in fourth and eighth grades. Section 411 is also amended to delete the requirement that States are to pay for a share of the expenses of NAEP. The expenses of NAEP, as well as the expenses of the alternative independent assessments (if a State chooses this approach in lieu of NAEP), would be provided for through federal appropriations with no required State share. For a more detailed discussion of rewards and sanctions, see the Committee views for Title VII, Part A of this report.

TITLE IX, PART A, SUBPART 2—HOMELESS EDUCATION

H.R. 1 reauthorizes the McKinney-Vento Homeless Education Assistance Improvements Act of 2001. The McKinney-Vento Homeless Education Assistance Act currently requires that States provide estimates of the number of homeless children and youth in their States and information about their access to education and related services. This provision has resulted in widely varying data in both quality and quantity. The lack of a uniform method of data collection has resulted in unreliable national data. H.R. 1 eliminates the requirement that the State homeless coordinator estimate the number of homeless children in the State and the number of homeless children served by the program. Under H.R. 1, this responsibility is placed under the authority of the Secretary who shall, either directly or through grants, contracts, or cooperative agreements, periodically collect and disseminate data and information on the number and location of homeless children and youth; the education and related services such children and youth receive; and the extent to which such needs are being met. The result of these changes to the McKinney-Vento Homeless Education Assistance Act will enable a more reliable and uniform data collection method that will help guide Congress in making accurate funding decisions.

Many homeless children and youth are forced to wait days and even weeks before they can enroll in school because they do not have the necessary paperwork required for enrollment such as proof of residency, previous academic records, birth certificates, and other documentation.

According to the FY 1997 Department of Education Report to Congress (issued in 1999), States reported that lack of school records and birth certificates were among the most frequent reasons for homeless children and youth not attending school. In addition, the report noted that lack of documentation is among the reasons that 45 percent of homeless children and youth were not attending school on a regular basis during their homelessness. H.R. 1 directs schools to immediately enroll a homeless child even if they are unable to produce the documents normally required for enrollment. In cases where a homeless child does not have immunization records, the enrolling school shall promptly refer his or her parent or guardian to the homeless liaison to assist in obtaining immunizations or immunization records.

Homeless liaison personnel have played a key role in establishing relations between families, schools, shelters, and other homeless service agencies. H.R. 1 requires local educational agencies to designate a homeless liaison responsible for ensuring that homeless children are regularly attending school and are receiving equitable

access to high-quality education and support services. The liaison can be a federal programs coordinator, Title I coordinator, or other program staff.

Many homeless children are forced to change schools because shelters or other temporary living accommodations are not located in the same school district as their school, or because they lack transportation. Forty-one percent of homeless students attend two different schools, and 28% attend three or more schools in a single year. This mobility puts children at great risk for academic failure. In response to these findings, H.R. 1 directs local educational agencies to continue homeless children's education in their school of origin, to the extent feasible, unless the parent or guardian wishes otherwise, for the duration of homelessness.

Nationwide, the lack of transportation is one of the most pervasive barriers to enrollment and success in school for homeless children and youth. According to the FY 1997 Department of Education Report to Congress (issued in 1999), the lack of transportation to or from temporary residences was the most frequent reason given by States as to why homeless children and youth did not attend school. Forty States listed transportation as a major need to be addressed to ensure the individual academic success of a homeless child or youth. H.R. 1 directs State and local educational agencies to ensure that transportation is provided to the school of origin, at the request of the parent or guardian (or, in the case of an unaccompanied youth, the request of the liaison). H.R. 1 will enhance access to education, as well as educational continuity.

Lack of awareness about the McKinney-Vento Homeless Education Assistance Act often prevents homeless families and youth from obtaining education, and from knowing who to contact for help with school enrollment and other education issues. H.R. 1 improves dissemination of information about the educational rights of homeless students by requiring school districts to disseminate public notice in schools, family shelters, soup kitchens, and other locations where students receive services. The Committee also instructs the Secretary of Education to create a public notice of the educational rights of homeless children and youth and disseminate this 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.

The Office of State Coordinator for the Education of Homeless Children and Youth oversees all local educational agencies in a State, including those that do not receive McKinney-Vento Homeless Education Assistance Act funds. These LEAs are often in need of technical assistance and support in order to respond to the needs of their homeless students. Some States have responded to the need to provide Statewide technical assistance and support to all school districts by creating Statewide initiatives. These initiatives have had great success in expanding the reach of McKinney-Vento funds and increasing support for the enrollment and school success of homeless children Statewide. In order to successfully implement Statewide initiatives, the Committee provides States more flexibility in the reservation of funds for such activities.

Lack of clarity about who is considered homeless for the purposes of this subtitle have prevented many students in certain homeless situations (for example, students living in doubled-up arrangements due to lack of shelter space or other accommodations, motels, etc.) from enrolling and attending school. H.R. 1 incorporates previously existing federal guidance on definitions of homelessness in order to clarify eligibility for this subtitle. The Committee also defines "enroll" as the right to attend classes and fully participate in school programs. This definition will help to eliminate the practice of "enrolling" homeless students in school, but not actually allowing them to attend class until paperwork is provided.

H.R. 1 contains language that prohibits a State receiving funds under the McKinney-Vento Homeless Education Assistance Act from segregating a homeless child, either in a separate school or in a separate program within a school, based on that student's status as homeless. However, this provision contains a grandfather clause that ensures established schools do not lose funding.

TITLE IX, PART B—REPEALS

Part B of Title IX of H.R. 1 repeals the following statutes and programs: (1) Part A (National Education Goals Panel) and Part C (Authorization of Appropriations) of Title II of the Goals 2000: Educate America Act; (2) Title VI (International Education Program) of the Goals 2000: Educate America Act; (3) Title XVII of Public Law 106–65 (Troops-to-Teachers Program Act of 1999); (4) Title IX (Native American Education, Native Hawaiians, and Alaska Native Education) of the Elementary and Secondary Education Act; (5) Title X, Part A (Fund for the Improvement of Education) of the Elementary and Secondary Education Act; (6) Title X, Part B (Gifted and Talented) of the Elementary and Secondary Education Act; (7) Part C of Title X (Charter Schools) of the Elementary and Secondary Education Act; (8) Part D of Title X (Arts in Education) of the Elementary and Secondary Education Act; (9) Part F of Title X (Civics Education) of the Elementary and Secondary Education Act; (10) Part I of Title X (21st Century Community Learning Centers) of the Elementary and Secondary Education Act; (11) Part J of Title I (Urban and Rural Education) of the Elementary and Secondary Education Act; (12) Part L of Title X (Physical Education for Progress) of the Elementary and Secondary Education Act; (13) Title XI (Coordinated Services) of the Elementary and Secondary Education Act; and (14) Title XII (Education Infrastructure) of the Elementary and Secondary Education Act.

The Committee notes that some of the programs that are repealed have been consolidated into other programs, some have been rewritten and continued elsewhere under the revised structure of the Elementary and Secondary Education Act, and some have been eliminated altogether. H.R. 1 eliminates or consolidates 34 federal Elementary and Secondary Education Act (ESEA) programs out of a total of 66, streamlining nearly 50 percent of the federal K–12 education role.

SECTION-BY-SECTION ANALYSIS

Section 1—sets forth the short title of this act as the 'No Child Left Behind Act of 2001.'

Section 2—states that 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.

Section 3—states that 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 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.

Section 4—contains the table of contents.

Section 5—states that 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

Section 101—amends Section 1001 as follows:

"Section 1001 provides the findings; statement of purpose; and recognition of need."

Section 102—amends Section 1002 as follows:

"Section 1002 provides for the authorization of appropriations."

Section 103—amends Section 1003 as follows:

"Section 1003 states the reservation for school improvement."

Section 104—amends the heading for part A of title I and sections 1111 through 1115 as follows:

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

"Subpart 1—Basic Program Requirements

"Section 1111 sets forth provisions for state plans.

"Section 1112 contains provisions for local educational agency plans.

"Section 1113 sets forth provisions for eligible school attendance areas.

"Section 1114 states provisions for schoolwide programs.

"Section 1115 sets forth provisions for targeted assistance schools."

Section 105 amends Section 1115A as follows:

"Section 1115A provides for school choice. This section contains provisions for an optional public school choice program, including a provision to allow title I funds to be used for transportation services."

Section 106 amends the section heading and subsections (a) through (d) of section 1116 as follows:

"Section 1116 contains provisions relating to local review, school and local educational agency improvement provisions, technical assistance, corrective action and school restructuring; provisions for providing public school choice for students attending low-per-

forming schools, including the use of funds for transportation services; provisions for supplemental services for disadvantaged students."

Section 107 amends section 1117 as follows:

"Section 1117 sets forth provisions pertaining to state assistance for school support and improvement."

Section 108 amends sections 1118 through 1127 as follows:

"Section 1117A provides for the Academic Achievement Awards program.

"Section 1118 sets provisions for parental involvement in programs under this section.

"Section 1119 establishes qualifications for teachers and paraprofessionals.

"Section 1119A sets forth provisions for professional development.

"Section 1120 contains provisions pertaining to the participation of children enrolled in private schools.

"Section 1120A sets fiscal requirements.

"Section 1120B sets coordination requirements.

"Subpart 2—Allocations

"Section 1121 provides grants for the outlying areas and the Secretary of the Interior.

"Section 1122 establishes amounts for basic grants, concentration grants, and targeted grants.

"Section 1124 sets forth provisions for basic grants to local educational agencies.

"Section 1124A contains provisions for concentration grants to local educational agencies.

"Section 1125 sets forth provisions for targeted grants to local educational agencies.

"Section 1126 sets forth provisions for special allocation procedures.

"Section 1127 contains provisions for carryover and waiver authority.

"Section 1128 states that 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

Section 111—amends part B of title I as follows:

"PART B—STUDENT READING SKILLS IMPROVEMENT GRANTS

Subpart 1—Reading First

"Section 1201 states the findings of Congress.

"Section 1202 states the purposes of this subpart.

"Section 1203 sets forth provisions for formula grants to states.

"Section 1204 contains provisions regarding state formula grant applications.

"Section 1205 sets forth provisions for discretionary grants to states.

"Section 1206 provides for external evaluation.

"Section 1207 sets forth provisions for national activities.

"Section 1208 sets forth provisions for the dissemination of information.

"Section 1209 states the definitions for this subpart.

"Subpart 2—Early Reading First

"Section 1221 states the purposes of this subpart.

"Section 1222 sets forth provisions for local early reading first grants.

"Section 1223 requires the Secretary to 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.

"Section 1224 states reporting requirements for this subpart.

"Section 1225 states evaluation requirements for this subpart.

"Section 1226 provides additional research requirements."

Section 112—further amends part B of title 1, as amended by section 111, as follows:

"Subpart 3—William F. Goodling Even Start Family Literacy Programs"

Section 113—sets forth provisions regarding the Inexpensive Book Distribution Program.

PART C—EDUCATION OF MIGRATORY CHILDREN

Section 121—amends section 1303 regarding state allocations.

Section 122—amends section 1304 pertaining to state applications; services.

Section 123—amends section 1306 as follows:

"Section 1306 states the authorized activities."

Section 124—amends section 1308 regarding the coordination of migrant education activities.

PART D—NEGLECTED OR DELINQUENT YOUTH

Section 131—amends the heading for part D of title I as follows:

"PART D—PREVENTION AND INTERVENTION PROGRAMS FOR NEGLECTED OR DELINQUENT CHILDREN AND YOUTH."

Section 132—amends section 1401 regarding findings related to neglected and delinquent youth.

Section 133—amends section 1412 pertaining to the allocation of funds.

Section 134—amends section 1414 as follows:

"Section 1414 sets forth provisions for state plan and state agency applications."

Section 135—amends section 1415 regarding the use of funds.

Section 136—amends section 1418 pertaining to transition services.

Section 137—amends section 1421 regarding the purpose of this part.

Section 138—amends section 1422 regarding programs operated by local educational agencies.

Section 139—amends section 1423 pertaining to local educational agency applications.

Section 140—amends section 1424 pertaining to the uses of funds.

Section 141—amends section 1425 regarding program requirements.

Section 142—amends section 1431 regarding program evaluations.

PART E—FEDERAL EVALUATIONS AND DEMONSTRATIONS

Section 151—amends section 1501 as follows:

"Section 1501 sets forth provisions aimed at evaluating programs assisted under this title."

Section 152—amends section 1502 regarding demonstrations of innovative practices.

Section 153—further amends part E of title I by adding at the end the following:

"Section 1503 sets forth provisions for the Ellender-Close Up Fellowship Program.

"Section 1504 contains provisions for dropout reporting."

PART F—COMPREHENSIVE SCHOOL REFORM

Section 161—amends part F of title I as follows:

"PART F—COMPREHENSIVE SCHOOL REFORM

"Section 1601 contains provisions regarding comprehensive school reform."

PART G—RURAL EDUCATION FLEXIBILITY AND ASSISTANCE

Section 171—amends title I by adding at the end the following new part:

"PART G—RURAL EDUCATION FLEXIBILITY AND ASSISTANCE

"Section 1701 establishes the short title of this part as the 'Rural Education Initiative Act.'

"Section 1702 sets forth the findings of Congress regarding rural education.

"Subpart 1—Rural Education Flexibility

"Section 1711 provides formula grant program authorization.

"Section 1712 provides program authorization.

"Section 1713 sets forth provisions designed to ensure accountability.

"Subpart 2—Rural Education Assistance

"Section 1721 provides program authorization.

"Section 1722 sets forth provisions regarding state distribution of funds.

"Section 1723 contains provisions for applications.

"Section 1724 sets forth provisions for reports.

"Section 1725 contains provisions for a performance review.

"Section 1726 states the definitions for this subpart.

"Subpart 3—General Provisions

"Section 1731 provides a definition for this part."

PART H—GENERAL PROVISIONS OF TITLE I

Section 181—further amends title I by adding at the end the following:

"PART H—GENERAL PROVISIONS

"Section 1801 sets forth provisions for federal regulations.
"Section 1802 contains provisions regarding agreements and records.
"Section 1803 sets forth provisions for state administration.
"Section 1804 provides a local administrative cost limitation.
"Section 1805 states that 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.
"Section 1806 states that 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.
"Section 1807 ensures the privacy of assessment results."

Title II—Preparing, Training, and Recruiting Quality Teachers

Section 201—amends title II, part A as follows:

"Title II—Preparing, Training, and Recruiting Quality Teachers

"PART A—TEACHER QUALITY TRAINING AND RECRUITING FUND

"Section 2001 states the purpose.

"Subpart 1—Grants to States to Prepare, Train, and Recruit Qualified Teachers

"Section 2011 sets forth provisions for formula grants to states.
"Section 2012 provides for within-state allocations.
"Section 2013 sets forth provisions for applications by states.

"Subpart 2—Math and Science Partnerships

"Section 2021 states the purpose.
"Section 2022 sets forth provisions for application requirements.
"Section 2023 contains provisions for math and science partnership subgrants.
"Section 2024 sets forth the evaluation and accountability plan.
"Section 2025 contains provisions for reports and the revocation of subgrants.
"Section 2026 sets forth definitions.

"Subpart 3—Subgrants to Local Educational Agencies

"Section 2031 contains provisions for the local use of funds.
"Section 2032 provides for local applications.
"Section 2033 sets forth professional development for teachers.
"Section 2034 contains provisions for teacher opportunity payments.

"Subpart 4—Mid-Career Transitions to Teaching

"Chapter I—Troops-to-Teachers Program

"Section 2041 establishes authorization of the Troops-to-Teachers program.

"Section 2042 contains provisions for the recruitment and selection of program participants.

"Section 2043 provides for participation agreement and financial assistance.

"Section 2044 sets forth provisions regarding participation by states.

"Section 2045 contains provisions for the support of innovative preretirement teacher certification programs.

"Section 2046 states reporting requirements.

"Section 2047 states definitions.

"Chapter II—Transition to Teaching

"Section 2048 contains provisions regarding professionals seeking to change careers.

"Subpart 5—Funding

"Section 2051 states authorizations of appropriations.

"Subpart 6—General Provisions

"Section 2061 states definitions."

Section 202—transfers the National Writing Project from part K of title X to part B of title II.

Section 203—amends title II by creating a part C and D, Civic Education and Teacher Liability Protection as follows:

"PART C—CIVIC EDUCATION

"Section 2201 states the short title of this part as the 'Education for Democracy Act.'

"Section 2202 sets forth the findings of Congress.

"Section 2203 states the purpose.

"Section 2204 establishes authority.

"Section 2205 contains provisions regarding the We The People Program.

"Section 2206 sets forth Cooperative Civic Education and Economic Exchange Programs.

"Section 2207 contains provisions regarding funding.

"PART D—TEACHER LIABILITY PROTECTION

"Section 2301 sets forth provisions for teacher immunity."

Title III—Education of Limited English Proficent Children; Indian and Alaska Native Education

PART A—EDUCATION OF LIMITED ENGLISH PROFICIENT AND IMMIGRANT CHILDREN

Section 301—amends the heading for title III as follows:

"Title III—Education of Limited English Proficient Children; Indian and Alaskan Native Education

"PART A—EDUCATION OF LIMITED ENGLISH PROFICIENT AND IMMIGRANT CHILDREN

"Subpart 1—English Language and Academic Instructional Programs

"Section 3101 states the short title of this subpart as the 'English Language Proficiency and Academic Achievement Act.'

"Section 3102 states the findings and purposes.

"Section 3103 sets forth provisions for parental notification and consent for English language instruction.

"Section 3104 sets forth provisions for the testing of limited English proficient children.

"Section 3105 sets forth formula grants to states.

"Section 3106 contains provisions for Native American and Alaska Native children in school.

"Section 3107 sets forth provisions for applications by states.

"Section 3108 contains provisions for subgrants to eligible entities.

"Section 3109 sets forth provisions for the distribution of gants to eligible entities.

"Section 3110 states authorizations of appropriations.

"Subpart 2—Administration

"Section 3121 provides for evaluations.

"Section 3122 sets forth reporting requirements.

"Section 3123 provides for coordination with related programs.

"Subpart 3—General Provisions

"Section 3131 sets forth the definitions.

"Section 3132 establishes the rules of construction.

"Section 3133 establishes the limitation on federal regulations.

"Section 3134 sets forth the legal authority under state law.

"Section 3135 sets forth civil rights.

"Section 3136 contains provisions for programs for Native Americans and Puerto Rico."

Section 302—the conforming amendment to the Department of Education Organization act amends Section 216 as follows:

"Section 216 contains provisions regarding the Office of Educational Services for Limited English Proficient Children.

PART B—INDIAN AND ALASKA NATIVE EDUCATION

Section 311—amends title III (as amended by section 301 of this act) by adding at the end the following new part:

"PART B—INDIAN AND ALASKAN NATIVE EDUCATION

"Subpart 1—Indian Education

"Section 3201 states the findings of Congress.

"Section 3202 states the purpose.

"Chapter I—Formula Grants to Local Educational Agencies

"Section 3211 states the purpose.

"Section 3212 sets forth provisions for grants to local educational agencies.

"Section 3213 establishes the amount of grants.

"Section 3214 contains provisions for applications submitted to the Secretary.

"Section 3215 provides for authorized services and activities.

"Section 3216 sets for provisions for the integration of services authorized.

"Section 3217 contains provisions for student eligibility forms.

"Section 3218 sets forth provisions for payments.

"Section 3219 establishes the state educational agency review.

"Chapter II—Special Programs and Projects to Improve Educational Opportunities for Indian Children

"Section 3221 contains provisions for the improvement of educational opportunities for Indian children.

"Section 3222 provides for professional development for teachers and education professionals.

"Chapter III—National Research Activities

"Section 3231 sets forth provisions for national activities.

"Chapter IV—Federal Administration

"Section 3241 contains provisions for the National Advisory Council on Indian Education.

"Section 3242 sets forth provisions for peer review.

"Section 3243 establishes preference for Indian applicants.

"Section 3244 establishes minimum grant criteria.

"Chapter V—Definitions; Authorizations of Appropriations

"Section 3251 sets forth definitions.

"Section 3252 states authorizations of appropriations.

Section 312—amends part B of title III (as amended by Section 311 of this act) by adding at the end the following new subpart:

"Subpart 2—Alaska Native Education

"Section 3301 states the short title of this subpart as the 'Alaska Native Educational Equity, Support, and Assistance Act.'

"Section 3302 states the findings of Congress.

"Section 3303 states the purpose.

"Section 3304 sets forth provisions for the authorization of the program.

"Section 3305 sets forth administrative provisions.

"Section 3306 sets forth definitions.

Section 313—amends part B of title XI of the Education Amendments of 1978 as follows:

"PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

"Section 1120 states findings and policy.

"Section 1121 provides for accreditation and standards for the basic education of Indian Children in Bureau of Indian Affairs Schools.

"Section 1122 provides the national criteria for home-living situations.

"Section 1123 states the codification of regulations.
"Section 1124 establishes school boundaries.
"Section 1125 contains provisions for facilities construction.
"Section 1126 establishes the Bureau of Indian Affairs education functions and policy.
"Section 1127 contains provisions for the allotment formula.
"Section 1128 provides for administrative cost grants.
"Section 1129 establishes the Division of Budget Analysis under the director of the office.
"Section 1130 sets forth uniform direct funding and support.
"Section 1131 provides for policy for tribal control of Indian education.
"Section 1132 contains provisions for Indian education personnel.
"Section 1133 provides for the computerized management information system.
"Section 1134 establishes uniform education procedures and practices.
"Section 1135 provides for the recruitment of Indian educators.
"Section 1136 contains provisions pertaining to the biennial report and audits.
"Section 1137 sets forth the rights of Indian students.
"Section 1138 contains provisions for regulations.
"Section 1138A contains provisions for regional meetings and negotiated rulemaking.
"Section 1139 contains provisions for the early childhood development program.
"Section 1140 sets forth provisions for tribal departments or divisions of education.
"Section 1141 sets forth the definitions."

Section 314—amends Sections 5202 through 5212 of Public Law 100–297 as follows:
"Section 5202 states the findings of Congress.
"Section 5203 sets forth the declaration of policy.
"Section 5204 contains, provisions for grants authorized.
"Section 5205 provides for the composition of grants.
"Section 5206 sets forth eligibility for grants.
"Section 5207 contains provisions for the duration of eligibility determination.
"Section 5208 contains provisions pertaining to the payment of grants and the investment of funds.
"Section 5209 sets forth provisions for the application with respect to the Indian Self Determination and Education Assistance Act.
"Section 5210 establishes the role of the director.
"Section 5211 sets forth regulations.
"Section 5212 contains provisions for the tribally controlled grant school endowment program.
"Section 5213 sets forth the definitions."

Title IV—Promoting Informed Parental Choice and Innovative Programs

Section 401—amends title IV as follows:

"Title IV—Promoting Informed Parental Choice and Innovative Programs

"PART A—INNOVATIVE PROGRAMS

"Subpart 1—State and Local Innovative Programs
"Section 4101 sets forth findings and the statement of purpose.

"Chapter 1—State and Local Programs

"Section 4111 provides for allocations to states.
"Section 4112 sets forth allocation to local educational agencies.

"Chapter 2—State Programs

"Section 4121 contains provisions pertaining to the state use of funds.
"Section 4122 sets forth provisions for state applications.

"Chapter 3—Local Innovative Education Programs

"Section 4131 contains provisions pertaining to the use of funds.
"Section 4132 establishes administrative authority.
"Section 4133 sets forth provisions for local applications.

"Chapter 4—General Provisions

"Section 4141 sets forth provisions for the maintenance of effort and federal funds supplementary.
"Section 4142 contains provisions pertaining to the participation of children enrolled in private schools.
"Section 4143 establishes federal administration.
"Section 4144 sets forth the definitions.
"Section 4145 states the authorization of appropriations."

"Subpart 2—Arts Education

"Section 4151 contains provisions regarding assistance for arts education.

"Subpart 3—Gifted and Talented Children

"Section 4161 states the short title of this subpart.
"Section 4162 states the findings of Congress and the purpose.
"Section 4163 sets forth the rule of construction.
"Section 4164 contains provisions pertaining to the authorized programs.
"Section 4165 sets forth provisions regarding program priorities.
"Section 4166 sets forth the general provisions.
"Section 4167 states the authorization of appropriations.

Section 402—sets forth the continuation of awards.

PART B—PUBLIC CHARTER SCHOOLS

Section 411—amends part B of title IV as follows:

"PART B—PUBLIC CHARTER SCHOOLS

"Section 4201 states the findings and purpose.
"Section 4202 sets forth provisions regarding the program authorized.
"Section 4203 contains provisions for applications.
"Section 4204 sets forth provisions regarding administration.

"Section 4205 contains provisions regarding national activities.
"Section 4206 provides for federal formula allocation during the first year and for successive enrollment expansions.
"Section 4207 establishes solicitation of input from charter school operators.
"Section 4208 provides for records transfer.
"Section 4209 reduces paperwork for eligible applicants or charter schools.
"Section 4210 sets forth the definitions.
"Section 4211 establishes the authorization of appropriations."

Section 412—sets forth the continuation of awards.

PART C—MAGNET SCHOOLS ASSISTANCE; WOMEN'S EDUCATIONAL EQUITY

Section 421—amends part C of title IV as follows:

"PART C—MAGNET SCHOOLS ASSISTANCE; WOMEN'S EDUCATIONAL EQUITY

"Subpart 1—Magnet Schools Assistance

"Section 4301 states the findings of Congress.
"Section 4302 states the purpose.
"Section 4303 authorizes the program.
"Section 4304 sets forth the definitions.
"Section 4305 contains provisions regarding eligibility.
"Section 4306 sets forth applications and requirements.
"Section 4307 states the priority.
"Section 4308 contains provisions regarding the use of funds.
"Section 4309 states the prohibitions.
"Section 4310 states the limitations.
"Section 4311 contains provisions regarding evaluations.
"Section 4312 contains provisions regarding the authorization of appropriations and reservation."

Section 422—transfers Women's Educational Equity from part B of title V to subpart 2 of part D of title IV.
Section 423—establishes the continuation of awards.

Title V—21st Century Schools

Section 501—amends title V, except part B (which is transferred and re-designated as subpart 2 of part D of title IV by section 432 of this act) as follows:

"Title V—21st Century Schools

"PART A—SUPPORTING VIOLENCE AND DRUG PREVENTION AND ACADEMIC ENRICHMENT

"Section 5001 states the short title of this part as the '2lst Century Schools Act of 2001.'
"Section 5002 states the purpose of this part.
"Section 5003 provides for the authorization of appropriations.

"Subpart 1—Safe Schools

"Section 5111 sets forth provisions for reservations and allotments.

"Section 5112 provides for a reservation of state funds for safe schools.

"Section 5113 contains provisions pertaining to state applications.

"Section 5114 provides for a formula grant program.

"Section 5115 contains provisions regarding authorized activities.

"Section 5116 sets forth provisions for evaluation and reporting.

"Subpart 2—21st Century Schools

"Section 5121 sets forth provisions regarding state allotments for 21st Century Schools.

"Section 5122 contains provisions pertaining to state applications.

"Section 5123 provides for a competitive grant program.

"Section 5124 sets forth provisions regarding local activities.

"Subpart 3—National Programs

"Section 5131 contains provisions pertaining to federal activities.

"Subpart 4—Gun Possession

"Section 5141 states gun-free school requirements.

"Subpart 5—General Provisions

"Section 5151 states the definitions for this part.

"Section 5152 contains provisions for the message and materials.

"Section 5153 sets forth provisions for parental consent.

"Section 5154 states prohibited uses of funds.

"PART B—ENHANCING EDUCATION THROUGH TECHNOLOGY

"Section 5201 states the short title of this part as the 'Enhancing Education Through Technology Act of 2001.'

"Section 5202 states the purposes of this part.

"Section 5203 provides for the authorization of appropriations; funding rule.

"Section 5204 states the definitions of this part.

"Subpart 1—State and Local Technology for Success Grants

"Section 5211 contains provisions pertaining to state grant allotment.

"Section 5212 states the uses of the allotment by a state.

"Section 5213 contains provisions regarding state applications.

"Section 5214 sets forth provisions pertaining to local applications.

"Section 5215 contains provisions pertaining to state activities.

"Section 5216 sets forth provisions for local activities.

"Subpart 2—National Technology Activities

"Section 5221 contains provisions regarding national activities.

"Subpart 3—Ready to Learn, Ready to Teach

"Section 5231 sets forth provisions pertaining to Ready to Learn Television.

"Section 5232 provides for a telecommunications program.

"PART C—CHARACTER EDUCATION

"Section 5301 provides for the Character Education program.
"Section 5302 provides for the authorization of appropriations.

"PART D—ELEMENTARY AND SECONDARY SCHOOL COUNSELING PROGRAMS

"Section 5401 provides for elementary and secondary school counseling programs.

"PART E—MENTORING PROGRAMS

"Section 5501 provides definitions for this part.
"Section 5502 states the purposes of this part.
"Section 5503 sets forth provisions regarding a grant program.
"Section 5504 provides for a study by the General Accounting Office.
"Section 5505 sets forth the authorization of appropriations."

Title VI—Impact Aid Program

Section 601—sets forth provisions for payments under section 8002 with respect to fiscal years in which insufficient funds are appropriated.
Section 602—contains provisions regarding the calculation of payment under section 8003 for small local educational agencies.
Section 603—contains provisions pertaining to school facility construction.
Section 604—sets forth state consideration of payments in providing state aid.
Section 605—authorizes appropriations.
Section 606—sets forth provisions regarding the redesignation of the program.

Title VII—Accountability

Section 701—amends title VII as follows:

"Title VII—Flexibility and Accountability."

"PART A—STATE ACCOUNTABILITY FOR IMPROVING ACADEMIC ACHIEVEMENT

"Section 7101 sets forth provisions regarding state financial awards.
"Section 7102 sets forth state sanctions.
"Section 7103 provides for the development of state standards and assessments.
"Section 7104 authorizes the appropriations.

"PART B—FUNDING FLEXIBILITY FOR STATE AND LOCAL EDUCATIONAL AGENCIES

"Section 7201 states the short title as the 'State and Local Transferability Act'.
"Section 7202 states the purpose.
"Section 7203 contains provisions regarding the transferability of funds."

Title VIII—General Provisions

Section 801—further amends the Elementary and Secondary Education Act of 1965, as amended by this act, by adding at the end of title VII the following:

"Title VIII—General Provisions

"Part A—Definitions

"Section 8101 sets forth definitions for this act.

"Section 8102 states the applicability of this title.

"Section 8103 states the applicability of this act to the Bureau of Indian Affairs operated schools.

"PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

"Section 8201 provides for the consolidation of state administrative funds for elementary and secondary education programs.

"Section 8202 contains provisions pertaining to single local educational agency states.

"Section 8203 provides for the consolidation of funds for local administration.

"Section 8204 provides for a consolidated set-aside for the Department of the Interior's funds.

"PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

"Section 8301 states the purposes of this part.

"Section 8302 sets forth provisions for optional consolidated state plans or applications.

"Section 8303 provides for consolidated reporting.

"Section 8304 sets forth the general applicability of state educational agency assurances.

"Section 8305 sets forth provisions for consolidated local plans or applications.

"Section 8306 establishes provisions for other general assurances.

"PART D—WAIVERS

"Section 8401 contains waivers of statutory and regulatory requirements.

"PART E—UNIFORM PROVISIONS

"Section 8501 contains provisions for the maintenance of effort.

"Section 8502 sets forth a prohibition regarding state aid.

"Section 8503 sets forth provisions for participation by private school children and teachers.

"Section 8504 contains standards for a by-pass.

"Section 8505 provides for a complaint process regarding the participation of private school children.

"Section 8506 sets forth a by-pass determination process.

"Section 8507 sets forth a prohibition against funds being provided for religious worship or instruction.

"Section 8508 provides that 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.

"Section 8509 provides that 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.

"Section 8510 provides for the privacy of assessment results.

"Section 8511 sets forth a general provision regarding non-recipient nonpublic schools.

"Section 8512 contains provisions regarding school prayer.

"Section 8513 sets forth prohibitions on the use of funds and sets provisions for local control.

"Section 8514 provides for a prohibition on federal mandates, direction, and control.

"Section 8515 states that 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.

"Section 8516 sets forth reporting requirements.

"Section 8517 prohibits the requirement of approval or certification of academic content standards or student academic achievement standards by the federal government.

"Section 8518 sets forth a prohibition on an endorsement of a curriculum by the Department of Education.

"Section 8519 states that 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.

"Section 8520 states that if any provision of this act is held invalid, the remainder of this act shall be unaffected thereby.

"PART F—SENSE OF CONGRESS

"Section 8601 expresses the Sense of Congress regarding paperwork reduction.

"Section 8602 expresses the Sense of Congress regarding a prohibition on the mandatory national certification of teachers and paraprofessionals.

"Section 8603 expresses the Sense of Congress pertaining to a prohibition on federally sponsored testing.

"Section 8604 expresses the Sense of Congress regarding memorials.

"PART G—EVALUATIONS

"Section 8651 sets forth provisions for conducting comprehensive program or project evaluations."

Section 802—contains provisions pertaining to comprehensive regional assistance centers.

Section 803—sets forth provisions regarding the National Diffusion Network program.

Section 804—contains provisions pertaining to the Eisenhower Regional Mathematics and Science Education Corsortia.

Section 805—contains provisions regarding technology-based technical assistance.

Section 806—sets forth provisions regarding regional technical support and professional development.

Title IX—Miscellaneous Provisions

PART A—AMENDMENTS TO OTHER ACTS

Subpart 1—National Education Statistics Act

Section 901—amends section 411 of the National Education Statistics Act of 1994.

Subpart 2—Homeless Education

Section 911—establishes the short title of this subpart as the 'McKinney-Vento Homeless Education Assistance Improvements Act of 2001'.

Section 912—states the findings of Congress.

Section 913—states the purpose of this subpart.

Section 914—amends subtitle B of title VII of Public Law 100–77 as follows:

"Subtitle B—Education for Homeless Children and Youth

"Section 721 states the policy of Congress.

"Section 722 provides grants for state and local activities for the education of homeless children and youth.

"Section 723 provides local educational agency grants for the education of homeless children and youth.

"Section 724 sets forth the responsibilities of the Secretary.

"Section 725 states the definitions of this subtitle.

"Section 726 establishes the authorization of appropriations."

Section 915—amends section I of Public Law 106–400 regarding a technical amendment.

PART B—REPEALS

Section 921 sets forth provisions that are repealed.

EXPLANATION OF AMENDMENTS

The Amendment in the Nature of a Substitute is explained in the body of this report.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch. This bill, H.R. 1, the "No Child Left Behind Act of 2001," authorizes programs of the Elementary and Secondary Education Act and provides States and school districts with increased flexibility. The bill does not prevent legislative branch employees from receiving the benefits of this legislation.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement of whether the provisions of the reported bill include unfunded mandates. H.R. 1

authorizes programs of the Elementary and Secondary Education Act and provides States and school districts with increased flexibility. As such, the bill does not contain any unfunded mandates.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee Report to include for each record vote on a motion to report the measure or matter and on any amendments offered to the measure or matter the total number of votes for and against and the names of the Members voting for and against.

COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 1 **BILL** H.R. 1 **DATE** May 2, 2001

AMENDMENT NUMBER 3 **Adopted 27 – 20 with 1 Member voting present**

SPONSOR/AMENDMENT Mr. Miller / strikes private school choice provisions, but retains public school choice, supplementary services, and charter school options

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. BOEHNER, Chairman		X		
Mr. PETRI, Vice Chairman		X		
Mrs. ROUKEMA	X			
Mr. BALLENGER		X		
Mr. HOEKSTRA		X		
Mr. McKEON		X		
Mr. CASTLE			X	
Mr. JOHNSON		X		
Mr. GREENWOOD		X		
Mr. GRAHAM		X		
Mr. SOUDER		X		
Mr. NORWOOD		X		
Mr. SCHAFFER		X		
Mr. UPTON	X			
Mr. HILLEARY		X		
Mr. EHLERS		X		
Mr. TANCREDO		X		
Mr. FLETCHER				X
Mr. DEMINT		X		
Mr. ISAKSON		X		
Mr. GOODLATTE		X		
Mrs. BIGGERT	X			
Mr. PLATTS	X			
Mr. TIBERI		X		
Mr. KELLER		X		
Mr. OSBORNE	X			
Mr. CULBERSON		X		
Mr. MILLER	X			
Mr. KILDEE	X			
Mr. OWENS	X			
Mr. PAYNE	X			
Mrs. MINK	X			
Mr. ANDREWS	X			
Mr. ROEMER	X			
Mr. SCOTT	X			
Ms. WOOLSEY	X			
Ms. RIVERS	X			
Mr. HINOJOSA	X			
Mrs. McCARTHY	X			
Mr. TIERNEY	X			
Mr. KIND	X			
Ms. SANCHEZ	X			
Mr. FORD	X			
Mr. KUCINICH	X			
Mr. WU	X			
Mr. HOLT	X			
Ms. SOLIS	X			
Ms. DAVIS	X			
Ms. McCOLLUM	X			
TOTALS	27	20	1	1

COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 2 **BILL** H.R. 1 **DATE** May 2, 2001

AMENDMENT NUMBER 4 **Defeated 22 - 25**

SPONSOR/AMENDMENT Mr. Owens / authorizes over $21 billion for school renovation and repair and school construction for five years

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. BOEHNER, Chairman		X		
Mr. PETRI, Vice Chairman		X		
Mrs. ROUKEMA		X		
Mr. BALLENGER		X		
Mr. HOEKSTRA				X
Mr. McKEON		X		
Mr. CASTLE		X		
Mr. JOHNSON		X		
Mr. GREENWOOD		X		
Mr. GRAHAM		X		
Mr. SOUDER		X		
Mr. NORWOOD		X		
Mr. SCHAFFER				X
Mr. UPTON		X		
Mr. HILLEARY		X		
Mr. EHLERS		X		
Mr. TANCREDO		X		
Mr. FLETCHER		X		
Mr. DEMINT		X		
Mr. ISAKSON		X		
Mr. GOODLATTE		X		
Mrs. BIGGERT		X		
Mr. PLATTS		X		
Mr. TIBERI		X		
Mr. KELLER		X		
Mr. OSBORNE		X		
Mr. CULBERSON		X		
Mr. MILLER	X			
Mr. KILDEE	X			
Mr. OWENS	X			
Mr. PAYNE	X			
Mrs. MINK	X			
Mr. ANDREWS	X			
Mr. ROEMER	X			
Mr. SCOTT	X			
Ms. WOOLSEY	X			
Ms. RIVERS	X			
Mr. HINOJOSA	X			
Mrs. McCARTHY	X			
Mr. TIERNEY	X			
Mr. KIND	X			
Ms. SANCHEZ	X			
Mr. FORD	X			
Mr. KUCINICH	X			
Mr. WU	X			
Mr. HOLT	X			
Ms. SOLIS	X			
Ms. DAVIS	X			
Ms. McCOLLUM	X			
TOTALS	22	25		2

COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 3 **BILL** H.R. 1 **DATE** May 2, 2001

AMENDMENT NUMBER 5 **Defeated 22 - 25**

SPONSOR/AMENDMENT Mr. Wu / authorizes $2 billion and such sums for a class size reduction program

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. BOEHNER, Chairman		X		
Mr. PETRI, Vice Chairman		X		
Mrs. ROUKEMA		X		
Mr. BALLENGER		X		
Mr. HOEKSTRA				X
Mr. McKEON		X		
Mr. CASTLE		X		
Mr. JOHNSON		X		
Mr. GREENWOOD		X		
Mr. GRAHAM		X		
Mr. SOUDER		X		
Mr. NORWOOD		X		
Mr. SCHAFFER				X
Mr. UPTON		X		
Mr. HILLEARY		X		
Mr. EHLERS		X		
Mr. TANCREDO		X		
Mr. FLETCHER		X		
Mr. DEMINT		X		
Mr. ISAKSON		X		
Mr. GOODLATTE		X		
Mrs. BIGGERT		X		
Mr. PLATTS		X		
Mr. TIBERI		X		
Mr. KELLER		X		
Mr. OSBORNE		X		
Mr. CULBERSON		X		
Mr. MILLER	X			
Mr. KILDEE	X			
Mr. OWENS	X			
Mr. PAYNE	X			
Mrs. MINK	X			
Mr. ANDREWS	X			
Mr. ROEMER	X			
Mr. SCOTT	X			
Ms. WOOLSEY	X			
Ms. RIVERS	X			
Mr. HINOJOSA	X			
Mrs. McCARTHY	X			
Mr. TIERNEY	X			
Mr. KIND	X			
Ms. SANCHEZ	X			
Mr. FORD	X			
Mr. KUCINICH	X			
Mr. WU	X			
Mr. HOLT	X			
Ms. SOLIS	X			
Ms. DAVIS	X			
Ms. McCOLLUM	X			
TOTALS	22	25		2

COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 4 **BILL** H.R. 1 **DATE** May 3, 2001

AMENDMENT NUMBER 9 **Adopted 35 - 5**

SPONSOR/AMENDMENT Kildee / Souder / McCarthy – retains the Safe and Drug Free Program and the 21st Century Community Learning Centers as two separate programs in current law

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. BOEHNER, Chairman	X			
Mr. PETRI, Vice Chairman	X			
Mrs. ROUKEMA	X			
Mr. BALLENGER				X
Mr. HOEKSTRA				X
Mr. McKEON	X			
Mr. CASTLE	X			
Mr. JOHNSON		X		
Mr. GREENWOOD	X			
Mr. GRAHAM				X
Mr. SOUDER	X			
Mr. NORWOOD				X
Mr. SCHAFFER		X		
Mr. UPTON	X			
Mr. HILLEARY		X		
Mr. EHLERS	X			
Mr. TANCREDO				X
Mr. FLETCHER				X
Mr. DEMINT		X		
Mr. ISAKSON	X			
Mr. GOODLATTE		X		
Mrs. BIGGERT	X			
Mr. PLATTS				X
Mr. TIBERI	X			
Mr. KELLER	X			
Mr. OSBORNE	X			
Mr. CULBERSON	X			
Mr. MILLER	X			
Mr. KILDEE	X			
Mr. OWENS	X			
Mr. PAYNE	X			
Mrs. MINK	X			
Mr. ANDREWS	X			
Mr. ROEMER	X			
Mr. SCOTT	X			
Ms. WOOLSEY	X			
Ms. RIVERS	X			
Mr. HINOJOSA	X			
Mrs. McCARTHY	X			
Mr. TIERNEY	X			
Mr. KIND				X
Ms. SANCHEZ				X
Mr. FORD	X			
Mr. KUCINICH	X			
Mr. WU	X			
Mr. HOLT	X			
Ms. SOLIS	X			
Ms. DAVIS	X			
Ms. McCOLLUM	X			
TOTALS	35	5		9

COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 5 **BILL** H.R. 1 **DATE** May 3, 2001

AMENDMENT NUMBER 19 **Defeated 22 - 26**

SPONSOR/AMENDMENT Ms. Woolsey / creates a new woman's educational equity program, "Go Girls"

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. BOEHNER, Chairman		X		
Mr. PETRI, Vice Chairman		X		
Mrs. ROUKEMA		X		
Mr. BALLENGER		X		
Mr. HOEKSTRA		X		
Mr. McKEON		X		
Mr. CASTLE		X		
Mr. JOHNSON		X		
Mr. GREENWOOD		X		
Mr. GRAHAM		X		
Mr. SOUDER		X		
Mr. NORWOOD				X
Mr. SCHAFFER		X		
Mr. UPTON		X		
Mr. HILLEARY		X		
Mr. EHLERS		X		
Mr. TANCREDO		X		
Mr. FLETCHER		X		
Mr. DEMINT		X		
Mr. ISAKSON		X		
Mr. GOODLATTE		X		
Mrs. BIGGERT		X		
Mr. PLATTS		X		
Mr. TIBERI		X		
Mr. KELLER		X		
Mr. OSBORNE		X		
Mr. CULBERSON		X		
Mr. MILLER	X			
Mr. KILDEE	X			
Mr. OWENS	X			
Mr. PAYNE	X			
Mrs. MINK	X			
Mr. ANDREWS	X			
Mr. ROEMER	X			
Mr. SCOTT	X			
Ms. WOOLSEY	X			
Ms. RIVERS	X			
Mr. HINOJOSA	X			
Mrs. McCARTHY	X			
Mr. TIERNEY	X			
Mr. KIND	X			
Ms. SANCHEZ	X			
Mr. FORD	X			
Mr. KUCINICH	X			
Mr. WU	X			
Mr. HOLT	X			
Ms. SOLIS	X			
Ms. DAVIS	X			
Ms. McCOLLUM	X			
TOTALS	22	26		1

COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 6 **BILL** H.R. 1 **DATE** May 3, 2001

AMENDMENT NUMBER 20 **Defeated 20 - 28**

SPONSOR/AMENDMENT Mr. Payne / increases the poverty threshold for schoolwide projects from 40 to 50 percent

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. BOEHNER, Chairman		X		
Mr. PETRI, Vice Chairman		X		
Mrs. ROUKEMA		X		
Mr. BALLENGER		X		
Mr. HOEKSTRA		X		
Mr. McKEON		X		
Mr. CASTLE		X		
Mr. JOHNSON		X		
Mr. GREENWOOD		X		
Mr. GRAHAM		X		
Mr. SOUDER		X		
Mr. NORWOOD				X
Mr. SCHAFFER		X		
Mr. UPTON		X		
Mr. HILLEARY		X		
Mr. EHLERS		X		
Mr. TANCREDO		X		
Mr. FLETCHER		X		
Mr. DEMINT		X		
Mr. ISAKSON		X		
Mr. GOODLATTE		X		
Mrs. BIGGERT		X		
Mr. PLATTS		X		
Mr. TIBERI		X		
Mr. KELLER		X		
Mr. OSBORNE		X		
Mr. CULBERSON		X		
Mr. MILLER	X			
Mr. KILDEE	X			
Mr. OWENS	X			
Mr. PAYNE	X			
Mrs. MINK	X			
Mr. ANDREWS	X			
Mr. ROEMER		X		
Mr. SCOTT	X			
Ms. WOOLSEY	X			
Ms. RIVERS	X			
Mr. HINOJOSA	X			
Mrs. McCARTHY	X			
Mr. TIERNEY	X			
Mr. KIND	X			
Ms. SANCHEZ	X			
Mr. FORD	X			
Mr. KUCINICH	X			
Mr. WU	X			
Mr. HOLT	X			
Ms. SOLIS	X			
Ms. DAVIS		X		
Ms. McCOLLUM	X			
TOTALS	20	28		1

COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 7 **BILL** H.R. 1 **DATE** May 3, 2001

AMENDMENT NUMBER 24 **Adopted 26 - 22**

SPONSOR/AMENDMENT Mr. Scott / requires states to annually report the dropout rate as defined in a "common core data" of students to the National Center on Education Statistics

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. BOEHNER, Chairman		X		
Mr. PETRI, Vice Chairman		X		
Mrs. ROUKEMA		X		
Mr. BALLENGER		X		
Mr. HOEKSTRA		X		
Mr. McKEON		X		
Mr. CASTLE		X		
Mr. JOHNSON		X		
Mr. GREENWOOD		X		
Mr. GRAHAM		X		
Mr. SOUDER		X		
Mr. NORWOOD				X
Mr. SCHAFFER	X			
Mr. UPTON		X		
Mr. HILLEARY		X		
Mr. EHLERS		X		
Mr. TANCREDO	X			
Mr. FLETCHER		X		
Mr. DEMINT		X		
Mr. ISAKSON		X		
Mr. GOODLATTE		X		
Mrs. BIGGERT		X		
Mr. PLATTS	X			
Mr. TIBERI		X		
Mr. KELLER		X		
Mr. OSBORNE	X			
Mr. CULBERSON		X		
Mr. MILLER	X			
Mr. KILDEE	X			
Mr. OWENS	X			
Mr. PAYNE	X			
Mrs. MINK	X			
Mr. ANDREWS	X			
Mr. ROEMER	X			
Mr. SCOTT	X			
Ms. WOOLSEY	X			
Ms. RIVERS	X			
Mr. HINOJOSA	X			
Mrs. McCARTHY	X			
Mr. TIERNEY	X			
Mr. KIND	X			
Ms. SANCHEZ	X			
Mr. FORD	X			
Mr. KUCINICH	X			
Mr. WU	X			
Mr. HOLT	X			
Ms. SOLIS	X			
Ms. DAVIS	X			
Ms. McCOLLUM	X			
TOTALS	26	22		1

COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 8 **BILL** H.R. 1 **DATE** May 9, 2001

H.R. 1 was favorably reported as amended by a vote of 41 - 7

SPONSOR/AMENDMENT Mr. Petri / motion to report the bill to the House with an amendment and with the recommendation that the bill as amended do pass

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. BOEHNER, Chairman	X			
Mr. PETRI, Vice Chairman	X			
Mrs. ROUKEMA	X			
Mr. BALLENGER	X			
Mr. HOEKSTRA		X		
Mr. McKEON	X			
Mr. CASTLE	X			
Mr. JOHNSON	X			
Mr. GREENWOOD	X			
Mr. GRAHAM		X		
Mr. SOUDER		X		
Mr. NORWOOD	X			
Mr. SCHAFFER		X		
Mr. UPTON	X			
Mr. HILLEARY	X			
Mr. EHLERS	X			
Mr. TANCREDO		X		
Mr. FLETCHER	X			
Mr. DEMINT		X		
Mr. ISAKSON	X			
Mr. GOODLATTE	X			
Mrs. BIGGERT	X			
Mr. PLATTS	X			
Mr. TIBERI	X			
Mr. KELLER	X			
Mr. OSBORNE	X			
Mr. CULBERSON	X			
Mr. MILLER	X			
Mr. KILDEE	X			
Mr. OWENS	X			
Mr. PAYNE		X		
Mrs. MINK	X			
Mr. ANDREWS	X			
Mr. ROEMER	X			
Mr. SCOTT	X			
Ms. WOOLSEY	X			
Ms. RIVERS				X
Mr. HINOJOSA	X			
Mrs. McCARTHY	X			
Mr. TIERNEY	X			
Mr. KIND	X			
Ms. SANCHEZ	X			
Mr. FORD	X			
Mr. KUCINICH	X			
Mr. WU	X			
Mr. HOLT	X			
Ms. SOLIS	X			
Ms. DAVIS	X			
Ms. McCOLLUM	X			
TOTALS	41	7		1

CORRESPONDENCE

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 9, 2001.

Hon. JOHN BOEHNER,
Chairman, Committee on Education and the Workforce,
Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Due to other legislative duties, I was unavoidably detained during Committee consideration of H.R. 1, "No Child Left Behind Act of 2001." Consequently, I missed roll call number 1 on the private school choice amendment offered by Representative Miller. Had I been present, I would not have voted in favor of the amendment.

I would appreciate your including this letter in the Committee Report to accompany H.R. 1. Thank you for your attention to this matter.

Sincerely,

ERNIE FLETCHER,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 9, 2001.

Hon. JOHN BOEHNER,
Chairman, Committee on Education and the Workforce,
Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Due to other legislative duties, I was unavoidably detained during Committee consideration of H.R. 1, "No Child Left Behind Act of 2001." Consequently, I missed roll call number 4 on the 21st Century Learning Centers / Safe and Drug Free Schools amendment offered by Representative Kildee. Had I been present, I would have voted in favor of the amendment.

I would appreciate your including this letter in the Committee Report to accompany H.R. 1. Thank you for your attention to this matter.

Sincerely,

ERNIE FLETCHER,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 8, 2001.

Hon. JOHN BOEHNER,
Chairman, Committee on Education and the Workforce,
Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Due to other legislative duties, I was unavoidably detained during Committee consideration of H.R. 1, "No Child Left Behind Act of 2001." Consequently, I missed roll call number 4 on the amendment offered by Reps. Kildee, Souder and McCarthy to maintain Safe and Drug Free Schools and 21st Cen-

tury Learning Centers as distinct programs. Had I been present, I would have voted in favor of the amendment.

I would appreciate your including this letter in the Committee Report to accompany H.R. 1. Thank you for your attention to this matter.

Sincerely,

TODD R. PLATTS,
Member of Congress.

COMMITTEE ON EDUCATION AND THE WORKFORCE,
Washington, DC, May 9, 2001.

Hon. HENRY HYDE,
Chairman, Committee on International Relations,
Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN HYDE: This letter is to confirm our agreement regarding H.R. 1, "No Child Left Behind Act of 2001," which was considered by the Committee on Education and the Workforce on May 2, 3, and 9, 2001. I thank you for working with me, specifically regarding the amendments the Committee included in H.R. 1, regarding Civic Education programs, specifically the new Title II, Part C of the Elementary and Secondary Education Act as included in Section 203(a) of the Committee reported bill, which are within the jurisdiction of the Committee on International Relations and the Committee on Education and the Workforce.

While these provisions are within the jurisdiction of the Committee on International Relations, I appreciate your willingness to work with me in moving H.R. 1 forward without the need for a sequential referral to your Committee. I agree that this procedural route should not be construed to prejudice the jurisdictional interest and prerogatives of the Committee on International Relations on these provisions or any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to your Committee in the future.

I thank you for working with me regarding this matter. Your letter and this response will be included in the Committee report to accompany H.R. 1. If you have questions regarding this matter, please do not hesitate to call me.

Sincerely,

JOYN BOEHNER,
Chairman.

COMMITTEE ON EDUCATION AND THE WORKFORCE,
Washington, DC, May 9, 2001.

Hon. BOB STUMP,
Chairman, Committee on Armed Services,
House of Representatives, Washington, DC.

DEAR CHAIRMAN STUMP:

This letter is to confirm our agreement regarding H.R. 1, "No Child Left Behind Act of 2001," which was considered by the Committee on Education and the Workforce on May 2, 3, and 9, 2001. I thank you for working with me, specifically regarding the amendments the Committee included in H.R. 1, regarding Troops to Teacher programs, specifically the new Title II, Part A, Subpart 4

of the Elementary and Secondary Education Act as included in the bill as introduced and in Section 201 of the Committee reported bill, which are within the jurisdiction of the Committee on Armed Services and the Committee on Education and the Workforce.

While these provisions are within the jurisdiction of the Committee on Armed Services, I appreciate your willingness to work with me in moving H.R. 1 forward without the need for a sequential referral to your Committee. I agree that this procedural route should not be construed to prejudice the jurisdictional interest and prerogatives of the Committee on Armed Services on these provisions or any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to your Committee in the future.

I thank you for working with me regarding this matter. Your letter and this response will be included in the Committee report to accompany H.R. 1. If you have questions regarding this matter, please do not hesitate to call me.

Sincerely,

JOHN BOEHNER, *Chairman.*

COMMITTEE ON ARMED SERVICES,
Washington, DC, May 11, 2001.

Hon. JOHN BOEHNER,
Chairman, Committee on Education and the Workforce,
House of Representatives, Washington, DC.

DEAR JOHN: In recognition of the desire to expedite floor consideration of H.R. 1, the No Child Left Behind Act of 2001, the Committee on Armed Services agrees to waive its right to consider this legislation. H.R. 1, as introduced and as ordered reported by the Committee on Education and the Workforce on May 9, 2001, contains subject matter that falls within the legislative jurisdiction of the Committee on Armed Services pursuant to rule X of the Rules of the House of Representatives. Specifically, section 201 of the committee reported bill, which, in part, amends the Elementary and Secondary Education Act of 1965 regarding the Troops-to-Teachers program, is within the jurisdiction of this Committee.

The Committee on Armed Services takes this action with the understanding that the Committee's jurisdiction over the provisions in question is in no way diminished or altered, and that the Committee's right to the appointment of conferees during any conference on the bill remains intact.

Sincerely,

BOB STUMP, *Chairman.*

COMMITTEE ON EDUCATION AND THE WORKFORCE,
Washington, DC, May 9, 2001.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR CHAIRMAN OXLEY: This letter is to confirm our agreement regarding H.R. 1, "No Child Left Behind Act of 2001," which was considered by the Committee on Education and the Workforce on May 2, 3. and 9, 2001. I thank you for working with me, specifi-

cally regarding the amendments the Committee included in H.R. 1 to the McKinney-Vento Homeless Education Assistance Improvements Act, specifically Subpart 2 of Part A of Title IX, which are within the jurisdiction of the Committee on Financial Services and the Committee on Education and the Workforce.

While these provisions are within the jurisdiction of the Financial Services Committee, I appreciate your willingness to work with me in moving H.R. 1 forward without the need for a sequential referral to the Committee on Financial Services. I agree that this procedural route should not be construed to prejudice the jurisdictional interest and prerogatives of the Committee on Financial Services on these provisions or any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to your Committee in the future.

I thank you for working with me regarding this matter. Your letter and this response will be included in the Committee report to accompany H.R. 1. If you have questions regarding this matter, please do not hesitate to call me.

Sincerely,

JOHN BOEHNER, *Chairman.*

COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, May 9, 2001.

Hon. JOHN BOEHNER,
Chairman, Committee on Education and the Workforce,
Rayburn House Office Building, Washington, DC.

DEAR JOHN: I am writing regarding H.R. 1, the "No Child Left Behind Act of 2001" which was ordered reported by the Committee on Education and the Workforce today. As you know, the legislation includes provisions amending the McKinney-Vento Homeless Education Assistance Improvements Act. Clause 1(g) of rule X of the Rules of the House of Representatives grants the Committee on Financial Services jurisdiction over public and private housing and urban development. Accordingly, amendments to that Act fall within the jurisdiction of both the Committee on Financial Services and the Committee on Education and the Workforce.

Because of your willingness to consult with the Committee on Financial Services on this matter, and the need to move this legislation expeditiously, I will waive consideration of the bill by the Financial Services Committee. By agreeing to waive its consideration of the bill, the Financial Services Committee does not waive its jurisdiction over H.R. 1. In addition, the Committee on Financial Services reserves its authority to seek conferees on any provisions of the bill that are within the Financial Services Committee's jurisdiction during any House-Senate conference that may be convened on this legislation. I ask your commitment to support any request by the Committee on Financial Services for conferees on H.R. 1 or related legislation.

I request that you include this letter and your response as part of your committee's report on the bill. Thank you for your assistance in this matter.

Sincerely,

MICHAEL G. OXLEY, *Chairman.*

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of 3(c)(3) of rule XIII of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1 from the Director of the Congressional Budget Office:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 14, 2001.

Hon. JOHN A. BOEHNER,
Chairman, Committee on Education and the Workforce,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1, the No Child Left Behind Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Donna Wong.

Sincerely,

BARRY B. ANDERSON,
(For Dan L. Crippen, Director).

Enclosure.

H.R. 1—No Child Left Behind Act of 2001

Summary: Programs under the Elementary and Secondary Education Act of 1965 (ESEA) were authorized through 2000 under the General Education Provisions Act (GEPA). Programs were authorized in 2001 by the Consolidated Appropriations Act (Public Law 106–554). H.R. 1 would reauthorize these programs through 2006. It would also reauthorize parts of the Stuart B. McKinney Act, the Goals 2000: Educate America Act, and the National Education Statistics Act.

CBO estimates that authorizations under the bill relative to current law would total approximately $23 billion in 2002 and about $135 billion over the 2002–2006 period, assuming that annual levels are adjusted to keep pace with inflation when specific annual authorizations are not provided. (Without such inflation adjustments, the authorization total would be about $132 billion over the 2002–2006 period.) CBO estimates that appropriations of the authorized levels would result in additional outlays of $99 billion over the 2002–2006 period, relative to estimated spending under current law, if inflation adjustments are included (and about $98 billion without inflation adjustments).

Enacting the bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

The programs reauthorized in this bill would provide grants to state and local education agencies and tribal governments to assist specific populations of students in meeting state performance standards. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Any costs incurred by state, local, or tribal governments would result from complying with conditions of aid.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1 is shown in Table 1. The costs of this legislation fall within budget function 500 (education, training, employment, and social services).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 1, THE NO CHILD LEFT BEHIND ACT OF 2001

	By fiscal year, in millions of dollars—					
	2001	2002	2003	2004	2005	2006
SPENDING SUBJECT TO APPROPRIATION						
With Adjustments For Inflation						
Spending Under Current Law:						
Budget Authority/Authorization Level [1]	17,790	9,928	1,233	0	0	0
Estimated Outlays	14,212	15,036	5,101	972	79	10
Total Proposed Changes:						
Estimated Authorization Level	0	22,834	24,555	27,526	29,270	30,727
Estimated Outlays	0	1,347	17,480	24,463	27,152	28,952
Spending Under HR. 1:						
Estimated Authorization Level	17,790	32,762	25,788	27,526	29,270	30,727
Estimated Outlay	14,212	16,382	22,581	25,435	27,231	28,962
Without Adjustments For Inflation						
Spending Under Current Law:						
Budget Authority/Authorization Level [1]	17,790	9,902	1,183	0	0	0
Estimated Outlays	14,212	15,030	5,086	964	77	10
Total Proposed Changes:						
Estimated Authorization Level	0	22,832	24,328	27,014	28,514	29,714
Estimated Outlays	0	1,346	17,462	24,228	26,681	28,234
Spending Under H.R. 1:						
Estimated Authorization Level	17,790	32,733	25,511	27,014	28,514	29,714
Estimated Outlays	14,212	16,377	22,548	25,192	26,757	28,243

[1] The 2001 level is the amount appropriated for that year.
Note:—Components may not sum to totals because of rounding.

Basis of estimate: H.R. 1 would authorize funding through 2006 for various programs created under ESEA. These programs would generally be reauthorized at specific levels for 2002 and for such sums as may be necessary for 2003 through 2006. Some programs would be authorized at such sums as may be necessary in all years. For these programs, CBO assumes continued funding at their 2001 levels, adjusted for projected inflation in the top panel of Table 1, and without such inflation adjustments in the bottom half of Table 1. In Table 1, spending under current law includes advance appropriations of $8.7 billion in 2002 for program year 2001–2002. In addition, Impact Aid and Charter Schools are authorized under current law through 2003.

CBO estimates that H.R. 1 would increase authorized levels by $22.8 billion in 2002 and by $134.9 billion over the 2002–2006 period assuming that "such sums" amounts provided after 2002 are adjusted for inflation. If the authorized amounts are appropriated, outlays would increase relative to current law by $1.3 billion in the first year and by $99.4 billion over the five-year period. (Without inflation adjustments, the increased authorizations would result in outlays of $98 billion over the five years.)

Table 2 presents CBO's estimates with inflation adjustments for the various components of each title under H.R. 1. CBO's estimate of authorized levels is generally the authorized amount for 2002 with those amounts inflated in later years. (The authorizations for some programs are specified after 2002.) For most existing programs that H.R. 1 would reauthorize, the estimated outlays reflect CBO's current spendout rate assumptions. For new programs or significant revisions to existing programs, an explanation of CBO's estimate is provided below. Because most education programs operate on a forward-funded basis, spending in the first year is consistently slow across most programs, with variation in spending patterns in the subsequent years.

Title I—Improving the Academic Performance of the Disadvantaged

Title I of H.R. 1 would reauthorize and revise programs currently authorized under parts A, B, C, D, and E of Title I of ESEA. It also would introduce new programs for student assessments and reading initiatives. H.R. 1 would authorize a total of $14.3 billion for 2002 for all programs under Title I. CBO estimates the total funding for Title I for the 2002–2006 period would be $86.9 billion, assuming adjustments for inflation, with resulting outlays of $63.2 billion over those five years.

TABLE 2.—DETAILED EFFECTS OF H.R. 1, THE NO CHILD LEFT BEHIND ACT OF 2001, WITH ADJUSTMENTS FOR INFLATION

	By fiscal year, in millions of dollars—					
	2001	2002	2003	2004	2005	2006
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law:						
Budget Authority/Authorization Level [1]	17,790	9,928	1,233	0	0	0
Estimated Outlays	14,212	15,036	5,101	972	79	10
Proposed Changes						
Title I—Improving the Academic Performance of the Disadvantaged						
Grants to Local Education Agencies (LEAs):						
Estimated Authorization Level	0	11,500	13,000	14,500	16,000	17,200
Estimated Outlays	0	575	9,275	12,545	14,245	15,730
Reading First:						
Estimated Authorization Level	0	900	918	935	953	971
Estimated Outlays	0	27	658	823	929	947
Early Reading First:						
Estimated Authorization Level	0	75	76	78	79	81
Estimated Outlays	0	2	55	69	77	79
Even Start:						
Estimated Authorization Level	0	275	280	286	291	297
Estimated Outlays	0	8	201	252	284	289
Inexpensive Book Distribution:						
Estimated Authorization Level	0	24	24	24	25	25
Estimated Outlays	0	1	16	23	24	25
Education of Migratory Children:						
Estimated Authorization Level	0	420	428	436	445	453
Estimated Outlays	0	21	336	419	435	443
Neglected or Delinquent Youth:						
Estimated Authorization Level	0	50	51	52	53	54
Estimated Outlays	0	3	40	50	52	53
Comprehensive School Reform:						
Estimated Authorization Level	0	260	265	270	275	281
Estimated Outlays	0	13	208	259	269	274
Rural Education:						
Estimated Authorization Level	0	300	306	312	318	324

TABLE 2.—DETAILED EFFECTS OF H.R. 1, THE NO CHILD LEFT BEHIND ACT OF 2001, WITH ADJUSTMENTS FOR INFLATION—Continued

	By fiscal year, in millions of dollars—					
	2001	2002	2003	2004	2005	2006
Estimated Outlays	0	15	210	289	310	316
Capital Expense Account:						
Estimated Authorization Level	0	6	6	0	0	0
Estimated Outlays	0	(2)	5	6	1	0
Federal Activities—Evaluations:						
Estimated Authorization Level	0	9	9	10	10	10
Estimated Outlays	0	(2)	7	9	9	9
Federal Activities—Demonstrations of Innovative Practices:						
Estimated Authorization Level	0	2	2	2	2	2
Estimated Outlays	0	(2)	2	2	2	2
Allen J. Ellender Fellowship Program:						
Estimated Authorization Level	0	2	2	2	2	2
Estimated Outlays	0	(2)	1	1	2	2
State Administration Grants:						
Estimated Authorization Level	0	10	10	10	11	11
Estimated Outlays	0	1	8	10	10	11
Assistance for Local School Improvement:						
Estimated Authorization Level	0	500	510	520	529	540
Estimated Outlays	0	25	400	498	518	528
Subtotal, Title I:						
Estimated Authorization Level	0	14,332	15,888	17,437	18,992	20,250
Estimated Outlays	0	692	11,423	15,255	17,169	18,708
Title II—Preparing, Training, and Recruiting Quality Teachers						
Grants to States:						
Estimated Authorization Level	0	3,600	3,670	3,741	3,911	3,885
Estimated Outlays	0	180	2,524	3,473	3,720	3,790
Troops to Teachers:						
Estimated Authorization Level	0	50	51	52	53	54
Estimated Outlays	0	3	35	48	52	53
National Writing Project:						
Estimated Authorization Level	0	10	10	11	11	11
Estimated Outlays	0	1	8	10	11	11
We the People:						
Estimated Authorization Level	0	10	10	10	11	11
Estimated Outlays	0	1	8	10	10	11
Cooperative Civic Education and Economic Exchange Programs:						
Estimated Authorization Level	0	12	13	13	13	13
Estimated Outlays	0	1	10	12	13	13
Subtotal, Title II:						
Estimated Authorization Level	0	3,683	3,755	3,827	3,899	3,975
Estimated Outlays	0	186	2,585	3,554	3,805	3,878
Title III—Education of Limited English Proficient and Immigrant Children; Indian and Alaska Native Education						
English Language and Academic Instructional Programs:						
Estimated Authorization Level	0	750	765	779	794	809
Estimated Outlays	0	38	526	724	775	790
Indian Education:						
Estimated Authorization Level	0	100	102	104	106	108
Estimated Outlays	0	5	80	100	104	106
Special Programs and National Research Activities:						
Estimated Authorization Level	0	25	25	26	26	27
Estimated Outlays	0	1	20	25	26	26
Alaska Native Education:						
Estimated Authorization Level	0	15	15	16	16	16
Estimated Outlays	0	1	11	14	15	16
Administrative Costs:						
Estimated Authorization Level	0	1	1	1	1	1
Estimated Outlays	0	(2)	1	1	1	1
Early Childhood Development:						
Estimated Authorization Level	0	10	10	10	11	11

TABLE 2.—DETAILED EFFECTS OF H.R. 1, THE NO CHILD LEFT BEHIND ACT OF 2001, WITH ADJUSTMENTS FOR INFLATION—Continued

	By fiscal year, in millions of dollars—					
	2001	2002	2003	2004	2005	2006
Estimated Outlays	0	3	10	10	10	11
Tribal Departments or Divisions of Education:						
Estimated Authorization Level	0	2	2	2	2	2
Estimated Outlays	0	1	2	2	2	2
Subtotal, Title III:						
Estimated Authorization Level	0	903	921	938	956	975
Estimated Outlays	0	48	649	876	933	951
Title IV—Promoting Informed Parental Choice and Innovative Program						
State and Local Innovative Program:						
Estimated Authorization Level	0	450	459	468	476	486
Estimated Outlays	0	23	315	434	465	474
Arts in Education:						
Estimated Authorization Level	0	29	29	30	30	31
Estimated Outlays	0	1	20	28	30	30
Gifted and Talented:						
Estimated Authorization Level	0	8	8	8	8	8
Estimated Outlays	0	1	6	8	8	8
Charter Schools [3]:						
Estimated Authorization Level	0	31	31	234	238	243
Estimated Outlays	0	2	22	40	173	227
Magnet Schools:						
Estimated Authorization Level	0	125	127	130	132	135
Estimated Outlays	0	6	88	121	129	132
Women's Educational Equity:						
Estimated Authorization Level	0	3	3	3	3	3
Estimated Outlays	0	([2])	2	3	3	3
Subtotal, Title IV:						
Estimated Authorization Level	0	645	658	872	889	906
Estimated Outlays	0	33	453	633	808	874
Title V—21st Century Schools						
Safe Schools:						
Estimated Authorization Level	0	475	484	494	503	513
Estimated Outlays	0	24	333	458	491	500
21st Century Community Learning Centers:						
Estimated Authorization Level	0	900	918	935	953	971
Estimated Outlays	0	108	722	898	933	951
National Programs:						
Estimated Authorization Level	0	60	60	60	60	60
Estimated Outlays	0	3	42	57	60	60
Enhancing Education Through Technology:						
Estimated Authorization Level	0	1,000	1,020	1,039	1,059	1,079
Estimated Outlays	0	100	652	965	1,033	1,053
Ready To Learn—Ready To Teach:						
Estimated Authorization Level	0	25	25	25	26	26
Estimated Outlays	0	2	16	24	25	26
Character Education:						
Estimated Authorization Level	0	25	25	26	26	27
Estimated Outlays	0	3	20	25	26	26
Elementary and Secondary School Counseling:						
Estimated Authorization Level	0	31	31	32	32	33
Estimated Outlays	0	4	25	31	32	32
Mentoring:						
Estimated Authorization Level	0	50	51	52	53	54
Estimated Outlays	0	2	34	48	52	53
Subtotal, Title V:						
Estimated Authorization Level	0	2,565	2,614	2,663	2,712	2,764
Estimated Outlays	0	245	1,844	2,505	2,652	2,701
Title VI—Impact Aid [3]						
Basic Program:						
Estimated Authorization Level	0	0	0	937	954	973
Estimated Outlays	0	0	0	843	934	971

TABLE 2.—DETAILED EFFECTS OF H.R. 1, THE NO CHILD LEFT BEHIND ACT OF 2001, WITH ADJUSTMENTS FOR INFLATION—Continued

	By fiscal year, in millions of dollars—					
	2001	2002	2003	2004	2005	2006
Payments for Children with Disabilities:						
Estimated Authorization Level	0	0	0	53	54	55
Estimated Outlays	0	0	0	48	53	55
Facilities Maintenance:						
Estimated Authorization Level	0	0	0	8	9	9
Estimated Outlays	0	0	0	8	8	9
Construction:						
Estimated Authorization Level	0	137	140	156	159	162
Estimated Outlays	0	123	137	154	158	162
Payments for Federal Property:						
Estimated Authorization Level	0	0	0	43	44	45
Estimated Outlays	0	0	0	39	43	45
Subtotal, Title VI:						
Estimated Authorization Level	0	137	140	1,198	1,220	1,244
Estimated Outlays	0	123	137	1,092	1,197	1,241
Title VII—Accountability						
Achievement in Education Awards:						
Estimated Authorization Level	0	40	41	42	42	43
Estimated Outlays	0	1	27	39	41	42
Grants for Independent Assessments and Administration of Assessments Under NAEP:						
Estimated Authorization Level	0	69	70	72	73	74
Estimated Outlays	0	2	47	67	71	73
Development and Administration of State Standards and Assessments:						
Estimated Authorization Level	0	400	408	416	423	432
Estimated Outlays	0	12	272	386	413	421
Subtotal, Title VII:						
Estimated Authorization Level	0	509	519	529	539	549
Estimated Outlays	0	15	346	491	526	536
Title IX—Miscellaneous Provisions						
Homeless Education:						
Estimated Authorization Level	0	60	61	62	64	65
Estimated Outlays	0	3	42	58	62	63
Total Proposed Changes:						
Estimated Authorization Level	0	22,834	24,555	27,526	29,270	30,727
Estimated Outlays	0	1,347	17,480	24,463	27,152	28,952
Total Spending Under H.R. 1:						
Estimated Authorization Level	17,790	32,762	25,788	27,526	29,270	30,727
Estimated Outlays	14,212	16,382	22,581	25,435	27,231	28,962

[1]The 2001 level is the amount appropriated for that year.
[2]Less than $500,000.
[3]The Charter Schools and Impact Aid programs are currently authorized until 2003. Table 2 shows only new authorizations. See text for a description of total authorizations.

Note.—Components may not sum to totals because of rounding.

Part A—Basic Program. H.R. 1 would reauthorize the Basic, Concentration, and Targeted Grant Programs currently authorized under Part A of Title I, phase out the capital expense account, add new requirements for states to develop more specific standards and assessments, and require states to report annually on the results of the assessments.

The bill would authorize $11.5 billion for 2002, $13 billion for 2003, $14.5 billion for 2004, $16 billion for 2005, and $17.2 billion for 2006 for basic and concentration grants under Part A. The comparable funding for the 2001–2002 academic year is $8.6 billion.

H.R. 1 also would authorize $10 million in 2002 for additional state administration grants and $500 million in 2002 for the Assistance for Local School Improvement program. States would use

the funds to assist local educational agencies (LEAs) and schools which are in school improvement status.

H.R. 1 would continue the authorization of the capital expense account. This account funds costs associated with ensuring that Title I services to private-school children are administered in neutral settings. In response to the 1997 Supreme Court ruling that overturned this requirement, H.R. 1 would phase out funding over two years, authorizing $6 million annually for 2002 and 2003. The funding level for 2001 is also $6 million.

The bill would amend Part A of Title I to include more specific standards and assessment requirements for state plans. H.R. 1 would require states to include performance indicators in their plans as well as sanctions and rewards for LEAs. State progress would be measured by each state according to its state plan. It also would require states to assess all students annually in grades 3 through 8 in mathematics and reading, and measure the outcomes of the assessments against the state content and student performance standards established in the state plans, beginning no later than school year 2005–2006.

The bill also would require that states produce annual report cards on student achievement performance at each proficiency level on the state assessments. It would also require states to administer assessments under either the National Assessment of Education Progress (NAEP) or another academic assessment to affirm the quality of state assessments.

In addition, H.R. 1 would establish penalties for states failing to meet the deadlines for creating standards and a system for measuring progress. States that fall to meet the deadlines outlined in the bill would have 25 percent of their funds for both state administration and activities withheld in each year until the Secretary of Education determines the state meets those requirements.

Part B—Student Reading Skills Improvement Grants. H.R. 1 would reauthorize funding for the Even Start Literacy program, currently Part B in Title I of ESEA, and the Inexpensive Book Distribution Program, currently authorized under Part E of Title X of ESEA, and create two new reading programs—the Reading First program and the Early Reading First program.

H.R. 1 would authorize $900 million in 2002 for the Reading First program. The Reading First program replaces the Reading Excellence program, which is currently authorized under Part C of Title II of ESEA. The Reading Excellence program is funded at $286 million in 2001. The Reading First program would first provide formula grants to states. States would award grants competitively to LEAs. The program would allow states to apply for grants if funds remain. The Reading Excellence program uses a two-tier competitive grant structure, which has resulted in slow spending in the first two years relative to formula grant or one-tier competitive grant programs. CBO estimates that spending for the Reading First program would be at a rate comparable to spending for other formula grants to states with competitive grants to LEAs.

H.R. 1 also would create a new program for pre-school reading programs. The Early Reading First program would provide competitive grants to LEAs or private organizations to develop and provide pre-school reading programs. H.R. 1 would authorize $75 million for the Early Reading First program.

The bill would authorize $250 million for the Even Start program, the same amount that was appropriated for 2001.

Finally, H.R. 1 would authorize such sums as may be necessary for 2002 through 2006 for the Inexpensive Book Distribution Program. CBO assumes funding of $24 million in 2002 based on the 2001 funding adjusted for inflation.

Part C—Education of Migratory Children. H.R. 1 would authorize $420 million in 2002 to continue to fund grants to support the needs of children of migrant workers, currently authorized under Part C of Title I. Funding in 2001 for the Migrant Education program is $380 million.

Part D—Neglected or Delinquent Youth. H.R. 1 would authorize $50 million in 2002 to reauthorize grants for education programs for neglected or delinquent youth, compared with the 2001 funding level of $46 million.

Part E—Federal Evaluations and Demonstrations. H.R. 1 would authorize $9 million in 2002 for a national assessment of activities authorized under Title I including the implementation of state standards, assessments, and accountability systems.

The bill also would authorize such sums as may be necessary for 2002 through 2006 for Federal Demonstrations of Innovative Practices. CBO assumes continued funding of about $2 million a year.

H.R. 1 also would reauthorize funding for the Allen J. Ellender Fellowship Program. It would authorize such sums as may be necessary for 2002 through 2006. CBO assumes continued funding of about $2 million a year.

Part F—Comprehensive School Reform. H.R. 1 would authorize $260 million in 2002 to provide grants to states and subgrants to LEAs for comprehensive school reform. The program received $210 million in 2001.

Part G—Rural Education Flexibility and Assistance. H.R. 1 would create a new Rural Education program to replace the Urban and Rural Education Assistance Program, currently authorized under Part J of Title X of ESEA. The bill would authorize the program at $300 million in 2002, of which $150 million would be distributed to LEAs for a Rural Education Flexibility formula grant program, and $150 million for a Rural Education Assistance program.

The flexibility program would allow LEAs to use the additional funds to carry out several different activities authorized by ESEA. The Rural Education Assistance program would allocate funds to small and low-income rural schools for initiatives to improve student academic achievement including teacher professional development, teacher recruitment, educational technology, and parental involvement. The Urban and Rural Education Assistance Program was not funded in 2001.

Title II—Preparing, Training, and Recruiting Quality Teachers

Title II would authorize a total of $3.7 billion for 2002 for several initiatives that address teacher hiring, recruitment, and professional development. CBO estimates that implementing this title would cost $19.1 billion over the 2002–2006 period.

Teacher Quality Training and Recruiting Fund State Grants and Mathematics and Science Partnerships. H.R. 1 would authorize a

total of $3.6 billion to fund both a formula grant to states and the Math and Science Partnership Program. The State Grants program would fund many activities previously authorized under the Eisenhower Professional Development and Class Size Reduction programs, both of which would be discontinued. The combined funding level in 2001 is $1.9 billion under the Eisenhower Professional Development and the Class Size Reduction programs. CBO assumes a spending rate consistent with the rate of spending for other new formula grant programs.

The Math and Science Partnerships program would replace the existing Eisenhower Regional Mathematics and Science Education Consortia currently authorized in Title XIII, Part C. The Mathematics and Science Partnerships program would provide grants to partnerships of states, local institutions, and institutions of higher education to offer summer and distance education workshops for math and science teachers, establish recruitment strategies, and provide other career development activities.

Troops-to-Teachers. H.R. 1 would authorize $50 million in 2002 to fund the Troops-to-Teachers program administered by the Department of Defense. The program assists former members of the armed forces to obtain certification or licensure as elementary school teachers, secondary school teachers, or vocational or technical teachers. The program was authorized in 2001 by the Consolidated Appropriations Act (Public Law 106–554) and funding in 2001 was $3 million.

National Writing Project. H.R. 1 also would reauthorize the National Writing Project currently authorized in Title X, Part K, and set funding at such sums as may be necessary in 2002 through 2006. CBO assumes funding will continue at the 2001 level adjusted for inflation, or $10 million in 2002 and $53 million over the 2002–2006 period.

Cooperative Civic Education and Economic Exchange Programs. H.R. 1 would combine the Civic Education and International Education programs, reauthorize both as Cooperative Civic Education and Economic Exchange programs, and set funding at such sums as may be necessary in 2002 through 2006. CBO assumes funding would continue at the combined funding level of $12 million in 2002, with a five-year total of $65 million.

The bill would also reauthorize the We the People Program, currently administered by the Center for Civic Education, providing a separate authorization at such sums as may be necessary. Funding in 2001 was provided as a set-aside within the Civic Education program of $9.85 million. With inflation, CBO estimates the 2002 authorization would be $10.1 million, and the five-year total would be $52 million.

Title III—Education of Limited English Proficient Children; Indian and Alaska Native Education

H.R. 1 would authorize $903 million for programs in English language instruction, and programs for Indian and Alaska Native education. CBO estimates that implementing this title would cost $4.7 billion over the 2002–2006 period.

Part A—Education of Limited English Proficient and Immigrant Children. H.R. 1 would authorize $750 million to fund formula grants to states for English language and academic instructional

programs. The block grants would fund programs currently authorized under the Bilingual Education program in Title VII of ESEA. The Bilingual Education Program, Foreign Language Assistance Program, and the Emergency Immigrant Education programs would be eliminated. The total of funding for all three programs in 2001 is $460 million.

Part B—Indian and Alaska Native Education. H.R. 1 would reauthorize Indian and Alaska Native Education programs currently authorized under Title IX of ESEA. For 2002, the bill would authorize $100 million for Indian Education grants and $25 million for special programs and projects to improve educational opportunities for Indian children and national research activities. Indian Education grants were funded at $93 million in 2001 and special programs and national activities were funded at $23 million in 2001.

H.R. 1 would authorize $15 million for 2002 for Alaskan Native Education, the same amount appropriated for 2001.

Bureau of Indian Affairs (BIA) Programs. The Bureau of Indian Affairs within the Department of the Interior also provides educational assistance to Native Indian children. Most BIA programs are permanently authorized at such sums as may be necessary under the Snyder Act of 1921 (Public Law 65–85). CBO assumes continued funding of these programs at their 2001 levels adjusted for inflation. This funding, which totals an estimated $3.2 billion over the 2002–2006 period, is unaffected by H.R. 1 and is not included in the totals presented in Tables 1 and 2.

H.R. 1 would establish a minimum funding level for administrative cost grants to BIA-run schools. CBO estimates this provision would increase costs by approximately $1 million in each of the five years.

The Early Childhood Development Program and the Tribal Departments of Education are not permanently authorized. H.R. 1 would reauthorize both of these programs through 2006, with specified levels for 2002 of $10 million for the Early Childhood Development program and $2 million for the Tribal Departments of Education. The Early Childhood Development program received $12 million in 2001 and Tribal Departments received $2 million in 2001.

Title IV—Promoting Informed Parental Choice and Innovative Programs

Title IV would authorize $645 million in 2002 for several programs previously authorized under other titles of ESEA. Programs authorized under Title IV include State and Local Innovative Education Programs, Arts in Education, Gifted and Talented, Charter Schools, School Choice Research and Demonstration Educational Opportunity Fund, Magnet Schools, and Women's Educational Equity. CBO estimates that implementing this title would cost $4 billion over the 2002–2006 period.

State and Local Innovative Education Programs. H.R. 1 also would authorize $450 million to continue the Innovative Education Program. The program is currently authorized under Title VI of ESEA. This program is funded at $385 million in 2001.

Arts in Education. The bill would authorize an estimated $29 million in 2002 for the Arts in Education program currently authorized under ESEA. Funding in 2001 was $28 million.

Gifted and Talented. H.R. 1 would authorize an estimated $8 million in 2002 for competitive grants to states for programs that identify and challenge gifted and talented students under the Gifted and Talented program currently authorized under Title X, Part B of ESEA. Funding in 2001 was $8 million.

Charter Schools. The bill would reauthorize the Charter School program, currently authorized through 2003 under the Charter School Expansion Act (Public Law 105–278). H.R. 1 would authorize $225 million for 2002 and extend the authorization through 2006. Funding in 2001 was $190 million.

Magnet Schools Assistance. H.R. 1 would reauthorize $125 million for 2002 to continue the Magnet Schools Assistance program currently authorized under Part A of Title V. Funding in 2001 is $110 million.

Women's Educational Equity. Finally, the bill would authorize $3 million in 2002 for the Women's Educational Equity program. Funding in 2001 was also $3 million.

Title V—21st Century Schools

H.R. 1 would authorize a total of $2.6 billion in 2002 for Safe Schools state grants, 21st Century Community Learning Centers, School Safety national programs, Enhancing Education Through Technology, Character Education, Elementary and Secondary School Counseling, and mentoring programs. CBO estimates that implementing this title would cost $13.3 billion over the 2002–2006 period.

Safe Schools. The bill would authorize $475 million in 2002 for the Safe Schools state grant program currently authorized as the Safe and Drug Free Community Program under Title IV of ESEA. In 2001, total funding for the Safe and Drug Free Community Program and the Safe and Drug Free Community Coordinator Initiative was $489 million.

21st Century Community Learning Centers. H.R. 1 would authorize $900 million in 2002 for the 21st Century Community Learning Centers program, currently authorized under Part I of Title X. The program was funded at $846 million in 2001.

National Programs. The bill would authorize $60 million in 2002 for national programs, which are currently funded at $155 million.

Enhancing Education Through Technology. H.R. 1 would authorize a total of $1.0 billion in 2002 for formula block grants to states to provide assistance to states and localities in implementing innovative technology initiatives. The Enhancing Education Through Technology program would replace many smaller programs currently authorized under Title III of ESEA including the Literacy Challenge Fund, Innovative Challenge Fund, National Leadership, Technology Leadership, Teacher Training, Community-Based Centers, and Star Schools. The combined funding level in 2001 is $856 million for those programs. CBO assumes that the rates of spending for this program would be similar to other formula grant programs.

Ready To Learn—Ready To Teach. H.R. 1 would combine the Ready to Learn Television program and the Telecommunication

Demonstration Project for Math, reauthorize the program as the Ready To Learn—Ready To Teach program, and authorize $24.5 million in 2002.

Character Education. H.R. 1 would reauthorize the Character Education program, currently authorized as part of the Fund for the Improvement of Education by Title X of ESEA. The bill would authorize $25 million for 2002. Funding in 2001 is $8.2 million.

Elementary and Secondary School Counseling Programs. The bill would reauthorize the Elementary and Secondary School Counseling programs currently authorized under Title X of ESEA (also as part of the Fund for the Improvement of Education), H.R. 1 would create a separate authorization and would authorize such sums as may be necessary for 2002. The program was funded at $30 million in 2001 and CBO assumes funding would continue at the 2001 level adjusted for inflation. Thus, CBO estimates funding for the programs in 2002 would be $31 million.

Mentoring Programs. H.R. 1 would create a new competitive grant program to fund LEAS, nonprofit organizations and other agencies or partnerships that create personal mentorship programs for high-need children. It would authorize $50 million in 2002 and such sums as may be necessary for each of the fiscal years 2003 through 2006. CBO assumes that spending would occur at rate consistent with other competitive grant programs.

Title VI—Impact Aid

Impact Aid programs were reauthorized in 1999 under the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–398). That law authorized appropriations through 2003. Title VI would authorize $150 million in 2002 for construction and also extend all Impact Aid authorizations through 2006 to match other programs reauthorized by this bill. CBO estimates that implementing this title would cost $3.9 billion over the 2002–2006 period.

Title VII—Accountability

H.R. 1 would authorize a total of $509 million in 2002 for development and administration of state standards and assessments, administration of assessments under the National Assessment of Educational Progress (NAEP) and independent assessments, and achievement awards for states. CBO estimates that implementing this title would cost $2.6 billion over the 2002–2006 period.

Achievement in Education Awards. H.R. 1 would authorize $40 million in 2002 for a new Education Award program that would allow the Secretary of Education to award grants to states that make significant progress in overall student achievement, economically disadvantaged students' achievement, and the English proficiency of non-English proficient students. H.R. 1 would also authorize the Secretary to award bonus payments to states that complete the development of state assessments in advance of the deadline. States would make awards to schools that make the most progress in the state.

The bill also would establish penalties for states based on state assessment results. States that fail to make yearly progress for two consecutive years could have their administrative funds reduced up to 30 percent. States that fail to make progress in subse-

quent years could have up to 75 percent of their administrative funds reduced. CBO expects that this provision would not significantly change spending.

Development of State Standards and Assessments. H.R. 1 would authorize $400 million in 2002 for the development and administration of state standards and assessments described in title I of this bill.

Grants for Independent Assessments and Administration of State Assessments Under NAEP. The bill also would authorize $69 million for states to administer assessments of fourth and eighth grade reading and mathematics under NAEP, and to offset the cost of independent assessments described in title I of this bill.

Funding Flexibility for State and Local Education Agencies. H.R. 1 would allow states to transfer up to 50 percent of non-administrative funds between the Teacher Quality, State and Local Innovative Programs, Safe Schools, 21st Century Community Learning Centers, and Enhancing Education Through Technology programs. H.R. 1 would also allow states to transfer fund from these programs into its allocation under title I of this bill. CBO expects that this provision would not significantly change spending.

Title VIII—General Provisions

Flexibility and Coordination. H.R. 1 would allow state educational agencies to consolidate funds for administration of programs. It also would allow state educational agencies to submit a consolidated state plan or application for each of the programs in which the state participates or applies. CBO anticipates that these provisions would have no budgetary effect.

Title IX—Miscellaneous Provisions

The bill would authorize a total of $60 million in 2002 for education for homeless children and youth and such sums as may be necessary for 2003 through 2006. CBO estimates that implementing this title would cost $312 million over the 2002–2006 period.

Homeless Education. H.R. 1 would amend and reauthorize Subtitle B of Title VII of the Stewart D. McKinney Homeless Assistance Act, authorizing $60 million for education for homeless children and youth in 2002. The appropriation for 2001 was $35 million.

Repeals. H.R. 1 would repeal Parts A and C of Title II, and Title VI of the Goals 2000: Educate America Act; the Troops to Teachers Act of 1999; Titles IX, XI, XII, and XIV of ESEA; and Parts A, B, C, D, F, G, I, J, and L of Title X of ESEA; and sections 13001 and 13002 of Title XIII of ESEA.

Programs that would be repealed in H.R. 1 that do not have similar activities authorized elsewhere in the bill include:

Native Hawaiian Education (Part B of Title IX),

Fund for Improvement of Education (Part A of Title X, except counseling services),

Urban Education (Subpart 1 of Part J of Title X),

Physical Education for Progress (Part L of Title X),

Coordinated Services (Title XI),

School Facilities Infrastructure Improvement Act (Title XII), and

National Education Goals Panel (Parts A and C of Title II of Goals 2000).

Pay as you go considerations: None.

Estimated impact on state, local, and tribal governments: The bill would reauthorize certain sections of the Elementary and Secondary Education Act of 1965 and would authorize about $23 billion in grants to state and local education agencies and tribal governments to support their efforts in 2002 to improve educational opportunities and performance for specific populations of students. The bill contains no intergovernmental mandates as defined in UMRA. In general, any costs to state, local, or tribal governments as a result of enactment of this bill would be incurred voluntarily, as conditions of aid.

Estimated impact on the private sector: The bill contains no private-sector mandates as defined in UMRA.

Estimate prepared by: Federal costs: Donna Wong; impact on state, local, and tribal governments: Susan Sieg Tompkins; impact on the private sector: Nabeel Alsalam.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause (3)(c) of House rule XIII, the goals of H.R. 1 are to transform the federal role in education and advance our nation's education priorities. The bill reauthorizes the Elementary and Secondary Education Act of 1965 and fundamentally reforms the Act by increasing accountability for student performance, focusing on what works, reducing bureaucracy, increasing flexibility, and empowering parents. Key components of the legislation include: (1) closing the achievement gap through high State academic standards, annual State academic assessments, and consequences for schools that fail to teach; (2) promoting parental empowerment through reports to parents on the performance of States and schools, assisting charter schools, expanding public school choice, and allowing students in failing schools to receive supplementary educational services from a provider of their parent's choice; (3) improving literacy by focusing on reading in the early grades and early childhood reading instruction; (4) expanding freedom to teach and learn by increasing flexibility in Title I and reducing duplicative and excessive programs and regulations; (5) rewarding success and sanctioning failure by providing financial rewards for States that improve academic achievement and narrow the achievement gap, and reducing federal funds to States that fail to demonstrate results; (6) improving teacher quality by ensuring that all students are taught by fully qualified teachers, encouraging professional development based on research, and strengthening math and science education; and (7) making schools safer by protecting teachers from frivolous lawsuits, promoting school safety, allowing students to escape unsafe schools, and supporting character education. The Committee expects the Department of Education to comply with H.R. 1 and implement the changes to the law in accordance with these stated goals.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress in the Constitution to enact the law proposed by H.R. 1. The Committee believes that the amendments made by this bill to the Elementary and Secondary Education Act are within Congress' authority under Article I, section 8, clause 1 of the Constitution.

COMMITTEE ESTIMATE

Clauses 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 1. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SECTION 1. TABLE OF CONTENTS.

This Act may be cited as the "Elementary and Secondary Education Act of 1965".

TITLE I—HELPING DISADVANTAGED CHILDREN MEET HIGH STANDARDS

[SEC. 1001. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.

[(a) STATEMENT OF POLICY.—

[(1) IN GENERAL.—The Congress declares it to be the policy of the United States that a high-quality education for all individuals and a fair and equal opportunity to obtain that education are a societal good, are a moral imperative, and improve the life of every individual, because the quality of our individual lives ultimately depends on the quality of the lives of others.

[(2) ADDITIONAL POLICY.—The Congress further declares it to be the policy of the United States to expand the program authorized by this title over the fiscal years 1996 through 1999 by increasing funding for this title by at least $750,000,000 over baseline each fiscal year and thereby increasing the percentage of eligible children served in each fiscal year with the intent of serving all eligible children by fiscal year 2004.

[(b) RECOGNITION OF NEED.—The Congress recognizes that—

[(1) although the achievement gap between disadvantaged children and other children has been reduced by half over the past two decades, a sizable gap remains, and many segments of our society lack the opportunity to become well educated;

[(2) the most urgent need for educational improvement is in schools with high concentrations of children from low-income families and achieving the National Education Goals will not be possible without substantial improvement in such schools;

[(3) 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 neglected or delinquent, and young children and their parents who are in need of family-literacy services;

[(4) while title I and other programs funded under this Act contribute to narrowing the achievement gap between children in high-poverty and low-poverty schools, such programs need to become even more effective in improving schools in order to enable all children to achieve high standards; and

[(5) in order for all students to master challenging standards in core academic subjects as described in the third National Education Goal described in section 102(3) of the Goals 2000: Educate America Act, students and schools will need to maximize the time spent on teaching and learning the core academic subjects.

[(c) WHAT HAS BEEN LEARNED SINCE 1988.—To enable schools to provide all children a high-quality education, this title builds upon the following learned information:

[(1) All children can master challenging content and complex problem-solving skills. Research clearly shows that children, including low-achieving children, can succeed when expectations are high and all children are given the opportunity to learn challenging material.

[(2) Conditions outside the classroom such as hunger, unsafe living conditions, homelessness, unemployment, violence, inadequate health care, child abuse, and drug and alcohol abuse can adversely affect children's academic achievement and must be addressed through the coordination of services, such as health and social services, in order for the Nation to meet the National Education Goals.

[(3) Use of low-level tests that are not aligned with schools' curricula fails to provide adequate information about what children know and can do and encourages curricula and instruction that focus on the low-level skills measured by such tests.

[(4) Resources are more effective when resources are used to ensure that children have full access to effective high-quality regular school programs and receive supplemental help through extended-time activities.

[(5) Intensive and sustained professional development for teachers and other school staff, focused on teaching and learning and on helping children attain high standards, is too often not provided.

[(6) Insufficient attention and resources are directed toward the effective use of technology in schools and the role tech-

nology can play in professional development and improved teaching and learning.

[(7) All parents can contribute to their children's success by helping at home and becoming partners with teachers so that children can achieve high standards.

[(8) Decentralized decisionmaking is a key ingredient of systemic reform. Schools need the resources, flexibility, and authority to design and implement effective strategies for bringing their children to high levels of performance.

[(9) Opportunities for students to achieve high standards can be enhanced through a variety of approaches such as public school choice and public charter schools.

[(10) Attention to academics alone cannot ensure that all children will reach high standards. The health and other needs of children that affect learning are frequently unmet, particularly in high-poverty schools, thereby necessitating coordination of services to better meet children's needs.

[(11) Resources provided under this title can be better targeted on the highest-poverty local educational agencies and schools that have children most in need.

[(12) Equitable and sufficient resources, particularly as such resources relate to the quality of the teaching force, have an integral relationship to high student achievement.

[(d) STATEMENT OF PURPOSE.—The purpose of this title is to enable schools to provide opportunities for children served to acquire the knowledge and skills contained in the challenging State content standards and to meet the challenging State performance standards developed for all children. This purpose shall be accomplished by—

[(1) ensuring high standards for all children and aligning the efforts of States, local educational agencies, and schools to help children served under this title to reach such standards;

[(2) providing children an enriched and accelerated educational program, including, when appropriate, the use of the arts, through schoolwide programs or through additional services that increase the amount and quality of instructional time so that children served under this title receive at least the classroom instruction that other children receive;

[(3) promoting schoolwide reform and ensuring access of children (from the earliest grades) to effective instructional strategies and challenging academic content that includes intensive complex thinking and problem-solving experiences;

[(4) significantly upgrading the quality of instruction by providing staff in participating schools with substantial opportunities for professional development;

[(5) coordinating services under all parts of this title with each other, with other educational services, and, to the extent feasible, with health and social service programs funded from other sources;

[(6) affording parents meaningful opportunities to participate in the education of their children at home and at school;

[(7) distributing resources, in amounts sufficient to make a difference, to areas and schools where needs are greatest;

[(8) improving accountability, as well as teaching and learning, by using State assessment systems designed to measure

how well children served under this title are achieving challenging State student performance standards expected of all children; and

[(9) providing greater decisionmaking authority and flexibility to schools and teachers in exchange for greater responsibility for student performance.

[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 $7,400,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

[(b) EVEN START.—For the purpose of carrying out part B, there are authorized to be appropriated $250,000,000 for fiscal year 2001 and such sums as may be necessary for each of the four succeeding fiscal years.

[(c) EDUCATION OF MIGRATORY CHILDREN.—For the purpose of carrying out part C, there are authorized to be appropriated $310,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four 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 $40,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

[(e) CAPITAL EXPENSES.—For the purpose of carrying out section 1120(e), there are authorized to be appropriated $41,434,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

[(f) ADDITIONAL ASSISTANCE FOR SCHOOL IMPROVEMENT.—For the purpose of providing additional needed assistance to carry out sections 1116 and 1117, there are authorized to be appropriated such sums as may be necessary for fiscal year 1996 and each of the three succeeding fiscal years.

[(g) FEDERAL ACTIVITIES.—

[(1) SECTION 1501.—For the purpose of carrying out section 1501, there are authorized to be appropriated $9,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

[(2) SECTIONS 1502 AND 1503.—For the purpose of carrying out sections 1502 and 1503, there are authorized to be appropriated $50,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

[SEC. 1003. RESERVATION AND ALLOCATION FOR SCHOOL IMPROVEMENT.

[(a) PAYMENT FOR SCHOOL IMPROVEMENT.—

[(1) IN GENERAL.—Except as provided in paragraph (3), each State may reserve for the proper and efficient performance of its duties under subsections (c)(5) and (d) of section 1116, and section 1117, one-half of 1 percent of the funds allocated to the State under subsections (a), (c), and (d), of section 1002 for fiscal year 1995 and each succeeding fiscal year.

[(2) MINIMUM.—The total amount that may be reserved by each State, other than the outlying areas, under this sub-

section for any fiscal year, when added to amounts appropriated for such fiscal year under section 1002(f) that are allocated to the State under subsection (b), if any, may not be less than $200,000. The total amount that may be reserved by each outlying area under this subsection for any fiscal year, when added to amounts appropriated for such fiscal year under section 1002(f) that are allocated under subsection (b) to the outlying area, if any, may not be less than $25,000.

[(3) SPECIAL RULE.—If the amount reserved under paragraph (1) when added to the amount made available under section 1002(f) for a State is less than $200,000 for any fiscal year, then such State may reserve such additional funds under subsections (a), (c), and (d) of section 1002 as are necessary to make $200,000 available to such State.

[(b) ADDITIONAL STATE ALLOCATIONS FOR SCHOOL IMPROVEMENT.—From the amount appropriated under section 1002(f) for any fiscal year, each State shall be eligible to receive an amount that bears the same ratio to the amount appropriated as the amount allocated to the State under this part (other than section 1120(e)) bears to the total amount allocated to all States under this part (other than section 1120(e)).

[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 a plan, developed in consultation with local educational agencies, teachers, pupil services personnel, administrators, other staff, and parents, that satisfies the requirements of this section and that is coordinated with other programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, consistent with section 14306.

[(2) CONSOLIDATION PLAN.—A State plan submitted under paragraph (1) may be submitted as part of a consolidation plan under section 14302.

[(b) STANDARDS AND ASSESSMENTS.—

[(1) CHALLENGING STANDARDS.—(A) Each State plan shall demonstrate that the State has developed or adopted challenging content standards and challenging student performance 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) If a State has State content standards or State student performance standards developed under title III of the Goals 2000: Educate America Act and an aligned set of assessments for all students developed under such title, or, if not developed under such title, adopted under another process, the State shall use such standards and assessments, modified, if nec-

essary, to conform with the requirements of subparagraphs (A) and (D) of this paragraph, and paragraphs (2) and (3).

[(C) If a State has not adopted State content standards and State student performance standards for all students, the State plan shall include a strategy and schedule for developing State content standards and State student performance standards for elementary and secondary school children served under this part in subjects as determined by the State, but including at least mathematics and reading or language arts by the end of the one-year period described in paragraph (6), which standards shall include the same knowledge, skills, and levels of performance expected of all children.

[(D) Standards under this paragraph shall include—

[(i) challenging 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;

[(ii) challenging student performance standards that—

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

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

[(III) describe a third level of performance, partially proficient, 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 standards, the State plan shall describe a strategy for ensuring that such students are taught the same knowledge and skills and held to the same expectations as are all children.

[(2) YEARLY PROGRESS.—

[(A) Each State plan shall demonstrate, based on assessments described under paragraph (3), what constitutes adequate yearly progress of—

[(i) any school served under this part toward enabling children to meet the State's student performance standards; and

[(ii) any local educational agency that received funds under this part toward enabling children in schools receiving assistance under this part to meet the State's student performance standards.

[(B) Adequate yearly progress shall be defined in a manner—

[(i) that is consistent with guidelines established by the Secretary that result in continuous and substantial yearly improvement of each local educational agency and school sufficient to achieve the goal of all children served under this part meeting the State's

proficient and advanced levels of performance, particularly economically disadvantaged and limited English proficient children; and

[(ii) that links progress primarily to performance on the assessments carried out under this section while permitting progress to be established in part through the use of other measures.

[(3) ASSESSMENTS.—Each State plan shall demonstrate that the State has developed or adopted a set of high-quality, yearly student assessments, including assessments in at least mathematics and reading or language arts, that will be used as the primary means of determining the yearly performance of each local educational agency and school served under this part in enabling all children served under this part to meet the State's student performance standards. Such assessments shall—

[(A) be the same assessments used to measure the performance of all children, if the State measures the performance of all children;

[(B) be aligned with the State's challenging content and student performance 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, nationally recognized professional and technical standards for such assessments;

[(D) measure the proficiency of students in the academic subjects in which a State has adopted challenging content and student performance standards and be administered at some time during—

[(i) grades 3 through 5;

[(ii) grades 6 through 9; and

[(iii) grades 10 through 12;

[(E) involve multiple up-to-date measures of student performance, including measures that assess higher order thinking skills and understanding;

[(F) provide for—

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

[(ii) the reasonable adaptations and accommodations for students with diverse learning needs, necessary to measure the achievement of such students relative to State content standards; and

[(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, to determine such students' mastery of skills in subjects other than English;

[(G) 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, however 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;

[(H) provide individual student interpretive and descriptive reports, which shall include scores, or other information on the attainment of student performance standards; and

[(I) 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.

[(4) SPECIAL RULE.—Assessment measures that do not meet the requirements of paragraph (3)(C) may be included as one of the multiple measures, if a State includes in the State plan information regarding the State's efforts to validate such measures.

[(5) 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 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 assessment measures are needed. Upon request, the Secretary shall assist with the identification of appropriate assessment measures in the needed languages through the Office of Bilingual Education and Minority Languages Affairs.

[(6) STANDARD AND ASSESSMENT DEVELOPMENT.—(A) A State that does not have challenging State content standards and challenging State student performance standards, in at least mathematics and reading or language arts, shall develop such standards within one year of receiving funds under this part after the first fiscal year for which such State receives such funds after the date of enactment of the Improving America's Schools Act of 1994.

[(B) A State that does not have assessments that meet the requirements of paragraph (3) in at least mathematics and reading or language arts shall develop and test such assessments within four years (one year of which shall be used for field testing such assessment), of receiving funds under this part after the first fiscal year for which such State receives such funds after the date of enactment of the Improving America's Schools Act of 1994 and shall develop benchmarks of progress toward the development of such assessments that meet the requirements of paragraph (3), including periodic updates.

[(C) The Secretary may extend for one additional year the time for testing new assessments under subparagraph (B) upon the request of the State and the submission of a strategy to correct problems identified in the field testing of such new assessments.

[(D) If, after the one-year period described in subparagraph (A), a State does not have challenging State content and challenging student performance standards in at least mathematics and reading or language arts, a State shall adopt a set of

standards in these subjects such as the standards and assessments contained in other State plans the Secretary has approved.

[(E) If, after the four-year period described in subparagraph (B), a State does not have assessments, in at least mathematics and reading or language arts, that meet the requirement of paragraph (3), and is denied an extension under subparagraph (C), a State shall adopt an assessment that meets the requirement of paragraph (3) such as one contained in other State plans the Secretary has approved.

[(7) TRANSITIONAL ASSESSMENTS.—(A) If a State does not have assessments that meet the requirements of paragraph (3) and proposes to develop such assessments under paragraph (6)(B), the State may propose to use a transitional set of yearly statewide assessments that will assess the performance of complex skills and challenging subject matter.

[(B) For any year in which a State uses transitional assessments, the State shall devise a procedure for identifying local educational agencies under paragraphs (3) and (7) of section 1116(d), and schools under paragraphs (1) and (7) of section 1116(c), that rely on accurate information about the academic progress of each such local educational agency and school.

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

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

[(B) such other factors the State deems appropriate to provide students an opportunity to achieve the knowledge and skills described in the challenging content standards adopted by the State.

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

[(1)(A) the State educational agency will implement a system of school support teams under section 1117(c), including provision of necessary professional development for those teams;

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

[(C)(i) where educational service agencies exist, the State educational agency will consider providing professional development and technical assistance through such agencies; and

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

[(2) the State educational agency will notify local educational agencies and the public of the standards and 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;

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

[(4) the State educational agency will encourage the use of funds from other Federal, State, and local sources for schoolwide reform in schoolwide programs under section 1114;

[(5) the Committee of Practitioners established under section 1603(b) will be substantially involved in the development of the plan and will continue to be involved in monitoring the plan's implementation by the State;

[(6) the State will coordinate activities funded under this part with school-to-work, vocational education, cooperative education and mentoring programs, and apprenticeship programs involving business, labor, and industry, as appropriate; and

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

[(d) PEER REVIEW AND SECRETARIAL APPROVAL.—

[(1) IN GENERAL.—The Secretary shall—

[(A) establish a peer review process to assist in the review and recommendations for revision of State plans;

[(B) appoint individuals to the peer review process who are representative of State educational agencies, local educational agencies, teachers, and parents;

[(C) following an initial peer review, approve a State plan the Secretary determines meets the requirements of subsections (a), (b), and (c);

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

[(E) not decline to approve a State's plan before—

[(i) offering the State an opportunity to revise its plan;

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

[(iii) providing a hearing; and

[(F) have the authority to disapprove a State plan for not meeting the requirements of this part, but shall not have the authority to require a State, as a condition of approval of the State plan, to include in, or delete from, such

plan one or more specific elements of the State's content standards or to use specific assessment instruments or items.

[(2) WITHHOLDING.—The Secretary may withhold funds for State administration and activities under section 1117 until the Secretary determines that the State plan meets the requirements of this section.

[(e) DURATION OF THE PLAN.—

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

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

[(B) be periodically reviewed and revised 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 State content standards and State student performance standards, new assessments, or a new definition of adequate progress, the State shall submit such information to the Secretary.

[(f) LIMITATION ON CONDITIONS.—Nothing in this part 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 student performance standards and assessments, curriculum, or program of instruction, as a condition of eligibility to receive funds under this part.

[(g) SPECIAL RULE.—If the aggregate State expenditure by a State educational agency for the operation of elementary and secondary education programs in the State is less than such agency's aggregate Federal expenditure for the State operation of all Federal elementary and secondary education programs, then the State plan shall include assurances and specific provisions that such State will provide State expenditures for the operation of elementary and secondary education programs equal to or exceeding the level of Federal expenditures for such operation by October 1, 1998.

[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 Goals 2000: Educate America Act, and other Acts, as appropriate, as specified in section 14306.

[(2) CONSOLIDATED APPLICATION.—The plan may be submitted as part of a consolidated application under section 14304.

[(b) PLAN PROVISIONS.—Each local educational agency plan shall include—

[(1) a description of additional high-quality student assessments, if any, other than the 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 performance standards and provide information to teachers, parents, and students on the progress being made toward meeting the State student performance standards described in section 1111(b)(1)(D)(ii);

[(B) assist in diagnosis, teaching, and learning in the classroom in ways that best enable children served under this part to meet State standards and do well in the local curriculum; and

[(C) determine what revisions are needed to projects under this part so that such children will meet the State's student performance standards;

[(2) at the local educational agency's discretion, a description of any other indicators that will be used in addition to the assessments described in paragraph (1) for the uses described in such paragraph;

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

[(4) 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, and other preschool programs, including plans for the transition of participants in such programs to local elementary school programs, vocational education programs, and school-to-work transition programs; and

[(B) services for children with limited English proficiency or with disabilities, migratory children served under part C or who were formerly eligible for services under part C in the two-year period preceding the date of the enactment of the Improving America's School Act of 1994, neglected or delinquent youth and youth at risk of dropping out served under part D, homeless children, and immigrant children in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program;

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

[(6) 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;

[(7) a general description of the nature of the programs to be conducted by such agency's schools under sections 1114 and 1115 and, where appropriate, educational services outside such schools for children living in local institutions for neglected or delinquent children, for neglected and delinquent children in community day school programs, and for eligible homeless children;

[(8) 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;

[(9) where 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 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, agencies operating Even Start programs, or another comparable public early childhood development program.

[(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 project authority;

[(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 content standards and State student performance standards;

[(D) fulfill such agency's school improvement responsibilities under section 1116, including taking corrective actions under section 1116(c)(4);

[(E) 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, including health and social services;

[(F) 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;

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

[(H) beginning in fiscal year 1997 and in the case that a local educational agency 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 performance standards established under section 641A(a) of the Head Start Act or under section 651 of such Act, as such section 651 was in effect on the day preceding the date of enactment of the Human Services Amendments of 1994.

[(2) SPECIAL RULE.—In carrying out subparagraph (H) of paragraph (1) the Secretary—

[(A) in fiscal year 1995, 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) in fiscal year 1996, shall disseminate to local educational agencies the Head Start Performance Standards revised pursuant to section 641A(a) of the Head Start Act, and such agencies effected 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.—Each local educational agency plan shall—

[(1) be developed in consultation with teachers, including vocational teachers, and pupil services personnel, where appropriate, and parents of children in schools served under this part; and

[(2)(A) remain in effect for the duration of the local educational agency's participation under this part; and

[(B) periodically be reviewed and revised, as necessary, to reflect changes in the local educational agency's strategies and programs.

[(e) STATE APPROVAL.—

[(1) IN GENERAL.—Each local educational agency plan shall be filed according to a schedule established by the State educational agency, except that a local educational agency shall have not more than one year after the date of enactment of the Improving America's Schools Act of 1994 to have such plan provisionally approved by the State educational agency and not more than two years after the date of enactment of such Act to have such plan finally approved 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 will enable schools served under this part to substantially help all children served under this part meet the standards expected of all children described in section 1111(b)(1).

[(3) REVIEW.—The State educational agency shall review the local educational agency's plan to determine if such agency's professional development activities are in accordance with section 1119.

[(f) PROGRAM RESPONSIBILITY.—The local educational agency plan shall reflect the shared responsibility of schools, teachers, and

the local educational agency in making decisions regarding activities under sections 1114 and 1115.

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

[(A) annually rank, without regard to grade spans, such agency's eligible school attendance areas in which the concentration of children from low-income families exceeds 75 percent from highest to lowest according to the percentage of children from low-income families; and

[(B) serve such eligible school attendance areas in rank order.

[(4) REMAINING FUNDS.—If funds remain after serving all eligible school attendance areas under paragraph (3), a local educational agency shall—

[(A) annually rank such agency's remaining eligible school attendance areas from highest to lowest either by grade span or for the entire local educational agency according to the percentage of children from low-income families; and

[(B) serve such eligible school attendance areas in rank order either within each grade-span grouping or within the local educational agency as a whole.

[(5) MEASURES.—The local educational agency shall use the same measure of poverty, which measure shall be the number of children ages 5 through 17 in poverty counted in the most recent census data approved by the Secretary, the number of children eligible for free and reduced priced lunches under the Richard B. Russell National School Lunch Act, the number of children in families receiving assistance under the State program funded under part 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 (c).

[(6) EXCEPTION.—This subsection shall not apply to a local educational agency with a total enrollment of less than 1,000 children.

[(7) WAIVER FOR DESEGREGATION PLANS.—The Secretary may approve a local educational agency's written request for a waiver of the requirements of subsections (a) and (c), and permit such agency to treat as eligible, and serve, any school that children attend with a State-ordered or a court-ordered school desegregation plan or a plan that continues to be implemented in accordance with a State-ordered or court-ordered desegregation plan, if (A) the number of economically disadvantaged children enrolled in the school is at least 25 percent of the school's total enrollment; and (B) the Secretary determines on the basis of a written request from such agency and in accordance with such criteria as the Secretary establishes, that approval of that request would further the purposes of this part.

[(b) LOCAL EDUCATIONAL AGENCY DISCRETION.—

[(1) IN GENERAL.—Notwithstanding subsection (a)(2), a local educational agency may—

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

[(B) 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; and

[(C) 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.

[(2) SPECIAL RULE.—Notwithstanding paragraph (1)(C), 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 paragraph (1).

[(c) 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 (a) or (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) where appropriate, eligible homeless children who do not attend participating schools, including providing educationally related support services to children in shelters;

[(B) children in local institutions for neglected or delinquent children; and

[(C) where appropriate, neglected and delinquent children in community day school programs.

[SEC. 1114. SCHOOLWIDE PROGRAMS.

[(a) USE OF FUNDS FOR SCHOOLWIDE PROGRAMS.—

[(1) IN GENERAL.—A local educational agency may use funds under this part, in combination with other Federal, State, and local funds, in order to upgrade the entire educational program in a school described in subparagraph (A) or (B) if, for the initial year of the schoolwide program, the school meets either of the following criteria:

[(A) For the school year 1995–1996—

[(i) the school serves an eligible school attendance area in which not less than 60 percent of the children are from low-income families; or

[(ii) not less than 60 percent of the children enrolled in the school are from such families.

[(B) For the school year 1996–1997 and subsequent years—

[(i) the school serves an eligible school attendance area in which not less than 50 percent of the children are from low-income families; or

[(ii) not less than 50 percent of the children enrolled in the school are from such families.

[(2) STATE ASSURANCES.—(A) A local educational agency may start new schoolwide programs under this section only after the State educational agency provides written information to each local educational agency in the State that demonstrates that such State agency has established the statewide system of support and improvement required by subsections (c)(1) and (e) of section 1117.

[(B) A school that desires to initiate a schoolwide program under this section prior to the establishment of the statewide system of support and improvement required in subsections

(c)(1) and (e) of section 1117 shall demonstrate to the local educational agency that such school has received high quality technical assistance and support from other providers of assistance such as comprehensive technical assistance centers, regional laboratories, institutions of higher education, educational service agencies, or other local consortia.

[(3) IDENTIFICATION.—(A) 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) 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.

[(4) SPECIAL RULE.—(A) Except as provided in subsection (b), 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, or any discretionary grant program administered by the Secretary (other than formula or discretionary grant programs under the Individuals with Disabilities Education Act), to support schoolwide programs, if the intent and purposes of such other programs are met.

[(B) A school that chooses to use funds from such other programs shall not be relieved of the requirements relating to health, safety, civil rights, gender equity, student and parental participation and involvement, services to private school children, maintenance of effort, comparability of services, uses of Federal funds to supplement, not supplant non-Federal funds, or the distribution of funds to State or local educational agencies that apply to the receipt of funds from such programs.

[(5) PROFESSIONAL DEVELOPMENT.—Each school receiving funds under this part for any fiscal year shall devote sufficient resources to effectively carry out the activities described in subsection (b)(1)(D) in accordance with section 1119 for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities.

[(b) COMPONENTS OF A SCHOOLWIDE PROGRAM.—

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

[(A) A comprehensive needs assessment of the entire school that is based on information on the performance of children in relation to the State content standards and the State student performance 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 performance described in section 1111(b)(1)(D);

[(ii) are based on effective means of improving the achievement of children;

[(iii) use effective instructional strategies, which may include the integration of vocational and academic learning (including applied learning and team teaching strategies), that—

[(I) 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

[(II) include strategies for meeting the educational needs of historically underserved populations, including girls and women;

[(iv)(I) address the needs of all children in the school, but particularly the needs of children who are members of the target population of any program that is included in the schoolwide program, which may include—

[(aa) counseling, pupil services, and mentoring services;

[(bb) college and career awareness and preparation, such as college and career guidance, comprehensive career development, occupational information, enhancement of employability skills and occupational skills, personal finance education, job placement services, and innovative teaching methods which may include applied learning and team teaching strategies;

[(cc) services to prepare students for the transition from school to work, including the formation of partnerships between elementary, middle, and secondary schools and local businesses, and the integration of school-based and work-based learning; and

[(dd) incorporation of gender-equitable methods and practices; and

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

[(vii) are consistent with, and are designed to implement, the State and local improvement plans, if any, approved under title III of the Goals 2000: Educate America Act.

[(C) Instruction by highly qualified professional staff.

[(D) In accordance with section 1119 and subsection (a)(5), professional development for teachers and aides, and, where appropriate, pupil services personnel, parents, principals, and other staff to enable all children in the school to meet the State's student performance standards.

[(E) Strategies to increase parental involvement, such as family literary services.

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

[(G) Measures to include teachers in the decisions regarding the use of assessments described in section 1112(b)(1) in order to provide information on, and to improve, the performance of individual students and the overall instructional program.

[(H) Activities to ensure that students who experience difficulty mastering any of the standards required by section 1111(b) during the course of the school year shall be provided with effective, timely additional assistance, which shall include—

[(i) measures to ensure that students' difficulties are identified on a timely basis and to provide sufficient information on which to base effective assistance;

[(ii) to the extent the school determines feasible using funds under this part, periodic training for teachers in how to identify such difficulties and to provide assistance to individual students; and

[(iii) for any student who has not met such standards, teacher-parent conferences, at which time the teacher and parents shall discuss—

[(I) what the school will do to help the student meet such standards;

[(II) what the parents can do to help the student improve the student's performance; and

[(III) additional assistance which may be available to the student at the school or elsewhere in the community.

[(2) PLAN.—(A) 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 before the date of enactment of the Improving America's Schools Act of 1994), in consultation with the local educational agency and its school support team or other technical assistance provider under subsections (c)(1) and (e) of section 1117, a comprehensive plan for reforming the total instructional program in the school that—

[(i) incorporates the components described in paragraph (1);

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

[(iii) includes a list of State and local educational agency programs and other Federal programs under subsection (a)(4) that will be included in the schoolwide program;

[(iv) describes how the school will provide individual student assessment results, including an interpretation of those results, to the parents of a child who participates in the assessment required by section 1111(b)(3);

[(v) provides for the collection of data on the achievement and assessment results of students disaggregated by gender, major ethnic or racial groups, limited English proficiency status, migrant students, and by children with disabilities as compared to other students, and by economically disadvantaged students as compared to students who are not economically disadvantaged;

[(vi) seeks to produce statistically sound results for each category for which assessment results are disaggregated through the use of oversampling or other means; and

[(vii) provides for the public reporting of disaggregated data only when such reporting is statistically sound.

[(B) Plans developed before a State has adopted standards and a set of assessments that meet the criteria in paragraphs (1) and (3) of section 1111(b) shall be based on an analysis of available data on the achievement of students in the school and effective instructional and school improvement practices.

[(C) The comprehensive plan shall be—

[(i) developed during a one-year period, unless—

[(I) the local educational agency, after considering the recommendation of the technical assistance providers under subsections (c) and (e) of section 1117, determines that less time is needed to develop and implement the schoolwide program; or

[(II) the school is operating a schoolwide program on the day preceding the date of enactment of the Improving America's Schools Act of 1994, in which case such school may continue to operate such program, but shall develop a new plan during the first year of assistance under such Act to reflect the provisions of this section;

[(ii) developed with the involvement of the community to be served and individuals who will carry out such plan, including teachers, principals, other staff, and, where appropriate, pupil services personnel, and parents, and, if the plan relates to a secondary school, students from such school;

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

[(iv) available to the local educational agency, parents, and the public, and the information contained in such plan shall be translated, to the extent feasible, into any language that a significant percentage of the parents of participating children in the school speak as their primary language; and

[(v) where appropriate, developed in coordination with programs under the School-to-Work Opportunities Act of 1994, the Carl D. Perkins Vocational and Technical Education Act of 1998, and the National and Community Service Act of 1990.

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

[SEC. 1115. TARGETED ASSISTANCE SCHOOLS.

[(a) IN GENERAL.—In all schools selected to receive funds under section 1113(c) that are ineligible for a schoolwide program under section 1114, or that choose not to operate such 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 part 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 where the local educational agency provides a free public education, yet are of an age at which such children can benefit from an organized instructional program provided in a school or other educational setting.

[(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 performance standards on the basis of multiple, educationally related, objective criteria established by the local educational agency and supplemented by the school, except that children from preschool through grade two shall be selected solely on the basis of such criteria as teacher judgment, interviews with parents, and developmentally appropriate measures.

[(2) CHILDREN INCLUDED.—(A)(i) Children who are economically disadvantaged, children with disabilities, migrant children or limited English proficient children, are eligible for services under this part on the same basis as other children selected to receive services under this part.

[(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 two years preceding the year for which the determination is made, participated in a Head Start or Even Start program, is eligible for services under this part.

[(C)(i) A child who, at any time in the two years preceding the year for which the determination is made, received services under the program for youth who are neglected, delinquent, or at risk of dropping out under part D (or its predecessor authority) may be 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 may be eligible for services under this part.

[(D) A child who is homeless and attending any school in the local educational agency may be 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 part the opportunity to meet the State's student performance 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 student performance standards expected for all children;

[(B) be based on effective means for improving achievement of children;

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

[(D) use effective instructional strategies 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;

[(E) coordinate with and support the regular education program, which may include—

[(i) counseling, mentoring, and other pupil services;

[(ii) college and career awareness and preparation, such as college and career guidance, comprehensive career development, occupational information, enhancement of employability skills and occupational skills, personal finance education, job placement services, and innovative teaching methods which may include applied learning and team teaching strategies;

[(iii) services to prepare students for the transition from school to work, including the formation of partnerships between elementary, middle, and secondary schools and local businesses, and the integration of school-based and work-based learning; and

[(iv) services to assist preschool children in the transition from early childhood programs to elementary school programs;

[(F) provide instruction by highly qualified staff;

[(G) in accordance with subsection (e)(3) and section 1119, provide opportunities for professional development with resources provided under this part, and from other sources to the extent feasible, for administrators and for teachers and other school staff who work with participating children in programs under this section or in the regular education program; and

[(H) provide strategies to increase parental involvement, such as family literary 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 performance by—

[(A) the coordination of resources provided under this part with other resources to enable the children served to meet the State content standards and State student performance standards; 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 performance 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 performance standards in the classroom.

[(d) ASSIGNMENT OF PERSONNEL.—To promote the integration of staff supported with funds under this part and children served under this part into the regular school program and overall school planning and improvement efforts, public school personnel who are paid with funds received under this part may—

[(1) assume limited duties that are assigned to similar personnel who are not so paid, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school;

[(2) participate in general professional development and school planning activities; and

[(3) collaboratively teach with regular classroom teachers, if such collaborative teaching directly benefits participating children.

[(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 health, 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 providers, and if funds are not reasonably available from other public or private sources to provide services under this part, 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;

[(B) compensation of a coordinator; and

[(C) 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 effectively carry out the professional development activities described in subparagraph (G) of subsection (c)(1) in accordance with section 1119, for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities.

[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 choice programs, for children eli-

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

[(b) CHOICE PLAN.—A local educational agency that chooses to implement a school choice plan shall first develop a comprehensive plan that includes assurances that—

[(1) all eligible students across grade levels will have equal access to the program;

[(2) the program does not include schools which follow a racially discriminatory policy;

[(3) describe how the school will use resources under this part and from other sources to implement the plan;

[(4) describe how the school will provide individual student assessment results, including an interpretation of such results, to the parents of a child who participates in the assessment required by section 1111(b)(3);

[(5) the plan will be developed with the involvement of the community to be served and individuals who will carry out the plan, including teachers, principals, and other staff, parents, and, if the plan relates to a secondary school, students from the school;

[(6) the plan will be made available to parents and the public;

[(7) the program will not include schools that do not receive funds under this part;

[(8) the program will not use funds under this part to pay for transportation costs;

[(9) both the sending and receiving schools agree to the student transfer; and

[(10) such local educational agency will comply with the other requirements of this part.]

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 concentrations 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 neglected or delinquent, and young children who are in need of reading assistance and family literacy assistance.

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

(3) Too many students attend local schools that fail to 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 dis-

advantaged, 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. 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 2 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. 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(c) that have the greatest need for that assistance in amounts sufficient to have a significant impact in improving those schools.

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

(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 State funds each local educational agency receives below the amount received by such agency under subpart 2 in the preceding fiscal year.

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 official, agency, or entity has sufficient authority, under State law, to adopt curriculum content and student academic achievement standards, and academic assessments aligned with such academic standards, which will be applicable to all students enrolled in the State's public 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 student 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 lan-

guage 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 1 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.

(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 section 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 1 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)(F) (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) the percentage of students not tested (disaggregated by the same categories and subject to the same exception described in clause (i));

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

(iv) 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;

(v) 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; and

(vi) 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.

(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 whether 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.

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, migratory 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 appropriate, 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 (6) and (7) 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 (6) and (7) 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 scientifically 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 providers, 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. 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. 1116. 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 assessments described in the State plan;

[(2) use any additional measures or indicators described in the local educational agency's plan to review annually the progress of each school served under this part to determine whether the school is meeting, or making adequate progress as defined in section 1111(b)(2)(A)(i) toward enabling its students to meet the State's student performance standards described in the State plan;

[(3) publicize and disseminate to teachers and other staff, parents, students, and the community, the results of the annual review under paragraph (2) of all schools served under this part in individual school performance profiles that include statistically sound disaggregated results as required by section 1111(b)(3)(I); and

[(4) provide the results of the local annual review to schools so that the schools can continually refine the program of instruction to help all children served under this part in those schools meet the State's student performance standards.

[(b) DESIGNATION OF DISTINGUISHED SCHOOLS.—Each State educational agency and local educational agency receiving funds under this part shall designate distinguished schools in accordance with section 1117.

[(c) SCHOOL IMPROVEMENT.—

[(1) IN GENERAL.—A local educational agency shall identify for school improvement any school served under this part that—

[(A) has been in program improvement under section 1020 of the Elementary and Secondary Education Act of 1965 (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), for at least two consecutive school years prior to such day;

[(B) has not made adequate progress as defined in the State's plan under section 1111(b)(2)(A)(i) for two consecutive school years, except that—

[(i) this subparagraph shall not apply to a school if almost every student in such school is meeting the State's advanced level of performance; or

[(ii) in the case of a targeted assistance school, such school may be reviewed on the progress of only those students that have been or are served under this part; or

[(C) has failed to meet the criteria established by the State through the State's transitional procedure under section 1111(b)(7)(B) for two consecutive years.

[(2) REQUIREMENT.—(A) Each school identified under paragraph (1) shall—

[(i) in consultation with parents, the local educational agency, and the school support team, develop or revise a school plan in ways that have the greatest likelihood of im-

proving the performance of participating children in meeting the State's student performance standards; and

[(ii) submit the plan or revised plan to the local educational agency for approval.

[(B) Before identifying a school for school improvement under paragraph (1), the local educational agency shall provide the school with an opportunity to review the school-level data, including assessment data, on which such identification is based. If the school believes that such identification for school improvement is in error for statistical or other substantive reasons, such school may provide evidence to the local educational agency to support such belief.

[(C) During the first year immediately following such identification, the school shall implement such school's plan or revised plan.

[(3) PROFESSIONAL DEVELOPMENT.—(A) Each school identified under paragraph (1) shall, as part of the school plan under paragraph (2), improve the skills of its staff by providing effective professional development activities. A school shall demonstrate such school's compliance with this paragraph by—

[(i) devoting to such activities, over two consecutive years, an amount equivalent to at least 10 percent of the funds received by the school under this part during one fiscal year; or

[(ii) otherwise demonstrating that such school is effectively carrying out professional development activities.

[(B) A school may use funds from any source to meet the requirements of this subsection.

[(C) Decisions about how to use the funds made available under this part which the school makes available for professional development shall be made by teachers, principals, and other school staff in that school.

[(4) TECHNICAL ASSISTANCE.—(A) For each school identified under paragraph (1), the local educational agency shall provide technical or other assistance as the school develops and implements such school's plan or revised plan, such as a joint plan between the local educational agency and school that addresses specific elements of student performance problems and that specifies school and local educational agency responsibilities under the plan, and waivers or modifications of requirements of local educational agency policy or regulation that impede the ability of the school to educate students.

[(B) Such technical assistance may be provided directly by the local educational agency, through mechanisms authorized under section 1117, or with the local educational agency's approval, by an institution of higher education, a private nonprofit organization, an educational service agency, a comprehensive regional assistance center under part A of title XIII, or other entities with experience in helping schools improve achievement.

[(5) CORRECTIVE ACTION.—(A) Except as provided in subparagraph (C), after providing technical assistance pursuant to paragraph (4) and taking other remediation measures, the local educational agency may take corrective action at any time against a school that has been identified under paragraph (1),

but, during the third year following identification under paragraph (1), shall take such action against any school that still fails to make adequate progress.

[(B)(i) Corrective actions are those, consistent with State and local law, determined and made public and disseminated by the local educational agency, which may include—

[(I) withholding funds;

[(II) interagency collaborative agreements between the school and other public agencies to provide health, counseling, and other social services needed to remove barriers to learning;

[(III) revoking authority for a school to operate a schoolwide program;

[(IV) decreasing decisionmaking authority at the school level;

[(V) making alternative governance arrangements such as the creation of a public charter school;

[(VI) reconstituting the school staff; and

[(VII) authorizing students to transfer, including transportation costs, to other public schools served by the local educational agency.

[(ii) Notwithstanding clause (i), corrective actions taken pursuant to this part shall not include the actions described in subclause (I), (III), (IV), (VI), or (VII) of clause (i) until the State has developed assessments that meet the requirements of subparagraph (C) of section 1111(b)(3).

[(C) Prior to implementing any corrective action, the local educational agency may refrain from such corrective action for one additional year to the extent that the failure to make progress can be attributed to extenuating circumstances as determined by the local educational agency.

[(D) A school that is no longer operating its schoolwide program due to a corrective action may not resume operation of such a program until the local educational agency determines that the school has adequately reformed its schoolwide program plan to enable the school to make adequate progress toward meeting the State's challenging student performance standards.

[(6) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—The State educational agency shall—

[(A) make technical assistance under section 1117 available to the schools farthest from meeting the State's challenging student performance standards, if requested by the school or local educational agency; and

[(7) SPECIAL RULE.—Local educational agencies that for at least two of the three years following identification under paragraph (3) make adequate progress toward meeting the State's standards no longer need to be identified for local educational agency improvement.]

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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 subparagraph (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) Before identifying an elementary school or a secondary school for school improvement under paragraph (1), for corrective action under paragraph (6), or for restructuring under paragraph (7), the local educational agency

shall provide the school with an opportunity to review the school-level data, including academic assessment data, on which the proposed identification is based.

(B) EVIDENCE.—If the principal of a school proposed for identification under paragraph (1), (6), or (7) believes, or a majority of the parents of the students enrolled in such school believe, that the proposed identification is in error for statistical or other substantive reasons, the principal may provide supporting evidence to the local educational agency, which shall consider that evidence before making a final determination.

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

(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 address 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 identification 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); and

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

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

(i) inclusion of 1 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 development, 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) 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 (7) through (9).

(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 1 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.

(7) RESTRUCTURING.—

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

(i) a school is subject to corrective action under paragraph (6) 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 (6) fails to make adequate yearly progress, the local educational agency shall—

(I) 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 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 1 of the following alternative governance arrangements for the school consistent with State law:

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

(ii) Replacing the principal and all or most of the school staff that are relevant to the 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 participate in developing any plan under subparagraph (A)(iii), and shall provide parents an explanation of the options under subparagraph (A)(i) and (ii).

(8) TRANSPORTATION.—In any case described in paragraph (6)(D)(i) and (7)(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.

(9) COOPERATIVE AGREEMENT.—In any case described in paragraph (6)(D)(i) or (7)(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.

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

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

(B) fails to make adequate yearly progress, but children from low-income families in the school make statistically significant educational progress for 1 year, the local educational agency shall place or continue as appropriate the school in corrective action under paragraph (6).

(11) 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 educational agency consistent with the requirements of this section; and

(ii) to work with schools needing improvement.

(B) TECHNICAL ASSISTANCE.—Technical assistance provided under this section by the State educational agency or an entity authorized by such agency shall be based upon scientifically based research.

(9) CORRECTIVE ACTION.—In order to help students served under this part meet challenging State academic standards, each State shall implement a system of corrective action in accordance with 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 1 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 per-

forming 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 1 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 identified 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 paragraph shall permit the making of any payment under this paragraph for religious worship or instruction.

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[SEC. 1117. STATE ASSISTANCE FOR SCHOOL SUPPORT AND IMPROVEMENT.

[(a) SYSTEM FOR SUPPORT.—

[(1) STATE SUPPORT.—Each State educational agency shall establish a statewide system of intensive and sustained support and improvement for schools receiving funds under this part, including schoolwide programs and schools in need of program improvement, in order to increase the opportunity for all

students in such schools to meet the State's content standards and student performance standards.

[(2) MEETING REQUIREMENTS.—Funds reserved under section 1003(a) or appropriated under section 1002(f) shall be used to meet the requirements of this section. In addition to such funds a State educational agency may use State administrative funds reserved under section 1603(c) to meet such requirements.

[(b) REGIONAL CENTERS.—Such a statewide system shall work with and receive support and assistance from the comprehensive regional technical assistance centers under part A of title XIII and the educational regional laboratories under section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

[(c) PROVISIONS.—The system shall include at a minimum, the following:

[(1) SCHOOL SUPPORT TEAMS.—

[(A) Each State educational agency, in consultation with local educational agencies and schools, shall establish a system of school support teams to provide information and assistance to schoolwide programs and to assist such programs in providing an opportunity to all students to meet the State's student performance standards.

[(B) If funds are sufficient, school support teams shall provide information and assistance to—

[(i) schools—

[(I) in which the number of students in poverty is equal to or greater than 75 percent of the total number of students enrolled in such school; and

[(II) identified as in need of improvement under section 1116(c)(1); and

[(ii) other schools in need of improvement.

[(C) Each such team shall be composed of persons, including teachers, pupil services personnel, representatives of organizations knowledgeable about successful schoolwide projects or comprehensive school reform (especially distinguished educators described in paragraph (3)), and other persons who are knowledgeable about research and practice on teaching and learning, particularly about strategies for improving the educational opportunities for low-achieving students (including alternative and applied learning), such as representatives of institutions of higher education, regional educational laboratories or research centers, and outside consultant groups.

[(D) A school support team shall work cooperatively with each school and make recommendations as the school develops the school's schoolwide program plan or school improvement plan, review each plan, and make recommendations to the school and the local educational agency.

[(E) During the operation of the schoolwide program or during school improvement activities, a school support team shall—

[(i) periodically review the progress of the school in enabling children in the school to meet the State's student performance standards under this part;

[(ii) identify problems in the design and operation of the instructional program; and

[(iii) make recommendations for improvement to the school and the local educational agency.

[(2) DISTINGUISHED SCHOOLS.—

[(A) Each State shall designate as a distinguished school any school served under this part which, for three consecutive years, has exceeded the State's definition of adequate progress as defined in section 1111(b)(2)(A)(i), and, any school in which—

[(i) virtually all students have met the State's advanced level of student performance; and

[(ii) equity in participation and achievement of students by sex has been achieved or significantly improved.

[(B) Schools designated under this paragraph may serve as models and provide support to other schools, especially schoolwide programs and schools in school improvement, to assist such schools in meeting the State's student performance standards.

[(C) States shall use funds reserved under section 1003(a) and funds made available under section 1002(f) to allow schools identified under this paragraph to carry out the activities described in subparagraph (B) and may use such funds to provide awards to such schools to further such school's education programs under this part, provide additional incentives for continued success, and reward individuals or groups in the school for exemplary performance.

[(D) A local educational agency may also recognize the success of a distinguished school by providing additional institutional and individual rewards, such as greater decisionmaking authority at the school building level, increased access to resources or supplemental services such as summer programs that may be used to sustain or increase success, additional professional development opportunities, opportunities to participate in special projects, and individual financial bonuses.

[(3) DISTINGUISHED EDUCATORS.—

[(A) In order to provide assistance to schools and local educational agencies identified as needing improvement and schools participating in schoolwide programs, each State, in consultation with local educational agencies and using funds reserved under section 1003(a) and made available under section 1002(f), shall establish a corps of distinguished educators.

[(B) When possible, distinguished educators shall be chosen from schools served under this part that have been especially successful in enabling children to meet or make outstanding progress toward meeting the State's student performance standards, such as the schools described in paragraph (2).

[(C) Distinguished educators shall provide, as part of the statewide system, intensive and sustained assistance to the schools and local educational agencies farthest from meeting the State's student performance standards and to schoolwide programs as such programs develop and implement their plans, including participation in the support teams described in paragraph (1).

[(d) IMPLEMENTATION.—In order to implement this section funds reserved under section 1003(a) and funds made available under section 1002(f) may be used by a State for release time for teachers and administrators, travel, training, and other related costs.

[(e) ALTERNATIVES.—The State may devise additional approaches to providing the assistance described in paragraphs (1) and (3) of subsection (c), such as providing assistance through institutions of higher education and educational service agencies or other local consortia, and the State may seek approval from the Secretary to use funds reserved under section 1003 and funds made available under section 1002(f) for such approaches as part of the State plan.

[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, 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 developed under this section—

[(i) to determine the effectiveness of the policy in increasing the participation of parents; and

[(ii) to identify barriers to greater participation by parents in activities authorized by this section, giving

particular attention to parents who are economically disadvantaged, are disabled, have limited English proficiency, have limited literacy, or are of any racial or ethnic minority background; and

[(F) use the findings of the evaluations described in subparagraph (E) in designing strategies for school improvement and revising, if necessary, the parental involvement policies described in this subsection and subsection (b)(1).

[(3) RESERVATION.—(A) 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(e)) for the fiscal year for which the determination is made is $5,000 or less.

[(B) 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.

[(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). 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(b), 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) school performance profiles required under section 1116(a)(3) and their child's individual student assessment results, including an interpretation of such results, as required under section 1111(b)(3)(H);

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

[(D) opportunities for regular meetings to formulate suggestions, share experiences with other parents, and participate as appropriate in decisions relating to the education of their children if such parents so desire; and

[(E) timely responses to parents' suggestions under subparagraph (D); and

[(5) if the schoolwide program plan under section 1114(b)(2) 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 jointly develop with parents for all children served under this part a school-parent compact that outlines 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 standards. Such compact shall—

[(1) describe the school's responsibility to provide high-quality curriculum and instruction in a supportive and effective learning environment that enables the children served under this part to meet the State's student performance standards, and the ways in which each parent will be responsible for supporting their children's learning, such as monitoring attendance, homework completion, and television watching; volunteering in their child's classroom; and participating, as appropriate, in decisions relating to the education of their children and positive use of extracurricular time; and

[(2) address the importance of communication between teachers and parents on an ongoing basis through, at a minimum—

[(A) parent-teacher conferences in elementary schools, at least annually, during which the compact shall be discussed as the compact relates to the individual child's achievement;

[(B) frequent reports to parents on their children's progress; and

[(C) reasonable access to staff, opportunities to volunteer and participate in their child's class, and observation of classroom activities.

[(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 National Education Goals, the State's content standards and State student performance standards, the provisions of section 1111(b)(8), State and local 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 as well as information on how parents can participate in decisions relating to the education of their children;

[(2) shall provide materials and training, such as—

[(A) coordinating necessary literacy training from other sources to help parents work with their children to improve their children's achievement; and

[(B) 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 home and school;

[(4) shall coordinate and integrate parent involvement programs and activities with Head Start, 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 develop appropriate roles for community-based organizations and businesses in parent involvement activities, including providing information about opportunities for organizations and businesses to work with parents and schools, and encouraging the formation of partnerships between elementary, middle, and secondary schools and local businesses that include a role for parents;

[(6) shall conduct other activities, as appropriate and feasible, such as parent resource centers and providing opportunities for parents to learn about child development and child rearing issues beginning at the birth of a child, that are designed to help parents become full partners in the education of their children;

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

[(8) 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;

[(9) 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;

[(10) 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;

[(11) may train and support parents to enhance the involvement of other parents;

[(12) may arrange meetings at a variety of times, such as in the mornings and evenings, in order to maximize the opportunities for parents to participate in school related activities;

[(13) 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;

[(14) may adopt and implement model approaches to improving parental involvement, such as Even Start; and

[(15) shall provide such other reasonable support for parental involvement activities under this section as parents may request.

[(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, including providing information and school profiles in a language and form such parents understand.

[(g) PARENTAL INFORMATION AND RESOURCE CENTERS.—In States where parental information and resource centers have been established pursuant to section 401 of the Goals 2000: Educate America Act of 1994 (to provide training, information, and support to parents and individuals who work with parents), local educational agencies and schools receiving assistance under this part shall assist parents and parent organizations by informing such parents and organizations of the existence and purpose of such centers, providing such parents and organizations with a description of the services and programs provided by such centers, advising parents on how to use such centers, and helping parents to contact such centers.

[SEC. 1119. PROFESSIONAL DEVELOPMENT.

[(a) PROGRAM REQUIREMENTS.—

[(1) IN GENERAL.—Each local educational agency receiving assistance under this part shall provide high-quality professional development that will improve the teaching of the academic subjects, consistent with the State content standards, in order to enable all children to meet the State's student performance standards.

[(2) PROGRAM DESIGN.—Such professional development activities shall be designed by principals, teachers, and other school staff in schools receiving assistance under this part.

[(b) PROFESSIONAL DEVELOPMENT ACTIVITIES.—

[(1) REQUIRED ACTIVITIES.—Such professional development activities shall—

[(A) support instructional practices that are geared to challenging State content standards and create a school environment conducive to high achievement in the academic subjects;

[(B) support local educational agency plans under section 1112 and school plans under section 1114;

[(C) draw on resources available under this part, title III of the Goals 2000: Educate America Act, title II of this Act, and from other sources;

[(D) where appropriate, as determined by the local educational agency, include strategies for developing curricula and teaching methods that integrate academic and vocational instruction (including applied learning and team teaching strategies); and

[(E) include strategies for identifying and eliminating gender and racial bias in instructional materials, methods, and practices.

[(2) OPTIONAL ACTIVITIES.—Such professional development activities may include—

[(A) instruction in the use of assessments;

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

[(C) 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;

[(D) instruction in the use of technology;

[(E) 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;

[(F) instruction in ways to teach special needs children;

[(G) instruction in gender-equitable education methods, techniques, and practices;

[(H) joint professional development activities involving programs under this part, Head Start, Even Start, or State-run preschool program personnel; and

[(I) instruction in experiential-based teaching methods such as service learning.

[(c) PROGRAM PARTICIPATION.—Each local educational agency receiving assistance under this part is encouraged to 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.

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

[(e) 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 education, or other public or private institutions or organizations.

[(f) EFFECTIVE TEACHING STRATEGIES.—Knowledge of effective teaching strategies that is gained through professional development activities under this section may be shared with teachers who are not participating in targeted assistance programs under this part.

[(g) COMBINATIONS OF FUNDS.—Funds provided under this part that are used for professional development purposes may be combined with funds provided under title II of this Act, title III of the Goals 2000: Educate America Act, and other sources.

[(h) STATE REVIEW.—

[(1) IN GENERAL.—The State educational agency shall review the local educational agency's plan under section 1112(b) to determine if such agency's professional development activities—

[(A) are tied to challenging State student content and student performance standards;

[(B) reflect research on teaching and learning where possible;

[(C) are designed to have a positive impact on the teacher's performance in the classroom;

[(D) contribute to continuous improvement in the classroom or throughout the school;

[(E) include methods to teach children with special needs;

[(F) are developed with the extensive participation of teachers; and

[(G) include gender-equitable education methods, techniques, and practices.

[(2) TECHNICAL ASSISTANCE.—If a local educational agency's plan for professional development does not include the activities described in paragraph (1), the State educational agency shall provide technical assistance to such local educational agencies to enable such agencies to make progress toward inclusion of such activities in the local educational agency's professional development activities.

[(3) 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(d)(6).

[(i) INSTRUCTIONAL AIDES.—

[(1) IN GENERAL.—If a local educational agency uses funds received under this part to employ instructional aides, the local educational agency shall ensure that such aides—

[(A) possess the knowledge and skills sufficient to assist participating children in meeting the educational goals of this part;

[(B) have a secondary school diploma, or its recognized equivalent, or earn either within two years of employment, except that a local educational agency may employ an in-

structional aide that does not meet the requirement of this subparagraph if such aide possesses proficiency in a language other than English that is needed to enhance the participation of children in programs under this part; and

[(C) are under the direct supervision of a teacher who has primary responsibility for providing instructional services to eligible children.

[(2) INCLUSION IN ACTIVITIES.—Each local educational agency receiving funds under this part, when feasible, shall include instructional aides in professional development activities.

[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 equipment and materials, other technology, and mobile educational services and equipment).

[(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.

[(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.

[(5) PROVISION OF SERVICES.—The local educational agency may provide such services 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 and where the services will be provided;

[(D) how the services will be assessed; and

[(E) the size and scope of the equitable services to be provided to the eligible private school children, and what is the proportion of funds allocated under subsection (a)(4) for such services.

[(2) TIMING.—Such consultation shall occur before the local educational agency makes any decision that affects the oppor-

tunities of eligible private school children to participate in programs under this part.

[(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.

[(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; and

[(2) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 14505 and 14506.

[(e) CAPITAL EXPENSES.—

[(1) IN GENERAL.—(A) From the amount appropriated for this subsection under section 1002(e) 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.

[(4) DEFINITION.—For the purpose of this subsection, the term "capital expenses" means—

[(A) expenditures for noninstructional goods and services, such as the purchase, lease, or renovation of real and personal property, including mobile educational units and leasing of neutral sites or spaces;

[(B) insurance and maintenance costs;

[(C) transportation; and

[(D) other comparable goods and services.

[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 14501 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 assisted under this part, and not to supplant such funds.

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

[(c) COMPARABILITY OF SERVICES.—

[(1) IN GENERAL.—(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) bilingual education 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) to the extent feasible and appropriate to the circumstances, including the extent to which such local educational agency is able to secure the cooperation of parents and local Head Start agencies and, if feasible, other early childhood development programs.

[(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, 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;

[(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, 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, to discuss the developmental and other needs of individual children; and

[(4) organizing and participating in joint transition related training of school staff, Head Start staff, and, where appropriate, other early childhood staff.

[(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 Amendments of 1994.

[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 on the basis of their respective need for such assistance according to such criteria as the Secretary determines will best carry out the purpose of this part; and

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

[(b) ASSISTANCE TO THE OUTLYING AREAS.—

[(1) IN GENERAL.—From amounts made available under subsection (a) in each fiscal year the Secretary shall make grants to local educational agencies in the outlying areas (other than the outlying areas assisted under paragraph (3)).

[(2) COMPETITIVE GRANTS.—(A) The Secretary shall reserve $5,000,000 from the amounts made available under subsection (a) in each fiscal year to award grants on a competitive basis, to local educational agencies in the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. The Secretary shall award such grants according to the recommendations of the Pacific Region Educational Laboratory which shall conduct a competition for such grants.

[(B) Except as provided in subparagraph (D), grant funds awarded under this part only may be used for programs described in this Act, including teacher training, curriculum development, instructional materials, or general school improvement and reform.

[(C) Grant funds awarded under this paragraph only may be used to provide direct educational services.

[(D) The Secretary may provide 5 percent of the amount made available for grants under this paragraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this paragraph.

[(c) 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. ALLOCATIONS TO STATES.

[(a) IN GENERAL.—

[(1) FISCAL YEAR 1995.—For fiscal year 1995, appropriations for this part shall be allocated according to the provisions of sections 1005, except subsection (a)(3), and 1006, part A of chapter 1 of title I, Elementary and Secondary Education Act of 1965, as in effect on September 30, 1994, except that the State minimum for section 1005 shall be the lesser of 0.25 percent of total appropriations or the average of 0.25 percent of total appropriations and 150 percent of the national average grant per child counted for grants under section 1005 multiplied by the State's number of children counted for such grants, and for grants under section 1006, the State minimum shall be the lesser of—

[(A) 0.25 percent of total appropriations; and

[(B) the average of—

[(i) 0.25 percent of total appropriations; and

[(ii) the greater of 150 percent of the national average grant per child counted for grants under such section 1006 multiplied by the State total number of such children, or $340,000.

[(2) SUCCEEDING FISCAL YEARS.—For fiscal years 1996 through 1999, an amount of the appropriations for this part equal to the appropriation for fiscal year 1995 for section 1005, shall be allocated in accordance with section 1124, and an amount equal to the appropriation for fiscal year 1995 for section 1006 shall be allocated in accordance with section 1124A. Any additional appropriations under section 1002(a) for any fiscal year, after application of the preceding sentence, 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 Sec-

retary 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) IN GENERAL.—For fiscal year 1995, notwithstanding subsection (b) and without regard to amounts available for delinquent children under subpart 2 of part D, the amount made available to each local educational agency under such section 1005 shall be at least 85 percent of the amount such local educational agency received for the preceding year under such section 1005.

[(2) FISCAL YEAR 1996.—Notwithstanding subsection (b) and without regard to amounts available for delinquent children under subpart 2 of part D, for fiscal year 1996 the total amount made available to each local educational agency under each of sections 1124 and 1124A for any fiscal year shall be at least 100 percent of the total amount such local educational agency was allocated under such sections (or their predecessor authorities) for the preceding fiscal year.

[(3) FISCAL YEARS 1997–1999.—For fiscal years 1997 through 1999, notwithstanding subsection (b) and without regard to amounts available for delinquent children under subpart 2 of part D, the amount made available to each local educational agency under each of sections 1124 and 1125 shall be at least 95 percent of the previous year's amount if the number of children counted for grants under section 1124 is at least 30 percent of the total number of children aged 5 to 17 years, inclusive, in the local educational agency, 90 percent of the previous year amount if this percentage is between 15 percent and 30 percent, and 85 percent if this percentage is below 15 percent. For fiscal years 1997 and 1998, in calculating grants on the basis of population data for counties, the Secretary shall apply the hold-homeless percentages in the preceding sentence to counties. For fiscal years 1996 through 1998, if the Secretary's allocation for a county is not sufficient to meet the hold-harmless requirements of this paragraph for every local educational agency within that county, then 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 paragraph.

[(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 reduced.

[(e) DEFINITION.—For the purpose of this section and sections 1124 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.—The grant which a local educational agency in a State is eligible to receive under this subpart for a fiscal year shall (except as provided in section 1126), be determined by multiplying the number of children counted under subsection (c) by 40 percent of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that—

[(A) if the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, such amount shall be 80 percent of the average per pupil expenditure in the United States; or

[(B) if the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, such amount shall be 120 percent of the average per pupil expenditure in the United States.

[(2) BASIS FOR CALCULATING GRANTS.—For fiscal years 1995 through 1998, grants shall be calculated by the Secretary on the basis of the number of children counted under subsection (c) for counties, and State educational agencies shall suballocate county amounts to local educational agencies, in accordance with regulations published by the Secretary. In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than section 1124A) directly to local educational agencies without regard to the counties. If the Secretary approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that—

[(A) such allocations will be made using precisely the same factors for determining a grant as are used under this part;

[(B) such allocations will be made using alternative data approved by the Secretary that the State determines best reflects the distribution of children in poor families and is adjusted to be equivalent in proportion to the number of children determined in accordance with subsection (c); or

[(C) such allocations will be made using data that the State educational agency submits to the Secretary for approval that more accurately target poverty.

In addition, the State educational agency shall provide assurances that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination. Beginning in fiscal year 1999, grants shall be calculated by the Secretary on the basis of population data compiled for local educational agencies, unless the

Secretary and the Secretary of Commerce determine that use of the updated population data would be inappropriate or unreliable taking into consideration the recommendations of the study to be conducted by the National Academy of Sciences. 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, the Secretaries shall jointly issue a report setting forth their reasons in detail. In years when grants are calculated by the Secretary on the basis of local educational agency data, for each local educational agency serving an area with a total population of at least 20,000 persons, the grant under this section shall be the amount determined by the Secretary. For local educational agencies serving areas with total populations of fewer than 20,000 persons, the State educational agency may either—

[(i) distribute to such local educational agencies grants under this section equal to the amounts determined by the Secretary; and

[(ii) use an alternative method, approved by the Secretary, to distribute the share of the State's total grants under this section that is based on local educational agencies with total populations of fewer than 20,000 persons. Such an alternative method of distributing grants under this section among a State's local educational agencies serving areas with total populations of fewer than 20,000 persons shall be based upon population data that the State educational agency determines best reflect the current distribution of children in poor families among the State's local educational agencies serving areas with total populations of fewer than 20,000 persons. If a local educational agency serving an area with total population of less than 20,000 persons is dissatisfied with the determination of its grant by the State education agency, then such local educational agency may appeal this determination to the Secretary. The Secretary must respond to this appeal within 45 days of receipt.

[(3) PUERTO RICO.—For each fiscal year, the Secretary shall determine 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. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this section for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) for the Commonwealth of Puerto Rico by the product of—

[(A) the percentage determined under the preceding sentence; and

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

[(4) DEFINITION.—For purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and Palau.

[(b) MINIMUM NUMBER OF CHILDREN TO QUALIFY.—Subject to the succeeding sentence, a local educational agency shall be eligible for a basic grant for a fiscal year under this subpart only if the

number of children counted under subsection (c) in the school district of such local educational agency is at least 10. Beginning in fiscal year 1996, no local educational agency shall be eligible for a grant under this section if the number of children counted for grants under this section is equal to 2 percent or less of the total school age population in the local educational agency. For fiscal years 1996 through 1998, grants not made as a result of applying the preceding sentence shall be reallocated by the State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

[(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 aged 5 to 17, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (5); and

[(C) the number of children 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.

[(2) DETERMINATION OF NUMBER OF CHILDREN.—For the purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families below the poverty level on the basis of the most recent satisfactory data, described in paragraph (3), available from the Department of Commerce. For fiscal year 1999 and beyond, 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 1997 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 counties or local educational agencies, 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, taking into consideration the recommendations of the study to be conducted by the National Academy of Sciences. 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 jointly issue a report setting forth their reasons in detail. 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) STUDY.—(A) The Secretary of Education shall, within 30 days after the date of enactment of the Improving America's School's Act of 1994, contract with the National Academy of Sciences (hereafter in this section referred to as the "Academy") to study the program to produce intercensal poverty data for small geographic areas and certain age cohorts being developed by the Bureau of the Census.

[(B) In conducting its study, the Academy shall consider such matters as—

[(i) the methodology used to produce and publish intercensal poverty data, and possible alternative methods to improve the usefulness of the data for Federal program purposes;

[(ii) the availability of alternative indicators of poverty for small geographic areas, against which the poverty data produced and published by the Bureau of the Census could be compared;

[(iii) the reliability of the poverty data produced and published by the Bureau of the Census, particularly for less populous geographic areas;

[(iv) the reliability of intercensal poverty data produced and published by the Bureau of the Census, as compared over time to similar data produced by the Bureau of the Census during the most recent decennial census; and

[(v) the usefulness of poverty data produced and published by the Bureau of the Census for Federal programs that allocate funds to State and sub-State areas based, in whole or in part, on such data.

[(C) The Academy shall submit to the Secretary and the Secretary of Commerce, as well as to the Committee on Education and Labor and the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Governmental Affairs of the Senate—

[(i) not later than 18 months after the date on which a contract is entered into under subsection (a), and not later than every 18 months thereafter, such interim reports on the Academy's activities under this Act that the Academy deems appropriate, including a detailed statement of the Academy's findings and conclusions with respect to any poverty data which the Bureau of the Census publishes and produces, within 90 days of such publication; and

[(ii) not later than December 31, 1998, a final report which shall include a more detailed statement of the Academy's findings and conclusions with respect to the use of any intercensal poverty data produced and published by

the Bureau of the Census as the basis for allocating Federal funds under this Act.

[(D) Of the funds appropriated under section 1002(f) of this Act, the Secretary shall use such sums as are necessary in each of fiscal years 1995, 1996, 1997, 1998, and 1999 to carry out the provisions of this paragraph.

[(5) OTHER CHILDREN TO BE COUNTED.—For 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 of such ages 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.

[(6) 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. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

[(d) STATE MINIMUM.—Notwithstanding subsection (b)(1) or (d) of 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, the Commonwealth of the Northern Mariana Islands, and Palau, which is eligible for a grant under this part for any fiscal year shall be eligible for an additional grant under this section for that fiscal year if—

[(i) the number of children counted under section 1124(c) in the county (for fiscal years 1996 through 1998), or local educational agency (for fiscal years beginning with 1999) for the fiscal year exceeds 6,500; or

[(ii) the number of children counted under section 1124(c) exceeds 15 percent of the total number of children aged 5 to 17, inclusive, in the county (for fiscal years 1996 through 1998), or local educational agency (for fiscal years beginning with 1999) in that fiscal year.

[(B) Notwithstanding such subsections (b)(1) and (d) of 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 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) SUBALLOCATION.—For fiscal years 1996 through 1998, county amounts shall be suballocated to local educational agencies meeting the criteria of paragraph (1)(A) by State educational agencies, in accordance with regulations published by the Secretary. For fiscal years 1995 through 1998, grants shall be calculated by the Secretary 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 published by the Secretary. In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than this section) directly to local educational agencies without regard to the counties. If the Secretary approves an application of a State educational agency for a particular year under this paragraph, the State educational agency shall provide assurances that—

[(A) such allocations will be made using precisely the same factors for determining a grant as are used under this part;

[(B) such allocations will be made using alternative data approved by the Secretary that the State determines best reflects the distribution of children in poor families and is adjusted to be equivalent in proportion to the number of children determined in accordance with section 1124(c); or

[(C) such allocations will be made using data that the State educational agency submits to the Secretary for approval that more accurately target poverty.

In addition, the State educational agency shall provide assurances that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination. A State may reserve not more than 2 percent of its allocations in fiscal years 1996 through 1998 under this section for the purpose of making grants to local educational agencies that meet the criteria of clause (i) or (ii) of paragraph (1)(A), but are in ineligible counties. For fiscal years beginning with 1999, for each local educational agency serving an area with a total population of at least 20,000 persons, the grant under this section shall be the amount determined by the Secretary. For local educational agencies serving areas with total populations of fewer than 20,000 persons, the State educational agency may either (i) distribute to such local educational agencies grants under this section equal to the amounts determined by the Secretary; or (ii) use an alternative method, approved by the Secretary, to distribute the share of the State's total grants under this section that is based on local educational agencies with total populations of fewer than 20,000 persons. Such an alternative method of distributing grants under this section among a State's local educational agencies serving areas with total populations of fewer than 20,000 persons shall be based upon population data that the

State educational agency determines best reflects the current distribution of children in poor families among the State's local educational agencies serving areas with total populations of fewer than 20,000 persons and meeting the eligibility criteria of paragraph (1)(A). If a local educational agency serving an area with total population of less than 20,000 persons is dissatisfied with the determination of its grant by the State educational agency, then such local educational agency may appeal this determination to the Secretary. The Secretary shall respond to this appeal within 45 days of receipt. The Secretary shall consult with the Secretary of Commerce regarding whether available data on population for local educational agencies serving areas with total populations of fewer than 20,000 persons are sufficiently reliable to be used to determine final grants to such areas meeting the eligibility criteria of paragraph (1)(A).

[(b) RESERVATION OF FUNDS.—Of the total amount of funds available for this section and sections 1124 and 1125, an amount equal to the appropriation for fiscal year 1995 for section 1006 of this Act (as such section was in effect on the day preceding the date of enactment of this Act) shall be available to carry out this section.

[(c) RATABLE REDUCTION RULE.—If the sums available under subsection (b) for any fiscal year for making payments under this section are not sufficient to pay in full the total amounts which all States are eligible to receive under subsection (a) for such fiscal year, the maximum amounts which all States are eligible to receive under subsection (a) for such fiscal year shall be ratably reduced. In the case that additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

[(d) 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. Funds made available as a result of applying this subsection shall be re-

allocated by the State educational agency 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 the second sentence of subparagraph 1124(a)(1)(A).

[(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)(3).

[(c) WEIGHTED CHILD COUNT.—

[(1) FISCAL YEARS 1966–1998.—

[(A) IN GENERAL.—The weighted child count used to determine a county's allocation under this section is the larger of the two 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 12.20 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 12.20 percent, but not more than 17.70 percent, of such population, multiplied by 1.75;

[(III) the number of such children constituting more than 17.70 percent, but not more than 22.80 percent, of such population, multiplied by 2.5;

[(IV) the number of such children constituting more than 22.80 percent, but not more than 29.70 percent, of such population, multiplied by 3.25; and

[(V) the number of such children constituting more than 29.70 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 1,917, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

[(II) the number of such children between 1,918 and 5,938, inclusive, in such population, multiplied by 1.5;

[(III) the number of such children between 5,939 and 20,199, inclusive, in such population, multiplied by 2.0;

[(IV) the number of such children between 20,200 and 77,999, inclusive, in such population, multiplied by 2.5; and

[(V) the number of such children in excess of 77,999 in such population, multiplied by 3.0.

[(B) PUERTO RICO.—Notwithstanding subparagraph (A), the weighting factor 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) FISCAL YEARS AFTER 1999.—

[(A) IN GENERAL.—For each fiscal year beginning with fiscal year 1999 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 two 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 14.265 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 14.265 percent, but not more than 21.553 percent, of such population, multiplied by 1.75;

[(III) the number of such children constituting more than 21.553 percent, but not more than 29.223 percent, of such population, multiplied by 2.5;

[(IV) the number of such children constituting more than 29.223 percent, but not more than 36.538 percent, of such population, multiplied by 3.25; and

[(V) the number of such children constituting more than 36.538 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 575, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

[(II) the number of such children between 576 and 1,870, inclusive, in such population, multiplied by 1.5;

[(III) the number of such children between 1,871 and 6,910, inclusive, in such population, multiplied by 2.0;

[(IV) the number of such children between 6,911 and 42,000, inclusive, in such population, multiplied by 2.5; and

[(V) the number of such children in excess of 42,000 in such population, multiplied by 3.0.

[(B) PUERTO RICO.—Notwithstanding subparagraph (A), the weighting factor 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) LOCAL EDUCATIONAL AGENCY ALLOCATIONS.—For fiscal years 1995 through 1998, grants shall be calculated by the Secretary on the basis of the number of children counted under section 1124 for counties, and State educational agencies shall suballocate county amounts to local educational agencies, in accordance with regulations published by the Secretary. In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than section 1124A) directly to local educational agencies without regard to the counties. If the Secretary approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that—

[(1) such allocations will be made using precisely the same factors for determining a grant as are used under this part;

[(2) such allocations will be made using alternative data approved by the Secretary that the State determines best reflects the distribution of children in poor families and is adjusted to be equivalent in proportion to the number of children determined in accordance with section 1124(c); or

[(3) such allocations will be made using data that the State educational agency submits to the Secretary for approval that more accurately target poverty.

In addition, the State educational agency shall provide assurances that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination. For fiscal years beginning in 1999, for each local educational agency serving an area with a total population of at least 20,000 persons, the grant under this section shall be the amount determined by the Secretary. For local educational agencies serving areas with total populations of fewer than 20,000 persons, the State educational agency may either (1) distribute to such local educational agencies grants under this section equal to the amounts determined by the Secretary; or (2) use an alternative method, approved by the Secretary, to distribute the share of the State's total grants under this section that is based on local educational agencies with total populations of fewer than 20,000 persons. Such an alternative method of distributing grants under this section among a State's local educational agencies serving areas with total populations of fewer than 20,000 persons shall be based upon population data that the State educational agency determines best reflects the current distribution of children in poor families among the State's local educational agencies serving areas with total populations of fewer than 20,000 persons. If a local educational agency serving an area with total populations of less than 20,000 persons is dissatisfied with the determination of its grant by the State educational agency, then the local educational agency may appeal this determination to the Secretary. The Secretary shall respond to this appeal within 45 days of receipt.

[(e) STATE MINIMUM.—Notwithstanding any other provision of this section or subsection (b)(1) or (d) of 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. 1125A. EDUCATION FINANCE INCENTIVE PROGRAM.

[(a) GRANTS.—The Secretary is authorized to make grants to States from the sums appropriated pursuant to subsection (e) to carry out the purposes of this part.

[(b) DISTRIBUTION BASED UPON FISCAL EFFORT AND EQUITY.—

[(1) IN GENERAL.—Funds appropriated pursuant to subsection (e) shall be allotted to each State based upon the number of children aged 5 to 17, inclusive, of such State multiplied by the product of—

[(A) such State's effort factor described in paragraph (2); multiplied by

[(B) 1.30 minus such State's equity factor described in paragraph (3),

except that for each fiscal year no State shall receive less than one-quarter of 1 percent of the total amount appropriated pursuant to subsection (e) for such fiscal year.

[(2) EFFORT FACTOR.—(A) Except as provided in subparagraph (B), the effort factor for a State shall be determined in accordance with the succeeding sentence, except that such factor shall not be less than .95 nor greater than 1.05. The effort factor determined under this sentence shall be a fraction the numerator of which is the product of the three-year average per-pupil expenditure in the State multiplied by the three-year average per capita income in the United States and the denominator of which is the product of the three-year average per capita income in such State multiplied by the three-year average per-pupil expenditure in the United States.

[(B) The effort factor for the Commonwealth of Puerto Rico shall be equal to the lowest effort factor calculated under subparagraph (A) for any State.

[(3) EQUITY FACTOR.—(A)(i) Except as provided in subparagraph (B), the Secretary shall determine the equity factor under this section for each State in accordance with clause (ii).

[(ii)(I) For each State, the Secretary shall compute a weighted coefficient of variation for the per-pupil expenditures of local educational agencies in accordance with subclauses (II), (III), (IV), and (V).

[(II) In computing coefficients of variation, the Secretary shall weigh the variation between per-pupil expenditures in each local educational agency and the average per-pupil expenditures in the State according to the number of pupils in the local educational agency.

[(III) In determining the number of pupils under this paragraph in each local educational agency and each State, the Secretary shall multiply the number of children from low-income families by 1.4 under this paragraph.

[(IV) In computing coefficients of variation, the Secretary shall include only those local educational agencies with an enrollment of more than 200 students.

[(V) The Secretary shall compute separate coefficients of variation for elementary, secondary, and unified local educational agencies and shall combine such coefficients into a single weighted average coefficient for the State by multiplying each coefficient by the total enrollments of the local educational agencies in each group, adding such products, and dividing such sum by the total enrollments of the local educational agencies in the State.

[(B) The equity factor for a State that meets the disparity standard described in section 222.63 of title 34, Code of Federal Regulations (as such section was in effect on the day preceding the date of enactment of this Act) or a State with only one local educational agency shall be not greater than .10.

[(C) The Secretary may revise each State's equity factor as necessary based on the advice of independent education finance scholars to reflect other need-based costs of local educational agencies in addition to low-income student enrollment, such as differing geographic costs, costs associated with students with disabilities, children with limited-English proficiency or other meaningful educational needs, which deserve additional support. In addition and also with the advice of independent education finance scholars, the Secretary may revise each State's equity factor to incorporate other valid and accepted methods to achieve adequacy of educational opportunity that may not be reflected in a coefficient of variation method.

[(c) USE OF FUNDS.—All funds awarded to each State under this section shall be allocated to local educational agencies and schools on a basis consistent with the distribution of other funds to such agencies and schools under sections 1124, 1124A, and 1125 to carry out activities under this part.

[(d) MAINTENANCE OF EFFORT.—

[(1) IN GENERAL.—Except as provided in paragraph (2), a State is entitled to receive its full allotment of funds under this part for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

[(2) REDUCTION OF FUNDS.—The Secretary shall reduce the amount of the of funds awarded to any State under this section in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State),

and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

[(3) WAIVERS.—The Secretary may waive, for one fiscal year only, the requirements of this subsection if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

[(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under this section, there are authorized to be appropriated $200,000,000 for fiscal year 1996 and such sums as may be necessary for each of the three succeeding fiscal years.

[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 1124(c)(1)(C), 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 one additional fiscal year.

[(b) WAIVER.—A State educational agency may, once every three 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. 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)(10), for which a local educational agency has failed to carry out its responsibilities under paragraphs (6) and (7) of section 1116(b);

(2) second, provide support and assistance to other local educational agencies identified as in need of improvement under section 1116(b); and

(3) third, provide support and assistance to other local educational agencies and schools participating under this part that need that support and assistance in order to achieve the purpose of this part.

(c) 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 assistance 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. 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 achievement 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;

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

(14) 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.

(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 for-

mat, 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 ensure 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 learn-

ing 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 education, 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 equipment 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 section directly or through contracts with public and private agencies, organizations, and institutions.

(b) CONSULTATION.—

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

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

(B) what services will be offered;

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

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

(E) the size and scope of the equitable services to be provided to the eligible private school children, and the 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 1 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 assisted under this part, and not to supplant such funds.

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

(c) COMPARABILITY OF SERVICES.—

(1) IN GENERAL.—(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 1 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 sub-

section (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 edu-

cational 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 2 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 subparagraph (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 re-

ceive 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 Secretary shall determine the number of children aged 5 to 17, inclusive, from families below the pov-

erty 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 2 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 Sec-

retary 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 institutions 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 agency 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 percent, 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 para-

graph 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 2 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 1 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 edu-

cational 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—WILLIAM F. GOODLING EVEN START FAMILY LITERACY PROGRAMS]

PART B—STUDENT READING SKILLS IMPROVEMENT GRANTS

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 max-

imum 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 include 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 action 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 para-

graph (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 library 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 stu-

dents 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 subgrants 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) 3 individuals selected by the Secretary;

(ii) 3 individuals selected by the National Institute for Literacy;

(iii) 3 individuals selected by the National Research Council of the National Academy of Sciences; and

(iv) 3 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 subgrants 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 assessment tools assist teachers in identifying specific reading deficiencies.

(7) A measurement of the extent to which professional development programs implemented by States using funds received under this subpart improve reading instruction.

(8) 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;

(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 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, 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 Head Start center or a family literacy program), which organizations 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 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;

(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, preschools, and Head Start centers, and with family literacy services.

(f) AWARD AMOUNTS.—The Secretary may establish a maximum award amount, or ranges of award amounts, for grants under this subpart.

SEC. 1223. FEDERAL ADMINISTRATION.

The Secretary shall consult with the Secretary of Health and Human Services in order to coordinate the activities undertaken under this subpart with programs under the Head Start Act (42 U.S.C. 9831 et seq.).

SEC. 1224. REPORTING REQUIREMENTS.

Each eligible applicant receiving a grant under this subpart shall report annually to the Secretary regarding the eligible applicant's progress in addressing the purposes of this subpart.

SEC. 1225. EVALUATION.

From the total amount made available under section 1002(b)(2) for the period beginning October 1, 2002, and ending September 30, 2006, the Secretary shall reserve not more than $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.

Subpart 3—William F. Goodling Even Start Family Literacy Programs

SEC. [1201.] *1231.* STATEMENT OF PURPOSE.

It is the purpose of this [part] *subpart* to help break the cycle of poverty and illiteracy by improving the educational opportunities of the Nation's low-income families by integrating early childhood education, adult literacy or adult basic education, and parenting education into a unified family literacy program, to be referred to as "Even Start". The program shall—

(1) * * *

* * * * * * *

(4) use instructional programs based on scientifically based reading research (as defined in section [2252)] *1209)* and the prevention of reading difficulties for children and adults, to the extent such research is available.

SEC. [1202.] *1232.* PROGRAM AUTHORIZED.

(a) RESERVATION FOR MIGRANT PROGRAMS, OUTLYING AREAS, AND INDIAN TRIBES.—

(1) IN GENERAL.—For each fiscal year, the Secretary shall reserve 5 percent of the amount appropriated under section [1002(b)] *1002(b)(3)* (or, if such appropriated amount exceeds $200,000,000, 6 percent of such amount) for programs, under such terms and conditions as the Secretary shall establish, that are consistent with the purpose of this [part] *subpart*, and according to their relative needs, for—

(A) * * *

* * * * * * *

(b) RESERVATION FOR FEDERAL ACTIVITIES.—

(1) EVALUATION, TECHNICAL ASSISTANCE, PROGRAM IMPROVEMENT, AND REPLICATION ACTIVITIES.—From amounts appropriated under section [1002(b)] *1002(b)(3)*, the Secretary may reserve not more than 3 percent of such amounts for purposes of—

(A) carrying out the evaluation required by section [1209] *1239*; and

(B) providing, through grants or contracts with eligible organizations, technical assistance, program improvement, and replication activities.

(2) RESEARCH.—In the case of fiscal years 2001 through 2004, if the amount appropriated under section [1002(b)] *1002(b)(3)* for any of such years—

(A) is equal to or less than the amounts appropriated for the preceding fiscal year, the Secretary may reserve from such amount only the amount necessary to continue multiyear activities carried out pursuant to section [1211(b)] *1241(b)* that began during or prior to the preceding fiscal year; or

(B) exceeds the amount appropriated for the preceding fiscal year, the Secretary shall reserve from such excess amount $2,000,000 or 50 percent, whichever is less, to carry out section [1211(b)] *1241(b)*.

(c) RESERVATION FOR GRANTS.—

(1) GRANTS AUTHORIZED.—For any fiscal year for which at least one State applies and submits an application that meets the requirements and goals of this subsection and for which the amount appropriated under section [1002(b)] *1002(b)(3)* exceeds the amount appropriated under such section for the preceding fiscal year, the Secretary shall reserve, from the amount of such excess remaining after the application of subsection (b)(2), the amount of such remainder or $1,000,000, whichever is less, to award grants, on a competitive basis, to States to enable such States to plan and implement statewide family literacy initiatives to coordinate and, where appropriate, integrate existing Federal, State, and local literacy resources consistent with the purposes of this [part] *subpart*. Such coordination and integration shall include funds available under the Adult Education and Family Literacy Act, the Head Start Act, this [part] *subpart*, part A of this title, and part A of title IV of the Social Security Act. No State may receive more than one grant under this subsection.

(2) CONSORTIA.—

(A) * * *

* * * * * * *

[(C) COORDINATION WITH PART C OF TITLE II.—The consortium shall coordinate its activities with the activities of the reading and literacy partnership for the State established under section 2253(d), if the State educational agency receives a grant under section 2253.]

(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.

(3) READING INSTRUCTION.—Statewide family literacy initiatives implemented under this subsection shall base reading in-

struction on scientifically based reading research (as such term is defined in section [2252)] *1209)*.

* * * * * * *

(d) STATE ALLOCATION.—

(1) IN GENERAL.—From amounts appropriated under section [1002(b)] *1002(b)(3)* and not reserved under subsections (a), (b), and (c), the Secretary shall make grants to States from allocations under paragraph (2).

* * * * * * *

(3) MINIMUM.—No State shall receive a grant under paragraph (1) in any fiscal year in an amount which is less than $250,000, or one-half of 1 percent of the amount appropriated under section [1002(b)] *1002(b)(3)* and not reserved under subsections (a), (b), and (c) for such year, whichever is greater.

(e) DEFINITIONS.—For the purpose of this [part] *subpart*—

(1) * * *

* * * * * * *

SEC. [1203.] *1233.* STATE PROGRAMS.

(a) STATE LEVEL ACTIVITIES.—Each State that receives a grant under section [1202(d)(1)] *1232(d)(1)* may use not more than a total of 6 percent of the grant funds for the costs of—

(1) administration, not to exceed half of such total;

(2) providing, through one or more subgrants or contracts, technical assistance for program improvement and replication, to eligible entities that receive subgrants under subsection (b); and

(3) carrying out section [1210.] *1240.*

(b) SUBGRANTS FOR LOCAL PROGRAMS.—

(1) IN GENERAL.—Each State shall use the grant funds received under section [1202(d)(1)] *1232(d)(1)* and not reserved under subsection (a) to award subgrants to eligible entities to carry out Even Start programs.

(2) MINIMUM SUBGRANT AMOUNTS.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no State shall award a subgrant under paragraph (1) in an amount less than $75,000.

(B) SUBGRANTEES IN NINTH AND SUCCEEDING YEARS.—No State shall award a subgrant under paragraph (1) in an amount less than $52,500 to an eligible entity for a fiscal year to carry out an Even Start program that is receiving assistance under this [part] *subpart* or its predecessor authority for the ninth (or any subsequent) fiscal year.

* * * * * * *

SEC. [1204.] *1234.* USES OF FUNDS.

(a) IN GENERAL.—In carrying out an Even Start program under this [part] *subpart*, a recipient of funds under this [part] *subpart* shall use such funds to pay the Federal share of the cost of providing intensive family literacy services that involve parents and children, from birth through age seven, in a cooperative effort to help parents become full partners in the education of their children and to assist children in reaching their full potential as learners.

(b) FEDERAL SHARE LIMITATION.—

(1) IN GENERAL.—(A) Except as provided in paragraph (2), the Federal share under this [part] *subpart* may not exceed—

(i) 90 percent of the total cost of the program in the first year that such program receives assistance under this [part] *subpart* or its predecessor authority;

(ii) 80 percent in the second such year;

(iii) 70 percent in the third such year;

(iv) 60 percent in the fourth such year;

(v) 50 percent in the fifth, sixth, seventh, and eighth such years; and

(vi) 35 percent in any subsequent such year.

(B) The remaining cost of a program assisted under this [part] *subpart* may be provided in cash or in kind, fairly evaluated and may be obtained from any source, including other Federal funds under this Act.

(2) WAIVER.—The State educational agency may waive, in whole or in part, the cost-sharing requirement described in paragraph (1) for an eligible entity if such entity—

(A) demonstrates that such entity otherwise would not be able to participate in the program assisted under this [part] *subpart*; and

(B) negotiates an agreement with the State educational agency with respect to the amount of the remaining cost to which the waiver will be applicable.

(3) PROHIBITION.—Federal funds provided under this [part] *subpart* may not be used for the indirect costs of a program assisted under this [part] *subpart*, except that the Secretary may waive this paragraph if an eligible recipient of funds reserved under section [1202(a)(1)(C)] *1232(a)(1)(C)* demonstrates to the Secretary's satisfaction that such recipient otherwise would not be able to participate in the program assisted under this [part] *subpart*.

(c) USE OF FUNDS FOR FAMILY LITERACY SERVICES.—

(1) IN GENERAL.—From funds reserved under section [1203(a),] *1233(a),* a State may use a portion of such funds to assist eligible entities receiving a subgrant under section [1203(b)] *1233(b)* in improving the quality of family literacy services provided under Even Start programs under this [part] *subpart*, except that in no case may a State's use of funds for this purpose for a fiscal year result in a decrease from the level of activities and services provided to program participants in the preceding year.

(2) PRIORITY.—In carrying out paragraph (1), a State shall give priority to programs that were of low quality, as evaluated based on the indicators of program quality developed by the State under section [1210.] *1240.*

* * * * * * *

SEC. [1205.] *1235.* PROGRAM ELEMENTS.

Each program assisted under this [part] *subpart* shall—

(1) include the identification and recruitment of families most in need of services provided under this [part] *subpart*, as indicated by a low level of income, a low level of adult literacy or English language proficiency of the eligible parent or parents, and other need-related indicators;

(2) include screening and preparation of parents, including teenage parents and children to enable such parents to participate fully in the activities and services provided under this [part] *subpart* including testing, referral to necessary counselling, other developmental and support services, and related services;

(3) be designed to accommodate the participants' work schedule and other responsibilities, including the provision of support services, when such services are unavailable from other sources, necessary for participation in the activities assisted under this [part] *subpart*, such as—

(A) scheduling and locating of services to allow joint participation by parents and children;

(B) child care for the period that parents are involved in the program provided under this [part] *subpart*; and

(C) transportation for the purpose of enabling parents and their children to participate in programs authorized by this [part] *subpart*;

* * * * * * *

(5) with respect to the qualifications of staff the cost of whose salaries are paid, in whole or in part, with Federal funds provided under this [part] *subpart*, ensure that—

(A) not later than 4 years after the date of the enactment of the Literacy Involves Families Together Act—

(i) * * *

(ii) the individual responsible for administration of family literacy services under this [part] *subpart* has received training in the operation of a family literacy program; and

* * * * * * *

(6) include special training of staff, including child care staff, to develop the skills necessary to work with parents and young children in the full range of instructional services offered through this [part] *subpart*;

* * * * * * *

(10) use instructional programs based on scientifically based reading research (as defined in section [2252)] *1209)* for children and adults, to the extent such research is available;

* * * * * * *

(12) include reading readiness activities for preschool children based on scientifically based reading research (as defined in section [2252,)] *1209),* to the extent available, to ensure children enter school ready to learn to read;

* * * * * * *

(14) ensure that the programs will serve those families most in need of the activities and services provided by this [part] *subpart*; and

(15) provide for an independent evaluation of the [program.] *program to be used for program improvement.*

SEC. [1206.] *1236.* ELIGIBLE PARTICIPANTS.

(a) IN GENERAL.—Except as provided in subsection (b), eligible participants in an Even Start program are—

(1) a parent or parents—

(A) who are eligible for participation in adult education and literacy activities under the Adult Education and Family Literacy Act; or

(B) who are within the State's compulsory school attendance age range, so long as a local educational agency provides (or ensures the availability of) the basic education component required under this [part] *subpart*, or who are attending secondary school; and

(2) the child or children, from birth through age seven, of any individual described in paragraph (1).

(b) ELIGIBILITY FOR CERTAIN OTHER PARTICIPANTS.—

(1) IN GENERAL.—Family members of eligible participants described in subsection (a) may participate in activities and services provided under this [part] *subpart*, when appropriate to serve the purpose of this [part] *subpart*.

(2) SPECIAL RULE.—Any family participating in a program assisted under this [part] *subpart* that becomes ineligible for such participation as a result of one or more members of the familybecoming ineligible for such participation may continue to participate in the program until all members of the family become ineligible for such participation, which—

(A) * * *

* * * * * * *

(3) CHILDREN 8 YEARS OF AGE OR OLDER.—If an Even Start program assisted under this [part] *subpart* collaborates with a program under part A, and funds received under such part A program contribute to paying the cost of providing programs under this [part] *subpart* to children 8 years of age or older, the Even Start program, notwithstanding subsection (a)(2), may permit the participation of children 8 years of age or older if the focus of the program continues to remain on families with young children.

SEC. [1207.] *1237*. APPLICATIONS.

(a) SUBMISSION.—To be eligible to receive a subgrant under this [part] *subpart*, an eligible entity shall submit an application to the State educational agency in such form and containing or accompanied by such information as the State educational agency shall require.

(b) REQUIRED DOCUMENTATION.—Each application shall include documentation, satisfactory to the State educational agency, that the eligible entity has the qualified personnel needed—

(1) to develop, administer, and implement an Even Start program under this [part] *subpart*; and

(2) to provide access to the special training necessary to prepare staff for the program, which may be offered by an eligible organization.

(c) PLAN.—

(1) IN GENERAL.—Such application shall also include a plan of operation and continuous improvement for the program which shall include—

(A) a description of the program objectives, strategies to meet such objectives, and how they are consistent with the program indicators established by the State;

(B) a description of the activities and services that will be provided under the program, including a description of how the program will incorporate the program elements required by section [1205;] *1235;*

* * * * * * *

(E) a statement of the methods that will be used—

(i) to ensure that the programs will serve families most in need of the activities and services provided by this [part] *subpart*;

(ii) to provide services under this [part] *subpart* to individuals with special needs, such as individuals with limited English proficiency and individuals with disabilities; and

(iii) to encourage participants to remain in the program for a time sufficient to meet the program's purpose;

(F) a description of how the plan is integrated with other programs under this Act or other Acts, as appropriate, consistent with section [14306;] *8306;* and

* * * * * * *

(2) DURATION OF THE PLAN.—Each plan submitted under paragraph (1) shall—

(A) remain in effect for the duration of the eligible entity's participation under this [part] *subpart*; and

(B) be periodically reviewed and revised by the eligible entity as necessary.

(d) CONSOLIDATED APPLICATION.—The plan described in subsection (c)(1)(F) may be submitted as part of a consolidated application under section [14302.] *8302.*

SEC. [1208.] *1238.* AWARD OF SUBGRANTS.

(a) SELECTION PROCESS.—

(1) IN GENERAL.—The State educational agency shall establish a review panel in accordance with paragraph (3) that will approve applications that—

(A) are most likely to be successful in—

(i) meeting the purpose of this [part] *subpart*; and

(ii) effectively implementing the program elements required under section [1205;] *1235;*

* * * * * * *

(F) demonstrate the applicant's ability to provide the non-Federal share required by section [1204(b);] *1234(b);*

(G) are representative of urban and rural regions of the State; and

* * * * * * *

(b) DURATION.—

(1) IN GENERAL.—Subgrants under this [part] *subpart* may be awarded for a period not to exceed four years.

* * * * * * *

(3) CONTINUING ELIGIBILITY.—In awarding subgrant funds to continue a program under this [part] *subpart* after the first year, the State educational agency shall review the progress of each eligible entity in meeting the objectives of the program re-

ferred to in section [1207(c)(1)(A)] *1237(c)(1)(A)* and shall evaluate the program based on the indicators of program quality developed by the State under section [1210.] *1240.*

(4) INSUFFICIENT PROGRESS.—The State educational agency may refuse to award subgrant funds if such agency finds that the eligible entity has not sufficiently improved the performance of the program, as evaluated based on the indicators of program quality developed by the State under section [1210,] *1240,* after—

(A) providing technical assistance to the eligible entity; and

(B) affording the eligible entity notice and an opportunity for a hearing.

(5) GRANT RENEWAL.—(A) An eligible entity that has previously received a subgrant under this [part] *subpart* may reapply under this [part] *subpart* for additional subgrants.

(B) The Federal share of any subgrant renewed under subparagraph (A) shall be limited in accordance with section [1204(b).] *1234(b).*

SEC. [1209.] *1239.* EVALUATION.

From funds reserved under section [1202(b)(1),] *1232(b)(1),* the Secretary shall provide for an independent evaluation of programs assisted under this [part] *subpart*—

(1) to determine the performance and effectiveness of programs assisted under this [part] *subpart*;

(2) to identify effective Even Start programs assisted under this [part] *subpart* that can be duplicated and used in providing technical assistance to Federal, State, and local programs; and

(3) to provide States and eligible entities receiving a subgrant under this [part] *subpart*, directly or through a grant or contract with an organization with experience in the development and operation of successful family literacy services, technical assistance to ensure local evaluations undertaken under section [1205(10)] *1235(10)* provide accurate information on the effectiveness of programs assisted under this [part] *subpart*.

SEC. [1210.] *1240.* INDICATORS OF PROGRAM QUALITY.

Each State receiving funds under this [part] *subpart* shall develop, based on the best available research and evaluation data, indicators of program quality for programs assisted under this [part] *subpart*. Such indicators shall be used to monitor, evaluate, and improve such programs within the State. Such indicators shall include the following:

(1) * * *

* * * * * * *

SEC. [1211.] *1241.* RESEARCH.

(a) IN GENERAL.—The Secretary shall carry out, through grant or contract, research into the components of successful family literacy services, to use—

(1) to improve the quality of existing programs assisted under this [part] *subpart* or other family literacy programs

carried out under this Act or the Adult Education and Family Literacy Act; and

(2) to develop models for new programs to be carried out under this Act or the Adult Education and Family Literacy Act.

(b) SCIENTIFICALLY BASED RESEARCH ON FAMILY LITERACY.—

(1) IN GENERAL.—From amounts reserved under section [1202(b)(2),] *1232(b)(2),* the National Institute for Literacy, in consultation with the Secretary, shall carry out research that—

(A) is scientifically based reading research (as defined in section [2252);] *1209);* and

* * * * * * *

(c) DISSEMINATION.—The National Institute for Literacy shall disseminate, pursuant to section [2258,] *1208,* the results of the research described in subsections (a) and (b) to States and recipients of subgrants under this [part] *subpart*.

SEC. [1212.] *1242.* CONSTRUCTION.

Nothing in this [part] shall be construed to prohibit a recipient of funds under this part from serving students participating in Even Start simultaneously with students with similar educational needs, in the same educational settings where appropriate.

[PART E] *Subpart 4*—Inexpensive Book Distribution Program

SEC. [10501.] *1251.* INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION.

(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.

[(a)] *(b)* AUTHORIZATION.—The Secretary is authorized to enter into a contract with Reading is Fundamental (RIF) (hereafter in this section referred to as "the contractor") to support and promote programs, which include the distribution of inexpensive [books to students, that motivate children to read.] *books to young and school-aged children that motivate them to read.*

[(b)] *(c)* REQUIREMENTS OF CONTRACT.—Any contract entered into under subsection [(a)] *(b)* shall—

* * * * * * *

(4) provide that the contractor will provide such *training and* technical assistance to subcontractors as may be necessary to carry out the purpose of this section;

(5) provide that the contractor will annually report to the Secretary the number of, and describe, programs funded under paragraph (3); and

(6) include such other terms and conditions as the Secretary determines to be appropriate to ensure the effectiveness of such programs.

[(c)] *(d)* RESTRICTION ON PAYMENTS.—The Secretary shall make no payment of the Federal share of the cost of acquiring and distributing books under any contract under this section unless the Secretary determines that the contractor or subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

(e) SPECIAL RULES FOR CERTAIN SUBCONTRACTORS.—

(1) FUNDS FROM OTHER FEDERAL SOURCES.—Subcontractors operating programs under this section in low-income communities with a substantial number or percentage of children with special needs, as described in subsection (c)(3), may use funds from other Federal sources to pay the non-Federal share of the cost of the program, if those funds do not comprise more than 50 percent of the non-Federal share of the funds used for the cost of acquiring and distributing books.

(2) WAIVER AUTHORITY.—Notwithstanding subsection (c), the contractor may waive, in whole or in part, the requirement in subsection (c)(1) for a subcontractor, if the subcontractor demonstrates that it would otherwise not be able to participate in the program, and enters into an agreement with the contractor with respect to the amount of the non-Federal share to which the waiver will apply. In a case in which such a waiver is granted, the requirement in subsection (c)(2) shall not apply.

(f) MULTI-YEAR CONTRACTS.—The contractor may enter into a multi-year subcontract under this section, if—

(1) the contractor believes that such subcontract will provide the subcontractor with additional leverage in seeking local commitments; and

(2) the subcontract does not undermine the finances of the national program.

[(d)] *(g)* DEFINITION OF "FEDERAL SHARE".—For the purpose of this section, the term "Federal share" means, with respect to the cost to a subcontractor of purchasing books to be paid under this section, 75 percent of such costs to the subcontractor, except that the Federal share for programs serving children of migrant or seasonal farmworkers shall be 100 percent of such costs to the subcontractor.

[(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $10,300,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.]

PART C—EDUCATION OF MIGRATORY CHILDREN

* * * * * * *

SEC. 1303. STATE ALLOCATIONS.

[(a) STATE ALLOCATIONS.—Each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part, for each fiscal year, an amount equal to—

[(1) 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 (e); multiplied by

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

[(b) ALLOCATION TO PUERTO RICO.—For each fiscal year, the amount for which the Commonwealth of Puerto Rico is eligible under this section shall be equal to—

[(1) the number of migratory children in Puerto Rico, determined under subsection (a)(1); multiplied by

[(2) the product of—

[(A) the percentage that the average per-pupil expenditure in 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.]

(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.

(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.

* * * * * * *

[(d) CONSORTIUM ARRANGEMENTS.—

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

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

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

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

[(B) make more funds available for direct services to add substantially to the welfare or educational attainment of children to be served under this part.]

[(e)] *(d)* DETERMINING NUMBERS OF ELIGIBLE CHILDREN.—In order to determine the estimated number of migratory children residing in each State for purposes of this section, the Secretary shall—

(1) * * *

* * * * * * *

SEC. 1304. STATE APPLICATIONS; SERVICES.

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

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

(1) a description of how, in planning, implementing, and evaluating programs and projects assisted under this part, the State and its local operating agencies will ensure that the special educational needs of migratory children, including preschool migratory children, are identified and [addressed through a comprehensive plan for needs assessment and service delivery that meets the requirements of section 1306;] *'addressed through—*

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

(B) joint planning among local, State, and Federal educational programs serving migrant children, including 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;

* * * * * * *

(5) a description of how the State will determine the amount of any subgrants the State will award to local operating agencies, taking into account [the requirements of paragraph (1);] *the numbers and needs of migratory children, the requirements*

of subsection (d), and the availability of funds from other Federal, State, and local programs;

* * * * * * *

(c) ASSURANCES.—Each such application shall also include assurances, satisfactory to the Secretary, that—

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

(A) for programs and projects, including the acquisition of equipment, in accordance with section [1306(b)(1);] *1306(a);* and

* * * * * * *

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

(3) in the planning and operation of programs and projects at both the State and local operating agency level, there is [appropriate] consultation with parent advisory councils for programs of one school year in duration, and that all such programs and projects are carried [out, to the extent feasible,] *out* in a manner consistent with section [1118;] *1118, unless extraordinary circumstances make implementation consistent with such section impractical;*

* * * * * * *

(7) the State will assist the Secretary in determining the number of migratory children under [section 1303(e)] *paragraphs (1)(A) and (2)(B)(i) of section 1303(a)*, through such procedures as the Secretary may require.

* * * * * * *

[SEC. 1306. COMPREHENSIVE NEEDS ASSESSMENT AND SERVICE-DELIVERY PLAN; AUTHORIZED ACTIVITIES.

[(a) COMPREHENSIVE PLAN.—

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

[(A) is integrated with other programs under this Act, the Goals 2000: Educate America Act, or other Acts, as appropriate, consistent with section 14306;

[(B) may be submitted as a part of consolidated application under section 14302;

[(C) provides that migratory children will have an opportunity to meet the same challenging State content standards and challenging State student performance standards, set out in such plans, that all children are expected to meet;

[(D) specifies measurable program goals and outcomes;

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

[(F) is the product of joint planning among such local, State, and Federal programs, including programs under

part A, early childhood programs, and bilingual education programs under part A of title VII; and

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

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

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

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

[(b) AUTHORIZED ACTIVITIES.—

[(1) IN GENERAL.—In implementing the comprehensive plan described in subsection (a), each local operating agency shall have the flexibility to determine the activities to be provided with funds made available under this part, except that—

[(A) before funds under this part are used to provide services described in subparagraph (B), such funds shall be used to meet the identified needs of migratory children that—

[(i) result from the effects of their migratory lifestyle, or are needed to permit migratory children to participate effectively in school; and

[(ii) are not addressed by services provided under other programs, including programs under part A; and

[(B) all migratory children who are eligible to receive services under part A shall receive such services with funds provided under this part or under part A.

[(2) CONSTRUCTION.—Nothing in this part shall be construed to prohibit a local operating agency from serving migrant students simultaneously with students with similar educational needs, in the same educational settings where appropriate.

[(3) SPECIAL RULE.—Notwithstanding section 1114, a school that receives funds under this part shall continue to address the identified needs described in paragraph (1)(A).]

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. 1308. COORDINATION OF MIGRANT EDUCATION ACTIVITIES.

(a) IMPROVEMENT OF COORDINATION.—

(1) * * *

(2) DURATION.—Grants under this [subpart] *subsection* may be awarded for not more than five years.

[(b) ASSISTANCE AND REPORTING.—

[(1) STUDENT RECORDS.—(A) The Secretary shall solicit information on how student records are transferred from one school to another and shall solicit recommendations on whether new procedures and technologies for record transfer should be employed to better meet the needs of the migrant population.

[(B) The Secretary shall also seek recommendations on the most effective means for determining the number of students or full-time equivalent students in each State for the purpose of allocating funds under this part.

[(2) REPORT TO CONGRESS.—(A) Not later than April 30, 1995, the Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives the Secretary's findings and recommendations, and shall include in this report, recommendations for interim measures that may be taken to ensure continuity of services in this program.

[(B) The Secretary shall assist States in developing effective methods for the transfer of student records and in determining the number of students or full-time equivalent students in each State if such interim measures are required.]

(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 determine 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.—For the purpose of carrying out this section in any fiscal year, the Secretary shall reserve not more than [$6,000,000] *$10,000,000* of the amount appropriated to carry out this part for such year.

[(d) INCENTIVE GRANTS.—

[(1) IN GENERAL.—From the amounts made available to carry out this section, the Secretary shall reserve not more than $1,500,000 to award, on a competitive basis, grants in the amount of not more than $250,000 to State educational agencies with consortium agreements under section 1303(d).

[(2) LIMITATION.—Not less than 10 of such grants shall be awarded to States which receive allocations of less than $1,000,000 if such States have approved agreements.]

(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—PREVENTION AND INTERVENTION PROGRAMS FOR CHILDREN AND YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT RISK OF DROPPING OUT]

PART D—PREVENTION AND INTERVENTION PROGRAMS FOR NEGLECTED OR DELINQUENT CHILDREN AND YOUTH

SEC. 1401. FINDINGS; PURPOSE; PROGRAM AUTHORIZED.

(a) FINDINGS.—Congress finds the following:

(1) * * *

* * * * * * *

[(6) A continuing need exists for activities and programs to reduce the incidence of youth dropping out of school.

[(7) Federal dropout prevention programs have demonstrated effectiveness in keeping children and youth in school.

[(8) Pregnant and parenting teens are a high at-risk group for dropping out of school and should be targeted by dropout prevention programs.

[(9) Such youth need a strong dropout prevention program which provides such youth with high level skills and which provides supports to youth returning from correctional facilities in order to keep such youth in school.]

(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.

* * * * * * *

Subpart 1—State Agency Programs

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SEC. 1412. ALLOCATION OF FUNDS.

(a) * * *

[(b) SUBGRANTS TO STATE AGENCIES IN PUERTO RICO.—For each fiscal year, the amount of the subgrant for which a State agency in the Commonwealth of Puerto Rico is eligible under this part shall be equal to—

[(1) the number of children and youth counted under subsection (a)(1) for the Commonwealth of Puerto Rico; multiplied by

[(2) the product of—

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

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

(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. 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 needs of neglected and delinquent youth and, where applicable, youth at risk of dropping out of school which is integrated with other programs under this Act, the Goals 2000: Educate America Act, or other Acts, as appropriate, consistent with section 14306.

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

[(A) describe the program goals, objectives, and performance measures established by the State that will be used to assess the effectiveness of the program in improving academic and vocational 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; PEER REVIEW.—

[(1) IN GENERAL.—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 14701 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 14501 of this title;

[(8) describes how the programs will be coordinated with other appropriate State and Federal programs, such as programs under or title I of the Workforce Investment Act of 1998, vocational education programs, State and local dropout prevention programs, and special education programs;

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

[(10) 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;

[(11) describes how the agency will, endeavor to coordinate with businesses for training and mentoring for participating youth;

[(12) 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;

[(13) 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;

[(14) 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;

[(15) 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 the youth 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;

[(16) 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;

[(17) describes any additional services provided to youth, such as career counseling, and assistance in securing student loans and grants; and

[(18) 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 or other comparable programs, if applicable.]

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 effectiveness 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 en-

sure 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. 1415. USE OF FUNDS.

(a) IN GENERAL.—

(1) USES.—A State agency shall use funds received under this subpart only for programs and projects that—

(A) are consistent with the State plan under section 1414(a); and

(B) concentrate on providing participants with the knowledge and skills needed to make a successful transition to secondary school completion*, vocational and technical training*, further education, or employment.

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

(A) may include the acquisition of equipment;

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

(i) except for institution-wide projects under section 1416, are provided to children identified by the State agency as failing, or most at risk of failing, to meet the State's challenging State content standards and challenging State student performance standards; *and*

(ii) supplement and improve the quality of the educational services provided to such children by the State agency[; and]*;*

[(iii) afford such children an opportunity to learn to such challenging State standards;]

(C) shall be carried out in a manner consistent with section 1120A and [part F of this title] *part H*; and

(D) may include the costs of meeting the evaluation requirements of section [14701] *8651*.

* * * * * * *

SEC. 1418. TRANSITION SERVICES.

(a) TRANSITION SERVICES.—Each State agency shall reserve not more than [10] *15* percent of the amount such agency receives under this subpart for any fiscal year to support projects that facilitate the transition of children from State-operated institutions to local educational agencies.

* * * * * * *

Subpart 2—Local Agency Programs

SEC. 1421. PURPOSE.

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

(1) * * *

* * * * * * *

[(3) operate dropout prevention programs in local schools for youth at risk of dropping out of school and youth returning from correctional facilities.]

(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. 1422. PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES.

(a) LOCAL SUBGRANTS.—With funds [retained] made available under section 1402(b), the State educational agency shall award subgrants to local educational agencies with high numbers or percentages of youth residing in locally operated (including county operated) correctional facilities for youth (including facilities involved in day programs).

[(b) SPECIAL RULE.—A local educational agency which includes a correctional facility that operates a school is not required to operate a dropout prevention program if more than 30 percent of the youth attending such facility will reside outside the boundaries of the local educational agency upon leaving such facility.]

(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 educational 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.

* * * * * * *

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

SEC. 1423. LOCAL EDUCATIONAL AGENCY APPLICATIONS.

Eligible local educational agencies desiring assistance under this section shall submit an application to the State educational agency, containing such information as the State educational agency may require. Each such application shall include—

(1) * * *

* * * * * * *

[(4) as appropriate, a description of the dropout prevention program operated by participating schools and the types of services such schools will provide to at-risk youth in participating schools and youth returning from correctional facilities;

[(5) as appropriate, a description of the youth expected to be served by the dropout prevention program and how the school will be coordinating existing educational programs to meet unique education needs;

[(6) as appropriate, a description of how schools will coordinate with existing social and health services to meet the needs of 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 and mentoring services for participating students;

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

[(9) a description of how the program under this subpart will be coordinated with other Federal, State, and local programs, such as programs under title I of the Workforce Investment Act of 1998 and vocational education programs serving this at-risk population of youth;]

(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. 1424. USES OF FUNDS.

Funds provided to local educational agencies under this subpart may be used, where appropriate, for—

[(1) dropout prevention programs which serve youth at educational risk, including pregnant and parenting teens, youth who have come in contact with the juvenile justice system, youth at least one year behind their expected grade level, migrant youth, immigrant youth, students with limited-English proficiency and gang members;

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

[(3) programs to meet the unique education needs of youth at risk of dropping out of school, which may include vocational education, special education, career counseling, and assistance in securing student loans or grants.]

(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. 1425. PROGRAM REQUIREMENTS FOR CORRECTIONAL FACILITIES RECEIVING FUNDS UNDER [THIS SECTION] *THIS SUBPART*.

Each correctional facility entering into an agreement with a local educational agency under section 1422(a) to provide services to youth under this [section] *subpart* shall—

(1) [where feasible, ensure educational programs] *to the extent practicable, ensure that educational programs* in juvenile facilities are coordinated with the student's home school, particularly with respect to special education students with an individualized education program;

* * * * * * *

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

* * * * * * *

(8) [where feasible,] *to the extent practicable,* involve parents in efforts to improve the educational achievement of their chil-

dren and prevent the further involvement of such children in delinquent activities;

(9) coordinate funds received under this [program] *subpart* with other local, State, and Federal funds available to provide services to participating youth, such as funds made available under [title I of the Workforce Investment Act of 1998] *other job training programs*, and vocational *and technical* education funds;

(10) coordinate programs operated under this subpart with activities funded under the Juvenile Justice and Delinquency Prevention Act of 1974 *(42 U.S.C. 5601 et seq.)* and other comparable programs, if applicable; and

[(11) if appropriate, work with local businesses to develop training and mentoring programs for participating youth.]

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

* * * * * * *

Subpart 3—General Provisions

SEC. 1431. PROGRAM EVALUATIONS.

(a) SCOPE OF EVALUATION.—Each State agency or local educational agency that conducts a program under subpart 1 or 2 shall evaluate the program, disaggregating data on participation by [sex, and if feasible,] *gender,* by race, ethnicity, and age, not less than once every three years to determine the program's impact on the ability of participants to—

(1) * * *

* * * * * * *

PART E—FEDERAL EVALUATIONS, DEMONSTRATIONS, AND TRANSITION PROJECTS

[SEC. 1501. EVALUATIONS.

[(a) NATIONAL ASSESSMENT.—

[(1) IN GENERAL.—The Secretary shall conduct a national assessment of programs assisted under this title, in coordination with the ongoing National Evaluation under subsection (b) that shall be planned, reviewed, and conducted in consultation with an independent panel of researchers, State practitioners, local practitioners, and other appropriate individuals.

[(2) EXAMINATION.—The assessment shall examine how well schools, local educational agencies, and States are—

[(A) progressing toward the goal of all children served under this title reaching the State's challenging State content standards and challenging State student performance standards; and

[(B) accomplishing the purpose set forth in section 1001(d) to achieve the goal described in paragraph (1), including—

[(i) ensuring challenging State content standards and challenging State student performance standards

for all children served under this title and aligning the efforts of States, local educational agencies, and schools to help such children reach such standards;

[(ii) providing children served under this title an enriched and accelerated educational program through schoolwide programs or through additional services that increase the amount and quality of instructional time that such children receive;

[(iii) promoting schoolwide reform and access for all children served under this title to effective instructional strategies and challenging academic content;

[(iv) significantly upgrading the quality of the curriculum and instruction by providing staff in participating schools with substantial opportunities for professional development;

[(v) coordinating services provided under all parts of this title with each other, with other educational and pupil services, including preschool services, and, to the extent feasible, with health and social service programs funded from other sources;

[(vi) affording parents of children served under this title meaningful opportunities to participate in the education of their children at home and at school, such as the provision of family literacy services;

[(vii) distributing resources to areas where needs are greatest;

[(viii) improving accountability, as well as teaching and learning, by making assessments under this title congruent with State assessment systems; and

[(ix) providing greater decisionmaking authority and flexibility to schools in exchange for greater responsibility for student performance.

[(3) NAEP INFORMATION.—Where feasible, the Secretary shall use information gathered from a variety of sources, including the National Assessment of Educational Progress, State evaluations, and available research studies, in carrying out this subsection.

[(4) INTERIM AND FINAL REPORTS.—The Secretary shall submit to the President and the appropriate committees of the Congress an interim report by January 1, 1996, summarizing the preliminary findings of the assessment and a final report of the findings of the assessment by January 1, 1999.

[(b) STUDIES AND DATA COLLECTION.—

[(1) IN GENERAL.—The Secretary may collect such data, as necessary, at the State, local, and school levels and conduct studies and evaluations, including national studies and evaluations, to assess on an ongoing basis the effectiveness of programs under this title and to report on such effectiveness on a periodic basis. The Secretary shall report not later than December 31, 1997 to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate on how schoolwide programs are meeting the needs of children from migratory families.

[(2) MINIMUM INFORMATION.—At a minimum, the Secretary shall collect trend information on the effect of programs under

this title. Such data shall complement the data collected and reported under subsections (a) and (c).

[(c) NATIONAL EVALUATION OF PART A OF TITLE I.—

[(1) IN GENERAL.—The Secretary shall carry out an ongoing evaluation of the program assisted under part A of title I in order to provide the public, the Congress, and educators involved in such program, an accurate description of the short- and long-term effectiveness of such program and to provide information that can be used to improve such program's effectiveness in enabling students to meet challenging State content standards and challenging State student performance standards, graduate from secondary school, and make successful transitions to postsecondary education and work. Such evaluation shall—

[(A) have a longitudinal design that tracks cohorts of students within schools of differing poverty concentrations for at least three years which, when the cohorts are taken as a whole, provides a picture of such program's effectiveness over the elementary and secondary grades;

[(B) be separate and independent from State and local assessments and evaluations as required under this title;

[(C) utilize the highest available content standards that are generally accepted as national in scope;

[(D) provide information on all students, students served under part A, and, if funds are sufficient, information on students from low-income families, limited-English-proficient students, and students with disabilities; and

[(E) when feasible, collect, cross-tabulate, and report data by sex within race or ethnicity and socioeconomic status.

[(2) USE.—The Secretary shall use the results of the evaluation described in paragraph (1) as part of the national assessment required by subsection (a) and shall report the data from such evaluation to the Congress and the public at least as frequently as reports are made under subsection (a)(4).

[(d) DEVELOPMENTALLY APPROPRIATE MEASURES.—In conducting the national assessment under subsection (a) and the national ongoing evaluation under subsection (c), the Secretary shall use developmentally appropriate measures to assess student performance and progress.

[(e) PARENTAL INVOLVEMENT, STUDY, REPORT AND DISSEMINATION.—

[(1) IN GENERAL.—The Secretary, through the Office of Education Research and Improvement, shall conduct a study to identify and describe—

[(A) common barriers to effective parental involvement in the education of participating children; and

[(B) successful local policies and programs which improve parental involvement and the performance of participating children.

[(2) DUTIES OF SECRETARY.—The Secretary shall—

[(A) complete such study by December 31, 1996;

[(B) report the findings of such study to the Committee on Education and Labor of the House of Representatives

and to the Committee on Labor and Human Resources of the Senate; and

[(C) disseminate the findings, relating to the successful local policies and programs which improve parental involvement and the performance of participating children, to local educational agencies.]

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

1/3 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 2 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. 1502. DEMONSTRATIONS OF INNOVATIVE PRACTICES.

[(a) DEMONSTRATION PROGRAMS TO IMPROVE ACHIEVEMENT.—

[(1) IN GENERAL.—From the]

(a) IN GENERAL.—From the funds appropriated for any fiscal year under section 1002(g)(2), the Secretary may make grants to State educational agencies, local educational agencies, other public agencies, nonprofit organizations, public or private partnerships involving business and industry organizations, and consortia of such entities to carry out demonstration projects that show the most promise of enabling children served under this title to meet challenging State *academic* content standards and challenging State [student performance standards] *student achievement standards*. [Such projects shall include promising strategies such as—

[(A) accelerated curricula, the application of new technologies to improve teaching and learning, extended learning time, and a safe and enriched full-day environment for children to provide children the opportunity to reach such standards;

[(B) integration of education services with each other and with health, family, and other social services such as mentoring programs, particularly in empowerment zones and enterprise communities;

[(C) effective approaches to whole school reform;

[(D) programs that have been especially effective with limited-English-proficient children, migratory children and other highly mobile students, children leaving institutions for neglected or delinquent children and returning to school, and homeless children and youth;

[(E) programs which are especially effective in recruiting, inducting, and retaining highly qualified teachers for service in schools with low student achievement; and

[(F) programs that are built upon partnerships developed between elementary and middle schools, employers, and the community, which emphasize the integration of

high quality academic and vocational learning, stress excellence and high expectations for success in academic subjects, instill responsibility, decisionmaking, problem solving, interpersonal skills, and other compentencies in students, and make school relevant to the workplace and the community, through applied and interactive teaching methodologies, team teaching strategies, learning opportunities connecting school, the workplace, and the community, and career exploration, awareness, and career guidance opportunities.]

[(2) EVALUATION.—The Secretary]

(b) EVALUATION.—The Secretary shall evaluate the demonstration projects supported under this title, using rigorous methodological designs and techniques, including control groups and random assignment, to the extent feasible, to produce reliable evidence of effectiveness.

[(b)] *(c)* PARTNERSHIPS.—From funds appropriated under section 1002(g)(2) for any fiscal year, the Secretary may, directly or through grants or contracts, work in partnership with State educational agencies, local educational agencies, other public agencies, and nonprofit organizations to disseminate and use the highest quality research and knowledge about effective practices to improve the quality of teaching and learning in schools assisted under this title.

SEC. 1503. 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 eduational 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.

[PART F—GENERAL PROVISIONS

[SEC. 1601. FEDERAL REGULATIONS.

[(a) IN GENERAL.—The Secretary is authorized to issue such regulations as are necessary to reasonably ensure that there is 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, 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 two key issues, including—

[(i) schoolwide programs; and

[(ii) standards and assessment;

[(B) select individuals to participate in such process from among individuals or groups which provided advice and recommendations, including representation from all geographic regions of the United States; and

[(C) prepare a draft of proposed policy options that shall be provided to the individuals selected by the Secretary

under subparagraph (A) 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 July 1, 1995; 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 with 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. 1602. COORDINATION OF FEDERAL, STATE, AND LOCAL ADMINISTRATION.

[(a) PROGRAM ASSISTANCE MANUAL.—The Secretary shall, not later than six months after the publication of final regulations under this title, prepare and distribute to State educational agencies, State agencies operating programs under parts C and D, and local educational agencies, and shall make available to parents and other interested individuals, organizations, and agencies, a manual for this title to—

[(1) assist such agencies in—

[(A) enhancing the quality, increasing the depth, or broadening the scope of activities for programs under this title;

[(B) applying for program funds under this title; and

[(C) meeting the program objectives under this title;

[(2) assist State educational agencies in achieving proper and efficient administration of programs funded under this title;

[(3) assist parents to become involved in the planning for, and implementation and evaluation of, programs and projects under this title; and

[(4) ensure that officers and employees of the Department, including officers and employees of the Secretary and officers and employees of the Department charged with auditing programs carried on under this title, uniformly interpret, apply, and enforce requirements under this title throughout the United States.

[(b) CONTENTS OF POLICY MANUAL.—The policy manual shall, with respect to programs carried out under this title, contain descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices to and amendments of the foregoing, and in particular, whether or not such descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices are required

under section 552 of title 5, United States Code, to be published or made available. The manual shall include—

[(1) a statement of the requirements applicable to the programs carried out under this title, including such requirements contained in this title, the General Education Provisions Act, other applicable statutes, and regulations issued under the authority of such statutes;

[(2) an explanation of the purpose of each requirement and its interrelationship with other applicable requirements; and

[(3) model forms and instructions developed by the Secretary for use by State and local educational agencies, at the discretion of such agencies, including, application forms, application review checklists, and instruments for monitoring programs under this title.

[(c) RESPONSE TO INQUIRIES.—The Secretary shall respond with written guidance not later than 90 days after any written request (return receipt requested) from a State or local educational agency regarding a policy, question, or interpretation under this title is received. In the case of a request from a local educational agency, such agency is required to address its request to the State educational agency first.

[SEC. 1603. 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; and

[(C) 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 content standards and challenging State student performance 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;

[(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.

[(c) PAYMENT FOR STATE ADMINISTRATION.—Each State may reserve for the proper and efficient performance of its duties under this title the greater of—

[(1) 1.00 percent of the funds received under subsections (a), (c), and (d) of section 1002; or

[(2) $400,000, or $50,000 in the case of the outlying areas.

[SEC. 1604. CONSTRUCTION.

[(a) PROHIBITION OF FEDERAL MANDATES, DIRECTION, OR CONTROL.—Nothing in this title shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content or pupil performance standards and assessments, curriculum, or program of instruction as a condition of eligibility to receive funds under this title.

[(b) EQUALIZED SPENDING.—Nothing in this title shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

[(c) BUILDING STANDARDS.—Nothing in this title shall be construed to mandate national school building standards for a State, local educational agency, or school.]

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. 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 paragraph (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, part A of title V, and section 5212(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

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, including 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—DWIGHT D. EISENHOWER PROFESSIONAL DEVELOPMENT PROGRAM

[SEC. 2001. FINDINGS.

[The Congress finds as follows:

[(1) Reaching the National Education Goals, particularly the third, fourth, and fifth National Education Goals, requires a comprehensive educational reform strategy that involves parents, schools, government, communities, and other public and private organizations at all levels.

[(2) A crucial component of the strategy for achieving such goals is ensuring, through sustained and intensive high-quality professional development, that all teachers will provide challenging learning experiences in the core academic subjects for their students.

[(3) Decisionmaking as to what activities a State or local educational agency should undertake to improve teaching and learning are best made by individuals in the schools closest to the classroom and most knowledgeable about the needs of schools and students.

[(4) The potential positive impact of high-quality professional development is underscored by recent research findings that—

[(A) professional development must be focused on teaching and learning in order to improve the opportunities of all students to achieve higher standards;

[(B) effective professional development focuses on discipline-based knowledge and effective subject-specific pedagogical skills, involves teams of teachers, and, where appropriate, administrators and pupil services personnel, in a school and, through professional networks of teachers, and, where appropriate, teacher educators, administrators, pupil services personnel, and parents, is interactive and collaborative, motivates by its intrinsic content and relationship to practice, builds on experience and learning-by-doing, and becomes incorporated into the everyday life of the school;

[(C) professional development can dramatically improve classroom instruction and learning when teachers, and, where appropriate, administrators, pupil services per-

sonnel, and parents, are partners in the development and implementation of such professional development; and

[(D) new and innovative strategies for teaching to high standards will require time for teachers, outside of the time spent teaching, for instruction, practice, and collegial collaboration.

[(5) Special attention must be given in professional development activities to ensure that education professionals are knowledgeable of, and make use of, strategies for serving populations that historically have lacked access to equal opportunities for advanced learning and career advancement.

[(6) Professional development is often a victim of budget reductions in fiscally difficult times.

[(7) The Federal Government has a vital role in helping States and local educational agencies to make sustained and intensive high-quality professional development in the core academic subjects become an integral part of the elementary and secondary education system.

[(8) Professional development activities must prepare teachers, pupil services personnel, paraprofessionals and other staff in the collaborative skills needed to appropriately teach children with disabilities, in the core academic subjects.

[(9) Parental involvement is an important aspect of school reform and improvement. There is a need for special attention to ensure the effective involvement of parents in the education of their children. Professional development should include methods and strategies to better prepare teachers and, where appropriate, administrators, to enable parents to participate fully and effectively in their children's education.

[SEC. 2002. PURPOSES.

[The purposes of this title are to provide assistance to State and local educational agencies and to institutions of higher education with teacher education programs so that such agencies and institutions can determine how best to improve the teaching and learning of all students by—

[(1) helping to ensure that teachers, and, where appropriate, other staff and administrators, have access to sustained and intensive high-quality professional development that is aligned to challenging State content standards and challenging State student performance standards, and to support the development and implementation of sustained and intensive high-quality professional development activities in the core academic subjects; and

[(2) helping to ensure that teachers, and, where appropriate, administrators, other staff, pupil services personnel, and parents, have access to professional development that—

[(A) is tied to challenging State content standards and challenging State student performance standards;

[(B) reflects recent research on teaching and learning;

[(C) includes strong academic content and pedagogical components;

[(D) incorporates effective strategies, techniques, methods, and practices for meeting the educational needs of diverse student populations, including females, minorities, individuals with disabilities, limited-English-proficient in-

dividuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging State student performance standards;

[(E) is of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom; and

[(F) is part of the everyday life of the school and creates an orientation toward continuous improvement throughout the school.

[SEC. 2003. AUTHORIZATION OF APPROPRIATIONS; ALLOCATION BETWEEN PARTS.

[(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this title (other than part C), there are authorized to be appropriated $800,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

[(b) ALLOCATION BETWEEN PARTS.—Of the amounts appropriated to carry out this title for any fiscal year, the Secretary shall make available—

[(1) 5 percent of such amounts to carry out subpart 1, of which 5 percent of such 5 percent shall be available to carry out section 2103;

[(2) 94 percent of such amounts to carry out part B; and

[(3) 1 percent of such amounts to carry out part D except that such 1 percent shall not exceed $3,200,000 in any fiscal year.

[PART A—FEDERAL ACTIVITIES

[SEC. 2101. PROGRAM AUTHORIZED.

[(a) IN GENERAL.—The Secretary is authorized to make grants to, and enter into contracts and cooperative agreements with, local educational agencies, educational service agencies, State educational agencies, State agencies for higher education, institutions of higher education, and other public and private agencies, organizations, and institutions to—

[(1) support activities of national significance that the Secretary determines will contribute to the development and implementation of high-quality professional development activities in the core academic subjects; and

[(2) evaluate activities carried out under this part and parts B and C, in accordance with section 14701.

[(b) REQUIREMENTS.—In carrying out the activities described in subsection (a), the Secretary shall coordinate professional development programs within the Department, particularly with those programs within the Office of Educational Research and Improvement and the Office of Special Education and Rehabilitative Services, and shall consult and coordinate with the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, the Institute of Museum and Library Services, and other appropriate Federal agencies and entities.

[SEC. 2102. AUTHORIZED ACTIVITIES.

[(a) ACTIVITIES.—The Secretary shall use funds available to carry out this part for—

[(1) providing seed money to the entities described in section 2101(a) to develop the capacity of such entities to offer sustained and intensive high-quality professional development;

[(2) awarding a grant or contract, in consultation with the Director of the National Science Foundation, to establish an Eisenhower National Clearinghouse for Mathematics and Science Education (hereafter in this section referred to as the "Clearinghouse"); and

[(3) evaluating programs assisted under this part and parts B and C, in accordance with section 14701.

[(b) CLEARINGHOUSE.—

[(1) APPLICATION AND AWARD BASIS.—Each entity desiring to establish and operate the Clearinghouse authorized by subsection (a)(2) shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. The grant or contract awarded pursuant to subsection (a)(2) shall be made on a competitive, merit basis.

[(2) DURATION.—The grant or contract awarded under subsection (a)(2) shall be awarded for a period of five years and shall be reviewed by the Secretary not later than 30 months from the date the grant or contract is awarded.

[(3) USE OF FUNDS.—The grant or contract awarded under subsection (a)(2) shall be used to—

[(A) maintain a permanent repository of mathematics and science education instructional materials and programs for elementary and secondary schools, including middle schools (including, to the extent practicable, all materials and programs developed with Federal and non-Federal funds, such as instructional materials developed by the Department, materials developed by State and national mathematics and science programs assisted under this part, and other instructional materials) for use by the regional consortia established under part C of title XIII and by the general public;

[(B) compile information on all mathematics and science education programs administered by each Federal agency or department;

[(C) disseminate information, programs, and instructional materials to the public, dissemination networks, and the regional consortia established under part C of title XIII;

[(D) coordinate with identifiable and existing data bases containing mathematics and science curriculum and instructional materials, including Federal, non-Federal, and, where feasible, international, data bases;

[(E) participate in collaborative meetings of representatives of the Clearinghouse and the regional consortia established under part C of title XIII to discuss issues of common interest and concern, to foster effective collaboration and cooperation in acquiring and distributing curriculum materials and programs, and to coordinate computer network access to the Clearinghouse and the resources of the regional consortia, except that not more

than 3 percent of the funds awarded under subsection (a)(2) shall be used to carry out this subparagraph; and

[(F) gather qualitative and evaluative data on submissions to the Clearinghouse.

[(4) SUBMISSION TO CLEARINGHOUSE.—Each Federal agency or department which develops mathematics or science education instructional material or programs, including the National Science Foundation and the Department, shall submit to the Clearinghouse copies of such material or programs.

[(5) PEER REVIEW.—The Secretary shall establish a peer review process to select the recipient of the award under subsection (a)(2).

[(6) STEERING COMMITTEE.—The Secretary may appoint a steering committee to recommend policies and activities for the Clearinghouse.

[(7) APPLICATION OF COPYRIGHT LAWS.—Nothing in this subsection shall be construed to allow the use or copying, in any media, of any material collected by the Clearinghouse that is protected under the copyright laws of the United States unless the permission of the owner of the copyright is obtained. The Clearinghouse, in carrying out the provisions of this subsection, shall ensure compliance with title 17, United States Code.

[(8) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information concerning the grant or contract awarded under this section to State and local educational agencies and institutions of higher education. Such dissemination of information shall include examples of exemplary national programs in mathematics and science instruction and necessary technical assistance for the establishment of similar programs.

[(c) USES OF FUNDS.—The Secretary may use funds available to carry out this part for—

[(1) the development and maintenance of national clearinghouses for core academic subjects as the Secretary determines are needed and which shall be administered as adjunct clearinghouses of the Educational Resources Information Center Clearinghouses system of clearinghouses supported by the Office of Educational Research and Improvement;

[(2) professional development institutes that provide teachers or teams of teachers, and, where appropriate, administrators, pupil services personnel and other staff, from individual schools, with professional development that contains strong and integrated disciplinary and pedagogical components;

[(3) encouraging the development of local and national professional networks, such as the Teacher Research Dissemination Demonstration Program under section 941(j) of the Educational Research, Development, Dissemination, and Improvement Act of 1994, that provide a forum for interaction among teachers of the core academic subjects and that allow the exchange of information on advances in content and pedagogy;

[(4) efforts to train teachers in the innovative uses and applications of technology to enhance student learning;

[(5) the development and dissemination of model teaching standards in the core academic subjects;

[(6) disseminating standards in the core academic subjects, including information on voluntary national content standards and voluntary national student performance standards and related models of high-quality professional development;

[(7) the dissemination of information about voluntary national content standards, State content standards, voluntary national student performance standards and State student performance standards, and related models of high-quality professional development;

[(8) efforts to train teachers in innovative instructional methodologies designed to meet the diverse learning needs of individual students, including methodologies which integrate academic and vocational learning and applied learning, interactive, interdisciplinary team teaching, and other alternative teaching strategies, such as service learning, experiential learning, career-related education, and environmental education, that integrate real world applications into the core academic subjects;

[(9) disseminating models of high-quality professional development activities that train educators in strategies, techniques, methods, and practices for meeting the educational needs of historically underserved populations, including females, minorities, individuals with disabilities, limited-English-proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging State student performance standards;

[(10) promoting the transferability of licensure and certification of teachers and administrators among State and local jurisdictions;

[(11) supporting the National Board for Professional Teaching Standards;

[(12) developing activities to prepare teachers, and, where appropriate, paraprofessionals, pupil services personnel, and other staff in the collaborative skills needed to appropriately teach children with disabilities in the core academic subjects;

[(13) encouraging the development of innovative models for recruitment, induction, retention, and assessment of new, highly qualified teachers, especially such teachers from historically underrepresented groups; and

[(14) joint activities with other Federal agencies and entities engaged in or supporting similar professional development efforts.

[SEC. 2103. NATIONAL TEACHER TRAINING PROJECT.

[(a) SHORT TITLE; FINDINGS; DEFINITIONS.—

[(1) SHORT TITLE.—This section may be cited as the "National Teacher Training Project Act of 1994".

[(2) FINDINGS.—The Congress finds that—

[(A) teachers must be major players in educational reform in the United States;

[(B) teachers are isolated from their peers and have virtually no time during the school day to consult with other teachers;

[(C) there is a shortage of sustained, year-round professional development programs for teachers;

[(D) successful teaching methods are not adequately shared among teachers;

[(E) teachers are the best teachers of other teachers because practicing classroom teachers have experience that no outside consultant can match;

[(F) it is important for universities and schools to collaborate on teacher development programs if teaching and learning are to be improved;

[(G) pertinent research is not shared among teachers in a professional setting;

[(H) exemplary teachers should be recognized for their abilities and contributions and encouraged to refine their teaching methods;

[(I) each State should support a nationally based teacher training program, that is modeled after the National Writing Project, for teachers of early childhood education, and for teachers of core academic subjects including teachers of mathematics, science, English, civics and government, foreign languages, and arts;

[(J) the National Writing Project is a nationally recognized and honored nonprofit organization that recognizes there are teachers in every region of the United States who have developed successful methods for teaching writing and that such teachers can be trained and encouraged to train other teachers;

[(K) the National Writing Project is a collaborative university-school program which offers summer and school year inservice teacher training programs and a dissemination network to inform and teach teachers regarding developments in the field of writing;

[(L) each year, over 125,000 teachers voluntarily seek training in National Writing Project intensive summer institutes and workshops and school year inservice programs through one of the 155 sites located within the United States, and in 18 sites located outside of the United States;

[(M) in the 20 years of its existence, over 1,100,000 teachers, administrators, and parents have participated in National Writing Project programs;

[(N) less than $16 per teacher was the average cost in Federal dollars for all teacher training at writing projects in academic year 1991–1992;

[(O) for every dollar in Federal support, the National Writing Project provides over $5 in matching funds from States, local universities and schools, and the private sector;

[(P) private foundation resources, although generous in the past concerning National Writing Project programs, are inadequate to fund all of the National Teacher Training Project sites needed, and the future of the program is in jeopardy without secure financial support;

[(Q) the National Writing Project has become a model for programs in other fields, such as science, mathematics, history, literature, foreign languages, and the performing arts, and the development of programs in other fields should continue with the support of Federal funds; and

[(R) each of the 50 States should participate in the National Teacher Training Project by establishing regional teacher training sites in early childhood development, mathematics, science, English, civics and government, foreign languages, and arts to serve all teachers within the State.

[(3) DEFINITIONS.—For the purpose of this section—

[(A) the term "contractor" means—

[(i) a local educational agency;

[(ii) an educational service agency; or

[(iii) an institution of higher education that awards a bachelor's degree; and

[(B) the term "eligible recipient" means a nonprofit educational organization which has as its primary purpose the improvement of student learning in one of the core academic subjects described in subsection (b)(2).

[(b) GRANTS AUTHORIZED.—

[(1) GRANTS TO ELIGIBLE RECIPIENTS.—The Secretary is authorized to award a grant to an eligible recipient to enable such recipient—

[(A) to support and promote the establishment of teacher training programs in early childhood development and one of the nine core subject areas described in paragraph (2), including the dissemination of effective practices and research findings regarding teacher training, and administrative activities;

[(B) to support classroom research on effective teaching practices in such area; and

[(C) to pay the Federal share of the cost of such programs and research.

[(2) CORE SUBJECT AREAS.—To the extent feasible, the Secretary shall award a grant under paragraph (1) for the establishment of a National Teacher Training Project in early childhood development and each of the following core subject areas:

[(A) Mathematics.

[(B) Science.

[(C) English.

[(D) Civics and government.

[(E) Foreign languages.

[(F) Arts.

[(G) Geography.

[(H) History.

[(I) Economics.

[(3) NUMBER OF GRANTS AND ELIGIBLE RECIPIENTS.—The Secretary shall award not more than ten grants under paragraph (1) to ten different eligible recipients.

[(4) EQUITABLE DISTRIBUTION.—The Secretary shall award grants under paragraph (1) to eligible recipients from different geographic areas of the United States.

[(5) SPECIAL RULE.—Each grant under paragraph (1) shall be of sufficient size, scope, and quality to be effective.

[(6) ADMINISTRATIVE COSTS AND TECHNICAL ASSISTANCE.—Each eligible recipient receiving a grant under paragraph (1) may use not more than a total of 5 percent of the grant funds

for administrative costs and the costs of providing technical assistance to a contractor.

[(c) GRANT REQUIREMENTS.—Each eligible recipient receiving a grant under subsection (b) shall—

[(1) enter into a contract with a contractor under which such contractor agrees—

[(A) to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of the core academic subjects for which such eligible recipient was awarded a grant, including approaches and processes to obtain parental involvement in a child's education; and

[(B) to use funds received from the eligible recipient to pay the Federal share of the cost of establishing and operating teacher training programs described in subparagraph (A);

[(2) to submit annual reports to the Secretary and be responsible for oversight of the funds expended at each teacher training program described in subparagraph (A); and

[(3) meet such other conditions and standards as the Secretary determines to be necessary to ensure compliance with this section and provide such technical assistance as may be necessary to carry out this section.

[(d) TEACHER TRAINING PROGRAMS.—The teacher training programs described in subsection (b) shall—

[(1) be conducted during the school year and during the summer months;

[(2) train teachers who teach grades kindergarten through college;

[(3) select teachers to become members of a National Teacher Training Project, which members shall conduct inservice workshops for other teachers in the area subject matter served by the National Teacher Training Project site;

[(4) use teacher training principles and receive technical assistance from the National Writing Project; and

[(5) encourage teachers from all disciplines to participate in such teacher training programs.

[(e) FEDERAL SHARE.—The term "Federal share" means, with respect to the costs of teacher training programs described in subsection (b), 50 percent of such costs to the contractor.

[(f) APPLICATION.—Each eligible recipient 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.

[(g) PARTICIPANTS AND SELECTION PROCESS.—The selection process for participation in a teacher training program described in subsection (b) shall—

[(1) reward exemplary teachers with varying levels of teaching experience who are nominated by other teachers and administrators;

[(2) involve an application process to select participants for a summer program;

[(3) ensure the selection of a geographically and ethnically diverse group of teachers by soliciting applications from teach-

ers of both public and private institutions in rural, urban, and suburban settings in each State; and

[(4) automatically offer a place in a summer program to the "Teacher of the Year" chosen pursuant to a Federal or State teacher recognition program.

[(h) LIMITATION.—A contractor entering into a contract under subsection (c)(1) shall not spend more than 5 percent of funds received under the contract for administrative costs.

[PART B—STATE AND LOCAL ACTIVITIES

[SEC. 2201. PROGRAM AUTHORIZED.

[The Secretary is authorized to make grants to State educational agencies for the improvement of teaching and learning through sustained and intensive high-quality professional development activities in the core academic subjects at the State and local levels.

[SEC. 2202. ALLOCATION OF FUNDS.

[(a) RESERVATION OF FUNDS.—From the amount available to carry out this part for any fiscal year, the Secretary shall reserve—

[(1) ½ of 1 percent for the outlying areas, to be distributed among the outlying areas on the basis of their relative need, as determined by the Secretary in accordance with the purposes of this part; and

[(2) ½ of 1 percent for the Secretary of the Interior for programs under this part for professional development activities for teachers, other staff, and administrators in schools operated or funded by the Bureau of Indian Affairs.

[(b) STATE ALLOCATIONS.—The Secretary shall allocate the amount available to carry out this part and not reserved under subsection (a) to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico as follows, except that no State shall receive less than ½ of 1 percent of such amount:

[(1) Fifty percent shall be allocated among such jurisdictions on the basis of their relative populations of individuals aged five through 17, as determined by the Secretary on the basis of the most recent satisfactory data.

[(2) Fifty percent shall be allocated among such jurisdictions in accordance with the relative amounts such jurisdictions received under part A of title I for the preceding fiscal year, or for fiscal year 1995 only, such part's predecessor authority.

[(c) REALLOCATION.—If any jurisdiction does not apply for an allotment under subsection (b) for any fiscal year, the Secretary shall reallocate such amount to the remaining jurisdictions in accordance with such subsection.

[SEC. 2203. WITHIN-STATE ALLOCATIONS.

[Of the amounts received by a State under this part for any fiscal year—

[(1) 84 percent shall be available for local allowable activities under section 2210(b), of which—

[(A) not more than 5 percent may be used for the administrative costs of the State educational agency and for State-level activities described in section 2207; and

[(B) of the remaining amount—

[(i) 50 percent shall be distributed to local educational agencies—

[(I) for use in accordance with section 2210; and

[(II) in accordance with the relative enrollments in public and private nonprofit elementary and secondary schools within the boundaries of such agencies; and

[(ii) 50 percent of such amount shall be distributed to local educational agencies—

[(I) for use in accordance with section 2210; and

[(II) in accordance with the relative amount such agencies received under part A of title I or for fiscal year 1995 for the preceding fiscal year, such part's predecessor authority; and

[(2) 16 percent shall be available to the State agency for higher education for activities under section 2211, of which not more than 5 percent may be used for the administrative costs of the State agency for higher education.

[SEC. 2204. CONSORTIUM REQUIREMENT.

[(a) IN GENERAL.—A local educational agency receiving a grant under this part of less than $10,000 shall form a consortium with another local educational agency or an educational service agency serving another local educational agency to be eligible to participate in programs assisted under this part.

[(b) WAIVER.—The State educational agency may waive the application of paragraph (1) in the case of any local educational agency that demonstrates that the amount of its allocation under this part is sufficient to provide a program of sufficient size, scope, and quality to be effective. In granting waivers under the preceding sentence, the State educational agency shall—

[(1) give special consideration to local educational agencies serving rural areas if distances or traveling time between schools make formation of the consortium more costly or less effective; and

[(2) consider cash or in-kind contributions provided from State or local sources that may be combined with the local educational agency's allocation for the purpose of providing services under this part.

[(c) SPECIAL RULE.—Each consortium shall rely, as much as possible, on technology or other arrangements to provide staff development programs tailored to the needs of each school or school district participating in a consortium described in subsection (a).

[SEC. 2205. STATE APPLICATIONS.

[(a) APPLICATIONS REQUIRED.—Each State educational agency that wishes to receive an allotment under this part for any fiscal year shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

[(b) STATE PLAN TO IMPROVE TEACHING AND LEARNING.—

[(1) IN GENERAL.—Each application under this section shall include a State plan that is coordinated with the State's plan under other programs assisted under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, consistent with the provisions of section 14306.

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

[(A) be developed in conjunction with the State agency for higher education, community-based and other nonprofit organizations of demonstrated effectiveness, institutions of higher education or schools of education, and with the extensive participation of local teachers, administrators and pupil services personnel and show the role of each such entity in implementation of the plan;

[(B) be designed to give teachers, and, where appropriate, administrators and pupil services personnel in the State, the knowledge and skills necessary to provide all students the opportunity to meet challenging State content standards and challenging State student performance standards;

[(C) include an assessment of State and local needs for professional development specifically related to subparagraph (B);

[(D) include a description of how the plan has assessed the needs of local educational agencies serving rural and urban areas, and what actions are planned to meet such needs;

[(E) include a description of how the activities assisted under this part will address the needs of teachers in schools receiving assistance under part A of title I;

[(F) a description of how programs in all core academic subjects, but especially in mathematics and science, will take into account the need for greater access to, and participation in, such disciplines by students from historically underrepresented groups, including females, minorities, individuals with limited English proficiency, the economically disadvantaged, and individuals with disabilities, by incorporating pedagogical strategies and techniques which meet such individuals' educational needs;

[(G) be consistent with the State's needs assessment under subparagraph (C), and describe how the State will work with teachers, including teachers in schools receiving assistance under part A of title I, administrators, parents, local educational agencies, schools, educational service agencies, institutions of higher education, and nonprofit organizations of demonstrated effectiveness, to ensure that such individuals develop the capacity to support sustained and intensive, high-quality professional development programs in the core academic subjects;

[(H) describe how the State requirements for licensure of teachers and administrators, including certification and recertification, support challenging State content standards and challenging State student performance standards and whether such requirements are aligned with such standards;

[(I) address the need for improving teaching and learning through teacher development beginning with recruitment, preservice, and induction, and continuing throughout the professional teaching career, taking into account the need, as determined by the State, for greater access to

and participation in the teaching profession by individuals from historically underrepresented groups;

[(J) describe how the State will prepare all teachers to teach children with diverse learning needs, including children with disabilities;

[(K) describe how the State will prepare teachers, and, where appropriate, paraprofessionals, pupil services personnel, and other staff in the collaborative skills needed to appropriately teach children with disabilities, in the core academic subjects;

[(L) describe how the State will use technology, including the emerging national information infrastructure, to enhance the professional development of teachers, and, where appropriate, administrators and pupil services personnel;

[(M) describe how the State will provide incentives to teachers and administrators to focus their professional development on preparing such teachers and administrators to provide instruction consistent with challenging State content standards and challenging State student performance standards;

[(N) set specific performance indicators for professional development; and

[(O) describe how parents can be involved in professional development programs to enhance the participation of parents in the education of their children.

[(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.

[(c) ADDITIONAL MATERIAL.—Each State application shall include—

[(1) a description of how the activities assisted under this part will be coordinated, as appropriate, with—

[(A) other activities conducted with Federal funds, especially activities supported under part A of title I of this Act and the Individuals with Disabilities Education Act;

[(B) programs supported by State and local funds;

[(C) resources from business and industry, museums, libraries, educational television stations, and public and private nonprofit organizations of demonstrated experience; and

[(D) funds received from other Federal agencies, such as the National Science Foundation, the Departments of Commerce, Energy, and Health and Human Services, the National Endowment for the Arts, the Institute of Museum and Library Services, and the National Endowment for the Humanities; and

[(2) a description of the activities to be sponsored under the State-level activities under section 2207 and the higher education activities under section 2211.

[(d) PEER REVIEW AND SECRETARIAL APPROVAL.—

[(1) IN GENERAL.—The Secretary shall approve an application of a State educational agency under this section if such application meets the requirements of this section and holds reasonable promise of achieving the purposes of this part.

[(2) REVIEW.—In reviewing applications under this section, the Secretary shall obtain the advice of non-Federal experts on education in the core academic subjects and on teacher education, including teachers and administrators.

[SEC. 2206. PRIORITY FOR PROFESSIONAL DEVELOPMENT IN MATHEMATICS AND SCIENCE.

[(a) APPROPRIATION OF LESS THAN $250,000,000.—In any fiscal year for which the amount appropriated for this title (other than part C) is less than $250,000,000, each State shall ensure that all funds distributed in accordance with section 2203(1)(C) are used for professional development in mathematics and science.

[(b) APPROPRIATION EQUAL TO OR ABOVE $250,000,000.—In any fiscal year for which the amount appropriated for this title (other than part C) is equal to or exceeds $250,000,000, each State and local educational agency shall use for professional development activities in mathematics and science the amount of funds that would have been made available to each such agency in accordance with sections 2202 and 2203 if the amount appropriated was $250,000,000, consistent with subsection (a), and are permitted and encouraged to use the amount of funds in excess of $250,000,000 that is made available in accordance with sections 2202 and 2203 for professional development activities in mathematics and science.

[SEC. 2207. STATE-LEVEL ACTIVITIES.

[Each State may use funds made available under section 2203(1)(A) to carry out activities described in the plan under section 2205(b), such as—

[(1) reviewing and reforming State requirements for teacher and administrator licensure, including certification and recertification, to align such requirements with the State's challenging State content standards and ensure that teachers and administrators have the knowledge and skills necessary to help students meet challenging State student performance standards;

[(2) developing performance assessments and peer review procedures, as well as other methods, for licensing teachers and administrators;

[(3) providing technical assistance to schools and local educational agencies, especially schools and local educational agencies that receive assistance under part A of title I, to help such schools and agencies provide effective professional development in the core academic subjects;

[(4) developing or supporting professional development networks, either within a State or in a regional consortium of States, that provide a forum for interaction among teachers and that allow exchange of information on advances in content and pedagogy;

[(5) supporting partnerships between schools, consortia of schools, or local educational agencies and institutions of higher education, including schools of education, which encourage—

[(A) teachers to participate in intensive, ongoing professional development programs, both academic and pedagogical, at institutions of higher education; and

[(B) students at institutions of higher education studying to become teachers to have direct, practical experience at the schools;

[(6) providing professional development in the effective use of educational technology as an instructional tool for increasing student understanding of the core academic subjects, including efforts to train teachers in methods of achieving gender equity both in students' access to computers and other educational technology and in teaching practices used in the application of educational technology;

[(7) providing incentives for teachers to be involved in assessment, curriculum development, and technical assistance processes for teachers and students;

[(8) providing professional development to enable teachers, and, where appropriate, pupil services personnel, and other school staff, to ensure that girls and young women, minorities, limited English proficient students, individuals with disabilities, and economically disadvantaged students have the full opportunity to achieve challenging State content standards and challenging State student performance standards in the core academic subjects by, for example, encouraging girls and young women and minorities to pursue advanced courses in mathematics and science;

[(9) professional development and recruitment activities designed to increase the numbers of minorities, individuals with disabilities, and women teaching in the core academic subjects in which such individuals are underrepresented;

[(10) providing financial or other incentives for teachers to become certified by nationally recognized professional teacher enhancement organizations;

[(11) providing professional development activities which prepare teachers, and where appropriate, pupil services personnel, paraprofessionals, and other staff in the collaborative skills needed to appropriately teach children with disabilities, in the core academic subjects;

[(12) identifying, developing, or supporting professional development strategies to better equip parents to assist their children in raising their children's achievement in the core academic subjects; and

[(13) professional development activities designed to increase the number of women and other underrepresented groups in the administration of schools.

[SEC. 2208. LOCAL PLAN AND APPLICATION FOR IMPROVING TEACHING AND LEARNING.

[(a) LOCAL APPLICATION.—

[(1) IN GENERAL.—Each local educational agency that wishes to receive a subgrant under this part shall submit an application (singly or as a consortium as described in section 2204) to the State educational agency at such time as the State educational agency shall require, but not less frequently than every three years, that is coordinated with other programs under this Act, the Goals 2000: Educate America Act, or other

Acts, as appropriate, consistent with the provisions of section 14306.

[(2) INDICATORS.—A local educational agency shall set specific performance indicators for improving teaching and learning through professional development.

[(b) NEEDS ASSESSMENT.—

[(1) IN GENERAL.—A local educational agency that wishes to receive a subgrant under this part shall include in its application an assessment of local needs for professional development as identified by the local educational agency and school staff.

[(2) REQUIREMENTS.—Such needs assessment shall be carried out with the involvement of teachers, including teachers in schools receiving assistance under part A of title I, and shall take into account what activities need to be conducted in order to give teachers and, where appropriate, administrators, the means, including the knowledge and skills, to provide students with the opportunity to meet challenging State or local student performance standards.

[(c) APPLICATION CONTENTS.—Each application under this section shall include the local educational agency's plan for professional development that—

[(1) focuses on teaching and learning in the core academic subjects; and

[(2) has been developed with the extensive participation of administrators, staff, and pupil services personnel, which teachers shall also be representative of the grade spans within schools to be served and of schools which receive assistance under part A of title I.

[(d) PLAN CONTENTS.—

[(1) IN GENERAL.—Based on the needs assessment required under subsection (b), the local educational agency's plan shall—

[(A) include a description of how the plan contributes to the local educational agency's overall efforts for school reform and educational improvement;

[(B) include a description of how the activities funded under this section will address the needs of teachers in schools receiving assistance under part A of title I;

[(C) be aligned with the State's challenging State content standards and challenging State student performance standards;

[(D) describe a strategy, tied to challenging State content standards and challenging State student performance standards, consistent with the needs assessment under subsection (b);

[(E) be of sufficient intensity and duration to have a positive and lasting impact on the student's performance in the classroom;

[(F) describe how programs in all core academic subjects, but especially in mathematics and science, will take into account the need for greater access to, and participation in, such disciplines by students from historically underrepresented groups, including girls and women, minorities, individuals with limited English proficiency, the economically disadvantaged, and individuals with disabil-

ities, by incorporating pedagogical strategies and techniques which meet such individuals' educational need;

[(G) contain an assurance that the activities conducted with funds received under this part will be assessed at least every three years using the performance indicators;

[(H) describe how the program funded under this part will be coordinated, as appropriate, with—

[(i) activities conducted under section 2131 and other services of institutions of higher education;

[(ii) similar State and local activities;

[(iii) resources provided under part A of title I and other provisions of this Act;

[(iv) resources from business, industry, public and private nonprofit organizations (including museums, libraries, educational television stations, community-based organizations, professional organizations and associations specializing in, or with a demonstrated expertise in the core academic subjects);

[(v) funds or programming from other Federal agencies, such as the National Science Foundation, the Department of Energy, the Department of Health and Human Services, the Institute of Museum and Library Services, the National Endowment for the Humanities, and the National Endowment for the Arts;

[(vi) services of educational service agencies; and

[(vii) resources provided under the Individuals with Disabilities Education Act;

[(I) identify the sources of funding that will provide the local educational agency's contribution under section 2209; and

[(J) describe the professional development strategies to be employed to more fully and effectively involve parents in the education of their children.

[(2) DURATION OF THE PLAN.—Each local plan described in subsection (b)(1) shall—

[(A) remain in effect for the duration of the local educational agency's participation under this part; and

[(B) be periodically reviewed and revised by the local educational agency, as necessary, to reflect changes in the local educational agency's strategies and programs under this part.

[SEC. 2209. LOCAL COST-SHARING.

[(a) IN GENERAL.—Each local educational agency shall provide not less than 33 percent of the cost of the activities assisted under this part, excluding the cost of services provided to private school teachers.

[(b) AVAILABLE RESOURCES FOR COST-SHARING.—

[(1) IN GENERAL.—A local educational agency may meet the requirement of subsection (a) through one or more of the following:

[(A) Cash expenditures from non-Federal sources, including private contributions, directed toward professional development activities.

[(B) Release time for teachers participating in professional development assisted under this part.

[(C) Funds received under one or more of the following programs, so long as such funds are used for professional development activities consistent with this part and the statutes under which such funds were received, and are used to benefit students and teachers in schools that otherwise would have been served with such funds:

[(i) Helping disadvantaged children meet high standards under part A of title I.

[(ii) The Safe and Drug-Free Schools and Communities program under title IV.

[(iii) Bilingual Education Programs under part A of title VII.

[(iv) Programs under the Women's Educational Equity Act of 1994.

[(v) Programs under title III of the Goals 2000: Educate America Act.

[(vi) Programs that are related to the purposes of this Act that are administered by other Federal agencies, including the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, the Institute of Museum and Library Services, and the Department of Energy.

[(vii) Programs under the Individuals with Disabilities Education Act.

[(2) SPECIAL RULE.—A local educational agency may meet the requirement of subsection (a) through contributions described in paragraph (1) that are provided in cash or in kind, fairly evaluated.

[(c) WAIVER.—The State educational agency may approve an application which has not fully met the requirements of subsection (a) and waive the requirements of subsection (a) if a local educational agency can demonstrate that such agency is unable to meet the requirements of subsection (a) due to economic hardship and that compliance with such requirements would preclude such agency's participation in the program.

[SEC. 2210. LOCAL ALLOCATION OF FUNDS AND ALLOWABLE ACTIVITIES.

[(a) LOCAL ALLOCATION OF FUNDS.—Each local educational agency that receives funds under this part for any fiscal year—

[(1) shall use not less than 80 percent of such funds for professional development of teachers, and, where appropriate, administrators, and, where appropriate, pupil services personnel, parents, and other staff of individual schools in a manner that—

[(A) is determined by such teachers and staff;

[(B) to the extent practicable, takes place at the individual school site; and

[(C) is consistent with the local educational agency's application under section 2208, any school plan under part A of title I, and any other plan for professional development carried out with Federal, State, or local funds that emphasizes sustained, ongoing activities; and

[(2) may use not more than 20 percent of such funds for school district-level professional development activities, including, where appropriate, the participation of administrators,

policymakers, and parents, if such activities directly support instructional personnel.

[(b) AUTHORIZED ACTIVITIES.—

[(1) IN GENERAL.—Each local educational agency and school that receives funds under this part shall use such funds for activities that give teachers and administrators the knowledge and skills to provide students with the opportunity to meet challenging State or local content standards and student performance standards.

[(2) PROFESSIONAL DEVELOPMENT ACTIVITIES.—Professional development activities funded under this part shall—

[(A) be tied to challenging State content standards or challenging local content standards, and challenging State student performance standards or challenging local student performance standards;

[(B) take into account recent research on teaching and learning;

[(C) provide professional development which incorporates effective strategies, techniques, methods, and practices for meeting the educational needs of diverse groups of students, including girls and women, minorities, individuals with disabilities, limited English proficient individuals, and economically disadvantaged individuals;

[(D) include strong academic content and pedagogical components; and

[(E) be of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom.

[(3) ACTIVITIES.—Funds under this part may be used for professional development activities such as—

[(A) professional development for teams of teachers, and, where appropriate, administrators, pupil services personnel, or other staff from individual schools, to support teaching consistent with challenging State content standards and challenging State student performance standards;

[(B) support and time, which in the case of teachers may include release time with pay, for teachers, and, where appropriate, pupil services personnel and other school staff to enable such teachers, personnel, and staff to participate in professional development in the core academic subjects that are offered through professional associations, universities, community-based organizations, and other providers, such as educational partnership organizations, science centers, and museums;

[(C) activities that provide followup for teachers who have participated in professional development activities that are designed to ensure that the knowledge and skills learned by the teacher are implemented in the classroom;

[(D) support for partnerships between schools, consortia of schools, or local educational agencies, and institutions of higher education, including schools of education, which partnerships shall encourage—

[(i) teachers to participate in intensive, ongoing professional development programs, both academic and pedagogical, at institutions of higher education; and

[(ii) students at institutions of higher education studying to become teachers to have direct, practical experience at schools;

[(E) the establishment and maintenance of local professional networks that provide a forum for interaction among teachers and that allow exchange of information on advances in content and pedagogy;

[(F) preparing teachers in the effective use of educational technology and assistive technology as instructional tools for increasing student understanding of the core academic subjects;

[(G) professional development to enable teachers, and, where appropriate, pupil services personnel and other school staff, to ensure that girls and young women, minorities, limited English proficient students, individuals with disabilities, and the economically disadvantaged have full opportunity to achieve the challenging State content standards and challenging State student performance standards in the core academic subjects;

[(H) professional development and recruitment activities designed—

[(i) to increase the number of minorities, individuals with disabilities, and females teaching in the core academic subjects in which such individuals are underrepresented; and

[(ii) to increase the numbers of women and members of other underrepresented groups who are science and mathematics teachers, through such programs as career ladder programs that assist educational paraprofessionals to obtain teaching credentials in the core academic subjects;

[(I) providing financial or other incentives for teachers to become certified by nationally recognized professional teacher enhancement programs;

[(J) support and time for teachers, and, where appropriate, pupil services personnel, and other school staff to learn and implement effective collaboration for the instruction of children with disabilities in the core academic subject areas;

[(K) preparing teachers, and, where appropriate, pupil services personnel to work with parents and families on fostering student achievement in the core academic subjects;

[(L) professional development activities and other support for new teachers as such teachers move into the classroom to provide such teachers with practical support and to increase the retention of such teachers;

[(M) professional development for teachers, parents, early childhood educators, administrators, and other staff to support activities and services related to preschool transition programs to raise student performance in the core academic subjects;

[(N) professional development activities to train teachers in innovative instructional methodologies designed to meet the diverse learning needs of individual students, including methodologies which integrate academic and vocational learning and applied learning, interactive and interdisciplinary team teaching, and other alternative teaching strategies such as service learning, experiential learning, career-related education, and environmental education, that integrate real world applications into the core academic subjects;

[(O) developing professional development strategies and programs to more effectively involve parents in helping their children achieve in the core academic subjects;

[(P) professional development activities designed to increase the number of women and other underrepresented groups in the administration of schools; and

[(Q) release time with pay for teachers.

[SEC. 2211. HIGHER EDUCATION ACTIVITIES.

[(a) ACTIVITIES.—

[(1) IN GENERAL.—From amounts made available under section 2203(2), the State agency for higher education, working in conjunction with the State educational agency (if such agencies are separate), shall make grants to, or enter into contracts or cooperative agreements with, institutions of higher education and nonprofit organizations of demonstrated effectiveness, including museums and educational partnership organizations, which must work in conjunction with a local educational agency, consortium of local educational agencies, or schools, for—

[(A) professional development activities in the core academic subjects that contribute to the State plan for professional development;

[(B) developing and providing assistance to local educational agencies, and the teachers and staff of each such agency, for sustained, high-quality professional development activities; and

[(C) improving teacher education programs in order to promote further innovation in teacher education programs within an institution of higher education and to better meet the needs of the local educational agencies for well-prepared teachers.

[(2) COMPETITIVE BASIS.—Each grant, contract, or cooperative agreement described in paragraph (1) shall be awarded on a competitive basis.

[(3) SPECIAL RULE.—No institution of higher education may receive assistance under (a)(1) of this subsection unless the institution enters into an agreement with a local educational agency, or consortium of such agencies, to provide sustained, high-quality professional development for the elementary and secondary school teachers in the schools of each such agency.

[(4) JOINT EFFORTS.—Each activity assisted under this section, where applicable, shall involve the joint effort of the institution of higher education's school or department of education, if any, and the schools or departments in the specific disciplines in which such professional development will be provided.

[(b) ALLOWABLE ACTIVITIES.—A recipient of funds under this section shall use such funds for—

[(1) sustained and intensive high-quality professional development for teams of teachers, or teachers, and, where appropriate, pupil services personnel and administrators from individual schools or school districts;

[(2) other sustained and intensive professional development activities related to achievement of the State plan for professional development; and

[(3) preservice training activities.

[(c) PARTNERSHIPS.—Each institution of higher education receiving a grant under this section may also enter into a partnership with a private industry, museum, library, educational television station, or public or private nonprofit organization of demonstrated experience to carry out professional development activities assisted under this section.

[PART C—READING AND LITERACY GRANTS

[SEC. 2251. PURPOSES.

[The purposes of this part are as follows:

[(1) To provide children with the readiness skills they need to learn to read once they enter school.

[(2) To teach every child to read in the child's early childhood years—

[(A) as soon as the child is ready to read; or

[(B) as soon as possible once the child enters school, but not later than 3d grade.

[(3) To improve the reading skills of students, and the instructional practices for current teachers (and, as appropriate, other instructional staff) who teach reading, through the use of findings from scientifically based reading research, including findings relating to phonemic awareness, systematic phonics, fluency, and reading comprehension.

[(4) To expand the number of high-quality family literacy programs.

[(5) To provide early literacy intervention to children who are experiencing reading difficulties in order to reduce the number of children who are incorrectly identified as a child with a disability and inappropriately referred to special education.

[SEC. 2252. DEFINITIONS.

[For purposes of this part:

[(1) ELIGIBLE PROFESSIONAL DEVELOPMENT PROVIDER.—The term "eligible professional development provider" means a provider of professional development in reading instruction to teachers that is based on scientifically based reading research.

[(2) 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 individ-

uals who have responsibility for assisting children to learn to read.

[(3) 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.

[(4) 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.

[SEC. 2253. READING AND LITERACY GRANTS TO STATE EDUCATIONAL AGENCIES.

[(a) PROGRAM AUTHORIZED.—

[(1) IN GENERAL.—Subject to the provisions of this part, the Secretary shall award grants to State educational agencies to carry out the reading and literacy activities authorized under this section and sections 2254 through 2256.

[(2) LIMITATIONS.—

[(A) SINGLE GRANT PER STATE.—A State educational agency may not receive more than one grant under paragraph (1).

[(B) 3-YEAR TERM.—A State educational agency that receives a grant under paragraph (1) may expend the funds provided under the grant only during the 3-year period beginning on the date on which the grant is made.

[(b) APPLICATION.—

[(1) IN GENERAL.—A State educational agency that desires to receive a grant under this part 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 paragraph (2).

[(2) CONTENTS.—An application under this subsection shall contain the following:

[(A) 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—

[(i) assisted in the development of the State plan;

[(ii) will be involved in advising on the selection of subgrantees under sections 2255 and 2256; and

[(iii) will assist in the oversight and evaluation of such subgrantees.

[(B) A description of the following:

[(i) How the State educational agency will ensure that professional development activities related to reading instruction and provided under this part are—

[(I) coordinated with other State and local level funds and used effectively to improve instructional practices for reading; and

[(II) based on scientifically based reading research.

[(ii) How the activities assisted under this part will address the needs of teachers and other instructional staff, and will effectively teach students to read, in schools receiving assistance under section 2255 and 2256.

[(iii) The extent to which the activities will prepare teachers in all the major components of reading instruction (including phonemic awareness, systematic phonics, fluency, and reading comprehension).

[(iv) How the State educational agency will use technology to enhance reading and literacy professional development activities for teachers, as appropriate.

[(v) How parents can participate in literacy-related activities assisted under this part to enhance their children's reading.

[(vi) How subgrants made by the State educational agency under sections 2255 and 2256 will meet the requirements of this part, including how the State educational agency will ensure that subgrantees will use practices based on scientifically based reading research.

[(vii) How the State educational agency will, to the extent practicable, make grants to subgrantees in both rural and urban areas.

[(viii) The process that the State used to establish the reading and literacy partnership described in subsection (d).

[(C) An assurance that each local educational agency to which the State educational agency makes a subgrant—

[(i) will provide professional development for the classroom teacher and other appropriate instructional staff on the teaching of reading based on scientifically based reading research;

[(ii) will provide family literacy services based on programs such as the Even Start family literacy model authorized under part B of title I, to enable parents to be their child's first and most important teacher;

[(iii) will carry out programs to assist those kindergarten students who are not ready for the transition to first grade, particularly students experiencing difficulty with reading skills; and

[(iv) will use supervised individuals (including tutors), who have been appropriately trained using scientifically based reading research, to provide additional support, before school, after school, on weekends, during noninstructional periods of the school day, or during the summer, for children preparing to enter kindergarten and students in kindergarten through grade 3 who are experiencing difficulty reading.

[(D) An assurance that instruction in reading will be provided to children with reading difficulties who—

[(i) are at risk of being referred to special education based on these difficulties; or

[(ii) 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 the such Act).

[(E) A description of how the State educational agency—

[(i) will build on, and promote coordination among, literacy programs in the State (including federally funded programs such as the Adult Education and Family Literacy Act and the Individuals with Disabilities Education Act), in order to increase the effectiveness of the programs in improving reading for adults and children and to avoid duplication of the efforts of the programs;

[(ii) will promote reading and library programs that provide access to engaging reading material;

[(iii) will make local educational agencies described in sections 2255(a)(1) and 2256(a)(1) aware of the availability of subgrants under sections 2255 and 2256; and

[(iv) will assess and evaluate, on a regular basis, local educational agency activities assisted under this part, with respect to whether they have been effective in achieving the purposes of this part.

[(F) A description of the evaluation instrument the State educational agency will use for purposes of the assessments and evaluations under subparagraph (E)(iv).

[(c) APPROVAL OF APPLICATIONS.—

[(1) IN GENERAL.—The Secretary shall approve an application of a State educational agency under this section only—

[(A) if such application meets the requirement of this section; and

[(B) after taking into account the extent to which the application furthers the purposes of this part and the overall quality of the application.

[(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) representatives of the National Institute for Literacy, the National Research Council of the National Academy of Sciences, and the National Institute of Child Health and Human Development;

[(ii) 3 individuals selected by the Secretary;

[(iii) 3 individuals selected by the National Institute for Literacy;

[(iv) 3 individuals selected by the National Research Council of the National Academy of Sciences; and

[(v) 3 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) PRIORITY.—The panel shall recommend grant applications from State educational agencies under this section to the Secretary for funding or for disapproval. In making such recommendations, the panel shall give priority to applications from State educational agencies whose States have modified, are modifying, or provide an assurance that not later than 18 months after receiving a grant under this section the State educational agencies will increase the training and the methods of teaching reading required for certification as an elementary school teacher to reflect scientifically based reading research, except that nothing in this Act shall be construed to establish a national system of teacher certification.

[(D) MINIMUM GRANT AMOUNTS.—

[(i) STATES.—Each State educational agency selected to receive a grant under this section shall receive an amount for the grant period that is not less than $500,000.

[(ii) OUTLYING AREAS.—The Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands selected to receive a grant under this section shall receive an amount for the grant period that is not less than $100,000.

[(E) LIMITATION.—The Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be eligible to receive a grant under this part.

[(d) READING AND LITERACY PARTNERSHIPS.—

[(1) REQUIRED PARTICIPANTS.—In order for a State educational agency to receive a grant under this section, the Governor of the State, in consultation with the State educational agency, shall establish a reading and literacy partnership consisting of at least 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 2255.

[(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 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.

[(2) OPTIONAL PARTICIPANTS.—A 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.

[(3) PREEXISTING PARTNERSHIP.—If, before the date of the enactment of the Reading Excellence Act, a State established a consortium, partnership, or any other similar body, that includes the Governor and the chief State school officer and has, as a central part of its mission, the promotion of literacy for children in their early childhood years through the 3d grade and family literacy services, but that does not satisfy the requirements of paragraph (1), the State may elect to treat that consortium, partnership, or body as the reading and literacy

partnership for the State notwithstanding such paragraph, and it shall be considered a reading and literacy partnership for purposes of the other provisions of this part.

[SEC. 2254. USE OF AMOUNTS BY STATE EDUCATIONAL AGENCIES.

[A State educational agency that receives a grant under section 2253—

[(1) shall use not more than 5 percent of the funds made available under the grant for the administrative costs of carrying out this part (excluding section 2256), of which not more than 2 percent may be used to carry out section 2259; and

[(2) shall use not more than 15 percent of the funds made available under the grant to solicit applications for, award, and oversee the performance of, not less than one subgrant pursuant to section 2256.

[SEC. 2255. LOCAL READING IMPROVEMENT SUBGRANTS.

[(a) IN GENERAL.—

[(1) SUBGRANTS.—A State educational agency that receives a grant under section 2253 shall make subgrants, on a competitive basis, to local educational agencies that either—

[(A) have at least one school that is identified for school improvement under section 1116(c) in the geographic area served by the agency;

[(B) have the largest, or second largest, number of children who are counted under section 1124(c), in comparison to all other local educational agencies in the State; or

[(C) have the highest, or second highest, school-age child poverty rate, in comparison to all other local educational agencies in the State.

For purposes of subparagraph (C), the term "school-age child poverty rate" means the number of children counted under section 1124(c) who are living within the geographic boundaries of the local educational agency, expressed as a percentage of the total number of children aged 5–17 years living within the geographic boundaries of the local educational agency.

[(2) SUBGRANT AMOUNT.—A subgrant under this section shall consist of an amount sufficient to enable the subgrant recipient to operate a program for a 2-year period and may not be revoked or terminated on the grounds that a school ceases, during the grant period, to meet the requirements of subparagraph (A), (B), or (C) of paragraph (1).

[(b) APPLICATIONS.—A local educational agency that desires to receive a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and including such information as the agency may require. The application—

[(1) shall describe how the local educational agency will work with schools selected by the agency to receive assistance under subsection (d)(1)—

[(A) to select one or more programs of reading instruction, developed using scientifically based reading research, to improve reading instruction by all academic teachers for all children in each of the schools selected by the agency under such subsection and, where appropriate, for their parents; and

[(B) to enter into an agreement with a person or entity responsible for the development of each program selected under subparagraph (A), or a person with experience or expertise about the program and its implementation, under which the person or entity agrees to work with the local educational agency and the schools in connection with such implementation and improvement efforts;

[(2) shall include an assurance that the local educational agency—

[(A) will carry out professional development for the classroom teacher and other instructional staff on the teaching of reading based on scientifically based reading research;

[(B) will provide family literacy services based on programs such as the Even Start family literacy model authorized under part B of title I, to enable parents to be their child's first and most important teacher;

[(C) will carry out programs to assist those kindergarten students who are not ready for the transition to first grade, particularly students experiencing difficulty with reading skills; and

[(D) will use supervised individuals (including tutors), who have been appropriately trained using scientifically based reading research, to provide additional support, before school, after school, on weekends, during noninstructional periods of the school day, or during the summer, for children preparing to enter kindergarten and students in kindergarten through grade 3 who are experiencing difficulty reading;

[(3) shall describe how the applicant will ensure that funds available under this part, and funds available for reading instruction for kindergarten through grade 6 from other appropriate sources, are effectively coordinated, and, where appropriate, integrated with funds under this Act in order to improve existing activities in the areas of reading instruction, professional development, program improvement, parental involvement, technical assistance, and other activities that can help meet the purposes of this part;

[(4) shall describe, if appropriate, how parents, tutors, and early childhood education providers will be assisted by, and participate in, literacy-related activities receiving financial assistance under this part to enhance children's reading fluency;

[(5) shall describe how the local educational agency—

[(A) provides instruction in reading to children with reading difficulties who—

[(i) are at risk of being referred to special education based on these difficulties; or

[(ii) 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 the such Act); and

[(B) will promote reading and library programs that provide access to engaging reading material; and

[(6) shall include an assurance that the local educational agency will make available, upon request and in an understandable and uniform format, to any parent of a student attending any school selected to receive assistance under subsection (d)(1) in the geographic area served by the local educational agency, information regarding the professional qualifications of the student's classroom teacher to provide instruction in reading.

[(c) SPECIAL RULE.—To the extent feasible, a local educational agency that desires to receive a grant under this section shall form a partnership with one or more community-based organizations of demonstrated effectiveness in early childhood literacy, and reading readiness, reading instruction, and reading achievement for both adults and children, such as a Head Start program, family literacy program, public library, or adult education program, to carry out the functions described in paragraphs (1) through (6) of subsection (b). In evaluating subgrant applications under this section, a State educational agency shall consider whether the applicant has satisfied the requirement in the preceding sentence. If not, the applicant must provide information on why it would not have been feasible for the applicant to have done so.

[(d) USE OF FUNDS.—

[(1) IN GENERAL.—Subject to paragraph (2), a local educational agency that receives a subgrant under this section shall use amounts from the subgrant to carry out activities to advance reform of reading instruction in any school that (A) is described in subsection (a)(1)(A), (B) has the largest, or second largest, number of children who are counted under section 1124(c), in comparison to all other schools in the local educational agency, or (C) has the highest, or second highest, school-age child poverty rate (as defined in the second sentence of subsection (a)(1)), in comparison to all other schools in the local educational agency. Such activities shall include the following:

[(A) Securing technical and other assistance from—

[(i) a program of reading instruction based on scientifically based reading research;

[(ii) a person or entity with experience or expertise about such program and its implementation, who has agreed to work with the recipient in connection with its implementation; or

[(iii) a program providing family literacy services.

[(B) Providing professional development activities to teachers and other instructional staff (including training of tutors), using scientifically based reading research and purchasing of curricular and other supporting materials.

[(C) Promoting reading and library programs that provide access to engaging reading material.

[(D) Providing, on a voluntary basis, training to parents of children enrolled in a school selected to receive assistance under subsection (d)(1) on how to help their children with school work, particularly in the development of reading skills. Such training may be provided directly by the subgrant recipient, or through a grant or contract with another person. Such training shall be consistent with read-

ing reforms taking place in the school setting. No parent shall be required to participate in such training.

[(E) Carrying out family literacy services based on programs such as the Even Start family literacy model authorized under part B of title I, to enable parents to be their child's first and most important teacher.

[(F) Providing instruction for parents of children enrolled in a school selected to receive assistance under subsection (d)(1), and others who volunteer to be reading tutors for such children, in the instructional practices based on scientifically based reading research used by the applicant.

[(G) Programs to assist those kindergarten students enrolled in a school selected to receive assistance under subsection (d)(1) who are not ready for the transition to first grade, particularly students experiencing difficulty with reading skills.

[(H) Providing additional support for children preparing to enter kindergarten and students in kindergarten through grade 3 who are enrolled in a school selected to receive assistance under subsection (d)(1), who are experiencing difficulty reading, before school, after school, on weekends, during noninstructional periods of the school day, or during the summer, using supervised individuals (including tutors), who have been appropriately trained using scientifically based reading research.

[(I) Providing instruction in reading to children with reading difficulties who—

[(i) are at risk of being referred to special education based on these difficulties; or

[(ii) 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 the such Act).

[(J) Providing coordination of reading, library, and literacy programs within the local educational agency to avoid duplication and increase the effectiveness of reading, library, and literacy activities.

[(2) LIMITATION ON ADMINISTRATIVE EXPENSES.—A recipient of a subgrant under this section may use not more than 5 percent of the subgrant funds for administrative costs.

[(e) TRAINING NONRECIPIENTS.—A recipient of a subgrant under this section may train, on a fee-for-service basis, personnel from schools, or local educational agencies, that are not a beneficiary of, or receiving, such a subgrant, in the instructional practices based on scientifically based reading research used by the recipient. Such a nonrecipient school or agency may use funds received under title I of this Act, and other appropriate Federal funds used for reading instruction, to pay for such training, to the extent consistent with the law under which such funds were received.

[SEC. 2256. TUTORIAL ASSISTANCE SUBGRANTS.

[(a) IN GENERAL.—

[(1) SUBGRANTS.—Except as provided in paragraph (4), a State educational agency that receives a grant under section

2253 shall make at least one subgrant on a competitive basis to—

[(A) local educational agencies that have at least one school in the geographic area served by the agency that—

[(i) is located in an area designated as an empowerment zone under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986; or

[(ii) is located in an area designated as an enterprise community under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986;

[(B) local educational agencies that have at least one school that is identified for school improvement under section 1116(c) in the geographic area served by the agency;

[(C) local educational agencies with the largest, or second largest, number of children who are counted under section 1124(c), in comparison to all other local educational agencies in the State; or

[(D) local educational agencies with the highest, or second highest, school-age child poverty rate, in comparison to all other local educational agencies in the State.

For purposes of subparagraph (D), the term "school-age child poverty rate" means the number of children counted under section 1124(c) who are living within the geographic boundaries of the local educational agency, expressed as a percentage of the total number of children aged 5–17 years living within the geographic boundaries of the local educational agency.

[(2) NOTIFICATION.—

[(A) TO LOCAL EDUCATIONAL AGENCIES.—A State educational agency shall provide notice to all local educational agencies within the State regarding the availability of the subgrants under this section.

[(B) TO PROVIDERS AND PARENTS.—Not later than 30 days after the date on which the State educational agency provides notice under subparagraph (A), each local educational agency described in paragraph (1) shall, as a condition on the agency's receipt of funds made available under title I of this Act, provide public notice to potential providers of tutorial assistance operating in the jurisdiction of the agency, and parents residing in such jurisdiction, regarding the availability of the subgrants under this section.

[(3) APPLICATION.—A local educational agency that desires to receive a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and including such information as the agency may require. The application shall include an assurance that the local educational agency will use the subgrant funds to carry out the duties described in subsection (b) for children enrolled in any school selected by the agency that (A) is described in paragraph (1)(A), (B) is described in paragraph (1)(B), (C) has the largest, or second largest, number of children who are counted under section 1124(c), in comparison to all other schools in the local educational agency, or (D) has the highest, or second highest, school-age child poverty rate (as defined in the second

sentence of paragraph (1)), in comparison to all other schools in the local educational agency.

[(4) EXCEPTION.—If no local educational agency within the State submits an application to receive a subgrant under this section within the 6-month period beginning on the date on which the State educational agency provided notice to the local educational agencies regarding the availability of the subgrants, the State educational agency may use funds otherwise reserved under 2254(2) for the purpose of providing local reading improvement subgrants under section 2255 if the State educational agency certifies to the Secretary that the requirements of paragraph (2) have been met and each local educational agency in the State described in subparagraph (B) of such paragraph has demonstrated to the State educational agency that no provider of tutorial assistance described in such subparagraph requested the local educational agency to submit under paragraph (3) an application for a tutorial assistance subgrant.

[(b) USE OF FUNDS.—

[(1) IN GENERAL.—A local educational agency that receives a subgrant under this section shall carry out, using the funds provided under the subgrant, each of the duties described in paragraph (2).

[(2) DUTIES.—The duties described in this paragraph are the provision of tutorial assistance in reading, before school, after school, on weekends, or during the summer, to children who have difficulty reading, using instructional practices based on scientifically based reading research, through the following:

[(A) The creation and implementation of objective criteria to determine in a uniform manner the eligibility of tutorial assistance providers and tutorial assistance programs desiring to provide tutorial assistance under the subgrant. Such criteria shall include the following:

[(i) A record of effectiveness with respect to reading readiness, reading instruction for children in kindergarten through 3d grade, and early childhood literacy, as appropriate.

[(ii) Location in a geographic area convenient to the school or schools attended by the children who will be receiving tutorial assistance.

[(iii) The ability to provide tutoring in reading to children who have difficulty reading, using instructional practices based on scientifically based reading research and consistent with the reading instructional methods and content used by the school the child attends.

[(B) The provision, to parents of a child eligible to receive tutorial assistance pursuant to this section, of multiple choices among tutorial assistance providers and tutorial assistance programs determined to be eligible under the criteria described in subparagraph (A). Such choices shall include a school-based program and at least one tutorial assistance program operated by a provider pursuant to a contract with the local educational agency.

[(C) The development of procedures—

[(i) for the provision of information to parents of an eligible child regarding such parents' choices for tutorial assistance for the child;

[(ii) for considering children for tutorial assistance who are identified under subparagraph (D) and for whom no parent has selected a tutorial assistance provider or tutorial assistance program that give such parents additional opportunities to select a tutorial assistance provider or tutorial assistance program referred to in subparagraph (B); and

[(iii) that permit a local educational agency to recommend a tutorial assistance provider or tutorial assistance program in a case where a parent asks for assistance in the making of such selection.

[(D) The development of a selection process for providing tutorial assistance in accordance with this paragraph that limits the provision of assistance to children identified, by the school the child attends, as having difficulty reading, including difficulty mastering phonemic awareness, systematic phonics, fluency, and reading comprehension.

[(E) The development of procedures for selecting children to receive tutorial assistance, to be used in cases where insufficient funds are available to provide assistance with respect to all children identified by a school under subparagraph (D), that—

[(i) give priority to children who are determined, through State or local reading assessments, to be most in need of tutorial assistance; and

[(ii) give priority, in cases where children are determined, through State or local reading assessments, to be equally in need of tutorial assistance, based on a random selection principle.

[(F) The development of a methodology by which payments are made directly to tutorial assistance providers who are identified and selected pursuant to this section and selected for funding. Such methodology shall include the making of a contract, consistent with State and local law, between the provider and the local educational agency. Such contract shall satisfy the following requirements:

[(i) It shall contain specific goals and timetables with respect to the performance of the tutorial assistance provider.

[(ii) It shall require the tutorial assistance provider to report to the local educational agency on the provider's performance in meeting such goals and timetables.

[(iii) It shall specify the measurement techniques that will be used to evaluate the performance of the provider.

[(iv) It shall require the provider to meet all applicable Federal, State, and local health, safety, and civil rights laws.

[(v) It shall ensure that the tutorial assistance provided under the contract is consistent with reading in-

struction and content used by the local educational agency.

[(vi) It shall contain an agreement by the provider that information regarding the identity of any child eligible for, or enrolled in the program, will not be publicly disclosed without the permission of a parent of the child.

[(vii) It shall include the terms of an agreement between the provider and the local educational agency with respect to the provider's purchase and maintenance of adequate general liability insurance.

[(viii) It shall contain provisions with respect to the making of payments to the provider by the local educational agency.

[(G) The development of procedures under which the local educational agency carrying out this paragraph—

[(i) will ensure oversight of the quality and effectiveness of the tutorial assistance provided by each tutorial assistance provider that is selected for funding;

[(ii) will provide for the termination of contracts with ineffective and unsuccessful tutorial assistance providers (as determined by the local educational agency based upon the performance of the provider with respect to the goals and timetables contained in the contract between the agency and the provider under subparagraph (F));

[(iii) will provide to each parent of a child identified under subparagraph (D) who requests such information for the purpose of selecting a tutorial assistance provider for the child, in a comprehensible format, information with respect to the quality and effectiveness of the tutorial assistance referred to in clause (i);

[(iv) will ensure that each school identifying a child under subparagraph (D) will provide upon request, to a parent of the child, assistance in selecting, from among the tutorial assistance providers who are identified pursuant to subparagraph (B) the provider who is best able to meet the needs of the child;

[(v) will ensure that parents of a child receiving tutorial assistance pursuant to this section are informed of their child's progress in the tutorial program; and

[(vi) will ensure that it does not disclose the name of any child who may be eligible for tutorial assistance pursuant to this section, the name of any parent of such a child, or any other personally identifiable information about such a parent or child, to any tutorial assistance provider (excluding the agency itself), without the prior written consent of such parent.

[SEC. 2257. NATIONAL EVALUATION.

[From funds reserved under section 2260(b)(1), the Secretary, through grants or contracts, shall conduct a national assessment of the programs under this part. In developing the criteria for the assessment, the Secretary shall receive recommendations from the peer review panel convened under section 2253(c)(2).

[SEC. 2258. INFORMATION DISSEMINATION.

[(a) IN GENERAL.—From funds reserved under section 2260(b)(2), the National Institute for Literacy shall disseminate information on scientifically based reading research and information on subgrantee projects under section 2255 or 2256 that have proven effective. At a minimum, the institute shall disseminate such information to all recipients of Federal financial assistance under titles I and VII of this Act, the Head Start Act, the Individuals with Disabilities Education Act, and the Adult Education and Family Literacy Act.

[(b) COORDINATION.—In carrying out this section, the National Institute for Literacy—

[(1) shall use, to the extent practicable, information networks developed and maintained through other public and private persons, including the Secretary, the National Center for Family Literacy, and the Readline Program;

[(2) shall work in conjunction with any panel convened by the National Institute of Child Health and Human Development and the Secretary and any panel convened by the Office of Educational Research and Improvement to assess the current status of research-based knowledge on reading development, including the effectiveness of various approaches to teaching children to read, with respect to determining the criteria by which the National Institute for Literacy judges scientifically based reading research and the design of strategies to disseminate such information; and

[(3) may assist any State educational agency selected to receive a grant under section 2253, and that requests such assistance—

[(A) in determining whether applications submitted under section 2253 meet the requirements of this title relating to scientifically based reading research; and

[(B) in the development of subgrant application forms.

[SEC. 2259. STATE EVALUATIONS; PERFORMANCE REPORTS.

[(a) STATE EVALUATIONS.—

[(1) IN GENERAL.—Each State educational agency that receives a grant under section 2253 shall evaluate the success of the agency's subgrantees in meeting the purposes of this part. At a minimum, the evaluation shall measure the extent to which students who are the intended beneficiaries of the subgrants made by the agency have improved their reading skills.

[(2) CONTRACT.—A State educational agency shall carry out the evaluation under this subsection by entering into a contract with an entity that conducts scientifically based reading research, under which contract the entity will perform the evaluation.

[(3) SUBMISSION.—A State educational agency shall submit the findings from the evaluation under this subsection to the Secretary. The Secretary shall submit a summary of the findings from the evaluations under this subsection and the national assessment conducted under section 2257 to the appropriate committees of the Congress, including the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

[(b) PERFORMANCE REPORTS.—A State educational agency that receives a grant under section 2253 shall submit performance reports to the Secretary pursuant to a schedule to be determined by the Secretary, but not more frequently than annually. Such reports shall include—

[(1) with respect to subgrants under section 2255, the program or programs of reading instruction, based on scientifically based reading research, selected by subgrantees;

[(2) the results of use of the evaluation referred to in section 2253(b)(2)(E)(iv); and

[(3) a description of the subgrantees receiving funds under this part.

[SEC. 2260. AUTHORIZATIONS OF APPROPRIATIONS; RESERVATIONS FROM APPROPRIATIONS; SUNSET.

[(a) AUTHORIZATIONS.—

[(1) FY 1999.—There are authorized to be appropriated to carry out this part $260,000,000 for fiscal year 1999.

[(2) FY 2000.—There are authorized to be appropriated to carry out this part $260,000,000 for fiscal year 2000.

[(b) RESERVATIONS.—From each of the amounts appropriated under subsection (a) for a fiscal year, the Secretary—

[(1) shall reserve 1.5 percent to carry out section 2257(a); and

[(2) shall reserve $5,000,000 to carry out section 2258.

[(c) SUNSET.—Notwithstanding section 422(a) of the General Education Provisions Act, this part is not subject to extension under such section.

[PART D—PROFESSIONAL DEVELOPMENT DEMONSTRATION PROJECT

[SEC. 2301. FINDINGS AND PURPOSE.

[(a) FINDINGS.—The Congress finds that—

[(1) underlying the standards-driven framework of the Goals 2000: Educate America Act and the high academic standards for eligible students under title I is a widespread need to prepare teachers to teach to higher standards;

[(2) prospective and current teachers need knowledge and skills beyond what such teachers currently possess;

[(3) while both the Goals 2000: Educate America Act and titles I and II of this Act have extensive references to professional development of teachers, there are no provisions to incorporate "on-the-ground" planning and implementation to serve as models for local educational agencies across the Nation; and

[(4) better prepared teachers can lead to improved student achievement, especially for students who are furthest from reaching high standards.

[(b) PURPOSE.—It is the purpose of this part—

[(1) to address the need for professional development with a primary focus on teachers;

[(2) to provide both prospective teachers and current teachers opportunities to learn both the content and the pedagogy needed to teach to high standards; and

[(3) to build models, in a few cities and States, that demonstrate new organizational arrangements and deep investments in teachers necessary to better prepare teachers for new standards and assessments.

[SEC. 2302. DEMONSTRATION PROGRAM AUTHORIZED.

[(a) GENERAL AUTHORITY.—

[(1) IN GENERAL.—The Secretary shall carry out a demonstration project under which the Secretary awards grants in accordance with this part to eligible partnerships to enable such partnerships to plan and implement professional development programs.

[(2) PROGRAM REQUIREMENTS.—The programs described in paragraph (1)—

[(A) shall focus on increasing teachers' knowledge and understanding of content by providing teachers opportunities to improve their knowledge and to improve their classroom practice in order to help students meet high academic standards;

[(B) shall include teachers at all career stages, from student teachers or interns through senior team leaders or department chairs; and

[(C) may incorporate professional development for principals, pupil services personnel, aides, other school-based staff, and parents.

[(b) ELIGIBLE PARTNERSHIPS.—For the purpose of this part, the term "eligible partnership" means a partnership consisting of—

[(1) a local educational agency, a subunit of such agency, or a consortium of such agencies, in which not less than 50 percent of the schools served by such agency, subunit, or consortium are eligible to participate in schoolwide programs under section 1114; or

[(2) other partners that—

[(A) shall include, at a minimum, a teachers' union (if appropriate), one or more institutions of higher education which may include faculty from schools of education and faculty from schools of arts and sciences, and a local parent or community council; and

[(B) may include a business partner or a nonprofit organization with a demonstrated record in staff development.

[SEC. 2303. GRANTS.

[(a) AUTHORITY.—

[(1) IN GENERAL.—The Secretary shall award grants for planning, and grants for the implementation of, professional development programs under this part.

[(2) DISTRIBUTION.—The Secretary shall award not less than 75 percent of the funds available for grants under this part to eligible partnerships serving the schools with the greatest number of poor students. To the extent possible, such grants shall be awarded to eligible partnerships serving both rural and urban school districts and in a manner that reflects geographic and racial diversity.

[(3) NUMBER OF GRANTS.—In the first year that the Secretary awards grants under this part, the Secretary shall award at least twice as many planning grants as implementa-

tion grants in order to receive well-developed plans for long-term funding under this part.

[(b) GRANT REQUIREMENTS.—

[(1) DURATION.—The Secretary shall award—

[(A) planning grants under this part for a period of not less than six months and not more than nine months; and

[(B) implementation grants under this part for a period of four fiscal years.

[(2) AMOUNT.—The Secretary shall award grants under this part in an amount determined on the basis of the size of the program and the level of investment the eligible partnership is making in teacher development in the area served by the eligible partnership, including local, State, and Federal funds and existing higher education resources, except that no grant under this part shall exceed $500,000 in any one fiscal year.

[SEC. 2304. PLAN.

[Each eligible partnership desiring assistance under this part shall develop a plan for the program to be assisted under this part. Such plan shall—

[(1) identify clearly how such plan will support an overall systemic reform strategy giving special attention to the role of teacher preparation for new standards and assessment;

[(2) describe the eligible partnership's instructional objectives and how the professional development activities will support such objectives;

[(3) specify the organizational arrangements and delivery strategies to be used, such as teacher centers, professional development schools, teacher networks, and academic alliances, as well as the curriculum for teachers;

[(4) specify the commitments the local educational agencies, teacher's union, institutions of higher education, or any other entity participating in such partnership are prepared to make, not only to support program activities such as release time, contractual flexibility, support for interns or student teachers if applicable, but also to sustain the central aspects of the plan after the expiration of the grant; and

[(5) describe how the activities described under this part will lead to districtwide policy and budget changes.

[SEC. 2305. TECHNICAL ASSISTANCE.

[The Secretary is authorized to enter into an arrangement with an intermediary organization to enable such organization to provide technical assistance to eligible partnerships receiving assistance under this part.

[SEC. 2306. MATCHING FUNDS.

[The Secretary shall give special priority to awarding grants under this part to eligible partnerships that demonstrate such partnership's ability to raise matching funds from private sources.

[PART E—GENERAL PROVISIONS

[SEC. 2401. REPORTING AND ACCOUNTABILITY.

[(a) STATES.—Each State that receives funds under this title (other than part C) shall submit a report to the Secretary every three years, beginning with fiscal year 1997, on the State's

progress toward the performance indicators identified in such State's plan, as well as on the effectiveness of State and local activities assisted under this title (other than part C).

[(b) LOCAL EDUCATIONAL AGENCIES.—Each local educational agency that receives funds under this part shall submit a report to the State every three years, beginning with fiscal year 1997, regarding the progress of such agency toward performance indicators identified in such agency's local plan, as well as on the effectiveness of such agency's activities under this part.

[(c) FEDERAL EVALUATION.—The Secretary shall report to the President and the Congress on the effectiveness of programs and activities assisted under this part in accordance with section 14701.

[(d) PROHIBITION ON FUNDS BEING USED FOR CONSTRUCTION OR RENOVATION.—Funds received under this part shall not be used for construction or renovation of buildings, rooms, or any other facilities.

[SEC. 2402. DEFINITIONS.

[As used in this title (other than part C)—

[(1) the term "core academic subjects" means those subjects listed in the State plan under title III of the Goals 2000: Educate America Act or under the third National Education Goal as set forth in section 102(3) of such Act;

[(2) the term "performance indicators" means measures of specific outcomes that the State or local educational agency identifies as assessing progress toward the goal of ensuring that all teachers have the knowledge and skills necessary to assist their students to meet challenging State content standards and challenging State student performance standards in the core academic subjects, such as—

[(A) the degree to which licensure requirements are tied to challenging State content standards and challenging State student performance standards;

[(B) specific increases in the number of elementary and secondary teachers with strong content backgrounds in the core academic subjects;

[(C) incorporating effective strategies, techniques, methods, and practices for meeting the educational needs of diverse students, including females, minorities, individuals with disabilities, limited English proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging student performance standards;

[(D) specific increases in the number of teachers who are certified by the National Board for Professional Teaching Standards or other nationally recognized professional teacher enhancement organizations; and

[(E) specific increases in the number of teachers licensed in each core academic subject;

[(3) the term "sustained and intensive high-quality professional development" means professional development activities that—

[(A) are tied to challenging State content standards, challenging State student performance standards, voluntary national content standards or voluntary national student performance standards;

[(B) reflect up-to-date research in teaching and learning and include integrated content and pedagogical components appropriate for students with diverse learning needs;

[(C) incorporate effective strategies, techniques, methods, and practices for meeting the educational needs of diverse students, including females, minorities, individuals with disabilities, limited English proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging student performance standards;

[(D) are of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom or the administrator's performance on the job; and

[(E) recognize teachers as an important source of knowledge that should inform and help shape professional development; and

[(4) the term "local", when used with respect to standards, means challenging content and student performance standards in the core academic subjects (in addition to challenging State content and student performance standards approved by the State for title I).]

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 career paths, with 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 scientists, mathematicians, and engineers to increase the subject matter knowledge of teachers and improve their teaching skills through the use of sophisticated laboratory equipment and work space, computing facili-

ties, 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 reform activities that promote student achievement in mathematics and science;

(3) a description of how the activities to be carried out by the eligible partnership will be based on a review of relevant research, and an explanation of why the activities are expected to improve student achievement and to strengthen the quality of mathematics and science 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 special 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 career paths, with 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 academic 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 con-

ditions. 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 stipend under subsection (c), pay a bonus of $10,000 to a participant in the Troops-to-Teachers Program selected under section 2042 who agrees in the participation agreement under subsection (a) to accept full-time employment as a fully qualified elementary school teacher, secondary school teacher, or vocational or technical teacher for not less than three years in a high need school.

(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 par-

ticipant 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 higher 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 Congress 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.

PART [K] *B*—NATIONAL WRITING PROJECT

SEC. [10991.] *2101.* FINDINGS.

The Congress finds that—

(1) * * *

* * * * * * *

SEC. [10992.] *2102.* NATIONAL WRITING PROJECT.

(a) * * *

* * * * * * *

(g) EVALUATION.—

(1) IN GENERAL.—The Secretary shall conduct an independent evaluation by grant or contract of the teacher training programs administered pursuant to this Act in accordance with section [14701.] *8651.* Such evaluation shall specify the amount of funds expended by the National Writing Project and each contractor receiving assistance under this section for administrative costs. The results of such evaluation shall be made available to the appropriate committees of the Congress.

(2) FUNDING LIMITATION.—The Secretary shall reserve not more than $150,000 from the total amount appropriated pursuant to the authority of subsection (i) for fiscal year [1994] *2002* and the four succeeding fiscal years to conduct the evaluation described in paragraph (1).

* * * * * * *

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the grant to the National Writing Project, [$4,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years,] *such sums as may be necessary for fiscal year 2002 and the four succeeding fiscal years,* to carry out the provisions of this section.

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 programs 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 conducting 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. TEACHER IMMUNITY.

(a) IMMUNITY.—Notwithstanding any other provision of law, no school board member of, or teacher or administrator in, a local educational agency that receives funds under this Act shall be liable for monetary damages in his or her personal capacity for an action that was taken in carrying out his or her official duties and intended to maintain school discipline, so long as that action was not prohibited under State or local law and did not constitute reckless or criminal misconduct.

(b) LIMITATION.—The immunity established under subsection (a) shall apply only to liability arising under Federal law.

[TITLE III—TECHNOLOGY FOR EDUCATION

[SEC. 3101. SHORT TITLE.

[This title may be cited as the "Technology for Education Act of 1994".

[PART A—TECHNOLOGY FOR EDUCATION OF ALL STUDENTS

[SEC. 3111. FINDINGS.

[The Congress finds that—

[(1) technology can produce far greater opportunities for all students to learn to high standards, promote efficiency and effectiveness in education, and help propel our Nation's school systems into very immediate and dramatic reform, without which our Nation will not meet the National Education Goals by the target year 2000;

[(2) the use of technology as a tool in the teaching and learning process is essential to the development and maintenance of a technologically literate citizenry and an internationally competitive workforce;

[(3) the acquisition and use of technology in education throughout the United States has been inhibited by—

[(A) the absence of Federal leadership;

[(B) the inability of many State and local educational agencies to invest in and support needed technologies;

[(C) the limited exposure of students and teachers to the power of technology as a cost-effective tool to improve student learning and achievement;

[(D) the lack of appropriate electrical and telephone connections in the classroom; and

[(E) the limited availability of appropriate technology-enhanced curriculum, instruction, professional development, and administrative support resources and services in the educational marketplace;

[(4) policies at the Federal, State, and local levels concerning technology in education must address disparities in the availability of technology to different groups of students, give priority to serving students in greatest need, and recognize that educational telecommunications and technology can address educational equalization concerns and school restructuring needs by providing universal access to high-quality teaching and programs, particularly in urban and rural areas;

[(5) the increasing use of new technologies and telecommunications systems in business has increased the gap between schooling and work force preparation, and underscores the need for technology policies at the Federal, State, tribal, and local levels that address preparation for school-to-work transitions;

[(6) technology can enhance the ongoing professional development of teachers and administrators by providing constant access to updated research in teaching and learning by means of telecommunications, and, through exposure to technology advancements, keep teachers and administrators excited and knowledgeable about unfolding opportunities for the classroom;

[(7) planned and creative uses of technology, combined with teachers adequately trained in the use of technology, can reshape our Nation's traditional method of providing education and empower teachers to create an environment in which students are challenged through rigorous, rich classroom instruction provided at a pace suited to each student's learning style, and in which students have increased opportunities to develop higher order thinking and technical skills;

[(8) schools need new ways of financing the acquisition and maintenance of educational technology;

[(9) the needs for educational technology differ from State to State;

[(10) technology can provide students, parents, teachers, other education professionals, communities, and industry with increased opportunities for partnerships and with increased access to information, instruction, and educational services in schools and other settings, including homes, libraries, preschool and child-care facilities, adult and family education programs, and postsecondary institutions;

[(11) the Department, consistent with the overall national technology policy established by the President, must assume a vital leadership and coordinating role in developing the national vision and strategy to infuse advanced technology throughout all educational programs;

[(12) Federal support can ease the burden at the State and local levels by enabling the acquisition of advanced technology and initiating the development of teacher training and support as well as new educational products;

[(13) leadership at the Federal level should consider guidelines to ensure that educational technology is accessible to all users with maximum interoperability nationwide;

[(14) the rapidly changing nature of technology requires coordination and flexibility in Federal leadership; and

[(15) technology has the potential to assist and support the improvement of teaching and learning in schools and other settings.

[SEC. 3112. STATEMENT OF PURPOSE.

[The purpose of this part is to support a comprehensive system for the acquisition and use by elementary and secondary schools in the United States of technology and technology-enhanced curricula, instruction, and administrative support resources and services to improve the delivery of educational services. Such system shall include—

[(1) national leadership with respect to the need for, and the provision of, appropriate technology-enhanced curriculum, instruction, and administrative programs to improve learning in the United States, and to promote equal access for all students to educational opportunities in order to achieve the National Education Goals by the year 2000;

[(2) funding mechanisms which will support the development, interconnection, implementation, improvement, and maintenance of an effective educational technology infrastructure, including activities undertaken by State and local educational agencies to promote and provide equipment, training for teachers and school library and media personnel, and technical support;

[(3) support for technical assistance, professional development, information and resource dissemination, in order to help States, local educational agencies, teachers, school library and media personnel, and administrators successfully integrate technology into kindergarten through 12th grade classrooms and library media centers;

[(4) support for the development of educational and instructional programming in core subject areas, which shall address the National Education Goals;

[(5) strengthening and building upon, but not duplicating, existing telecommunications infrastructures dedicated to educational purposes;

[(6) development and evaluation of new and emerging educational technologies, telecommunications networks, and state-of-the-art educational technology products that promote the use of advanced technologies in the classroom and school library media center;

[(7) assessment data regarding state-of-the-art uses of technologies in United States education upon which commercial and noncommercial telecommunications entities, and governments can rely for decisionmaking about the need for, and provision of, appropriate technologies for education in the United States;

[(8) ensuring that uses of educational technology are consistent with the overall national technology policy established by the President, and ensuring that Federal technology-related policies and programs will facilitate the use of technology in education;

[(9) ensuring that activities supported under this part will form the basis for sound State and local decisions about investing in, sustaining, and expanding uses of technology in education;

[(10) establishing working guidelines to ensure maximum interoperability nationwide and ease of access for the emerging technologies so that no school system will be excluded from the technological revolution;

[(11) ensuring that, as technological advances are made, the educational uses of these advances are considered and their applications are developed; and

[(12) encouragement of collaborative relationships among the State agency for higher education, the State library administrative agency, the State telecommunications agency, and the State educational agency, in the area of technology support to strengthen the system of education.

[SEC. 3113. DEFINITIONS.

[For purposes of this title—

[(1) the term "adult education" has the same meaning given such term by section 203 of the Adult Education and Family Literacy Act;

[(2) the term "all students" means students from a broad range of backgrounds and circumstances, including disadvantaged students, students with diverse racial, ethnic, and cultural backgrounds, students with disabilities, students with limited English proficiency, students who have dropped out of school, and academically talented students;

[(3) the term "information infrastructure" means a network of communication systems designed to exchange information among all citizens and residents of the United States;

[(4) the term "instructional programming" means the full range of audio and video data, text, graphics, or additional state-of-the-art communications, including multimedia based resources distributed through interactive, command and control, or passive methods for the purpose of education and instruction;

[(5) the terms "interoperable" and "interoperability" mean the ability to exchange easily data with, and connect to, other hardware and software in order to provide the greatest accessibility for all students and other users;

[(6) the term "Office" means the Office of Educational Technology;

[(7) the term "public telecommunications entity" has the same meaning given to such term by section 397(12) of the Communications Act of 1934;

[(8) the term "regional educational laboratory" means a regional educational laboratory supported under section 941(h) of the Educational, Research, Development, Dissemination, and Improvement Act of 1994;

[(9) the term "State educational agency" includes the Bureau of Indian Affairs for purposes of serving schools funded by the Bureau of Indian Affairs in accordance with this part;

[(10) the term "State library administrative agency" has the same meaning given to such term in section 3 of the Library Services and Construction Act; and

[(11) the term "technology" means state-of-the-art technology products and services, such as closed circuit television systems, educational television and radio programs and services, cable television, satellite, copper and fiber optic transmission, computer hardware and software, video and audio laser and CD-ROM discs, and video and audio tapes.

[SEC. 3114. AUTHORIZATION OF APPROPRIATIONS; FUNDING RULE.

[(a) AUTHORIZATION OF APPROPRIATIONS.—

[(1) SUBPARTS 1, 2, AND 3.—There are authorized to be appropriated $200,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out subparts 1, 2, and 3, of which—

[(A)(i) $3,000,000 shall be available to carry out subpart 1 (National Programs for Technology in Education) for any such year for which the amount appropriated under this subsection is less than $75,000,000; and

[(ii) $5,000,000 shall be available to carry out subpart 1 for any such year for which the amount appropriated

under this subsection is equal to or greater than $75,000,000;

[(B) $10,000,000 shall be available to carry out subpart 3 (Regional Technical Support and Professional Development) for each such year; and

[(C) the remainder shall be available to carry out subpart 2 (State and Local Programs for School Technology Resources) for each such year.

[(2) SUBPART 4.—For the purpose of carrying out subpart 4, there are authorized to be appropriated $50,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

[(b) FUNDING RULE.—

[(1) APPROPRIATIONS OF LESS THAN $75,000,000.—For any fiscal year for which the amount appropriated under subsection (a)(1) is less than $75,000,000, from the remainder of funds made available under subsection (a)(1)(C) the Secretary shall award grants for the National Challenge Grants in accordance with section 3136.

[(2) APPROPRIATIONS EQUAL TO OR GREATER THAN $75,000,000.—For any fiscal year for which the amount appropriated under subsection (a)(1) is equal to or greater than $75,000,000, from the remainder of funds made available under subsection (a)(1)(C) the Secretary shall award grants to State educational agencies from allotments under section 3131, except that the Secretary may reserve, from such remainder, such funds as the Secretary determines necessary to meet outstanding obligations for such fiscal year to continue the National Challenge Grants for Technology awarded under section 3136.

[SEC. 3115. LIMITATION ON COSTS.

[Not more than 5 percent of the funds under this part that are made available to a recipient of funds under this part for any fiscal year may be used by such recipient for administrative costs or technical assistance.

[Subpart 1—National Programs for Technology in Education

[SEC. 3121. NATIONAL LONG-RANGE TECHNOLOGY PLAN.

[(a) IN GENERAL.—The Secretary shall develop and publish not later than 12 months after the date of the enactment of the Improving America's Schools Act of 1994, and update when the Secretary determines appropriate, a national long-range plan that supports the overall national technology policy and carries out the purposes of this part.

[(b) PLAN REQUIREMENTS.—The Secretary shall—

[(1) develop the national long-range plan in consultation with other Federal departments or agencies, State and local education practitioners and policymakers, experts in technology and the applications of technology to education, representatives of distance learning consortia, representatives of telecommunications partnerships receiving assistance under

the Star Schools Act, and providers of technology services and products;

[(2) transmit such plan to the President and to the appropriate committees of the Congress; and

[(3) publish such plan in a form that is readily accessible to the public.

[(c) CONTENTS OF THE PLAN.—The national long-range plan shall describe the Secretary's activities to promote the purposes of this title, including—

[(1) how the Secretary will encourage the effective use of technology to provide all students the opportunity to achieve State content standards and State student performance standards, especially through programs administered by the Department;

[(2) joint activities in support of the overall national technology policy with other Federal departments or agencies, such as the Office of Science and Technology Policy, the National Endowment for the Humanities, the National Endowment for the Arts, the National Institute for Literacy, the National Aeronautics and Space Administration, the National Science Foundation, the Bureau of Indian Affairs, and the Departments of Commerce, Energy, Health and Human Services, and Labor—

[(A) to promote the use of technology in education, training, and lifelong learning, including plans for the educational uses of a national information infrastructure; and

[(B) to ensure that the policies and programs of such departments or agencies facilitate the use of technology for educational purposes, to the extent feasible;

[(3) how the Secretary will work with educators, State and local educational agencies, and appropriate representatives of the private sector to facilitate the effective use of technology in education;

[(4) how the Secretary will promote—

[(A) higher achievement of all students through the integration of technology into the curriculum;

[(B) increased access to the benefits of technology for teaching and learning for schools with a high number or percentage of children from low-income families;

[(C) the use of technology to assist in the implementation of State systemic reform strategies;

[(D) the application of technological advances to use in education;

[(E) increased access to high quality adult and family education services through the use of technology for instruction and professional development; and

[(F) increased opportunities for the professional development of teachers in the use of new technologies;

[(5) how the Secretary will determine, in consultation with appropriate individuals, organizations, industries, and agencies, the feasibility and desirability of establishing guidelines to facilitate an easy exchange of data and effective use of technology in education;

[(6) how the Secretary will promote the exchange of information among States, local educational agencies, schools, con-

sortia, and other entities concerning the effective use of technology in education;

[(7) how the Secretary will utilize the outcomes of the evaluation undertaken pursuant to section 3123 to promote the purposes of this part; and

[(8) the Secretary's long-range measurable goals and objectives relating to the purposes of this part.

[SEC. 3122. FEDERAL LEADERSHIP.

[(a) PROGRAM AUTHORIZED.—In order to provide Federal leadership in promoting the use of technology in education, the Secretary, in consultation with the National Science Foundation, the Department of Commerce, the United States National Commission on Libraries and Information Sciences, and other appropriate Federal agencies, may carry out activities designed to achieve the purposes of this part directly or by awarding grants or contracts competitively and pursuant to a peer review process to, or entering into contracts with, State educational agencies, local educational agencies, institutions of higher education, or other public and private nonprofit or for-profit agencies and organizations.

[(b) ASSISTANCE.—

[(1) IN GENERAL.—The Secretary shall provide assistance to the States to enable such States to plan effectively for the use of technology in all schools throughout the State in accordance with the purpose and requirements of section 317 of the Goals 2000: Educate America Act.

[(2) OTHER FEDERAL AGENCIES.—For the purpose of carrying out coordinated or joint activities consistent with the purposes of this part, the Secretary may accept funds from, and transfer funds to, other Federal agencies.

[(c) USES OF FUNDS.—The Secretary shall use funds made available to carry out this section for activities designed to carry out the purpose of this part, such as—

[(1) providing assistance to technical assistance providers to enable such providers to improve substantially the services such providers offer to educators regarding the uses of technology for education, including professional development;

[(2) providing development grants to technical assistance providers, to enable such providers to improve substantially the services such providers offer to educators on the educational uses of technology, including professional development;

[(3) consulting with representatives of industry, elementary and secondary education, higher education, adult and family education, and appropriate experts in technology and educational applications of technology in carrying out activities under this subpart;

[(4) research on, and the development of, guidelines to facilitate maximum interoperability, efficiency and easy exchange of data for effective use of technology in education;

[(5) research on, and the development of, applications for education of the most advanced and newly emerging technologies which research shall be coordinated, when appropriate, with the Office of Educational Research and Improvement, and other Federal agencies;

[(6) the development, demonstration, and evaluation of the educational aspects of high performance computing and communications technologies and of the national information infrastructure, in providing professional development for teachers, school librarians, and other educators; enriching academic curricula for elementary and secondary schools; facilitating communications among schools, local educational agencies, libraries, parents, and local communities and in other such areas as the Secretary deems appropriate;

[(7) the development, demonstration, and evaluation of applications of existing technology in preschool education, elementary and secondary education, training and lifelong learning, and professional development of educational personnel;

[(8) the development and evaluation of software and other products, including multimedia television programming, that incorporate advances in technology and help achieve the National Education Goals, State content standards and State student performance standards;

[(9) the development, demonstration, and evaluation of model strategies for preparing teachers and other personnel to use technology effectively to improve teaching and learning;

[(10) the development of model programs that demonstrate the educational effectiveness of technology in urban and rural areas and economically distressed communities;

[(11) research on, and the evaluation of, the effectiveness and benefits of technology in education;

[(12) a biennial assessment of, and report to the public regarding, the uses of technology in elementary and secondary education throughout the United States upon which private businesses and Federal, State, tribal, and local governments may rely for decisionmaking about the need for, and provision of, appropriate technologies in schools, which assessment and report shall use, to the extent possible, existing information and resources;

[(13) conferences on, and dissemination of information regarding, the uses of technology in education;

[(14) the development of model strategies to promote gender equity concerning access to, and the use of, technology in the classroom;

[(15) encouraging collaboration between the Department and other Federal agencies in the development, implementation, evaluation and funding of applications of technology for education, as appropriate; and

[(16) such other activities as the Secretary determines will meet the purposes of this subpart.

[(d) NON-FEDERAL SHARE.—

[(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary may require any recipient of a grant or contract under this section to share in the cost of the activities assisted under such grant or contract, which non-Federal share shall be announced through a notice in the Federal Register and may be in the form of cash or in-kind contributions, fairly valued.

[(2) INCREASE.—The Secretary may increase the non-Federal share that is required of a recipient of a grant or contract

under this section after the first year such recipient receives funds under such grant or contract.

[(3) MAXIMUM.—The non-Federal share required under this section shall not exceed 50 percent of the cost of the activities assisted pursuant to a grant or contract under this section.

[SEC. 3123. STUDY, EVALUATION AND REPORT OF FUNDING ALTERNATIVES.

[The Secretary, through the Office of Educational Technology, shall conduct a study to evaluate, and report to the Congress on, the feasibility of several alternative models for providing sustained and adequate funding for schools throughout the United States so that such schools are able to acquire and maintain technology-enhanced curriculum, instruction, and administrative support resources and services. Such report shall be submitted to the Congress not later than one year after the date of enactment of the Improving America's Schools Act of 1994.

[Subpart 2—State and Local Programs for School Technology Resources

[SEC. 3131. ALLOTMENT AND REALLOTMENT.

[(a) ALLOTMENT.—

[(1) IN GENERAL.—Except as provided in paragraph (2), each State educational agency shall be eligible to receive a grant under this subpart for a fiscal year in an amount which bears the same relationship to the amount made available under section 3114(a)(1)(C) for such year as the amount such State received under part A of title I for such year bears to the amount received for such year under such part by all States.

[(2) MINIMUM.—No State educational agency shall be eligible to receive a grant under paragraph (1) in any fiscal year in an amount which is less than one-half of one percent of the amount made available under section 3115(a)(1)(C) for such year.

[(b) REALLOTMENT OF UNUSED FUNDS.—

[(1) IN GENERAL.—The amount of any State educational agency's allotment under subsection (a) for any fiscal year which the Secretary determines will not be required for such fiscal year to carry out this subpart shall be available for reallotment from time to time, on such dates during such year as the Secretary may determine, to other State educational agencies in proportion to the original allotments to such State educational agencies under subsection (a) for such year, but with such proportionate amount for any of such other State educational agencies being reduced to the extent such amount exceeds the sum the Secretary estimates such State needs and will be able to use for such year.

[(2) OTHER REALLOTMENTS.—The total of reductions under paragraph (1) shall be similarly reallotted among the State educational agencies whose proportionate amounts were not so reduced. Any amounts reallotted to a State educational agency under this subsection during a year shall be deemed a subpart of such agencies allotment under subsection (a) for such year.

[SEC. 3132. SCHOOL TECHNOLOGY RESOURCE GRANTS.

[(a) GRANTS TO STATES.—

[(1) IN GENERAL.—From amounts made available under section 3131, the Secretary, through the Office of Educational Technology, shall award grants to State educational agencies having applications approved under section 3133.

[(2) USE OF GRANTS.—(A) Each State educational agency receiving a grant under paragraph (1) shall use such grant funds to award grants, on a competitive basis, to local educational agencies to enable such local educational agencies to carry out the activities described in section 3134.

[(B) In awarding grants under subparagraph (A), each State educational agency shall ensure that each such grant is of sufficient duration, and of sufficient size, scope, and quality, to carry out the purposes of this part effectively.

[(b) TECHNICAL ASSISTANCE.—Each State educational agency receiving a grant under paragraph (1) shall—

[(1) identify the local educational agencies served by the State educational agency that—

[(A) have the highest number or percentage of children in poverty; and

[(B) demonstrate to such State educational agency the greatest need for technical assistance in developing the application under section 3133; and

[(2) offer such technical assistance to such local educational agencies.

[SEC. 3133. STATE APPLICATION.

[To receive funds under this subpart, each State educational agency shall submit a statewide educational technology plan which may include plans submitted under the Goals 2000: Educate America Act or other statewide technology plans which meet the requirements of this section. Such application shall be submitted to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall contain a systemic statewide plan that—

[(1) outlines long-term strategies for financing technology education in the State and describes how business, industry, and other public and private agencies, including libraries, library literacy programs, and institutions of higher education, can participate in the implementation, ongoing planning, and support of the plan; and

[(2) meets such other criteria as the Secretary may establish in order to enable such agency to provide assistance to local educational agencies that have the highest numbers or percentages of children in poverty and demonstrate the greatest need for technology, in order to enable such local educational agencies, for the benefit of school sites served by such local educational agencies, to carry out activities such as—

[(A) purchasing quality technology resources;

[(B) installing various linkages necessary to acquire connectivity;

[(C) integrating technology into the curriculum in order to improve student learning and achievement;

[(D) providing teachers and library media personnel with training or access to training;

[(E) providing administrative and technical support and services that improve student learning through enriched technology-enhanced resources, including library media resources;

[(F) promoting in individual schools the sharing, distribution, and application of educational technologies with demonstrated effectiveness;

[(G) assisting schools in promoting parent involvement;

[(H) assisting the community in providing literacy-related services;

[(I) establishing partnerships with private or public educational providers or other entities to serve the needs of children in poverty; and

[(J) providing assurances that financial assistance provided under this part shall supplement, not supplant, State and local funds.

[SEC. 3134. LOCAL USES OF FUNDS.

[Each local educational agency, to the extent possible, shall use the funds made available under section 3132(a)(2) for—

[(1) developing, adapting, or expanding existing and new applications of technology to support the school reform effort;

[(2) funding projects of sufficient size and scope to improve student learning and, as appropriate, support professional development, and provide administrative support;

[(3) acquiring connectivity linkages, resources, and services, including the acquisition of hardware and software, for use by teachers, students and school library media personnel in the classroom or in school library media centers, in order to improve student learning by supporting the instructional program offered by such agency to ensure that students in schools will have meaningful access on a regular basis to such linkages, resources and services;

[(4) providing ongoing professional development in the integration of quality educational technologies into school curriculum and long-term planning for implementing educational technologies;

[(5) acquiring connectivity with wide area networks for purposes of accessing information and educational programming sources, particularly with institutions of higher education and public libraries; and

[(6) providing educational services for adults and families.

[SEC. 3135. LOCAL APPLICATIONS.

[Each local educational agency desiring assistance from a State educational agency under section 3132(a)(2) shall submit an application, consistent with the objectives of the systemic statewide plan, to the State educational agency at such time, in such manner and accompanied by such information as the State educational agency may reasonably require. Such application, at a minimum, shall—

[(1) include a strategic, long-range (three- to five-year), plan that includes—

[(A) a description of the type of technologies to be acquired, including specific provisions for interoperability

among components of such technologies and, to the extent practicable, with existing technologies;

[(B) an explanation of how the acquired technologies will be integrated into the curriculum to help the local educational agency enhance teaching, training, and student achievement;

[(C) an explanation of how programs will be developed in collaboration with existing adult literacy services providers to maximize the use of such technologies;

[(D)(i) a description of how the local educational agency will ensure ongoing, sustained professional development for teachers, administrators, and school library media personnel served by the local educational agency to further the use of technology in the classroom or library media center; and

[(ii) a list of the source or sources of ongoing training and technical assistance available to schools, teachers and administrators served by the local educational agency, such as State technology offices, intermediate educational support units, regional educational laboratories or institutions of higher education;

[(E) a description of the supporting resources, such as services, software and print resources, which will be acquired to ensure successful and effective use of technologies acquired under this section;

[(F) the projected timetable for implementing such plan in schools;

[(G) the projected cost of technologies to be acquired and related expenses needed to implement such plan; and

[(H) a description of how the local educational agency will coordinate the technology provided pursuant to this subpart with other grant funds available for technology from State and local sources;

[(2) describe how the local educational agency will involve parents, public libraries, business leaders and community leaders in the development of such plan;

[(3) describe how the acquired instructionally based technologies will help the local educational agency—

[(A) promote equity in education in order to support State content standards and State student performance standards that may be developed; and

[(B) provide access for teachers, parents and students to the best teaching practices and curriculum resources through technology; and

[(4) describe a process for the ongoing evaluation of how technologies acquired under this section—

[(A) will be integrated into the school curriculum; and

[(B) will affect student achievement and progress toward meeting the National Education Goals and any challenging State content standards and State student performance standards that may be developed.

[(d) FORMATION OF CONSORTIA.—A local educational agency for any fiscal year may apply for financial assistance as part of a consortium with other local educational agencies, institutions of higher education, intermediate educational units, libraries, or other edu-

cational entities appropriate to provide local programs. The State educational agency may assist in the formation of consortia among local educational agencies, providers of educational services for adults and families, institutions of higher education, intermediate educational units, libraries, or other appropriate educational entities to provide services for the teachers and students in a local educational agency at the request of such local educational agency.

[(e) COORDINATION OF APPLICATION REQUIREMENTS.—If a local educational agency submitting an application for assistance under this section has developed a comprehensive education improvement plan, in conjunction with requirements under this Act or the Goals 2000: Educate America Act, the State educational agency may approve such plan, or a component of such plan, notwithstanding the requirements of subsection (e) if the State educational agency determines that such approval would further the purposes of this subpart.

[SEC. 3136. NATIONAL CHALLENGE GRANTS FOR TECHNOLOGY IN EDUCATION.

[(a) GRANTS AUTHORIZED.—

[(1) IN GENERAL.—From amounts made available under section 3115(b)(1) for any fiscal year the Secretary is authorized to award grants, on a competitive basis, to consortia having applications approved under subsection (d), which consortia shall include at least one local educational agency with a high percentage or number of children living below the poverty line and may include other local educational agencies, State educational agencies, institutions of higher education, businesses, academic content experts, software designers, museums, libraries, or other appropriate entities.

[(2) DURATION.—Grants under this section shall be awarded for a period of 5 years.

[(b) USE OF GRANTS.—Grants awarded under subsection (a) shall be used for activities similar to the activities described in section 3134.

[(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to consortia which demonstrate in the application submitted under subsection (d) that—

[(1) the project for which assistance is sought is designed to serve areas with a high number or percentage of disadvantaged students or the greatest need for educational technology;

[(2) the project will directly benefit students by, for example, integrating the acquired technologies into curriculum to help the local educational agency enhance teaching, training, and student achievement;

[(3) the project will ensure ongoing, sustained professional development for teachers, administrators, and school library media personnel served by the local educational agency to further the use of technology in the classroom or library media center;

[(4) the project will ensure successful, effective, and sustainable use of technologies acquired under this subsection; and

[(5) members of the consortia or other appropriate entities will contribute substantial financial and other resources to achieve the goals of the project.

[(d) APPLICATION.—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

[SEC. 3137. FEDERAL ADMINISTRATION.

[(a) EVALUATION PROCEDURES.—The Secretary shall develop procedures for State and local evaluations of the programs under this subpart.

[(b) EVALUATION SUMMARY.—The Secretary shall submit to the Congress four years after the enactment of the Improving America's Schools Act of 1994 a summary of the State evaluations of programs under this subpart in accordance with the provisions of section 14701.

[Subpart 3—Regional Technical Support and Professional Development

[SEC. 3141. REGIONAL TECHNICAL SUPPORT AND PROFESSIONAL DEVELOPMENT.

[(a) GRANTS AUTHORIZED.—

[(1) AUTHORITY.—The Secretary, through the Office of Educational Technology, shall make grants in accordance with the provisions of this section, to regional entities such as the Eisenhower Mathematics and Science Regional Consortia under part C of title XIII, the regional education laboratories, the comprehensive regional assistance centers, or such other regional entities as may be designated or established by the Secretary. In awarding grants under this section, the Secretary shall give priority to such consortia and shall ensure that each geographic region of the United States shall be served by such a consortium.

[(2) REQUIREMENTS.—Each consortium receiving a grant under this section shall—

[(A) be composed of State educational agencies, institutions of higher education, nonprofit organizations, or a combination thereof;

[(B) in cooperation with State and local educational agencies, develop a regional program that addresses professional development, technical assistance, and information resource dissemination, with special emphasis on meeting the documented needs of educators and learners in the region; and

[(C) foster regional cooperation and resource and coursework sharing.

[(b) FUNCTIONS.—

[(1) TECHNICAL ASSISTANCE.—Each consortium receiving a grant under this section shall, to the extent practicable—

[(A) collaborate with State educational agencies and local educational agencies requesting collaboration, particularly in the development of strategies for assisting those schools with the highest numbers or percentages of disadvantaged students with little or no access to technology in the classroom;

[(B) provide information, in coordination with information available from the Secretary, to State educational agencies, local educational agencies, schools and adult education programs, on the types and features of various educational technology equipment and software available, evaluate and make recommendations on equipment and software that support the National Education Goals and are suited for a school's particular needs, and compile and share information regarding creative and effective applications of technology in the classroom and school library media centers in order to support the purposes of this part;

[(C) collaborate with such State educational agencies, local educational agencies, or schools requesting to participate in the tailoring of software programs and other supporting materials to meet challenging State content standards or challenging State student performance standards that may be developed; and

[(D) provide technical assistance to facilitate use of the electronic dissemination networks by State and local educational agencies and schools throughout the region.

[(2) PROFESSIONAL DEVELOPMENT.—Each consortium receiving a grant under this section shall, to the extent practicable—

[(A) develop and implement, in collaboration with State educational agencies and institutions of higher education, technology-specific, ongoing professional development, such as—

[(i) intensive school year and summer workshops that use teachers, school librarians, and school library personnel to train other teachers, school librarians, and other school library media personnel; and

[(ii) distance professional development, including—

[(I) interactive training tele-courses using researchers, educators, and telecommunications personnel who have experience in developing, implementing, or operating educational and instructional technology as a learning tool;

[(II) onsite courses teaching teachers to use educational and instructional technology and to develop their own instructional materials for effectively incorporating technology and programming in their own classrooms;

[(III) methods for successful integration of instructional technology into the curriculum in order to improve student learning and achievement;

[(IV) video conferences and seminars which offer professional development through peer interaction with experts as well as other teachers using technologies in their classrooms; and

[(V) mobile education technology and training resources;

[(B) develop training resources that—

[(i) are relevant to the needs of the region and schools within the region;

[(ii) are relevant to the needs of adult literacy staff and volunteers, including onsite courses on how to—

[(I) use instructional technology; and

[(II) develop instructional materials for adult learning; and

[(iii) are aligned with the needs of teachers and administrators in the region;

[(C) establish a repository of professional development and technical assistance resources;

[(D) identify and link technical assistance providers to State and local educational agencies, as needed;

[(E) ensure that training, professional development, and technical assistance meet the needs of educators, parents, and students served by the region;

[(F) assist colleges and universities within the region to develop and implement preservice training programs for students enrolled in teacher education programs; and

[(G) assist local educational agencies and schools in working with community members and parents to develop support from communities and parents for educational technology programs and projects.

[(3) INFORMATION AND RESOURCE DISSEMINATION.—Each consortium receiving a grant under this section shall, to the extent practicable—

[(A) assist State and local educational agencies in the identification and procurement of financial, technological and human resources needed to implement technology plans;

[(B) provide outreach and, at the request of a State or local educational agency, work with such agency to assist in the development and validation of instructionally based technology education resources; and

[(C) coordinate activities and establish partnerships with organizations and institutions of higher education that represent the interests of the region as such interests pertain to the application of technology in teaching, learning, instructional management, dissemination, collection and distribution of educational statistics, and the transfer of student information.

[(4) COORDINATION.—Each consortium receiving a grant under this section shall work collaboratively, and coordinate the services the consortium provides, with appropriate regional and other entities assisted in whole or in part by the Department.

[Subpart 4—Product Development

[SEC. 3151. EDUCATIONAL TECHNOLOGY PRODUCT DEVELOPMENT.

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

[(1) support development of curriculum-based learning resources using state-of-the-art technologies and techniques designed to improve student learning; and

[(2) support development of long-term comprehensive instructional programming and associated support resources that ensure maximum access by all educational institutions.

[(b) FEDERAL ASSISTANCE AUTHORIZED.—

[(1) IN GENERAL.—The Secretary shall provide assistance, on a competitive basis, to eligible consortia to enable such entities to develop, produce, and distribute state-of-the-art technology-enhanced instructional resources and programming for use in the classroom or to support professional development for teachers.

[(2) GRANTS AND LOANS AUTHORIZED.—In carrying out the purposes of this section, the Secretary is authorized to pay the Federal share of the cost of the development, production, and distribution of state-of-the-art technology enhanced instructional resources and programming—

[(A) by awarding grants to, or entering into contracts or cooperative agreements with, eligible consortia; or

[(B) by awarding loans to eligible consortia which—

[(i) shall be secured in such manner and be repaid within such period, not exceeding 20 years, as may be determined by the Secretary;

[(ii) shall bear interest at a rate determined by the Secretary which shall be not more than the total of one-quarter of 1 percent per annum added to the rate of interest paid by the Secretary on funds obtained from the Secretary of the Treasury; and

[(iii) may be forgiven by the Secretary, in an amount not to exceed 25 percent of the total loan, under such terms and conditions as the Secretary may consider appropriate.

[(3) MATCHING REQUIREMENT.—The Secretary may require any recipient of a grant or contract under this subpart to share in the cost of the activities assisted under such grant or contract, which non-Federal share shall be announced through a notice in the Federal Register and may be in the form of cash or in-kind contributions, fairly valued.

[(4) ELIGIBLE CONSORTIUM.—For the purpose of this subsection, the term "eligible consortium" means a consortium—

[(A) that shall include—

[(i) a State or local educational agency; and

[(ii) a business, industry, or telecommunications entity; and

[(B) that may include—

[(i) a public or private nonprofit organization; or

[(ii) a postsecondary institution.

[(5) PRIORITIES.—In awarding assistance under this section, the Secretary shall give priority to applications describing programs or systems that—

[(A) promote the acquisition of higher-order thinking skills and promise to raise the achievement levels of all students, particularly disadvantaged students who are not realizing their potential;

[(B) are aligned with challenging State content standards and State and local curriculum frameworks;

[(C) may be adapted and applied nationally at a reasonable cost over a broad technology platform;

[(D) convert technology resources developed with support from the Department of Defense and other Federal agencies for effective use in the classroom;

[(E) show promise of reducing the costs of providing high-quality instruction;

[(F) show promise of expanding access to high-quality instruction in content areas which would otherwise not be available to students in rural and urban communities or who are served by other educational agencies with limited financial resources;

[(G) are developed in consultation with classroom teachers;

[(H) are developed through consultation and collaboration with appropriate education entities in designing the product to ensure relevance to the voluntary national content standards, the voluntary national student performance standards and State curriculum frameworks; and

[(I) are developed so that the product can be adapted for use by adults in need of literacy services, including English as a second language and preparation for a secondary school diploma or its recognized equivalent.

[(6) REQUIREMENTS FOR FEDERAL ASSISTANCE.—Each eligible consortium desiring Federal assistance under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe. Each application shall include—

[(A) a description of how the product will improve the achievement levels of students;

[(B) a description of how the activities assisted under this section will promote professional development of teachers and administrators in the uses and applications of the product, including the development of training materials;

[(C) a description of design, development, field testing, evaluation, and distribution of products, where appropriate;

[(D) an assurance that the product shall effectively serve a significant number or percentage of economically disadvantaged students;

[(E) plans for dissemination of products to a wide audience of learners;

[(F) a description of how the product can be adapted for use by students with disabilities including provisions for closed captioning or descriptive video, where appropriate;

[(G) a description of how ownership and rights to the use and marketing of any product developed by the consortium, including intellectual property rights, will be allocated among consortium participants; and

[(H) a description of the contributions, including services and funds, to be made by each member of the consortium, and how any revenues derived from the sale of any product developed by the consortium shall be distributed.

[(c) CONSUMER REPORT.—The Secretary shall provide for the independent evaluation of products developed under this section and shall disseminate information about products developed pursuant to provisions of this section to State and local educational agencies, and other organizations or individuals that the Secretary de-

termines to be appropriate, through print and electronic media that are accessible to the education community at large.

[(d) PROCEEDS.—The Secretary shall not prohibit an eligible consortium or any of the members of such consortium from receiving financial benefits from the distribution of any products resulting from the assistance received under this section. Notwithstanding any other provision of law, any profits or royalties received by a State educational agency, local educational agency, or other nonprofit member of an eligible consortium receiving assistance under this section shall be used to support further development of curriculum-based learning resources, services, and programming or to provide access to such products for a wider audience.

[PART B—STAR SCHOOLS PROGRAM

[SEC. 3201. SHORT TITLE.

[This part may be cited as the "Star Schools Act".

[SEC. 3202. FINDINGS.

[The Congress finds that—

[(1) the Star Schools program has helped to encourage the use of distance learning strategies to serve multi-State regions primarily by means of satellite and broadcast television;

[(2) in general, distance learning programs have been used effectively to provide students in small, rural, and isolated schools with courses and instruction, such as science and foreign language instruction, that the local educational agency is not otherwise able to provide; and

[(3) distance learning programs may also be used to—

[(A) provide students of all ages in all types of schools and educational settings with greater access to high-quality instruction in the full range of core academic subjects that will enable such students to meet challenging, internationally competitive, educational standards;

[(B) expand professional development opportunities for teachers;

[(C) contribute to achievement of the National Education Goals; and

[(D) expand learning opportunities for everyone.

[SEC. 3203. PURPOSE.

[It is the purpose of this part to encourage improved instruction in mathematics, science, and foreign languages as well as other subjects, such as literacy skills and vocational education, and to serve underserved populations, including the disadvantaged, illiterate, limited-English proficient, and individuals with disabilities, through a star schools program under which grants are made to eligible telecommunication partnerships to enable such partnerships to—

[(1) develop, construct, acquire, maintain and operate telecommunications audio and visual facilities and equipment;

[(2) develop and acquire educational and instructional programming; and

[(3) obtain technical assistance for the use of such facilities and instructional programming.

[SEC. 3204. GRANTS AUTHORIZED.

[(a) AUTHORITY.—The Secretary, through the Office of Educational Technology, is authorized to make grants, in accordance with the provisions of this part, to eligible entities to pay the Federal share of the cost of—

[(1) the development, construction, acquisition, maintenance and operation of telecommunications facilities and equipment;

[(2) the development and acquisition of live, interactive instructional programming;

[(3) the development and acquisition of preservice and inservice teacher training programs based on established research regarding teacher-to-teacher mentoring, effective skill transfer, and ongoing, in-class instruction;

[(4) the establishment of teleconferencing facilities and resources for making interactive training available to teachers;

[(5) obtaining technical assistance; and

[(6) the coordination of the design and connectivity of telecommunications networks to reach the greatest number of schools.

[(b) DURATION.—

[(1) IN GENERAL.—The Secretary shall award grants pursuant to subsection (a) for a period of 5 years.

[(2) RENEWAL.—Grants awarded pursuant to subsection (a) may be renewed for one additional three-year period.

[(c) AUTHORIZATION OF APPROPRIATIONS.—

[(1) IN GENERAL.—There are authorized to be appropriated $35,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part.

[(2) AVAILABILITY.—Funds appropriated pursuant to the authority of subsection (a) shall remain available until expended.

[(d) LIMITATIONS.—

[(1) IN GENERAL.—A grant under this section shall not exceed—

[(A) five years in duration; and

[(B) $10,000,000 in any one fiscal year.

[(2) INSTRUCTIONAL PROGRAMMING.—Not less than 25 percent of the funds available to the Secretary in any fiscal year under this part shall be used for the cost of instructional programming.

[(3) SPECIAL RULE.—Not less than 50 percent of the funds available in any fiscal year under this part shall be used for the cost of facilities, equipment, teacher training or retraining, technical assistance, or programming, for local educational agencies which are eligible to receive assistance under part A of title I.

[(e) FEDERAL SHARE.—

[(1) IN GENERAL.—The Federal share of the cost of projects funded under this section shall not exceed—

[(A) 75 percent for the first and second years for which an eligible telecommunications partnership receives a grant under this part;

[(B) 60 percent for the third and fourth such years; and

[(C) 50 percent for the fifth such year.

[(2) REDUCTION OR WAIVER.—The Secretary may reduce or waive the requirement of the non-Federal share under paragraph (1) upon a showing of financial hardship.

[(f) AUTHORITY TO ACCEPT FUNDS FROM OTHER AGENCIES.—The Secretary is authorized to accept funds from other Federal departments or agencies to carry out the purposes of this section, including funds for the purchase of equipment.

[(g) COORDINATION.—The Department, the National Science Foundation, the Department of Agriculture, the Department of Commerce, and any other Federal department or agency operating a telecommunications network for educational purposes, shall coordinate the activities assisted under this part with the activities of such department or agency relating to a telecommunications network for educational purposes.

[(h) CLOSED CAPTIONING AND DESCRIPTIVE VIDEO.—Each entity receiving funds under this part is encouraged to provide—

[(1) closed captioning of the verbal content of such program, where appropriate, to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies; and

[(2) descriptive video of the visual content of such program, as appropriate.

[SEC. 3205. ELIGIBLE ENTITIES.

[(a) ELIGIBLE ENTITIES.—

[(1) REQUIRED PARTICIPATION.—The Secretary may make a grant under section 3204 to any eligible entity, if at least one local educational agency is participating in the proposed project.

[(2) ELIGIBLE ENTITY.—For the purpose of this part, the term "eligible entity" may include—

[(A) a public agency or corporation established for the purpose of developing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training centers, and other entities, except that any such agency or corporation shall represent the interests of elementary and secondary schools that are eligible to participate in the program under part A of title I; or

[(B) a partnership that will provide telecommunications services and which includes 3 or more of the following entities, at least 1 of which shall be an agency described in clause (i) or (ii):

[(i) a local educational agency that serves a significant number of elementary and secondary schools that are eligible for assistance under part A of title I, or elementary and secondary schools operated or funded for Indian children by the Department of the Interior eligible under section 1121(b)(2);

[(ii) a State educational agency;

[(iii) adult and family education programs;

[(iv) an institution of higher education or a State higher education agency;

[(v) a teacher training center or academy that—

[(I) provides teacher pre-service and in-service training; and

[(II) receives Federal financial assistance or has been approved by a State agency;

[(vi) (I) a public or private entity with experience and expertise in the planning and operation of a telecommunications network, including entities involved in telecommunications through satellite, cable, telephone, or computer; or

[(II) a public broadcasting entity with such experience; or

[(vii) a public or private elementary or secondary school.

[(b) SPECIAL RULE.—An eligible entity receiving assistance under this part shall be organized on a statewide or multistate basis.

[SEC. 3206. APPLICATIONS.

[(a) APPLICATIONS REQUIRED.—Each eligible entity which desires to receive a grant under section 3204 shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

[(b) STAR SCHOOL AWARD APPLICATIONS.—Each application submitted pursuant to subsection (a) shall—

[(1) describe how the proposed project will assist in achieving the National Education Goals, how such project will assist all students to have an opportunity to learn to challenging State standards, how such project will assist State and local educational reform efforts, and how such project will contribute to creating a high quality system of lifelong learning;

[(2) describe the telecommunications facilities and equipment and technical assistance for which assistance is sought, which may include—

[(A) the design, development, construction, acquisition, maintenance and operation of State or multistate educational telecommunications networks and technology resource centers;

[(B) microwave, fiber optics, cable, and satellite transmission equipment or any combination thereof;

[(C) reception facilities;

[(D) satellite time;

[(E) production facilities;

[(F) other telecommunications equipment capable of serving a wide geographic area;

[(G) the provision of training services to instructors who will be using the facilities and equipment for which assistance is sought, including training in using such facilities and equipment and training in integrating programs into the classroom curriculum; and

[(H) the development of educational and related programming for use on a telecommunications network;

[(3) in the case of an application for assistance for instructional programming, describe the types of programming which will be developed to enhance instruction and training and provide assurances that such programming will be designed in consultation with professionals (including classroom teachers) who are experts in the applicable subject matter and grade level;

[(4) describe how the eligible entity has engaged in sufficient survey and analysis of the area to be served to ensure that the services offered by the eligible entity will increase the availability of courses of instruction in English, mathematics, science, foreign languages, arts, history, geography, or other disciplines;

[(5) describe the professional development policies for teachers and other school personnel to be implemented to ensure the effective use of the telecommunications facilities and equipment for which assistance is sought;

[(6) describe the manner in which historically underserved students (such as students from low-income families, limited English proficient students, students with disabilities, or students who have low literacy skills) and their families, will participate in the benefits of the telecommunications facilities, equipment, technical assistance, and programming assisted under this part;

[(7) describe how existing telecommunications equipment, facilities, and services, where available, will be used;

[(8) provide assurances that the financial interest of the United States in the telecommunications facilities and equipment will be protected for the useful life of such facilities and equipment;

[(9) provide assurances that a significant portion of any facilities and equipment, technical assistance, and programming for which assistance is sought for elementary and secondary schools will be made available to schools or local educational agencies that have a high number or percentage of children eligible to be counted under part A of title I;

[(10) provide assurances that the applicant will use the funds provided under this part to supplement and not supplant funds otherwise available for the purposes of this part;

[(11) if any member of the consortia receives assistance under subpart 3 of part A, describe how funds received under this part will be coordinated with funds received for educational technology in the classroom under such section;

[(12) describe the activities or services for which assistance is sought, such as—

[(A) providing facilities, equipment, training services, and technical assistance;

[(B) making programs accessible to students with disabilities through mechanisms such as closed captioning and descriptive video services;

[(C) linking networks around issues of national importance (such as elections) or to provide information about employment opportunities, job training, or student and other social service programs;

[(D) sharing curriculum resources between networks and development of program guides which demonstrate cooperative, cross-network listing of programs for specific curriculum areas;

[(E) providing teacher and student support services including classroom and training support materials which permit student and teacher involvement in the live interactive distance learning telecasts;

[(F) incorporating community resources such as libraries and museums into instructional programs;

[(G) providing professional development for teachers, including, as appropriate, training to early childhood development and Head Start teachers and staff and vocational education teachers and staff, and adult and family educators;

[(H) providing programs for adults to maximize the use of telecommunications facilities and equipment;

[(I) providing teacher training on proposed or established voluntary national content standards in mathematics and science and other disciplines as such standards are developed; and

[(J) providing parent education programs during and after the regular school day which reinforce a student's course of study and actively involve parents in the learning process;

[(13) describe how the proposed project as a whole will be financed and how arrangements for future financing will be developed before the project expires;

[(14) provide an assurance that a significant portion of any facilities, equipment, technical assistance, and programming for which assistance is sought for elementary and secondary schools will be made available to schools in local educational agencies that have a high percentage of children counted for the purpose of part A of title I;

[(15) provide an assurance that the applicant will provide such information and cooperate in any evaluation that the Secretary may conduct under this part; and

[(16) include such additional assurances as the Secretary may reasonably require.

[(c) PRIORITIES.—The Secretary, in approving applications for grants authorized under section 3204, shall give priority to applications describing projects that—

[(1) propose high-quality plans to assist in achieving one or more of the National Education Goals, will provide instruction consistent with State content standards, or will otherwise provide significant and specific assistance to States and local educational agencies undertaking systemic education reform;

[(2) will provide services to programs serving adults, especially parents, with low levels of literacy;

[(3) will serve schools with significant numbers of children counted for the purposes of part A of title I;

[(4) ensure that the eligible entity will—

[(A) serve the broadest range of institutions, programs providing instruction outside of the school setting, programs serving adults, especially parents, with low levels of literacy, institutions of higher education, teacher training centers, research institutes, and private industry;

[(B) have substantial academic and teaching capabilities, including the capability of training, retraining, and inservice upgrading of teaching skills and the capability to provide professional development;

[(C) provide a comprehensive range of courses for educators to teach instructional strategies for students with different skill levels;

[(D) provide training to participating educators in ways to integrate telecommunications courses into existing school curriculum;

[(E) provide instruction for students, teachers, and parents;

[(F) serve a multistate area; and

[(G) give priority to the provision of equipment and linkages to isolated areas; and

[(5) involve a telecommunications entity (such as a satellite, cable, telephone, computer, or public or private television stations) participating in the eligible entity and donating equipment or in-kind services for telecommunications linkages.

[(d) GEOGRAPHIC DISTRIBUTION.—In approving applications for grants authorized under section 3204, the Secretary shall, to the extent feasible, ensure an equitable geographic distribution of services provided under this part.

[SEC. 3207. LEADERSHIP AND EVALUATION ACTIVITIES.

[(a) RESERVATION.—From the amount appropriated pursuant to the authority of section 3204(c)(1) in each fiscal year, the Secretary may reserve not more than 5 percent of such amount for national leadership, evaluation, and peer review activities.

[(b) METHOD OF FUNDING.—The Secretary may fund the activities described in subsection (a) directly or through grants, contracts, and cooperative agreements.

[(c) USES OF FUNDS.—

[(1) LEADERSHIP.—Funds reserved for leadership activities under subsection (a) may be used for—

[(A) disseminating information, including lists and descriptions of services available from grant recipients under this part; and

[(B) other activities designed to enhance the quality of distance learning activities nationwide.

[(2) EVALUATION.—Funds reserved for evaluation activities under subsection (a) may be used to conduct independent evaluations of the activities assisted under this part and of distance learning in general, including—

[(A) analyses of distance learning efforts, including such efforts that are assisted under this part and such efforts that are not assisted under this part; and

[(B) comparisons of the effects, including student outcomes, of different technologies in distance learning efforts.

[(3) PEER REVIEW.—Funds reserved for peer review activities under subsection (a) may be used for peer review of—

[(A) applications for grants under this part; and

[(B) activities assisted under this part.

[SEC. 3208. DEFINITIONS.

[As used in this part—

[(1) the term "educational institution" means an institution of higher education, a local educational agency, or a State educational agency;

[(2) the term "instructional programming" means courses of instruction and training courses for elementary and secondary students, teachers, and others, and materials for use in such instruction and training that have been prepared in audio and visual form on tape, disc, film, or live, and presented by means of telecommunications devices; and

[(3) the term "public broadcasting entity" has the same meaning given such term in section 397 of the Communications Act of 1934.

[SEC. 3209. ADMINISTRATIVE PROVISIONS.

[(a) CONTINUING ELIGIBILITY.—

[(1) IN GENERAL.—In order to be eligible to receive a grant under section 3204 for a second 3-year grant period an eligible entity shall demonstrate in the application submitted pursuant to section 3206 that such partnership shall—

[(A) continue to provide services in the subject areas and geographic areas assisted with funds received under this part for the previous 5-year grant period; and

[(B) use all grant funds received under this part for the second 3-year grant period to provide expanded services by—

[(i) increasing the number of students, schools or school districts served by the courses of instruction assisted under this part in the previous fiscal year;

[(ii) providing new courses of instruction; and

[(iii) serving new populations of underserved individuals, such as children or adults who are disadvantaged, have limited-English proficiency, are individuals with disabilities, are illiterate, or lack secondary school diplomas or their recognized equivalent.

[(2) SPECIAL RULE.—Grant funds received pursuant to paragraph (1) shall be used to supplement and not supplant services provided by the grant recipient under this part in the previous fiscal year.

[(b) FEDERAL ACTIVITIES.—The Secretary may assist grant recipients under section 3204 in acquiring satellite time, where appropriate, as economically as possible.

[SEC. 3210. OTHER ASSISTANCE.

[(a) SPECIAL STATEWIDE NETWORK.—

[(1) IN GENERAL.—The Secretary, through the Office of Educational Technology, may provide assistance to a statewide telecommunications network under this subsection if such network—

[(A) provides 2-way full motion interactive video and audio communications;

[(B) links together public colleges and universities and secondary schools throughout the State; and

[(C) meets any other requirements determined appropriate by the Secretary.

[(2) STATE CONTRIBUTION.—A statewide telecommunications network assisted under paragraph (1) shall contribute, either directly or through private contributions, non-Federal funds equal to not less than 50 percent of the cost of such network.

[(b) SPECIAL LOCAL NETWORK.—

[(1) IN GENERAL.—The Secretary may provide assistance, on a competitive basis, to a local educational agency or consortium thereof to enable such agency or consortium to establish a high technology demonstration program.

[(2) PROGRAM REQUIREMENTS.—A high technology demonstration program assisted under paragraph (1) shall—

[(A) include 2-way full motion interactive video, audio and text communications;

[(B) link together elementary and secondary schools, colleges, and universities;

[(C) provide parent participation and family programs;

[(D) include a staff development program; and

[(E) have a significant contribution and participation from business and industry.

[(3) SPECIAL RULE.—Each high technology demonstration program assisted under paragraph (1) shall be of sufficient size and scope to have an effect on meeting the National Education Goals.

[(4) MATCHING REQUIREMENT.—A local educational agency or consortium receiving a grant under paragraph (1) shall provide, either directly or through private contributions, non-Federal matching funds equal to not less than 50 percent of the amount of the grant.

[(c) TELECOMMUNICATIONS PROGRAMS FOR CONTINUING EDUCATION.—

[(1) AUTHORITY.—The Secretary is authorized to award grants, on a competitive basis, to eligible entities to enable such partnerships to develop and operate one or more programs which provide on-line access to educational resources in support of continuing education and curriculum requirements relevant to achieving a secondary school diploma or its recognized equivalent. The program authorized by this section shall be designed to advance adult literacy, secondary school completion and the acquisition of specified competency by the end of the 12th grade, as envisioned by the Goals 2000: Educate America Act.

[(2) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary. Each such application shall—

[(A) demonstrate that the applicant will use publicly funded or free public telecommunications infrastructure to deliver video, voice and data in an integrated service to support and assist in the acquisition of a secondary school diploma or its recognized equivalent;

[(B) assure that the content of the materials to be delivered is consistent with the accreditation requirements of the State for which such materials are used;

[(C) incorporate, to the extent feasible, materials developed in the Federal departments and agencies and under appropriate federally funded projects and programs;

[(D) assure that the applicant has the technological and substantive experience to carry out the program; and

[(E) contain such additional assurances as the Secretary may reasonably require.

[PART C—READY-TO-LEARN TELEVISION

[SEC. 3301. READY-TO-LEARN.

[(a) IN GENERAL.—The Secretary is authorized to award grants to or enter into contracts or cooperative agreements with eligible entities described in section 3302(b) to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents in order to facilitate the achievement of the National Education Goals.

[(b) AVAILABILITY.—In making such grants, contracts, or cooperative agreements, the Secretary shall ensure that recipients make programming widely available with support materials as appropriate to young children, their parents, child care workers, and Head Start providers to increase the effective use of such programming.

[SEC. 3302. EDUCATIONAL PROGRAMMING.

[(a) AWARDS.—The Secretary shall award grants, contracts, or cooperative agreements to eligible entities to—

[(1) facilitate the development directly or through contracts with producers of children and family educational television programming, educational programming for preschool and elementary school children, and accompanying support materials and services that promote the effective use of such programming; and

[(2) enable such entities to contract with entities (such as public telecommunications entities and those funded under the Star Schools Act) so that programs developed under this section are disseminated and distributed to the widest possible audience appropriate to be served by the programming by the most appropriate distribution technologies.

[(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a), an entity shall be—

[(1) a nonprofit entity (including a public telecommunications entity) able to demonstrate a capacity for the development and distribution of educational and instructional television programming of high quality for preschool and elementary school children; and

[(2) able to demonstrate a capacity to contract with the producers of children's television programming for the purpose of developing educational television programming of high quality for preschool and elementary school children.

[(c) CULTURAL EXPERIENCES.—Programming developed under this section shall reflect the recognition of diverse cultural experiences and the needs and experiences of both boys and girls in engaging and preparing young children for schooling.

[SEC. 3303. DUTIES OF SECRETARY.

[The Secretary is authorized—

[(1) to establish and administer a Special Projects of National Significance program to award grants, contracts, or cooperative agreements to public and nonprofit private entities, or local public television stations or such public television stations that are part of a consortium with one or more State educational agencies, local educational agencies, local schools, in-

stitutions of higher education, or community-based organizations of demonstrated effectiveness, for the purpose of—

[(A) addressing the learning needs of young children in limited English proficient households, and developing appropriate educational and instructional television programming to foster the school readiness of such children;

[(B) developing programming and support materials to increase family literacy skills among parents to assist parents in teaching their children and utilizing educational television programming to promote school readiness; and

[(C) identifying, supporting, and enhancing the effective use and outreach of innovative programs that promote school readiness;

[(2) to establish within the Department a clearinghouse to compile and provide information, referrals and model program materials and programming obtained or developed under this part to parents, child care providers, and other appropriate individuals or entities to assist such individuals and entities in accessing programs and projects under this part; and

[(3) to develop and disseminate training materials, including—

[(A) interactive programs and programs adaptable to distance learning technologies that are designed to enhance knowledge of children's social and cognitive skill development and positive adult-child interactions; and

[(B) support materials to promote the effective use of materials developed under paragraph (2);

among parents, Head Start providers, in-home and center based day care providers, early childhood development personnel, and elementary school teachers, public libraries, and after school program personnel caring for preschool and elementary school children;

[(4) coordinate activities with the Secretary of Health and Human Services in order to—

[(A) maximize the utilization of quality educational programming by preschool and elementary school children, and make such programming widely available to federally funded programs serving such populations; and

[(B) provide information to recipients of funds under Federal programs that have major training components for early childhood development, including Head Start, Even Start, and State training activities funded under the Child Care Development Block Grant Act of 1990 regarding the availability and utilization of materials developed under paragraph (3) to enhance parent and child care provider skills in early childhood development and education.

[SEC. 3304. APPLICATIONS.

[Each eligible entity desiring a grant, contract, or cooperative agreement under section 3301 or 3303 shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

[SEC. 3305. REPORTS AND EVALUATION.

[(a) ANNUAL REPORT TO SECRETARY.—An entity receiving funds under section 3301 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—

[(1) the programming that has been developed directly or indirectly by the entity, and the target population of the programs developed;

[(2) the support 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;

[(3) the means by which programming developed under this section 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

[(4) 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.

[(b) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the relevant committees of Congress a biannual report which includes—

[(1) a summary of the information made available under section 3302(a); and

[(2) a description of the training materials made available under section 3303(3), 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 in accordance with such section.

[SEC. 3306. ADMINISTRATIVE COSTS.

[With respect to the implementation of section 3302, entities receiving a grant, contract, or cooperative agreement from the Secretary may use not more than 5 percent of the amounts received under such section for the normal and customary expenses of administering the grant, contract, or cooperative agreement.

[SEC. 3307. DEFINITION.

[For the purposes of this part, the term "distance learning" means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications.

[SEC. 3308. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—There are authorized to be appropriated to carry out this part, $30,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years. Not less than 60 percent of the amounts appropriated under this subsection for each fiscal year shall be used to carry out section 3302.

[(b) SPECIAL PROJECTS.—Of the amount appropriated under subsection (b) for each fiscal year, at least 10 percent of such amount shall be used for each such fiscal year for activities under section 3303(1)(C).

[PART D—TELECOMMUNICATIONS DEMONSTRATION PROJECT FOR MATHEMATICS

[SEC. 3401. PROJECT AUTHORIZED.

[The Secretary is authorized to make grants to a nonprofit telecommunications entity, or partnership of such entities, for the purpose of carrying out a national telecommunications-based demonstration project to improve the teaching of mathematics. The demonstration project authorized by this part shall be designed to assist elementary and secondary school teachers in preparing all students for achieving State content standards.

[SEC. 3402. APPLICATION REQUIRED.

[(a) IN GENERAL.—Each nonprofit telecommunications entity, or partnership of such entities, desiring a grant under this part shall submit an application to the Secretary. Each such application shall—

[(1) demonstrate that the applicant will use the existing publicly funded telecommunications infrastructure to deliver video, voice and data in an integrated service to train teachers in the use of new standards-based curricula materials and learning technologies;

[(2) assure that the project for which assistance is sought will be conducted in cooperation with appropriate State educational agencies, local educational agencies, State or local nonprofit public telecommunications entities, and a national mathematics education professional association that has developed content standards;

[(3) assure that a significant portion of the benefits available for elementary and secondary schools from the project 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

[(4) contain such additional assurances as the Secretary may reasonably require.

[(b) APPROVAL OF APPLICATIONS; NUMBER OF DEMONSTRATION SITES.—In approving applications under this section, the Secretary shall assure that the demonstration project authorized by this part is conducted at elementary and secondary school sites in at least 15 States.

[SEC. 3403. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated to carry out this part, $5,000,000 for the fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years.

[PART E—ELEMENTARY MATHEMATICS AND SCIENCE EQUIPMENT PROGRAM

[SEC. 3501. SHORT TITLE.

[This part may be cited as the "Elementary Mathematics and Science Equipment Act".

[SEC. 3502. STATEMENT OF PURPOSE.

[It is the purpose of this part to raise the quality of instruction in mathematics and science in the Nation's elementary schools by

providing equipment and materials necessary for hands-on instruction through assistance to State and local educational agencies.

[SEC. 3503. PROGRAM AUTHORIZED.

[The Secretary is authorized to make allotments to State educational agencies under section 3504 to enable such agencies to award grants to local educational agencies for the purpose of providing equipment and materials to elementary schools to improve mathematics and science education in such schools.

[SEC. 3504. ALLOTMENTS OF FUNDS.

[(a) IN GENERAL.—From the amount appropriated under section 3509 for any fiscal year, the Secretary shall reserve—

[(1) not more than one-half of 1 percent for allotment among Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands according to their respective needs for assistance under this part; and

[(2) one-half of 1 percent for programs for Indian students served by schools funded by the Secretary of the Interior which are consistent with the purposes of this part.

[(b) ALLOTMENT.—

[(1) IN GENERAL.—The remainder of the amount so appropriated (after meeting requirements in subsection (a)) shall be allotted among State educational agencies so that—

[(A) one-half of such remainder shall be distributed by allotting to each State educational agency an amount which bears the same ratio to such one-half of such remainder as the number of children aged 5 to 17, inclusive, in the State bears to the number of such children in all States; and

[(B) one-half of such remainder shall be distributed according to each State's share of allocations under part A of title I.

[(2) MINIMUM.—Except as provided in paragraph (3), no State educational agency shall receive an allotment under this subsection for any fiscal year in an amount that is—

[(A) less than one-half of 1 percent of the amount made available under this subsection for such fiscal year; or

[(B) less than the amount allotted to such State for fiscal year 1988 under title II of the Education for Economic Security Act.

[(3) RATABLE REDUCTIONS.—(A) If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all State educational agencies are eligible to receive under paragraph (2)(B) for such year, the Secretary shall ratably reduce the allotment to such agencies for such year.

[(B) If additional funds become available for making payments under paragraph (2)(B) for such fiscal year, allotments that were reduced under subparagraph (A) shall be increased on the same basis as such allotments were reduced.

[(c) REALLOTMENT OF UNUSED FUNDS.—The amount of any State educational agency's allotment under subsection (b) for any fiscal year to carry out this part which the Secretary determines will not be required for that fiscal year to carry out this part shall be available for reallotment from time to time, on such dates during that

year as the Secretary may determine, to other State educational agencies in proportion to the original allotments to those State educational agencies under subsection (b) for that year but with such proportionate amount for any of those other State educational agencies being reduced to the extent it exceeds the sum the Secretary estimates that the State educational agency needs and will be able to use for that year, and the total of those reductions shall be similarly reallotted among the State educational agencies whose proportionate amounts were not so reduced. Any amounts reallotted to a State educational agency under this subsection during a year shall be deemed a part of the State educational agency's allotment under subsection (b) for that year.

[(d) DEFINITION.—For the purposes of this part the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

[(e) DATA.—The number of children aged 5 to 17, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

[SEC. 3505. STATE APPLICATION.

[(a) APPLICATION.—Each State educational agency desiring to receive an allotment under this part shall file an application with the Secretary which covers a period of 5 fiscal years. Such application shall be filed at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

[(b) CONTENTS OF APPLICATION.—Each application described in subsection (a) shall—

[(1) provide assurances that—

[(A) the State educational agency shall use the allotment provided under this part to award grants to local educational agencies within the State to enable such local educational agencies to provide assistance to schools served by such agency to carry out the purpose of this part;

[(B) the State educational agency will provide such fiscal control and funds accounting as the Secretary may require;

[(C) every public elementary school in the State is eligible to receive assistance under this part once over the 5-year duration of the program assisted under this part;

[(D) funds provided under this part will supplement, not supplant, State and local funds made available for activities authorized under this part;

[(E) during the 5-year period described in the application, the State educational agency will evaluate its standards and programs for teacher preparation and inservice professional development for elementary mathematics and science;

[(F) the State educational agency will take into account the needs for greater access to and participation in mathematics and science by students and teachers from historically underrepresented groups, including females, minorities, individuals with limited English proficiency,

the economically disadvantaged, and individuals with disabilities; and

[(G) that the needs of teachers and students in areas with high concentrations of low-income students and sparsely populated areas will be given priority in awarding assistance under this part;

[(2) provide, if appropriate, a description of how funds paid under this part will be coordinated with State and local funds and other Federal resources, particularly with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics; and

[(3) describe procedures—

[(A) for submitting applications for programs described in section 3506 for distribution of assistance under this part within the State; and

[(B) for approval of applications by the State educational agency, including appropriate procedures to assure that such agency will not disapprove an application without notice and opportunity for a hearing.

[(c) STATE ADMINISTRATION.—Not more than 5 percent of the funds allotted to each State educational agency under this part shall be used for the administrative costs of such agency associated with carrying out the program assisted under this part.

[SEC. 3506. LOCAL APPLICATION.

[(a) APPLICATION.—A local educational agency that desires to receive a grant under this part shall submit an application to the State educational agency. Each such application shall contain assurances that each school served by the local educational agency shall be eligible for assistance under this part only once.

[(b) CONTENTS OF APPLICATION.—Each application described in subsection (a) shall—

[(1) describe how the local educational agency plans to set priorities on the use and distribution among schools of grant funds received under this part to meet the purpose of this part;

[(2) include assurances that the local educational agency has made every effort to match on a dollar-for-dollar basis from private or public sources the funds received under this part, except that no such application shall be penalized or denied assistance under this part based on failure to provide such matching funds;

[(3) describe, if applicable, how funds under this part will be coordinated with State, local, and other Federal resources, especially with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics; and

[(4) describe the process which will be used to determine different levels of assistance to be awarded to schools with different needs.

[(c) PRIORITY.—In awarding grants under this part, the State educational agency shall give priority to applications that—

[(1) assign highest priority to providing assistance to schools which—

[(A) are most seriously underequipped; or

[(B) serve large numbers or percentages of economically disadvantaged students;

[(2) are attentive to the needs of underrepresented groups in science and mathematics;

[(3) demonstrate how science and mathematics equipment will be part of a comprehensive plan of curriculum planning or implementation and teacher training supporting hands-on laboratory activities; and

[(4) assign priority to providing equipment and materials for students in grades 1 through 6.

[SEC. 3507. PROGRAM REQUIREMENTS.

[(a) COORDINATION.—Each State educational agency receiving an allotment under this part shall—

[(1) disseminate information to school districts and schools, including private nonprofit elementary schools, regarding the program assisted under this part;

[(2) evaluate applications of local educational agencies;

[(3) award grants to local educational agencies based on the priorities described in section 3506(c); and

[(4) evaluate local educational agencies' end-of-year summaries and submit such evaluation to the Secretary.

[(b) LIMITATIONS ON USE OF FUNDS.—

[(1) IN GENERAL.—Except as provided in paragraph (2), grant funds and matching funds under this part only shall be used to purchase science equipment, science materials, or mathematical manipulative materials and shall not be used for computers, computer peripherals, software, textbooks, or staff development costs.

[(2) CAPITAL IMPROVEMENTS.—Grant funds under this part may not be used for capital improvements. Not more than 50 percent of any matching funds provided by the local educational agency may be used for capital improvements of classroom science facilities to support the hands-on instruction that this part is intended to support, such as the installation of electrical outlets, plumbing, lab tables or counters, or ventilation mechanisms.

[SEC. 3508. FEDERAL ADMINISTRATION.

[(a) TECHNICAL ASSISTANCE AND EVALUATION PROCEDURES.—The Secretary shall provide technical assistance and, in consultation with State and local representatives of the program assisted under this part, shall develop procedures for State and local evaluations of the programs assisted under this part.

[(b) REPORT.—The Secretary shall report to the Congress each year on the program assisted under this part in accordance with section 10701.

[SEC. 3509. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated $30,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part.

[PART F—LIMITATION ON AVAILABILITY OF CERTAIN FUNDS FOR SCHOOLS]

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

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 edu-

cational 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 program 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 application 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 pro-

grams 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 described in section 3106(a) or otherwise to oversee the delivery of educational services to members of the tribe; and

(ii) approved by the Secretary for the purpose of carrying out programs under subpart 1 for individuals served by a school described in section 3106(a).

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.

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 increased 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 edu-

cational 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 chapter to support a schoolwide program under section 1114 if—

(1) the committee composed of parents established pursuant to section 3214(c)(4) approves the use of the funds for the schoolwide program; and

(2) the schoolwide program is consistent with the purposes described in section 3211.

(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 program and reduces administrative costs by consolidating administrative functions.

(c) PROGRAMS AFFECTED.—The funds that may be consolidated in a demonstration project under any such plan referred to in subsection (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 enable 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 responsibilities for the safeguarding of Federal funds pursuant to the Single Audit Act of 1984.

(o) REPORT ON STATUTORY OBSTACLES TO PROGRAM INTEGRATION.—

(1) PRELIMINARY REPORT.—Not later than 2 years after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary of Education shall submit a preliminary report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives on the status of the implementation of the demonstration program authorized under this section.

(2) FINAL REPORT.—Not later than 5 years after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary of Education shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives on the results of the implementation of the demonstration program authorized under this section. Such report shall identify statutory barriers to the ability of participants to integrate more effectively their education and related 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 programs that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

(H) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to aid such students in the transition from secondary 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 dissemination 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 in-service or preservice training.

(B) For individuals who are being trained to enter any field other than teaching, the training received pursuant to a grant 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 infor-

mation 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.

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 Native 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 students who would participate in the project about its application.

SEC. 3306. DEFINITIONS.

For purposes of this subpart—

(1) the term "Alaska Native" has the same meaning as the term "Native" has in section 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.

[TITLE IV—SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES

[SEC. 4001. SHORT TITLE.

[This title may be cited as the "Safe and Drug-Free Schools and Communities Act of 1994".

[SEC. 4002. FINDINGS.

[The Congress finds as follows:

[(1) The seventh National Education Goal provides that by the year 2000, all schools in America will be free of drugs and violence and the unauthorized presence of firearms and alcohol, and offer a disciplined environment that is conducive to learning.

[(2) The widespread illegal use of alcohol and other drugs among the Nation's secondary school students, and increasingly by students in elementary schools as well, constitutes a grave threat to such students' physical and mental well-being, and significantly impedes the learning process. For example, data show that students who drink tend to receive lower grades and are more likely to miss school because of illness than students who do not drink.

[(3) Our Nation's schools and communities are increasingly plagued by violence and crime. Approximately 3,000,000 thefts and violent crimes occur in or near our Nation's schools every year, the equivalent of more than 16,000 incidents per school day.

[(4) Violence that is linked to prejudice and intolerance victimizes entire communities leading to more violence and discrimination.

[(5) The tragic consequences of violence and the illegal use of alcohol and drugs by students are felt not only by students and such students' families, but by such students' communities and the Nation, which can ill afford to lose such students' skills, talents, and vitality.

[(6) While use of illegal drugs is a serious problem among a minority of teenagers, alcohol use is far more widespread. The proportion of high school students using alcohol, though lower than a decade ago, remains unacceptably high. By the 8th grade, 70 percent of youth report having tried alcohol and by the 12th grade, about 88 percent have used alcohol. Alcohol use by young people can and does have adverse consequences for users, their families, communities, schools, and colleges.

[(7) Alcohol and tobacco are widely used by young people. Such use can, and does, have adverse consequences for young people, their families, communities, schools, and colleges. Drug prevention programs for youth that address only controlled

drugs send an erroneous message that alcohol and tobacco do not present significant problems, or that society is willing to overlook their use. To be credible, messages opposing illegal drug use by youth should address alcohol and tobacco as well.

[(8) Every day approximately 3,000 children start smoking. Thirty percent of all secondary school seniors are smokers. Half of all new smokers begin smoking before the age of 14, 90 percent of such smokers begin before the age of 21, and the average age of the first use of smokeless tobacco is under the age of 10. Use of tobacco products has been linked to serious health problems. Drug education and prevention programs that include tobacco have been effective in reducing teenage use of tobacco.

[(9) Drug and violence prevention programs are essential components of a comprehensive strategy to promote school safety and to reduce the demand for and use of drugs throughout the Nation. Schools and local organizations in communities throughout the Nation have a special responsibility to work together to combat the growing epidemic of violence and illegal drug use and should measure the success of their programs against clearly defined goals and objectives.

[(10) Students must take greater responsibility for their own well-being, health, and safety if schools and communities are to achieve the goals of providing a safe, disciplined, and drug-free learning environment.

[SEC. 4003. PURPOSE.

[The purpose of this title is to support programs to meet the seventh National Education Goal by preventing violence in and around schools and by strengthening programs that prevent the illegal use of alcohol, tobacco, and drugs, involve parents, and are coordinated with related Federal, State, and community efforts and resources, through the provision of Federal assistance to—

[(1) States for grants to local educational agencies and educational service agencies and consortia of such agencies to establish, operate, and improve local programs of school drug and violence prevention, early intervention, rehabilitation referral, and education in elementary and secondary schools (including intermediate and junior high schools);

[(2) States for grants to, and contracts with, community-based organizations and other public and private nonprofit agencies and organizations for programs of drug and violence prevention, early intervention, rehabilitation referral, and education;

[(3) States for development, training, technical assistance, and coordination activities;

[(4) public and private nonprofit organizations to conduct training, demonstrations, and evaluation, and to provide supplementary services for the prevention of drug use and violence among students and youth; and

[(5) institutions of higher education to establish, operate, expand, and improve programs of school drug and violence prevention, education, and rehabilitation referral for students enrolled in colleges and universities.

[SEC. 4004. FUNDING.

[There are authorized to be appropriated—

[(1) $630,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, for State grants under subpart 1; and

[(2) $25,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, for national programs under subpart 2.

[PART A—STATE GRANTS FOR DRUG AND VIOLENCE PREVENTION PROGRAMS

[Subpart 1—State Grants for Drug and Violence Prevention Programs

[SEC. 4011. RESERVATIONS AND ALLOTMENTS.

[(a) RESERVATIONS.—From the amount made available under section 4004(a) to carry out this subpart for each fiscal year, the Secretary—

[(1) shall reserve 1 percent of such amount for grants under this subpart to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with the Secretary's determination of their respective needs;

[(2) shall reserve 1 percent of such amount for the Secretary of the Interior to carry out programs under this part for Indian youth;

[(3) may reserve not more than $1,000,000 for the national impact evaluation required by section 4117(a); and

[(4) shall reserve 0.2 percent of such amount for programs for Native Hawaiians under section 4118.

[(b) STATE ALLOTMENTS.—

[(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall, for each fiscal year, 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 (or, for fiscal year 1995 only, sections 1005 and 1006 of this Act as such sections were in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994) 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 one-half of 1 percent of the total amount allotted to all the States under this subsection.

[(3) REALLOTMENT.—The Secretary may reallot any amount of any allotment to a State if the Secretary determines that the State will be unable to use such amount within two years of

such allotment. Such reallotments shall be made on the same basis as allotments are made under paragraph (1).

[(4) DEFINITIONS.—For the purpose of this subsection—

[(A) the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

[(B) the term "local educational agency" includes educational service agencies and consortia of such agencies.

[SEC. 4112. STATE APPLICATIONS.

[(a) IN GENERAL.—In order to receive an allotment under section 4111 for any fiscal year, a State shall submit to the Secretary, at such time as the Secretary may require, an application that—

[(1) describes how funds under this subpart will be coordinated with programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, in accordance with the provisions of section 14306;

[(2) contains the results of the State's needs assessment for drug and violence prevention programs, which shall be based on the results of on-going State evaluation activities, including data on the prevalence of drug use and violence by youth in schools and communities;

[(3) contains assurances that the sections of the application concerning the funds provided to the chief executive officer and the State educational agency were developed separately by such officer or agency, respectively, but in consultation and coordination with appropriate State officials and others, including the chief State school officer, the chief executive 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;

[(4) contains an assurance that the State will cooperate with, and assist, the Secretary in conducting a national impact evaluation of programs required by section 4117(a); and

[(5) includes any other information the Secretary may require.

[(b) STATE EDUCATIONAL AGENCY FUNDS.—A State's application under this section shall also contain a comprehensive plan for the use of funds under section 4113(a) by the State educational agency that includes—

[(1) a statement of the State educational agency's measurable goals and objectives for drug and violence prevention and a description of the procedures such agency will use for assessing and publicly reporting progress toward meeting those goals and objectives;

[(2) a plan for monitoring the implementation of, and providing technical assistance regarding, the drug and violence prevention programs conducted by local educational agencies in accordance with section 4116;

[(3) a description of how the State educational agency will use funds under section 4113(b);

[(4) a description of how the State educational agency will coordinate such agency's activities under this subpart with the

chief executive officer's drug and violence prevention programs under this subpart and with the prevention efforts of other State agencies;

[(5) an explanation of the criteria the State educational agency will use to identify which local educational agencies receive supplemental funds under section 4113(d)(2)(A)(ii) and how the supplemental funds will be allocated among such local educational agencies; and

[(6) a description of the procedures the State educational agency will use to review applications from local educational agencies under section 4115.

[(c) GOVERNOR'S FUNDS.—A State's application under this section shall also contain a comprehensive plan for the use of funds under section 4114(a) by the chief executive officer that includes—

[(1) a statement of the chief executive officer's measurable goals and objectives for drug and violence prevention and a description of the procedures to be used for assessing and publicly reporting progress toward meeting such goals and objectives;

[(2) a description of how the chief executive officer will coordinate such officer's activities under this part with the State educational agency and other State agencies and organizations involved with drug and violence prevention efforts;

[(3) a description of how funds reserved under section 4114(a) will be used so as not to duplicate the efforts of the State educational agency and local educational agencies with regard to the provision of school-based prevention efforts and services and how those funds will be used to serve populations not normally served by the State educational agency, such as school dropouts and youth in detention centers;

[(4) a description of how the chief executive officer will award funds under section 4114(a) and a plan for monitoring the performance of, and providing technical assistance to, recipients of such funds;

[(5) a description of the special outreach activities that will be carried out to maximize the participation of community-based organizations of demonstrated effectiveness which provide services in low-income communities; and

[(6) a description of how funds will be used to support community-wide comprehensive drug and violence prevention planning.

[(d) PEER REVIEW.—The Secretary shall use a peer review process in reviewing State applications under this section.

[(e) INTERIM APPLICATION.—Notwithstanding any other provisions of this section, a State may submit for fiscal year 1995 a one-year interim application and plan for the use of funds under this subpart that are consistent with the requirements of this section and contain such information as the Secretary may specify in regulations. The purpose of such interim application and plan shall be to afford the State the opportunity to fully develop and review such State's application and comprehensive plan otherwise required by this section. A State may not receive a grant under this subpart for a fiscal year subsequent to fiscal year 1995 unless the Secretary has approved such State's application and comprehensive plan in accordance with this subpart.

[SEC. 4113. STATE AND LOCAL EDUCATIONAL AGENCY PROGRAMS.

[(a) USE OF FUNDS.—

[(1) IN GENERAL.—Except as provided in paragraph (2), an amount equal to 80 percent of the total amount allocated to a State under section 4111 for each fiscal year shall be used by the State educational agency and its local educational agencies for drug and violence prevention activities in accordance with this section.

[(2) EXCEPTION.—(A) If a State has, on or before January 1, 1994, established an independent State agency for the purpose of administering all of the funds described in section 5121 of this Act (as such section was in effect on the day preceding the date of the enactment of the Improving America's Schools Act of 1994), then—

[(i) an amount equal to 80 percent of the total amount allocated to such State under section 4111 for each fiscal year shall be used by the State educational agency and its local educational agencies for drug and violence prevention activities in accordance with this section; and

[(ii) an amount equal to 20 percent of such total amount shall be used by such independent State agency for drug and violence prevention activities in accordance with this section.

[(B) Not more than 5 percent of the amount reserved under subparagraph (A)(ii) may be used for administrative costs of the independent State agency incurred in carrying out the activities described in such subparagraph.

[(C) For purposes of this paragraph, the term "independent State agency" means an independent agency with a board of directors or a cabinet level agency whose chief executive officer is appointed by the chief executive officer of the State and confirmed with the advice and consent of the senate of such State.

[(b) STATE LEVEL PROGRAMS.—

[(1) IN GENERAL.—A State educational agency shall use not more than 5 percent of the amount available under subsection (a) for activities such as—

[(A) training and technical assistance concerning drug and violence prevention for local educational agencies and educational service agencies, including teachers, administrators, coaches and athletic directors, other staff, parents, students, community leaders, health service providers, local law enforcement officials, and judicial officials;

[(B) the development, identification, dissemination, and evaluation of the most readily available, accurate, and up-to-date curriculum materials (including videotapes, software, and other technology-based learning resources), for consideration by local educational agencies;

[(C) making available to local educational agencies cost effective programs for youth violence and drug abuse prevention;

[(D) demonstration projects in drug and violence prevention;

[(E) training, technical assistance, and demonstration projects to address violence associated with prejudice and intolerance;

[(F) financial assistance to enhance resources available for drug and violence prevention in areas serving large numbers of economically disadvantaged children or sparsely populated areas, or to meet other special needs consistent with the purposes of this subpart; and

[(G) the evaluation of activities carried out within the State under this part.

[(2) SPECIAL RULE.—A State educational agency may carry out activities under this subsection directly, or through grants or contracts.

[(c) STATE ADMINISTRATION.—A State educational agency may use not more than 4 percent of the amount reserved under subsection (a) for the administrative costs of carrying out its responsibilities under this part.

[(d) LOCAL EDUCATIONAL AGENCY PROGRAMS.—

[(1) IN GENERAL.—A State educational agency shall distribute not less than 91 percent of the amount made available under subsection (a) for each fiscal year to local educational agencies in accordance with this subsection.

[(2) DISTRIBUTION.—(A) Of the amount distributed under paragraph (1), a State educational agency shall distribute—

[(i) 70 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; and

[(ii) 30 percent of such amount to local educational agencies that the State educational agency determines have the greatest need for additional funds to carry out drug and violence prevention programs authorized by this subpart.

[(B) Where appropriate and to the extent consistent with the needs assessment conducted by the State, not less than 25 percent of the amount distributed under subparagraph (A)(ii) for a fiscal year shall be distributed to local educational agencies located in rural and urban areas.

[(C)(i) A State educational agency shall distribute funds under subparagraph (A)(ii) to not more than 10 percent of the local educational agencies in the State, or five such agencies, whichever is greater.

[(ii) In determining which local educational agencies have the greatest need for additional funds, the State educational agency shall consider objective data such as—

[(I) high rates of alcohol or drug use among youth;

[(II) high rates of victimization of youth by violence and crime;

[(III) high rates of arrests and convictions of youth for violent or drug- or alcohol-related crime;

[(IV) the extent of illegal gang activity;

[(V) high incidence of violence associated with prejudice and intolerance;

[(VI) high rates of referrals of youths to drug and alcohol abuse treatment and rehabilitation programs;

[(VII) high rates of referrals of youths to juvenile court;

[(VIII) high rates of expulsions and suspensions of students from schools; and

[(IX) high rates of reported cases of child abuse and domestic violence.

[(e) REALLOCATION OF FUNDS.—If a local educational agency chooses not to apply to receive the amount allocated to such agency under subsection (d), or if such agency's application under section 4115 is disapproved by the State educational agency, the State educational agency shall reallocate such amount to one or more of the local educational agencies determined by the State educational agency under subsection (d)(2)(C)(ii) to have the greatest need for additional funds.

[(f) RETURN OF FUNDS TO STATE EDUCATIONAL AGENCY; REALLOCATION.—

[(1) RETURN.—Except as provided in paragraph (2), upon the expiration of the 1-year period beginning on the date that a local educational agency or educational service agency under this title receives its allocation under this title—

[(A) such agency shall return to the State educational agency any funds from such allocation that remain unobligated; and

[(B) the State educational agency shall reallocate any such amount to local educational agencies or educational service agencies that have plans for using such amount for programs or activities on a timely basis.

[(2) REALLOCATION.—In any fiscal year, a local educational agency, may retain for obligation in the succeeding fiscal year—

[(A) an amount equal to not more than 25 percent of the allocation it receives under this title for such fiscal year; or

[(B) upon a demonstration of good cause by such agency or consortium, a greater amount approved by the State educational agency.

[SEC. 4114. GOVERNOR'S PROGRAMS.

[(a) USE OF FUNDS.—

[(1) IN GENERAL.—An amount equal to 20 percent of the total amount allocated to a State under section 4111(1) for each fiscal year shall be used by the chief executive officer of such State for drug and violence prevention programs and activities in accordance with this section.

[(2) LAW ENFORCEMENT EDUCATION PARTNERSHIPS.—A chief executive officer shall use not less than 10 percent of the 20 percent of the total amount described in paragraph (1) for each fiscal year for law enforcement education partnerships in accordance with subsection (d).

[(3) ADMINISTRATIVE COSTS.—A chief executive officer may use not more than 5 percent of the 20 percent of the total amount described in paragraph (1) for the administrative costs incurred in carrying out the duties of such officer under this section.

[(b) PROGRAMS AUTHORIZED.—

[(1) IN GENERAL.—A chief executive officer shall use funds made available under subsection (a)(1) for grants to or contracts with parent groups, community action and job training agencies, community-based organizations, and other public entities and private nonprofit organizations and consortia there-

of. In making such grants and contracts, a chief executive officer shall give priority to programs and activities described in subsection (c) for—

[(A) children and youth who are not normally served by State or local educational agencies; or

[(B) populations that need special services or additional resources (such as preschoolers, youth in juvenile detention facilities, runaway or homeless children and youth, pregnant and parenting teenagers, and school dropouts).

[(2) PEER REVIEW.—Grants or contracts awarded under this subsection shall be subject to a peer review process.

[(c) AUTHORIZED ACTIVITIES.—Grants and contracts under subsection (b) shall be used for programs and activities such as—

[(1) disseminating information about drug and violence prevention;

[(2) training parents, law enforcement officials, judicial officials, social service providers, health service providers and community leaders about drug and violence prevention, comprehensive health education, early intervention, pupil services, or rehabilitation referral;

[(3) developing and implementing comprehensive, community-based drug and violence prevention programs that link community resources with schools and integrate services involving education, vocational and job skills training and placement, law enforcement, health, mental health, community service, mentoring, and other appropriate services;

[(4) planning and implementing drug and violence prevention activities that coordinate the efforts of State agencies with efforts of the State educational agency and its local educational agencies;

[(5) activities to protect students traveling to and from school;

[(6) before-and-after school recreational, instructional, cultural, and artistic programs that encourage drug- and violence-free lifestyles;

[(7) activities that promote the awareness of and sensitivity to alternatives to violence through courses of study that include related issues of intolerance and hatred in history;

[(8) developing and implementing activities to prevent and reduce violence associated with prejudice and intolerance;

[(9) developing and implementing strategies to prevent illegal gang activity;

[(10) coordinating and conducting community-wide violence and safety assessments and surveys;

[(11) service-learning projects that encourage drug- and violence-free lifestyles; and

[(12) evaluating programs and activities assisted under this section.

[(d) LAW ENFORCEMENT EDUCATION PARTNERSHIPS.—A chief executive officer shall use funds under subsection (a)(2) to award grants to State, county or local law enforcement agencies (including district attorneys) in consortium with local educational agencies or community-based agencies for the purposes of carrying out drug abuse and violence prevention activities, such as—

[(1) Project Drug Abuse Resistance Education and other programs which provide classroom instruction by uniformed law enforcement officials that is designed to teach students to recognize and resist pressures to experiment that influence such children to use controlled substances or alcohol;

[(2) Project Legal Lives and other programs in which district attorneys provide classroom instruction in the law and legal system which emphasizes interactive learning techniques, such as mock trial competitions;

[(3) partnerships between law enforcement and child guidance professionals; and

[(4) before- and after-school activities.

[SEC. 4115. LOCAL APPLICATIONS.

[(a) APPLICATION REQUIRED.—

[(1) IN GENERAL.—In order to be eligible to receive a distribution under section 4113(d) for any fiscal year, a local educational agency shall submit, at such time as the State educational agency requires, an application to the State educational agency for approval. Such an application shall be amended, as necessary, to reflect changes in the local educational agency's program.

[(2) DEVELOPMENT.—(A) A local educational agency shall develop its application under subsection (a)(1) in consultation with a local or substate regional advisory council that includes, to the extent possible, representatives of local government, business, parents, students, teachers, pupil services personnel, appropriate State agencies, private schools, the medical profession, law enforcement, community-based organizations, and other groups with interest and expertise in drug and violence prevention.

[(B) In addition to assisting the local educational agency to develop an application under this section, the advisory council established or designated under subparagraph (A) shall, on an ongoing basis—

[(i) disseminate information about drug and violence prevention programs, projects, and activities conducted within the boundaries of the local educational agency;

[(ii) advise the local educational agency regarding—

[(I) how best to coordinate such agency's activities under this subpart with other related programs, projects, and activities; and

[(II) the agencies that administer such programs, projects, and activities; and

[(iii) review program evaluations and other relevant material and make recommendations to the local educational agency on how to improve such agency's drug and violence prevention programs.

[(b) CONTENTS OF APPLICATIONS.—An application under this section shall contain—

[(1) an objective analysis of the current use (and consequences of such use) of alcohol, tobacco, and controlled, illegal, addictive or harmful substances as well as the violence, safety, and discipline problems among students who attend the schools of the applicant (including private school students who participate in the applicant's drug and violence prevention pro-

gram) that is based on ongoing local assessment or evaluation activities;

[(2) a detailed explanation of the local educational agency's comprehensive plan for drug and violence prevention, which shall include a description of—

[(A) how the plan will be coordinated with programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, in accordance with the provisions of section 14306;

[(B) the local educational agency's measurable goals for drug and violence prevention, and a description of how such agency will assess and publicly report progress toward attaining these goals;

[(C) how the local educational agency will use its distribution under this subpart;

[(D) how the local educational agency will coordinate such agency's programs and projects with community-wide efforts to achieve such agency's goals for drug and violence prevention; and

[(E) how the local educational agency will coordinate such agency's programs and projects with other Federal, State, and local programs for drug-abuse prevention, including health programs; and

[(3) such other information and assurances as the State educational agency may reasonably require.

[(c) REVIEW OF APPLICATION.—

[(1) IN GENERAL.—In reviewing local applications under this section, a State educational agency shall use a peer review process or other methods of assuring the quality of such applications.

[(2) CONSIDERATIONS.—(A) In determining whether to approve the application of a local educational agency under this section, a State educational agency shall consider the quality of the local educational agency's comprehensive plan under subsection (b)(2) and the extent to which such plan is coordinated with programs under this Act, the Goals 2000: Educate America Act, in accordance with the provisions of section 14306.

[(B) A State educational agency may disapprove a local educational agency application under this section in whole or in part and may withhold, limit, or place restrictions on the use of funds allotted to such a local educational agency in a manner the State educational agency determines will best promote the purposes of this part, except that a local educational agency shall be afforded an opportunity to appeal any such disapproval.

[SEC. 4116. LOCAL DRUG AND VIOLENCE PREVENTION PROGRAMS.

[(a) PROGRAM REQUIREMENTS.—A local educational agency shall use funds received under this subpart to adopt and carry out a comprehensive drug and violence prevention program which shall—

[(1) be designed, for all students and employees, to—

[(A) prevent the use, possession, and distribution of tobacco, alcohol, and illegal drugs by students and to prevent the illegal use, possession, and distribution of such substances by employees;

[(B) prevent violence and promote school safety; and

[(C) create a disciplined environment conducive to learning; and

[(2) include activities to promote the involvement of parents and coordination with community groups and agencies, including the distribution of information about the local educational agency's needs, goals, and programs under this subpart.

[(b) AUTHORIZED ACTIVITIES.—A comprehensive drug and violence prevention program carried out under this subpart may include—

[(1) age-appropriate, developmentally based drug prevention and education programs for all students, from the preschool level through grade 12, that address the legal, social, personal and health consequences of the use of illegal drugs, promote a sense of individual responsibility, and provide information about effective techniques for resisting peer pressure to use illegal drugs;

[(2) programs of drug prevention, comprehensive health education, early intervention, pupil services, mentoring, or rehabilitation referral, which emphasize students' sense of individual responsibility and which may include—

[(A) the dissemination of information about drug prevention;

[(B) the professional development of school personnel, parents, students, law enforcement officials, judicial officials, health service providers and community leaders in prevention, education, early intervention, pupil services or rehabilitation referral; and

[(C) the implementation of strategies, including strategies to integrate the delivery of services from a variety of providers, to combat illegal alcohol, tobacco and drug use, such as—

[(i) family counseling;

[(ii) early intervention activities that prevent family dysfunction, enhance school performance, and boost attachment to school and family; and

[(iii) activities, such as community service and service-learning projects, that are designed to increase students' sense of community;

[(3) age-appropriate, developmentally based violence prevention and education programs for all students, from the preschool level through grade 12, that address the legal, health, personal, and social consequences of violent and disruptive behavior, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, 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;

[(4) violence prevention programs for school-aged youth, which emphasize students' sense of individual responsibility and may include—

[(A) the dissemination of information about school safety and discipline;

[(B) the professional development of school personnel, parents, students, law enforcement officials, judicial offi-

cials, and community leaders in designing and implementing strategies to prevent school violence;

[(C) the implementation of strategies, such as conflict resolution and peer mediation, student outreach efforts against violence, anti-crime youth councils (which work with school and community-based organizations to discuss and develop crime prevention strategies), and the use of mentoring programs, to combat school violence and other forms of disruptive behavior, such as sexual harassment and abuse; and

[(D) the development and implementation of character education and training programs that reflect the values of parents, teachers, and local communities, and incorporate elements of good character, including honesty, citizenship, courage, justice, respect, personal responsibility, and trustworthiness; and

[(E) comprehensive, community-wide strategies to prevent or reduce illegal gang activities;

[(5) supporting "safe zones of passage" for students between home and school through such measures as Drug- and Weapon-Free School Zones, enhanced law enforcement, and neighborhood patrols;

[(6) acquiring and installing metal detectors and hiring security personnel;

[(7) professional development for teachers and other staff and curricula that promote the awareness of and sensitivity to alternatives to violence through courses of study that include related issues of intolerance and hatred in history;

[(8) the promotion of before-and-after school recreational, instructional, cultural, and artistic programs in supervised community settings;

[(9) drug abuse resistance education programs, designed to teach students to recognize and resist pressures to use alcohol or other drugs, which may include activities such as classroom instruction by uniformed law enforcement officers, resistance techniques, resistance to peer pressure and gang pressure, and provision for parental involvement; and

[(10) the evaluation of any of the activities authorized under this subsection.

[(c) LIMITATIONS.—

[(1) IN GENERAL.—Not more than 20 percent of the funds made available to a local educational agency under this subpart may be used to carry out the activities described in paragraphs (5) and (6) of subsection (b).

[(2) SPECIAL RULE.—A local educational agency shall only be able to use funds received under this subpart for activities described in paragraphs (5) and (6) of subsection (b) if funding for such activities is not received from other Federal agencies.

[(d) ADMINISTRATIVE PROVISIONS.—Notwithstanding any other provisions of law, any funds expended prior to July 1, 1995, under part B of the Drug-Free Schools and Communities Act of 1986 (as in effect prior to enactment of the Improving America's Schools Act) for the support of a comprehensive school health program shall be deemed to have been authorized by part B of such Act.

[SEC. 4117. EVALUATION AND REPORTING.

[(a) NATIONAL IMPACT EVALUATION.—

[(1) BIENNIAL EVALUATION.—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 conduct an independent biennial evaluation of the national impact of programs assisted under this subpart and of other recent and new initiatives to combat violence in schools and submit a report of the findings of such evaluation to the President and the Congress.

[(2) DATA COLLECTION.—(A) The National Center for Education Statistics shall collect data to determine the frequency, seriousness, and incidence of violence in elementary and secondary schools in the States. The Secretary shall collect the data using, wherever appropriate, data submitted by the States pursuant to subsection (b)(2)(B).

[(B) Not later than January 1, 1998, the Secretary shall submit to the Congress a report on the data collected under this subsection, together with such recommendations as the Secretary determines appropriate, including estimated costs for implementing any recommendation.

[(b) STATE REPORT.—

[(1) IN GENERAL.—By October 1, 1997, and every third year thereafter, the chief executive officer of the State, in cooperation with the State educational agency, shall submit to the Secretary a report—

[(A) on the implementation and outcomes of State programs under section 4114 and section 4113(b) and local educational agency programs under section 4113(d), as well as an assessment of their effectiveness; and

[(B) on the State's progress toward attaining its goals for drug and violence prevention under subsections (b)(1) and (c)(1) of section 4112.

[(2) SPECIAL RULE.—The report required by this subsection shall be—

[(A) in the form specified by the Secretary;

[(B) based on the State's ongoing evaluation activities, and shall include data on the prevalence of drug use and violence by youth in schools and communities; and

[(C) made readily available to the public.

[(c) LOCAL EDUCATIONAL AGENCY REPORT.—Each local educational agency receiving funds under this subpart shall submit to the State educational agency such information, and at such intervals, that the State requires to complete the State report required by subsection (b), including information on the prevalence of drug use and violence by youth in the schools and the community. Such information shall be made readily available to the public.

[SEC. 4118. PROGRAMS FOR NATIVE HAWAIIANS.

[(a) GENERAL AUTHORITY.—From the funds made available pursuant to section 4111(a)(4) to carry out this section, the Secretary shall make grants to or enter into cooperative agreements or contracts with organizations primarily serving and representing Native Hawaiians which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions

thereof, which are authorized by and consistent with the provisions of this title for the benefit of Native Hawaiians.

[(b) DEFINITION OF NATIVE HAWAIIAN.—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.

[Subpart 2—National Programs

[SEC. 4121. FEDERAL ACTIVITIES.

[(a) PROGRAM AUTHORIZED.—From funds made available to carry out this subpart under section 4004(2), the Secretary, in consultation with the Secretary of Health and Human Services, the Director of the Office of National Drug Control Policy, the Chair of the Ounce of Prevention Council, and the Attorney General, shall carry out programs to prevent the illegal use of drugs and violence among, and promote safety and discipline for, students at all educational levels from preschool through the postsecondary level. The Secretary shall carry out such programs directly, or through grants, contracts, or cooperative agreements with public and private nonprofit organizations and individuals, or through agreements with other Federal agencies, and shall coordinate such programs with other appropriate Federal activities. Such programs may include—

[(1) the development and demonstration of innovative strategies for training school personnel, parents, and members of the community, including the demonstration of model preservice training programs for prospective school personnel;

[(2) demonstrations and rigorous evaluations of innovative approaches to drug and violence prevention;

[(3) 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;

[(4) the development of curricula related to child abuse prevention and education and the training of personnel to teach child abuse education and prevention to elementary and secondary schoolchildren;

[(5) program evaluations in accordance with section 14701 that address issues not addressed under section 4117(a);

[(6) direct services to schools and school systems afflicted with especially severe drug and violence problems;

[(7) activities in communities designated as empowerment zones or enterprise communities that will connect schools to community-wide efforts to reduce drug and violence problems;

[(8) developing and disseminating drug and violence prevention materials, including video-based projects and model curricula;

[(9) developing and implementing a comprehensive violence prevention strategy for schools and communities, that may include conflict resolution, peer mediation, the teaching of law and legal concepts, and other activities designed to stop violence;

[(10) the implementation of innovative activities, such as community service projects, designed to rebuild safe and healthy neighborhoods and increase students' sense of individual responsibility;

[(11) grants to noncommercial telecommunications entities for the production and distribution of national video-based projects that provide young people with models for conflict resolution and responsible decisionmaking;

[(12) the development of education and training programs, curricula, instructional materials, and professional training and development for preventing and reducing the incidence of crimes and conflicts motivated by hate in localities most directly affected by hate crimes; and

[(13) other activities that meet unmet national needs related to the purposes of this title.

[(b) PEER REVIEW.—The Secretary shall use a peer review process in reviewing applications for funds under this section.

[SEC. 4123. HATE CRIME PREVENTION.

[(a) GRANT AUTHORIZATION.—From funds made available to carry out this subpart under section 4004(1) the Secretary may make grants to local educational agencies and community-based organizations for the purpose of providing assistance to localities most directly affected by hate crimes.

[(b) USE OF FUNDS.—

[(1) PROGRAM DEVELOPMENT.—Grants under this section may be used to improve elementary and secondary educational efforts, including—

[(A) development of education and training programs designed to prevent and to reduce the incidence of crimes and conflicts motivated by hate;

[(B) development of curricula for the purpose of improving conflict or dispute resolution skills of students, teachers, and administrators;

[(C) development and acquisition of equipment and instructional materials to meet the needs of, or otherwise be part of, hate crime or conflict programs; and

[(D) professional training and development for teachers and administrators on the causes, effects, and resolutions of hate crimes or hate-based conflicts.

[(2) IN GENERAL.—In order to be eligible to receive a grant under this section for any fiscal year, a local educational agency, or a local educational agency in conjunction with a community-based organization, shall submit an application to the Secretary in such form and containing such information as the office may reasonably require.

[(3) REQUIREMENTS.—Each application under paragraph (2) shall include—

[(A) a request for funds for the purposes described in this section;

[(B) a description of the schools and communities to be served by the grants; and

[(C) assurances that Federal funds received under this section shall be used to supplement, not supplant, non-Federal funds.

[(4) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan that contains—

[(A) a description of the hate crime or conflict problems within the schools or the community targeted for assistance;

[(B) a description of the program to be developed or augmented by such Federal and matching funds;

[(C) assurances that such program or activity shall be administered by or under the supervision of the applicant;

[(D) proper and efficient administration of such program; and

[(E) fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this section.

[(c) AWARD OF GRANTS.—

[(1) SELECTION OF RECIPIENTS.—The Secretary shall consider the incidence of crimes and conflicts motivated by bias in the targeted schools and communities in awarding grants under this section.

[(2) GEOGRAPHIC DISTRIBUTION.—The Secretary shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

[(3) DISSEMINATION OF INFORMATION.—The Secretary shall attempt, to the extent practicable, to make available information regarding successful hate crime prevention programs, including programs established or expanded with grants under this section.

[(d) REPORTS.—The Secretary shall submit to the Congress a report every two years which shall contain a detailed statement regarding grants and awards, activities of grant recipients, and an evaluation of programs established under this section.

[Subpart 3—General Provisions

[SEC. 4131. DEFINITIONS.

[For the purposes of this part:

[(1) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" means a private nonprofit organization which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community.

[(2) 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 alcohol and the use of controlled, illegal, addictive, or harmful substances, including inhalants and anabolic steroids;

[(B) prevention, early intervention, smoking cessation activities, or education, related to the use of tobacco by children and youth eligible for services under this title; and

[(C) with respect to violence, the promotion of school safety, such that students and school personnel are free

from violent and disruptive acts, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, 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 fosters individual responsibility and respect for the rights of others.

[(3) HATE CRIME.—The term "hate crime" means a crime as described in section 1(b) of the Hate Crime Statistics Act of 1990.

[(4) 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.

[(5) SCHOOL-AGED POPULATION.—The term "school-aged population" means the population aged five through 17, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

[(6) SCHOOL PERSONNEL.—The term "school personnel" includes teachers, 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.

[SEC. 4132. MATERIALS.

[(a) "WRONG AND HARMFUL" MESSAGE.—Drug prevention programs supported under this part shall convey a clear and consistent message that the illegal use of alcohol and other drugs is wrong and harmful.

[(b) CURRICULUM.—The Secretary shall not prescribe the use of specific curricula for programs supported under this part, but may evaluate the effectiveness of such curricula and other strategies in drug and violence prevention.

[SEC. 4133. 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); and

[(2) medical services, drug treatment or rehabilitation, except for pupil services or referral to treatment for students who are victims of or witnesses to crime or who use alcohol, tobacco, or drugs.

[SEC. 4134. QUALITY RATING.

[(a) IN GENERAL.—The chief executive officer of each State, or in the case of a State in which the constitution or law of such State designates another individual, entity, or agency in the State to be responsible for education activities, such individual, entity, or agency, is authorized and encouraged—

[(1) to establish a standard of quality for drug, alcohol, and tobacco prevention programs implemented in public elementary schools and secondary schools in the State in accordance with subsection (b); and

[(2) to identify and designate, upon application by a public elementary school or secondary school, any such school that achieves such standard as a quality program school.

[(b) CRITERIA.—The standard referred to in subsection (a) shall address, at a minimum—

[(1) a comparison of the rate of illegal use of drugs, alcohol, and tobacco by students enrolled in the school for a period of time to be determined by the chief executive officer of the State;

[(2) the rate of suspensions or expulsions of students enrolled in the school for drug, alcohol, or tobacco-related offenses;

[(3) the effectiveness of the drug, alcohol, or tobacco prevention program as proven by research;

[(4) the involvement of parents and community members in the design of the drug, alcohol, and tobacco prevention program; and

[(5) the extent of review of existing community drug, alcohol, and tobacco prevention programs before implementation of the public school program.

[(c) REQUEST FOR QUALITY PROGRAM SCHOOL DESIGNATION.—A school that wishes to receive a quality program school designation shall submit a request and documentation of compliance with this section to the chief executive officer of the State or the individual, entity, or agency described in subsection (a), as the case may be.

[(d) PUBLIC NOTIFICATION.—Not less than once a year, the chief executive officer of each State or the individual, entity, or agency described in subsection (a), as the case may be, shall make available to the public a list of the names of each public school in the State that has received a quality program school designation in accordance with this section.]

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, non-

profit 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 program evaluation (consistent with the responsibilities of the Secretary under this section);

(4) provides assurance that, apart from technical and advisory assistance and monitoring compliance with this subpart, the State has not exercised and will not exercise any influence in the decisionmaking 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 students, parents, and school personnel by qualified school based mental health services personnel; and

(15) alternative educational programs for those students who have been expelled or suspended from their regular educational setting, including programs to assist students to reenter the regular educational setting upon return from treatment or alternative educational programs.

SEC. 4132. ADMINISTRATIVE AUTHORITY.

In order to conduct the activities authorized by this subpart, each State or local educational agency 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 equipment, 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 1 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 consultation 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 pub-

lic 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 educational 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 private 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 experi-

ences 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-Determination and Education Assistance Act (25 U.S.C. 450b)) and Native Hawaiian organizations) to assist such agencies, institutions, and organizations in carrying out programs or projects authorized by this subpart that are designed to meet the educational needs of gifted and talented students, including the training of personnel in the education of gifted and talented students and in the use, where appropriate, of gifted and talented services, materials, and methods for all students.

(2) APPLICATION.—

(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 activi-

ties 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.

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 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 problems and establish a thriving, financially viable charter school.

(B) ACTIVITIES.—A charter school described in subparagraph (A) may use funds reserved under paragraph (1) to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or

to disseminate information about the charter school, through such activities as—

(i) assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;

(ii) developing partnerships with other public schools, including charter schools, designed to improve student academic achievement in each of the schools participating in the partnership;

(iii) developing curriculum materials, 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 startup of charter schools;

(D) training and technical assistance to existing charter schools; and

(E) for the dissemination to other public schools of best or promising practices in charter schools.

(4) To provide (including through the use of one or more contracts that use a competitive bidding process) for the collection of information regarding the financial resources available to charter schools, including access to private capital, and to widely disseminate to charter schools any such relevant information and model descriptions of successful programs.

(b) CONSTRUCTION.—Nothing in this section shall be construed to 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 nondiscriminatory 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.

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 requires the desegregation of minority-group-segregated children or faculty in the elementary and secondary schools of such agency; or

(2) without having been required to do so, has adopted and is implementing, or will, if assistance is made available to such local educational agency or consortium of such agencies under this part, adopt and implement a plan that has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority-group-segregated children or faculty in such schools.

SEC. 4306. APPLICATIONS AND REQUIREMENTS.

(a) APPLICATIONS.—An eligible local educational agency, or consortium of such agencies, desiring to receive assistance under this part shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

(b) INFORMATION AND ASSURANCES.—Each such application shall include—

(1) a description of—

(A) how assistance made available under this part will be used to promote desegregation, including how the proposed magnet school project will increase 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.

[PART B] *Subpart 2*—Women's Educational Equity

SEC. [5201] *4321*. SHORT TITLE; FINDINGS.

[(a) SHORT TITLE.—This part may be cited as the "Women's Educational Equity Act of 1994".]

(a) SHORT TITLE.—This subpart may be cited as the "Women's Educational Equity Act of 2001".

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SEC. [5202] *4322*. STATEMENT OF PURPOSES.

It is the purpose of this [part] *subpart*—

(1) to promote gender equity in education in the United States;

(2) to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Educational Amendments of 1972; and

(3) to promote equity in education for women and girls who suffer from multiple forms of discrimination based on sex, race, ethnic origin, limited-English proficiency, disability, or age.

SEC. [5203] *4323*. PROGRAMS AUTHORIZED.

(a) IN GENERAL.—The Secretary is authorized—

(1) to promote, coordinate, and evaluate gender equity policies, programs, activities and initiatives in all Federal education programs and offices;

(2) to develop, maintain, and disseminate materials, resources, analyses, and research relating to education equity for women and girls;

(3) to provide information and technical assistance to assure the effective implementation of gender equity programs;

(4) to coordinate gender equity programs and activities with other Federal agencies with jurisdiction over education and related programs;

(5) to assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities related to education equity for women and girls; and

(6) to perform any other activities consistent with achieving the purposes of this [part] *subpart*.

(b) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to make grants to, and enter into contracts and cooperative agreements with, public agencies, private nonprofit agencies, organizations, institutions, student groups, community groups, and individuals, for a period not to exceed four years, to—

(A) provide grants to develop model equity programs; and

(B) provide funds for the implementation of equity programs in schools throughout the Nation.

(2) SUPPORT AND TECHNICAL ASSISTANCE.—To achieve the purposes of this [part] *subpart*, the Secretary is authorized to provide support and technical assistance—

(A) to implement effective gender-equity policies and programs at all educational levels, including—

(i) assisting educational agencies and institutions to implement policies and practices to comply with title IX of the Education Amendments of 1972;

(ii) training for teachers, counselors, administrators, and other school personnel, especially preschool and elementary school personnel, in gender equitable teaching and learning practices;

(iii) leadership training for women and girls to develop professional and marketable skills to compete in the global marketplace, improve self-esteem, and benefit from exposure to positive role models;

(iv) school-to-work transition programs, guidance and counseling activities, and other programs to increase opportunities for women and girls to enter a technologically demanding workplace and, in particular, to enter highly skilled, high paying careers in which women and girls have been underrepresented;

(v) enhancing educational and career opportunities for those women and girls who suffer multiple forms of discrimination, based on sex and on race, ethnic origin, limited-English proficiency, disability, socioeconomic status, or age;

(vi) assisting pregnant students and students rearing children to remain in or to return to secondary school, graduate, and prepare their preschool children to start school;

(vii) evaluating exemplary model programs to assess the ability of such programs to advance educational equity for women and girls;

(viii) introduction into the classroom of textbooks, curricula, and other materials designed to achieve equity for women and girls;

(ix) programs and policies to address sexual harassment and violence against women and girls and to ensure that educational institutions are free from threats to the safety of students and personnel;

(x) nondiscriminatory tests of aptitude and achievement and of alternative assessments that eliminate biased assessment instruments from use;

(xi) programs to increase educational opportunities, including higher education, vocational training, and other educational programs for low-income women, including underemployed and unemployed women, and women receiving assistance under a State program funded under part A of title IV of the Social Security Act;

(xii) programs to improve representation of women in educational administration at all levels; and

(xiii) planning, development and initial implementation of—

(I) comprehensive institution- or districtwide evaluation to assess the presence or absence of gender equity in educational settings;

(II) comprehensive plans for implementation of equity programs in State and local educational

agencies and institutions of higher education; including community colleges; and

(III) innovative approaches to school-community partnerships for educational equity.[1]

(B) for research and development, which shall be coordinated with each of the research institutes of the Office of Educational Research and Improvement to avoid duplication of research efforts, designed to advance gender equity nationwide and to help make policies and practices in educational agencies and institutions, and local communities, gender equitable, including—

(i) research and development of innovative strategies and model training programs for teachers and other education personnel;

(ii) the development of high quality and challenging assessment instruments that are nondiscriminatory;

(iii) the development and evaluation of model curricula, textbooks, software, and other educational materials to ensure the absence of gender stereotyping and bias;

(iv) the development of instruments and procedures that employ new and innovative strategies to assess whether diverse educational settings are gender equitable;

(v) the development of instruments and strategies for evaluation, dissemination, and replication of promising or exemplary programs designed to assist local educational agencies in integrating gender equity in their educational policies and practices;

(vi) updating high quality educational materials previously developed through awards made under this [part] *subpart*;

(vii) the development of policies and programs to address and prevent sexual harassment and violence to ensure that educational institutions are free from threats to safety of students and personnel;

(viii) the development and improvement of programs and activities to increase opportunity for women, including continuing educational activities, vocational education, and programs for low-income women, including underemployed and unemployed women, and women receiving assistance under the State program funded under part A of title IV of the Social Security Act; and

(ix) the development of guidance and counseling activities, including career education programs, designed to ensure gender equity.

SEC. [5204] *4324*. APPLICATIONS.

An application under this [part] *subpart* shall—

(1) set forth policies and procedures that will ensure a comprehensive evaluation of the activities assisted under this [part] *subpart*, including an evaluation of the practices, policies, and materials used by the applicant and an evaluation or

[1] So in law. Period probably should be a semicolon.

estimate of the continued significance of the work of the project following completion of the award period;

(2) where appropriate, demonstrate how funds received under this [part] *subpart* will be used to promote the attainment of one or more of the National Education Goals;

(3) demonstrate how the applicant will address perceptions of gender roles based on cultural differences or stereotypes;

(4) where appropriate, describe how funds under this [part] *subpart* will be used in a manner that is consistent with programs under the School-to-Work Opportunities Act of 1994;

(5) for applications for assistance under section [5203(b)] *4423(b)*(1), demonstrate how the applicant will foster partnerships and, where applicable, share resources with State educational agencies, local educational agencies, institutions of higher education, community-based organizations (including organizations serving women), parent, teacher, and student groups, businesses or other recipients of Federal educational funding which may include State literacy resource centers;

(6) for applications for assistance under section [5203(b)] *4423(b)*(1), demonstrate how parental involvement in the project will be encouraged; and

(7) for applications for assistance under section [5203(b)] *4423(b)*(1), describe plans for continuation of the activities assisted under this [part] *subpart* with local support following completion of the grant period and termination of Federal support under this [part] *subpart*.

SEC. [5205] *4325*. CRITERIA AND PRIORITIES.

(a) CRITERIA AND PRIORITIES.—

(1) IN GENERAL.—The Secretary shall establish separate criteria and priorities for awards under paragraphs (1) and (2) of section [5203(b)] *4423(b)* to ensure that funds under this [part] *subpart* are used for programs that most effectively will achieve the purposes of this [part] *subpart*.

(2) CRITERIA.—The criteria described in subsection (a) may include the extent to which the activities assisted under this [part] *subpart*—

(A) address the needs of women and girls of color and women and girls with disabilities;

(B) meet locally defined and documented educational equity needs and priorities, including compliance with title IX of the Education Amendments of 1972;

(C) are a significant component of a comprehensive plan for educational equity and compliance with title IX of the Education Amendments of 1972 in the particular school district, institution of higher education, vocational-technical institution, or other educational agency or institution; and

(D) implement an institutional change strategy with long-term impact that will continue as a central activity of the applicant after the grant under this [part] *subpart* has terminated.

(b) PRIORITIES.—In approving applications under this [part] *subpart*, the Secretary may give special consideration to applications—

(1) submitted by applicants that have not received assistance under this [part] *subpart* or under part C of title IX of this Act (as such part was in effect on October 1, 1988);

(2) for projects that will contribute significantly to directly improving teaching and learning practices in the local community; and

(3) for projects that will—

(A) provide for a comprehensive approach to enhancing gender equity in educational institutions and agencies;

(B) draw on a variety of resources, including the resources of local educational agencies, community-based organizations, institutions of higher education, and private organizations;

(C) implement a strategy with long-term impact that will continue as a central activity of the applicant after the grant under this [part] *subpart* has terminated;

(D) address issues of national significance that can be duplicated; and

(E) address the educational needs of women and girls who suffer multiple or compound discrimination based on sex and on race, ethnic origin, disability, or age.

(c) SPECIAL RULE.—To the extent feasible, the Secretary shall ensure that grants awarded under this [part] *subpart* for each fiscal year address—

(1) all levels of education, including preschool, elementary and secondary education, higher education, vocational education, and adult education;

(2) all regions of the United States; and

(3) urban, rural, and suburban educational institutions.

(d) COORDINATION.—Research activities supported under this [part] *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 the Office; and

(2) may include collaborative research activities which are jointly funded and carried out with the Office of Educational Research and Improvement.

(e) LIMITATION.—Nothing in this [part] *subpart* shall be construed as prohibiting men and boys from participating in any programs or activities assisted with funds under this [part] *subpart*.

SEC. [5206] *4326*. REPORT.

The Secretary, not later than January 1, [1999] *2005*, shall submit to the President and the Congress a report on the status of educational equity for girls and women in the Nation.

SEC. [5207] *4327*. ADMINISTRATION.

(a) EVALUATION AND DISSEMINATION.—The Secretary shall evaluate in accordance with section [14701,] *8651,* and disseminate, materials and programs developed under this [part] *subpart* and shall report to the Congress regarding such evaluation materials and programs not later than January 1, [1998] *2004*.

(b) PROGRAM OPERATIONS.—The Secretary shall ensure that the activities assisted under this [part] *subpart* are administered within the Department by a person who has recognized professional

qualifications and experience in the field of gender equity education.

SEC. [5208] *4328*. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this [part] *subpart*, there are authorized to be appropriated [$5,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years,] *$3,000,000 for fiscal year 2002 and such sums as may be necessary for each of the four succeeding fiscal years,* of which not less than two-thirds of the amount appropriated under this section for each fiscal year shall be available to carry out the activities described in section [5203(b)] *4423(b)*(1).

[TITLE V—PROMOTING EQUITY

[PART A—MAGNET SCHOOLS ASSISTANCE

[SEC. 5101. FINDINGS.

[The Congress finds that—

[(1) magnet schools are a significant part of our Nation's effort to achieve voluntary desegregation in our Nation's schools;

[(2) the use of magnet schools has increased dramatically since the date of enactment of the Magnet Schools Assistance program, with approximately 1,400,000 students nationwide now attending such schools, of which more than 60 percent of the students are nonwhite;

[(3) magnet schools offer a wide range of distinctive programs that have served as models for school improvement efforts;

[(4) in administering the Magnet Schools Assistance program, the Federal Government has learned that—

[(A) where magnet programs are implemented for only a portion of a school's student body, special efforts must be made to discourage the isolation of—

[(i) magnet school students from other students in the school; and

[(ii) students by racial characteristics;

[(B) local educational agencies can maximize their effectiveness in achieving the purposes of the Magnet Schools Assistance program if such agencies have more flexibility in the administration of such program in order to serve students attending a school who are not enrolled in the magnet school program;

[(C) local educational agencies must be creative in designing magnet schools for students at all academic levels, so that school districts do not skim off only the highest achieving students to attend the magnet schools;

[(D) consistent with desegregation guidelines, local educational agencies must seek to enable participation in magnet school programs by students who reside in the neighborhoods where the programs operate; and

[(E) in order to ensure that magnet schools are sustained after Federal funding ends, the Federal Government must assist school districts to improve their capacity

to continue to operate magnet schools at a high level of performance; and

[(5) it is in the best interest of the Federal Government to—

[(A) continue the Federal Government's support of school districts implementing court-ordered desegregation plans and school districts seeking to foster meaningful interaction among students of different racial and ethnic backgrounds, beginning at the earliest stage of such students' education;

[(B) ensure that all students have equitable access to quality education that will prepare such students to function well in a culturally diverse, technologically oriented, and highly competitive, global community; and

[(C) 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.

[SEC. 5102. 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 content standards and challenging State student performance standards;

[(3) the development and design of innovative educational methods and practices; 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 skills of students attending such schools.

[SEC. 5103. 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. 5104. 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. 5105. ELIGIBILITY.

[A local educational agency, or consortium of such agencies where appropriate, is eligible to receive assistance under this part

to carry out the purposes of this part if such agency or consortium—

[(1) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, that requires the desegregation of minority-group-segregated children or faculty in the elementary 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. 5106. 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 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 implement services and activities that are consistent with other programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, in accordance with the provisions of section 14306; 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 purposes specified in section 5102;

[(B) employ State certified or licensed teachers in the courses of instruction assisted under this part to teach or supervise others who are teaching the subject matter of the courses of instruction;

[(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.

[(c) SPECIAL RULE.—No application may be approved under this section unless the Assistant Secretary of Education for Civil Rights determines that the assurances described in subsection (b)(2)(C) will be met.

[SEC. 5107. 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;

[(3) propose to select students to attend magnet school projects by methods such as lottery, rather than through academic examination;

[(4) propose to implement innovative educational approaches that are consistent with the State's and local educational agency's approved systemic reform plans, if any, under title III of the Goals 2000: Educate America Act; and

[(5) propose to draw on comprehensive community involvement plans.

[SEC. 5108. 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 certified or licensed by the State, and instructional staff where applicable, who are necessary for the conduct of programs in magnet schools; and

[(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 purposes of this part.

[(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' reading skills or knowledge of mathematics, science, history, geography, English, foreign languages, art, or music, or to improving vocational skills.

[SEC. 5109. 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. 5110. 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 June 1 of the applicable fiscal year.

[SEC. 5111. INNOVATIVE PROGRAMS.

[(a) IN GENERAL.—From amounts reserved under subsection (d) for each fiscal year, the Secretary shall award grants to local educational agencies or consortia of such agencies described in section 5105 to enable such agencies or consortia to conduct innovative programs that—

[(1) carry out the purpose of this part; and

[(2) involve strategies other than magnet schools, such as neighborhood or community model schools—

[(A) organized around a special emphasis, theme or concept; and

[(B) involving extensive parent and community involvement.

[(b) APPLICABILITY.—Sections 5103, 5106, 5107, and 5108, shall not apply to grants awarded under subsection (a).

[(c) APPLICATIONS.—Each local educational agency or consortia of such agencies desiring a grant under this section 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.

[(d) INNOVATIVE PROGRAMS.—The Secretary shall reserve not more than 5 percent of the funds appropriated under section 5113(a) for each fiscal year to award grants under this section.

[SEC. 5112. EVALUATIONS.

[(a) RESERVATION.—The Secretary may reserve not more than two percent of the funds appropriated under section 5113(a) for any fiscal year to carry out evaluations of projects 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. 5113. AUTHORIZATION OF APPROPRIATIONS; RESERVATION.

[(a) AUTHORIZATION.—For the purpose of carrying out this part, there are authorized to be appropriated $120,000,000 for fiscal year 1995 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.

[PART C—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

[SEC. 5301. SHORT TITLE.

[This part may be cited as the "School Dropout Assistance Act".

[SEC. 5302. PURPOSE.

[The purpose of this part is to reduce the number of children who do not complete their elementary and secondary education by providing grants to local educational agencies to establish—

[(1) effective programs to identify potential student dropouts, including pregnant and parenting teenagers, and prevent such students from dropping out of school;

[(2) effective programs to identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education;

[(3) effective early intervention programs designed to identify at-risk students in elementary and secondary schools; and

[(4) model systems for collecting and reporting information to local school officials on the number, ages, sex, race or eth-

nicity, and grade levels of the children not completing their elementary and secondary education and the reasons why such children have dropped out of school.

[SEC. 5303. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

[(a) ALLOTMENT TO CATEGORIES OF LOCAL EDUCATIONAL AGENCIES.—From the amount appropriated under section 5308 for any fiscal year, the Secretary shall first reserve not more than $2,000,000 for the purposes of evaluating programs carried out with assistance under this part in accordance with section 14701. From the remaining amount, the Secretary shall allot the following percentages to each of the following categories of local educational agencies:

[(1) Local educational agencies administering schools with a total enrollment of 100,000 or more elementary and secondary school students shall be allotted 25 percent of such remaining amount.

[(2) Local educational agencies administering schools with a total enrollment of at least 20,000 but less than 100,000 elementary and secondary school students shall be allotted 40 percent of such remaining amount.

[(3) Local educational agencies administering schools with a total enrollment of less than 20,000 elementary and secondary school students shall be allotted 30 percent of such remaining amount. Grants may be made under this paragraph to educational service agencies and consortia of not more than 5 local educational agencies in any case in which the total enrollment of the largest such local educational agency is less than 20,000 elementary and secondary students. Such agencies and consortia may also apply for assistance under this part in conjunction with the State educational agency. Not less than 20 percent of funds available under this paragraph shall be awarded to local educational agencies administering schools with a total enrollment of less than 2,000 elementary and secondary school students.

[(4) Community-based organizations shall be allotted 5 percent of such remaining amount. Grants under this paragraph shall be made after consultation between the community-based organization and the local educational agency that is to benefit from such a grant.

[(b) SPECIAL CONSIDERATION.—

[(1) IN GENERAL.—The Secretary shall give special consideration to awarding funds available for each category described in paragraphs (1), (2), and (3) of subsection (a) to local educational agencies participating in an educational partnership.

[(2) EDUCATIONAL PARTNERSHIPS.—For the purpose of this part the term "educational partnerships' means a partnership between—

[(A) a local educational agency; and

[(B) a business concern or business organization, community-based organization, nonprofit private organization, institution of higher education, State educational agency, State or local public agency, private industry council (established under the Job Training Partnership Act), museum, library, or educational television or broadcasting station.

[(c) AWARD OF GRANT.—

[(1) IN GENERAL.—From the amount allotted for any fiscal year to a category of local educational agencies under subsection (a), the Secretary shall award as many grants as practicable within each such category to local educational agencies and educational partnerships whose applications have been approved by the Secretary for such fiscal year under section 5304 and whose applications propose a program of sufficient size, scope, and quality to be effective.

[(2) ADDITIONAL FUNDS.—Any local educational agency or educational partnership that has received a grant under this part shall be eligible for additional funds as provided under subsection (d).

[(3) TERMS AND CONDITIONS.—Grants under this part shall be made under such terms and conditions as the Secretary shall prescribe.

[(d) USE OF FUNDS WHEN NOT FULLY ALLOTTED TO CATEGORIES UNDER SUBSECTION (a).—

[(1) IN GENERAL.—Whenever the Secretary determines that the full amount of the sums allotted under any category set forth under subsection (a) will not be required for applications of the local educational agencies in the case of categories described in paragraphs (1), (2), or (3) of subsection (a), the Secretary shall make the amount not so required available to another category under subsection (a). In carrying out the provisions of this subsection, the Secretary shall assure that the transfer of amounts from one category to another is made to a category in which there is the greatest need for funds.

[(2) PEER REVIEW.—In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund projects in particular categories and shall prepare a list of the categories in which funds were not fully expended and the reasons therefor, and make such list available to local educational agencies and educational partnerships upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

[(e) FEDERAL SHARE.—

[(1) FEDERAL SHARE.—The Federal share of a grant under this part may not exceed—

[(A) 90 percent of the total cost of a project for the first year for which the project receives assistance under this part; and

[(B) 75 percent of such cost in each such succeeding fiscal year.

[(2) REMAINING COSTS.—The remaining cost of a project that receives assistance under this part may be paid from any source other than funds made available under this part, except that not more than 10 percent of the remaining cost in any fiscal year may be provided from Federal sources other than this part.

[(3) NON-FEDERAL SHARE.—The share of payments from sources other than funds made available under this part may

be in cash or in kind fairly evaluated, including plant, equipment or services.

[SEC. 5404. APPLICATION.

[(a) APPLICATION REQUIRED.—

[(1) IN GENERAL.—A grant under this part may be made only to a local educational agency or an educational partnership which submits an application to the Secretary containing such information as may be required by the Secretary by regulation.

[(2) DURATION.—Each such application shall be for a three-year period.

[(b) CONTENTS.—Each such application shall—

[(1) provide documentation of—

[(A) the number of children who were enrolled in the schools to be served by the applicant for the five academic years prior to the date application is made who have not completed their elementary or secondary education and who are classified as school dropouts; and

[(B) the percentage that such number of children is of the total school-age population in the applicant's schools;

[(2) include a plan for the development and implementation of a school dropout information collection and reporting system for documenting the extent and nature of the dropout problem, which system shall collect and cross tabulate data, where feasible, by sex according to race or ethnicity and socioeconomic status;

[(3) include a plan for coordinated activities involving not less than one secondary school and its feeder junior high or middle schools and elementary schools for local educational agencies that have feeder systems;

[(4) when applicable, describe how programs assisted under this part will be coordinated with, and not duplicate, programs assisted under title I;

[(5) include a description of how the program assisted under this part is consistent with the second National Education Goal, relating to school completion, and other Federal programs as appropriate; and

[(6) contain such other information as the Secretary considers necessary to determine the nature of the local needs, the quality of the proposed project, and the capability of the applicant to carry out the project.

[(c) PRIORITY.—The Secretary shall, in approving applications under this section, give priority to applications which—

[(1) demonstrate the replication of successful programs conducted in other local educational agencies or the expansion of successful programs within a local educational agency; and

[(2) reflect very high numbers or very high percentages of school dropouts in the schools of the applicant in each category described in section 5303(a).

[(d) SPECIAL CONSIDERATION.—The Secretary shall give additional special consideration to applications that include—

[(1) provisions which emphasize early intervention services designed to identify at-risk students in elementary or early secondary schools; and

[(2) provisions for significant parental involvement.

[(e) GRANTS FOR NEW GRANTEES.—In awarding grants under this part the Secretary shall use only the priorities and special considerations described in subsections (c) and (d).

[(f) CONTINUATION OF ASSISTANCE.—For the two fiscal years beginning after the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall approve an application under this section for a local educational agency which received funding in fiscal year 1994 under the School Dropout Demonstration Assistance Act of 1988 (20 U.S.C. 3241 et seq.) and which—

[(1) satisfies the requirements of this section;

[(2) qualifies for special consideration or priority under—

[(A) section 5303(b); and

[(B) subsections (c) and (d) of this section; and

[(3) provides evidence that the program for which such agency is seeking assistance is effective in—

[(A) providing early intervention services to at-risk students in elementary and secondary schools;

[(B) identifying potential student dropouts; and

[(C) preventing students from dropping out of school.

[SEC. 5305. AUTHORIZED ACTIVITIES.

[Grants under this part shall be used to carry out activities and services described in applications approved under section 5304. In addition, grants may be used for educational, occupational, and basic skills testing services and activities, including—

[(1) the establishment of systemwide or school-level policies, procedures, and plans for dropout prevention and school reentry;

[(2) the development and implementation of activities, including extended day or summer programs, designed to address poor achievement, basic skills deficiencies, language deficiencies, or course failures, in order to assist students at risk of dropping out of school and students reentering school, including youth returning to school from a correctional or other facility operated for delinquent youth;

[(3) the establishment or expansion of work-study, apprentice, or internship programs;

[(4) the use of resources of the community, including contracting with public or private entities or community-based organizations of demonstrated performance, to provide services to the grant recipient or the target population;

[(5) the evaluation and revision of program placement of students at risk;

[(6) the evaluation of program effectiveness of dropout programs;

[(7) the development and implementation of programs for traditionally underserved groups of students;

[(8) the implementation of activities which will improve student motivation and the school learning environment;

[(9) the provision of training for school personnel on strategies and techniques designed to—

[(A) identify children at risk of dropping out of school;

[(B) intervene in the instructional program for such children with support and remedial services;

[(C) develop realistic expectations for student performance; and

[(D) improve student-staff interactions;

[(10) the study of the relationship between drugs and school dropouts and between youth gangs and school dropouts, and the coordination of dropout prevention and reentry programs with appropriate drug prevention and community organizations for the prevention of youth gangs;

[(11) the study of the relationship between disabling conditions and student dropouts;

[(12) the study of the relationship between the dropout rate for gifted and talented students compared to the dropout rate for the general student enrollment;

[(13) the use of educational telecommunications and broadcasting technologies and educational materials designed to extend, motivate, and reinforce school, community, and home dropout prevention and reentry activities;

[(14) the development and implementation of efforts to identify and address factors in a student's decision to drop out of school that are related to gender and family roles, including activities and services designed to meet the needs of pregnant and parenting teenagers;

[(15) the provision of other educational, occupational and testing services and activities which directly relate to the purpose of this part;

[(16) activities which offer jobs and college admissions for successful completion of the program for which assistance is sought;

[(17) summer employment programs;

[(18) occupational training programs;

[(19) career opportunity and skills counseling;

[(20) job placement services;

[(21) the development of skill employment competency testing programs;

[(22) special school staff training projects; and

[(23) mentoring programs.

[SEC. 5306. DISTRIBUTION OF ASSISTANCE; LIMITATION ON COSTS.

[(a) DISTRIBUTION OF ASSISTANCE.—The Secretary shall ensure that, to the extent practicable, in approving grant applications under this part—

[(1) grants are equitably distributed on a geographic basis within each category set forth in section 5303(a);

[(2) the amount of a grant to a local educational agency or an educational partnership for a fiscal year is proportionate to the extent and severity of the local school dropout problem;

[(3) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to school dropout prevention; and

[(4) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to persuading school dropouts to return to school and assisting former school dropouts with specialized services once school dropouts return to school.

[(b) ADMINISTRATIVE COSTS.—Not more than five percent of any grant made under this part may be used for administrative costs.

[SEC. 5307. REPORTS.

[(a) ANNUAL REPORTS.—The Secretary shall submit to the Congress a report by January 1 of each year, beginning on January 1, 1995, which sets forth the progress of the Commissioner of Education Statistics, established under section 403(b) of the National Education Statistics Act of 1994, to implement a definition and data collection process for school dropouts in elementary and secondary schools, including statistical information for the number and percentage of elementary and secondary school students by gender, race, and ethnic origin who drop out of school each year, including dropouts—

[(1) throughout the Nation by rural and urban location as defined by the Secretary; and

[(2) in each of the individual States and the District of Columbia.

[(b) RECOMMENDATIONS.—The report under subsection (a) shall also contain recommendations on ways in which the Federal Government, States and localities can further support the implementation of an effective methodology to accurately measure school dropout and retention rates on the national, State, and local levels.

[SEC. 5308. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated $50,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part.]

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 one-half 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 activities 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 paragraphs (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, described in subsection (b)(2), either directly or through grants and contracts, to establish and implement a statewide system of collecting data regarding statistics on—

(i) truancy rates; and

(ii) 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 received 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 organizations in order to seek advice regarding how best to coordinate such agency's activities under this subpart with other related strategies, programs, and activities being conducted in the community.

(2) DESIGN AND DEVELOPMENT.—To ensure timely and meaningful consultation, a local educational agency 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 performance 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, law enforcement and security activities, including—

(i) acquisition and installation of metal detectors;

(ii) hiring and training of security personnel, 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 one-half 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 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 on-going 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 available 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 effective 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) 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.

(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) 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 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 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 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.

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 curriculum that is aligned with challenging State academic content and student academic achievement standards, through such means as high quality professional development programs.

(5) To enhance the ongoing professional development of teachers, principals, and administrators by providing constant access

to updated research in teaching and learning via electronic means.

(6) To support the development of electronic networks and other innovative methods, such as distance learning, of delivering challenging courses and 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 students, 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 subpart 2, of which not more than $15,000,000 may be used for the study required by section 5221(a)(1).

SEC. 5204. DEFINITIONS.

In this part:

(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.

SEC. [3601] *5205*. LIMITATION ON AVAILABILITY OF CERTAIN FUNDS FOR SCHOOLS.

(a) INTERNET SAFETY.—

(1) IN GENERAL.—No funds made available under this [title] *part* to a local educational agency for an elementary or secondary school that does not receive services at discount rates under section 254(h)(5) of the Communications Act of 1934, as added by section 1721 of Children's Internet Protection Act, may be used to purchase computers used to access the Internet, or to pay for direct costs associated with accessing the Internet, for such school unless the school, school board, local educational agency, or other authority with responsibility for administration of such school both—

(A) * * *

* * * * * * *

(2) TIMING AND APPLICABILITY OF IMPLEMENTATION.—

(A) * * *

(B) PROCESS.—

(i) * * *

* * * * * * *

Any school covered by paragraph (1) for which the local educational agency concerned is unable to certify compliance with such requirements in such second program year shall be ineligible for all funding under this [title] *part* for such second program year and all subsequent program years until such time as such school comes into compliance with such requirements.

(iii) WAIVERS.—Any school subject to a certification under clause (ii)(II) for which the local educational agency concerned cannot make the certification otherwise required by that clause may seek a waiver of that clause if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by that clause. The local educational agency concerned shall notify the Secretary of the applicability of that clause to the school. Such notice shall certify that the school will be brought into compliance with the requirements in paragraph (1) before the start of the third program year after the effective date of this section in which the school is applying for funds under this [title] *part*.

(3) DISABLING DURING CERTAIN USE.—An administrator, supervisor, or person authorized by the responsible authority under paragraph (1) may disable the technology protection measure concerned to enable access for bona fide research or other lawful purposes.

(4) NONCOMPLIANCE.—

(A) USE OF GENERAL EDUCATION PROVISIONS ACT REMEDIES.—Whenever the Secretary has reason to believe that any recipient of funds under this [title] *part* is failing to comply substantially with the requirements of this subsection, the Secretary may—

(i) withhold further payments to the recipient under this [title] *part*,

* * * * * * *

(5) DEFINITIONS.—In this section:

(A) * * *

* * * * * * *

(C) ACQUISITION OR OPERATION.—A elementary or secondary school shall be considered to have received funds under this [title] *part* for the acquisition or operation of any computer if such funds are used in any manner, directly or indirectly—

(i) * * *

* * * * * * *

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 deter-

mined 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 that 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 dissemination 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.

(2) A description of the applicant's specific goals for using advanced technology to improve student achievement aligned to challenging State academic content and student academic achievement standards.

(3) A description of—

(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 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 established by the State consistent with this subpart; and

(B) an assurance that any technology obtained with funds provided under this subpart will have compatibility and interconnectivity with technology obtained with funds provided previously under title III (as in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001), as appropriate.

SEC. 5215. 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 ap-

plicants 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 demonstrates, 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 students 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 curricula) 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 Internet, in a timely and user-friendly manner. This information shall, at a minimum, include—

(A) upon the awarding of such a grant or contract under subsection (a)(2), the identification of the grant or contract recipient, the amount of the grant or contract, the stated goals of the grant or contract, the methods by which the grant or contract will be evaluated in meeting such 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. TELECOMMUNICATIONS PROGRAM.

(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 educational 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, in-

cluding 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 regions 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 $25,000,000 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 relationships, 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 adult role models.

(2) MENTOR.—The term "mentor" means an individual who works with a child to provide a positive role model for the child, to establish a supportive relationship with the child, and to provide the child with academic assistance and exposure to new experiences and examples of opportunity that 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 adult;

(2) to improve the academic performance of such children;

(3) to improve interpersonal relationships between such children and their peers, teachers, other adults, and family members;

(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, who—

(A) have received training and support in mentoring;

(B) have been screened using appropriate reference checks, child and domestic abuse record checks, and criminal background checks; and

(C) are interested in working with youth; and

(2) are intended to achieve 1 or more of the following goals:

(A) Provide general guidance to children with greatest need.

(B) Promote personal and social responsibility among children with greatest need.

(C) Increase participation by children with greatest need in, 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 adult mentors;

(D) reimbursement of schools, if appropriate, for the use of school materials or supplies in carrying out the program;

(E) dissemination of outreach materials;

(F) evaluation of the program using scientifically based methods; and

(G) such other activities as the Secretary may reasonably prescribe by rule.

(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 recipients 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 postsecondary 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, policies, or procedures of such programs that can be replicated.

(b) REPORT.—Not later than 3 years after the date of enactment of the Mentoring for Success Act, the Comptroller General shall sub-

mit 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—INNOVATIVE EDUCATION PROGRAM STRATEGIES

[SEC. 6001. FINDINGS AND STATEMENT OF PURPOSE.

[(a) FINDINGS.—The Congress finds that 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) has been successful in achieving the goals of increasing local flexibility, reducing administrative burden, providing services for private school students, encouraging innovation, and contributing to the improvement of elementary and secondary educational programs.

[(b) STATEMENT OF PURPOSE.—It is the purpose of programs under this title—

[(1) to support local education reform efforts which are consistent with and support statewide reform efforts under Goals 2000: Educate America Act;

[(2) to support State and local efforts to accomplish the National Education Goals;

[(3) to provide funding to enable State and local educational agencies to implement promising educational reform programs;

[(4) to provide a continuing source of innovation, and educational improvement, including support for library services and instructional and media materials; and

[(5) to meet the special educational needs of at risk and high cost students.

[(c) STATE AND LOCAL RESPONSIBILITY.—The basic responsibility for the administration of funds made available under this title is within the State educational agencies, but it is the intent of Congress that the responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under this title will be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, 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.

[SEC. 6002. AUTHORIZATION OF APPROPRIATIONS; DURATION OF ASSISTANCE.

[(a) AUTHORIZATION.—To carry out the purposes of this title, there are authorized to be appropriated $370,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

[(b) DURATION OF ASSISTANCE.—During the period beginning October 1, 1994, and ending September 30, 1999, the Secretary shall, in accordance with the provisions of this title, make payments to State educational agencies for the purpose of this title.

[SEC. 6003. DEFINITION.

[For the purposes of this title the term "effective schools programs" means school-based programs that may encompass preschool through secondary school levels and that have the objectives of (1) promoting school-level planning, instructional improvement, and staff development, (2) increasing the academic achievement levels of all children and particularly educationally disadvantaged children, and (3) achieving as ongoing conditions in the school the following factors identified through effective schools research as distinguishing effective from ineffective schools:

[(A) Strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving.

[(B) Emphasis on the acquisition of basic and higher order skills.

[(C) A safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement.

[(D) A climate of expectation that virtually all children can learn under appropriate conditions.

[(E) Continuous assessment of students and programs to evaluate the effects of instruction.

[PART A—STATE AND LOCAL PROGRAMS

[SEC. 6101. ALLOTMENT TO STATES.

[(a) RESERVATIONS.—From the sums appropriated to carry out this title in any fiscal year, the Secretary shall reserve not to exceed one percent for payments to outlying areas to be allotted in accordance with their respective needs.

[(b) ALLOTMENT.—From the remainder of such sums, the Secretary shall allot 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 one-half of one percent of such remainder.

[(c) DEFINITIONS.—For purposes of this part:

[(1) The term "school-age population" means the population aged 5 through 17.

[(2) The term "States" includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

[SEC. 6102. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

[(a) DISTRIBUTION RULE.—From the sums made available each year to carry out this title, the State educational agency shall dis-

tribute 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 school districts of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

[(1) children living in areas with high concentrations of low-income families;

[(2) children from low-income families; and

[(3) children living in sparsely populated areas.

[(b) CALCULATION OF ENROLLMENTS.—

[(1) IN GENERAL.—The calculation of relative enrollments under subsection (a) shall be on the basis of the total of—

[(A) the number of children enrolled in public schools; and

[(B) the number of children enrolled in private nonprofit schools that desire that their children participate in programs or projects assisted under this title, 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 local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within the areas served by such agencies in order to determine whether such schools desire that their children participate in programs assisted under this part.

[(3) ADJUSTMENTS.—(A) Relative enrollments under subsection (a) 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 which serve the greatest numbers or percentages of—

[(i) children living in areas with high concentrations of low-income families;

[(ii) children from low-income families; or

[(iii) children living in sparsely populated areas.

[(B) The Secretary shall review criteria submitted by a State educational agency for adjusting allocations under paragraph (1) and shall approve such criteria only if the Secretary determines that such criteria are reasonably calculated to produce an adjusted allocation that reflects the relative needs within 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 educational agency pursuant to section 6002 for a fiscal year, a State educational agency shall distribute to each eligible local educational agency which has submitted an application as required in section 6202 the amount of such local educational agency allocation as determined under subsection (a).

[(2) ADDITIONAL FUNDS.—(A) 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), may, at 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) and enrolled in such schools within the local educational agency.

[(B) 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) The provisions of subparagraphs (A) and (B) may not be construed to require any school to limit the use of such additional funds to the provision of services to specific students or categories of students.

[PART B—STATE PROGRAMS

[SEC. 6201. STATE USES OF FUNDS.

[(a) AUTHORIZED ACTIVITIES.—A State educational agency may use funds made available for State use under this title only for—

[(1) State administration of programs under this title 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 title;

[(2) support for planning, designing, and initial implementation of charter schools as described in part C of title X; and

[(3) technical assistance and direct grants to local educational agencies and statewide education reform activities including effective schools programs which assist local educational agencies to provide targeted assistance.

[(b) LIMITATIONS AND REQUIREMENTS.—Not more than 25 percent of funds available for State programs under this title in any fiscal year may be used for State administration under subsection (a)(1).

[SEC. 6202. STATE APPLICATIONS.

[(a) APPLICATION REQUIREMENTS.—Any State which desires to receive assistance under this part shall submit to the Secretary an application which—

[(1) designates the State educational agency as the State agency responsible for administration and supervision of programs assisted under this title;

[(2)(A) provides for a biennial submission of data on the use of funds, the types of services furnished, and the students served under this title; and

[(B) in fiscal year 1998 provides for an evaluation of the effectiveness of programs assisted under this title;

[(3) sets forth the allocation of such funds required to implement section 6402;

[(4) provides that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (con-

sistent with the responsibilities of the Secretary under this section);

[(5) provides assurance that, apart from technical and advisory assistance and monitoring compliance with this title, the State educational agency has not exercised and will not exercise any influence in the decisionmaking processes of local educational agencies as to the expenditure made pursuant to an application under section 6303;

[(6) contains assurances that there is compliance with the specific requirements of this title; and

[(7) provides for timely public notice and public dissemination of the information provided pursuant to paragraph (2).

[(b) PERIOD OF APPLICATION.—An application filed by the State under subsection (a) shall be for a period not to exceed three years, and may be amended annually as may be necessary to reflect changes without filing a new application.

[(c) AUDIT RULE.—Local educational agencies receiving less than an average of $5,000 each under this title shall not be audited more frequently than once every five years.

[PART C—LOCAL INNOVATIVE EDUCATION PROGRAMS

[SEC. 6301. TARGETED USE OF FUNDS.

[(a) GENERAL RULE.—Funds made available to local educational agencies under section 6102 shall be used for innovative assistance described in subsection (b).

[(b) INNOVATIVE ASSISTANCE.—The innovative assistance programs referred to in subsection (a) include—

[(1) 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;

[(2) programs for the acquisition and use of instructional and educational materials, including library services and materials (including media materials), assessments, reference materials, computer software and hardware for instructional use, and other curricular materials which are tied to high academic standards and which will be used to improve student achievement and which are part of an overall education reform program;

[(3) promising education reform projects, including effective schools and magnet schools;

[(4) programs to improve the higher order thinking skills of disadvantaged elementary and secondary school students and to prevent students from dropping out of school;

[(5) programs to combat illiteracy in the student and adult population, including parent illiteracy;

[(6) programs to provide for the educational needs of gifted and talented children;

[(7) school reform activities that are consistent with the Goals 2000: Educate America Act;

[(8) planning, designing, and initial implementation of charter schools as described in part C of title X; and

[(9) school improvement programs or activities under sections 1116 and 1117.

[SEC. 6302. ADMINISTRATIVE AUTHORITY.

[In order to conduct the activities authorized by this title, each State or local educational agency may use funds reserved for this title 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.

[SEC. 6303. LOCAL APPLICATIONS.

[(a) CONTENTS OF APPLICATION.—A local educational agency or consortium of such agencies may receive an allocation of funds under this title for any year for which an application is submitted to the State educational agency and such application is certified to meet the requirements of this section. The State educational agency shall certify any such application if such application—

[(1)(A) sets forth the planned allocation of funds among innovative assistance programs described in section 6301 and describes the programs, projects, and activities designed to carry out such innovative assistance which the local educational agency intends to support, together with the reasons for the selection of such programs, projects, and activities; and

[(B) sets forth the allocation of such funds required to implement section 6402;

[(2) describes how assistance under this title will contribute to meeting the National Education Goals and improving student achievement or improving the quality of education for students;

[(3) provide assurances of compliance with the provisions of this title, including the participation of children enrolled in private, nonprofit schools in accordance with section 6402;

[(4) agrees to keep such records, and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this title; and

[(5) provides in the allocation of funds for the assistance authorized by this title, 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 title (such as librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency.

[(b) PERIOD OF APPLICATION.—An application filed by a local educational agency under subsection (a) shall be for a period not to exceed three fiscal years, may provide for the allocation of funds to programs for a period of three years, and may be amended annually as may be necessary to reflect changes without filing a new application.

[(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—Subject to the limitations and requirements of this title, a local educational agency shall have complete discretion in determining how funds under

this part shall be divided among the areas of targeted assistance. In exercising such discretion, a local educational agency shall ensure that expenditures under this part carry out the purposes of this title and are used to meet the educational needs within the schools of such local educational agency.

[PART D—GENERAL ADMINISTRATIVE PROVISIONS

[SEC. 6401. 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 part for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

[(2) REDUCTION OF FUNDS.—The Secretary shall reduce the amount of the allocation of funds under this part in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

[(3) WAIVERS.—The Secretary may waive, for one 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 part only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this part, 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. 6402. 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 title or which serves the area in which a program or project assisted under this title 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 educational agency from funds made available for State use, such agency, after consultation with appropriate private school offi-

cials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment, including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, 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 title.

[(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 educational agency 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 title.

[(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 title 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.—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 title for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this title 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 consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

[(c) FUNDS.—

[(1) ADMINISTRATION OF FUNDS AND PROPERTY.—The control of funds provided under this title, 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 title, and a public agency shall administer such funds and property.

[(2) PROVISION OF SERVICES.—The provision of services pursuant to this title 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 title shall not be commingled with State or local funds.

[(d) STATE PROHIBITION WAIVER.—If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, 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.

[(e) WAIVER AND PROVISION OF SERVICES.—

[(1) 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.

[(2) WITHHOLDING OF ALLOCATION.—Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), 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.

[(f) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State 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 title.

[(h) REVIEW.—

[(1) WRITTEN OBJECTIONS.—The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why that action should not be taken.

[(2) COURT ACTION.—If a State 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. 6403. FEDERAL ADMINISTRATION.

[(a) TECHNICAL ASSISTANCE.—The Secretary, upon request, shall provide technical assistance to State and local educational agencies under this title.

[(b) RULEMAKING.—The Secretary shall issue regulations under this title only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this title.

[(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 title 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.]

TITLE [VIII] *VI*—IMPACT AID

SEC. [8001.] *6001.* PURPOSE.

In order to fulfill the Federal responsibility to assist with the provision of educational services to federally connected children in a manner that promotes control by local educational agencies with little or no Federal or State involvement, because certain activities of the Federal Government, such as activities to fulfill the responsibilities of the Federal Government with respect to Indian tribes and activities under section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 574), place a financial burden on the local educational agencies serving areas where such activities are carried out, and to help such children meet challenging State standards, it is the purpose of this title to provide financial assistance to local educational agencies that—

(1) * * *

* * * * * * *

SEC. [8002.] *6002.* PAYMENTS RELATING TO FEDERAL ACQUISITION OF REAL PROPERTY.

(a) IN GENERAL.—Where the Secretary, after consultation with any local educational agency and with the appropriate State educational agency, determines for a fiscal year ending prior to October 1, 2003—

(1) * * *

* * * * * * *

(b) AMOUNT.—

(1) IN GENERAL.—(A) * * *

(B) If funds appropriated under section [8014] *6013*(a) are insufficient to pay the amount determined under subparagraph (A), the Secretary shall calculate the payment for each eligible local educational agency in accordance with subsection (h).

(C) Notwithstanding any other provision of this subsection, a local educational agency may not be paid an amount under this section that, when added to the amount such agency receives under section [8003] *6003*(b), exceeds the maximum amount that such agency is eligible to receive for such fiscal year under section [8003] *6003*(b)(1)(C), or the maximum amount that such agency is eligible to receive for such fiscal year under this section, whichever is greater.

* * * * * * *

(f) SPECIAL RULE.—(1) * * *

* * * * * * *

(4) For the purposes of payments under this section for each fiscal year beginning with fiscal year 2000, the Secretary shall treat the Hot Springs, South Dakota local educational agency as if it had filed a timely application under section [8002] *6002* of the Elementary and Secondary Education Act of 1965 for fiscal year 1994 if the Secretary has received the fiscal year 1994 application, as well as Exhibits A and B not later than December 1, 1999.

(5) For purposes of payments under this section for each fiscal year beginning with fiscal year 2000, the Secretary shall treat the Hueneme, California local educational agency as if it had filed a timely application under section [8002] *6002* of the Elementary and Secondary Education Act of 1965 if the Secretary has received the fiscal year 1995 application not later than December 1, 1999.

(g) FORMER DISTRICTS.—

(1) IN GENERAL.—Where the school district of any local educational agency described in paragraph (2) is formed at any time after 1938 by the consolidation of two or more former school districts, such agency may elect (at any time such agency files an application under section [8005] *6005*) for any fiscal year after fiscal year 1994 to have (A) the eligibility of such local educational agency, and (B) the amount which such agency shall be eligible to receive, determined under this section only with respect to such of the former school districts comprising such consolidated school districts as such agency shall designate in such election.

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency referred to in paragraph (1) is any local

educational agency that, for fiscal year 1994 or any preceding fiscal year, applied for and was determined eligible under section 2(c) of the Act of September 30, 1950 (Public Law 874, 81st Congress) as such section was in effect for such fiscal year.

(h) PAYMENTS WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.—For any fiscal year for which the amount appropriated under section **[**8014**]** *6013*(a) is insufficient to pay to each eligible local educational agency the full amount determined under subsection (b), the Secretary shall make payments to each local educational agency under this section as follows:

(1) FOUNDATION PAYMENTS FOR PRE-1995 RECIPIENTS.—

(A) IN GENERAL.—The Secretary shall first make a foundation payment to each local educational agency that is eligible to receive a payment under this section for the fiscal year involved **[**and was eligible to receive a payment under section 2 of the Act of September 30, 1950**]** *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* (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of the enactment of the Improving America's Schools Act of 1994) for any of the fiscal years 1989 through 1994.

(B) AMOUNT.—The amount of a payment under subparagraph (A) for a local educational agency shall be equal to 38 percent of the local educational agency's maximum entitlement amount under section 2 of the Act of September 30, 1950, for fiscal year 1994 **[**(or if the local educational agency was not eligible to receive a payment under such section 2 for fiscal year 1994**]** *(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*, the local educational agency's maximum entitlement amount under such section 2 for the most recent fiscal year preceding 1994).

(C) INSUFFICIENT APPROPRIATIONS.—If the amount appropriated under section **[**8014**]** *6013*(a) is insufficient to pay the full amount determined under this paragraph for all eligible local educational agencies for the fiscal year, then the Secretary shall ratably reduce the payment to each local educational agency under this paragraph.

(2) PAYMENTS FOR 1995 RECIPIENTS.—

(A) IN GENERAL.—From any amounts remaining after making payments under paragraph (1) for the fiscal year involved, the Secretary shall make a payment to each eligible local educational agency that received a payment under this section for fiscal year 1995*, or whose application for fiscal year 1995 was determined pursuant to statute to be timely filed for purposes of payments for subsequent fiscal years*.

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

(i) Calculate the difference between the amount appropriated to carry out this section for fiscal year 1995 and the total amount of foundation payments made under paragraph (1) for the fiscal year.

(ii) Determine the percentage share [for each local educational agency that received a payment under this section for fiscal year 1995] *for each local educational agency described in subparagraph (A)* by dividing the assessed value of the Federal property of the local educational agency for fiscal year 1995 determined in accordance with subsection (b)(3), by the total eligible national assessed value of the eligible Federal property of all such local educational agencies for fiscal year 1995, as so determined.

(iii) Multiply the percentage share described in clause (ii) for the local educational agency by the amount determined under clause (i).

(3) SUBSECTION (i) RECIPIENTS.—From any funds remaining after making payments under paragraphs (1) and (2) for the fiscal year involved, the Secretary shall make payments in accordance with subsection (i).

(4) REMAINING FUNDS.—From any funds remaining after making payments under paragraphs (1), (2), and (3) for the fiscal year involved—

(A) * * *

(B) the Secretary shall make a payment to each local educational agency that is eligible to receive a payment under this section for the fiscal year involved in an amount that bears the same relation to 75 percent of the remainder as a percentage share determined for the local educational agency [(in the same manner as percentage shares are determined for local educational agencies under paragraph (2)(B)(ii))] *(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)* bears to the percentage share determined (in the same manner) for all local educational agencies eligible to receive a payment under this section for the fiscal year involved[, except that for the purpose of calculating a local educational agency's assessed value of the Federal property]*, except that, for purposes of calculating a local educational agency's maximum amount under subsection (b)*, data from the most current fiscal year shall be used.

* * * * * * *

(j) ADDITIONAL ASSISTANCE FOR CERTAIN LOCAL EDUCATIONAL AGENCIES IMPACTED BY FEDERAL PROPERTY ACQUISITION.—

(1) RESERVATION.—From amounts appropriated under section [8014] *6013*(g) for a fiscal year, the Secretary shall provide additional assistance to meet special circumstances relating to the provision of education in local educational agencies eligible to receive assistance under this section.

(2) ELIGIBILITY.—A local educational agency is eligible to receive additional assistance under this subsection only if such agency—

(A) received a payment under both this section and section [8003] *6003*(b) for fiscal year 1996 and is eligible to receive payments under those sections for the year of application;

(B) provided a free public education to children described under sections [8003] *6003*(a)(1)(A), (B), or (D);

* * * * * * *

(3) MAXIMUM AMOUNT.—(A) * * *

(B) If funds appropriated under section [8014] *6013*(g) are insufficient to pay the amount determined under subparagraph (A), the Secretary shall ratably reduce the payment to each local education agency eligible under this subsection;

(C) If funds appropriated under section [8014] *6013*(g) are in excess of the amount determined under subparagraph (A) the Secretary shall ratably distribute any excess funds to all local educational agencies eligible for payment under subsection (b) of this section.

* * * * * * *

SEC. [8003.] *6003*. PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN.

(a) * * *

(b) BASIC SUPPORT PAYMENTS AND PAYMENTS WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.—

(1) BASIC SUPPORT PAYMENTS.—

(A) IN GENERAL.—From the amount appropriated under section [8014] *6013*(b) for a fiscal year, the Secretary is authorized to make basic support payments to eligible local educational agencies with children described in subsection (a).

* * * * * * *

(2) BASIC SUPPORT PAYMENTS FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—

(A) IN GENERAL.—(i) From the amount appropriated under section [8014] *6013*(b) for a fiscal year, the Secretary is authorized to make basic support payments to eligible heavily impacted local educational agencies with children described in subsection (a).

* * * * * * *

(3) PAYMENTS WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.—

(A) IN GENERAL.—For any fiscal year in which the sums appropriated under section [8014] *6013*(b) are insufficient to pay to each local educational agency the full amount computed under paragraphs (1) and (2), the Secretary shall make payments in accordance with this paragraph.

(B) LEARNING OPPORTUNITY THRESHOLD PAYMENTS IN LIEU OF PAYMENTS UNDER PARAGRAPH (1).—(i) * * *

* * * * * * *

(iv) In the case of a local educational agency that has a total student enrollment of fewer than 1,000 students and that has a per-pupil expenditure that is less than the average per-pupil expenditure of the State in which the agency is located *or less than the average per pupil expenditure of all the States*, the total percentage used to calculate threshold payments under clause (i) shall not be less than 40 percent.

* * * * * * *

(d) CHILDREN WITH DISABILITIES.—

(1) IN GENERAL.—From the amount appropriated under section [8014] *6013*(c) for a fiscal year, the Secretary shall pay to each eligible local educational agency, on a pro rata basis, the amounts determined by—

(A) * * *

* * * * * * *

(g) MAINTENANCE OF EFFORT.—A local educational agency may receive funds under sections [8002] *6002* and [8003] *6003*(b) for any fiscal year only if the State educational agency finds that either the 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 that 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.

SEC. [8004.] *6004.* POLICIES AND PROCEDURES RELATING TO CHILDREN RESIDING ON INDIAN LANDS.

(a) IN GENERAL.—A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section [8003] *6003* shall establish policies and procedures to ensure that—

(1) * * *

* * * * * * *

(b) RECORDS.—A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section [8003] *6003* shall maintain records demonstrating such agency's compliance with the requirements contained in subsection (a).

(c) WAIVER.—A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section [8003] *6003* shall not be required to comply with the requirements of subsections (a) and (b) for any fiscal year with respect to any Indian tribe from which such agency has received a written statement that the agency need not comply with those subsections because the tribe is satisfied with the provision of educational services by such agency to such children.

* * * * * * *

(e) COMPLAINTS.—

(1) * * *

* * * * * * *

(8) WITHHOLDING.—If the local educational agency rejects the determination of the Secretary, or if the remedy required is not undertaken within the time established and the Secretary determines that an extension of the time established

will not effectively encourage the remedy required, the Secretary shall withhold payment of all moneys to which such local agency is eligible under section [8003] *6003* until such time as the remedy required is undertaken, except where the complaining tribe or its designee formally requests that such funds be released to the local educational agency, except that the Secretary may not withhold such moneys during the course of the school year if the Secretary determines that such withholding would substantially disrupt the educational programs of the local educational agency.

(9) REJECTION OF DETERMINATION.—If the local educational agency rejects the determination of the Secretary and a tribe exercises the option under section 1101(d) of the Education Amendments of 1978, to have education services provided either directly by the Bureau of Indian Affairs or by contract with the Bureau of Indian Affairs, any Indian students affiliated with that tribe who wish to remain in attendance at the local educational agency against whom the complaint which led to the tribal action under such subsection (d) was lodged may be counted with respect to that local educational agency for the purpose of receiving funds under section [8003] *6003*. In such event, funds under such section shall not be withheld pursuant to paragraph (8) and no further complaints with respect to such students may be filed under paragraph (1).

(f) CONSTRUCTION.—This section is based upon the special relationship between the Indian nations and the United States and nothing in this section shall be construed to relieve any State of any duty with respect to any citizens of that State.

SEC. [8005.] *6005*. APPLICATION FOR PAYMENTS UNDER SECTIONS [8002 AND 8003] *6002 and 6003*.

(a) IN GENERAL.—A local educational agency desiring to receive a payment under section [8002] *6002* or [8003] *6003* shall—

(1) submit an application for such payment to the Secretary; and

(2) provide a copy of such application to the State educational agency.

(b) CONTENTS.—Each such application shall be submitted in such form and manner, and shall contain such information, as the Secretary may require, including—

(1) * * *

(2) where applicable, an assurance that such agency is in compliance with section [8004] *6004* (relating to children residing on Indian lands).

(c) DEADLINE FOR SUBMISSION.—The Secretary shall establish deadlines for the submission of applications under this section.

(d) APPROVAL.—

(1) * * *

(2) REDUCTION IN PAYMENT.—The Secretary shall approve an application filed not more than 60 days after a deadline established under subsection (c), or not more than 60 days after the date on which the Secretary sends written notice to the local educational agency pursuant to paragraph (3)(A), as the case may be, that otherwise meets the requirements of this title, except that, notwithstanding section [8003] *6003*(e), the Sec-

retary shall reduce the payment based on such late application by 10 percent of the amount that would otherwise be paid.

(3) LATE APPLICATIONS.—

(A) NOTICE.—The Secretary shall, as soon as practicable after the deadline established under subsection (c), provide to each local educational agency that applied for a payment under section [8002] *6002* or [8003] *6003* for the prior fiscal year, and with respect to which the Secretary has not received an application for a payment under either such section (as the case may be) for the fiscal year in question, written notice of the failure to comply with the deadline and instruction to ensure that the application is filed not later than 60 days after the date on which the Secretary sends the notice.

* * * * * * *

SEC. [8007.] *6006.* CONSTRUCTION.

(a) CONSTRUCTION PAYMENTS AUTHORIZED.—

(1) IN GENERAL.—From 40 percent of the amount appropriated for each fiscal year under section [8014] *6013*(e), the Secretary shall make payments in accordance with this subsection to each local educational agency that receives a basic support payment under section [8003] *6003*(b) for that fiscal year.

(2) ADDITIONAL REQUIREMENTS.—A local educational agency that receives a basic support payment under section [8003] *6003*(b)(1) shall also meet at least one of the following requirements:

(A) The number of children determined under section [8003] *6003*(a)(1)(C) for the agency for the preceding school year constituted at least 50 percent of the total student enrollment in the schools of the agency during the preceding school year.

(B) The number of children determined under subparagraphs (B) and (D)(i) of section [8003] *6003*(a)(1) for the agency for the preceding school year constituted at least 50 percent of the total student enrollment in the schools of the agency during the preceding school year.

(3) AMOUNT OF PAYMENTS.—

(A) LOCAL EDUCATIONAL AGENCIES IMPACTED BY MILITARY DEPENDENT CHILDREN.—The amount of a payment to each local educational agency described in this subsection that is impacted by military dependent children for a fiscal year shall be equal to—

(i)(II) 20 percent of the amount appropriated under section [8014] *6013*(e) for such fiscal year; divided by

(II) the total number of weighted student units of children described in subparagraphs (B) and (D)(i) of section [8003] *6003*(a)(1) for all local educational agencies described in this subsection (as calculated under section [8003] *6003*(a)(2)), including the number of weighted student units of such children attending a school facility described in section [8008] *6007*(a) if the Secretary does not provide assistance for

the school facility under that section for the prior fiscal year; multiplied by

(ii) the total number of such weighted student units for the agency.

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

(i)(I) 20 percent of the amount appropriated under section [8014] *6013*(e) for such fiscal year; divided by

(II) the total number of weighted student units of children described in section [8003] *6003*(a)(1)(C) for all local educational agencies described in this subsection (as calculated under section [8003] *6003*(a)(2)); multiplied by

(ii) the total number of such weighted student units for the agency.

(4) USE OF FUNDS.—Any local educational agency that receives funds under this subsection shall use such funds for construction, as defined in section [8013] *6012*(3).

[(b) SCHOOL FACILITY MODERNIZATION GRANTS AUTHORIZED.—

[(1) IN GENERAL.—From 60 percent of the amount appropriated for each fiscal year under section 8014(e), the Secretary shall award grants in accordance with this subsection to eligible local educational agencies to enable the local educational agencies to carry out modernization of school facilities.

[(2) ELIGIBILITY REQUIREMENTS.—A local educational agency is eligible to receive funds under this subsection only if—

[(A) such agency (or in the case of a local educational agency that does not have the authority to tax or issue bonds, such agency's fiscal agent) has no capacity to issue bonds or is at such agency's limit in bonded indebtedness for the purposes of generating funds for capital expenditures, except that a local educational agency that is eligible to receive funds under section 8003(b)(2) shall be deemed to meet the requirements of this subparagraph; and

[(B)(i) such agency received assistance under section 8002(a) for the fiscal year and has an assessed value of taxable property per student in the school district that is less than the average of the assessed value of taxable property per student in the State in which the local educational agency is located; or

[(ii) such agency received 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.

[(3) AWARD CRITERIA.—In awarding grants under this subsection the Secretary shall consider one or more of the following factors:

[(A) The extent to which the local educational agency lacks the fiscal capacity to undertake the modernization project without Federal assistance.

[(B) The extent to which property in the local educational agency is nontaxable due to the presence of the Federal Government.

[(C) The extent to which the local educational agency serves high numbers or percentages of children described in subparagraphs (A), (B), (C), and (D) of section 8003(a)(1).

[(D) The need for modernization to meet—

[(i) the threat that the condition of the school facility poses to the health, safety, and well-being of students;

[(ii) overcrowding conditions as evidenced by the use of trailers and portable buildings and the potential for future overcrowding because of increased enrollment; and

[(iii) facility needs resulting from actions of the Federal Government.

[(E) The age of the school facility to be modernized.

[(4) OTHER AWARD PROVISIONS.—

[(A) FEDERAL SHARE.—The Federal funds provided under this subsection to a local educational agency described in subparagraph (C) shall not exceed 50 percent of the total cost of the project to be assisted under this subsection. A local educational agency may use in-kind contributions to meet the matching requirement of the preceding sentence.

[(B) MAXIMUM GRANT.—A local educational agency described in subparagraph (C) may not receive a grant under this subsection in an amount that exceeds $3,000,000 during any 5-year period.

[(C) LOCAL EDUCATIONAL AGENCY DESCRIBED.—A local educational agency described in this subparagraph is a local educational agency that has the authority to issue bonds but is at such agency's limit in bonded indebtedness for the purposes of generating funds for capital expenditures.

[(5) APPLICATIONS.—A local educational agency that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall contain—

[(A) documentation certifying such agency's lack of bonding capacity;

[(B) a listing of the school facilities to be modernized, including the number and percentage of children determined under section 8003(a)(1) in average daily attendance in each school facility;

[(C) a description of the ownership of the property on which the current school facility is located or on which the planned school facility will be located;

[(D) a description of any school facility deficiency that poses a health or safety hazard to the occupants of the school facility and a description of how that deficiency will be repaired;

[(E) a description of the modernization to be supported with funds provided under this subsection;

[(F) a cost estimate of the proposed modernization; and

[(G) such other information and assurances as the Secretary may reasonably require.

[(6) EMERGENCY GRANTS.—

[(A) APPLICATIONS.—Each local educational agency described in paragraph (2)(B)(ii) that desires a grant under this subsection shall include in the application submitted under paragraph (5) a signed statement from an appropriate local official certifying that a health or safety deficiency exists.

[(B) PRIORITY.—If the Secretary receives more than one application from local educational agencies described in paragraph (2)(B)(ii) for grants under this subsection for any fiscal year, the Secretary shall give priority to local educational agencies based on the severity of the emergency, as determined by the Secretary, and when the application was received.

[(C) ALLOCATION; REPORTING REQUIREMENT.—

[(i) ALLOCATION.—In awarding grants under this subsection to local educational agencies described in paragraph (2)(B)(ii), the Secretary shall consider all applications received from local educational agencies that meet the requirement of subsection (a)(2)(A) and local educational agencies that meet the requirement of subsection (a)(2)(B).

[(ii) REPORTING REQUIREMENT.—

[(I) 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.

[(II) DEFINITION.—In this clause, the term "appropriate congressional committees" means the Committee on Appropriations and the Committee on Education and the Workforce of the House of Representatives and the Committee on Appropriations and the Committee on Health, Education, Labor and Pensions of the Senate.

[(D) CONSIDERATION FOR FOLLOWING YEAR.—A local educational agency described in paragraph (2)(B)(ii) that applies for a grant under this subsection for any fiscal year and does not receive the grant shall have the application for the grant considered for the following fiscal year, subject to the priority described in subparagraph (B).

[(7) SUPPLEMENT NOT SUPPLANT.—An eligible local educational agency shall use funds received under this subsection 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 modernization of school facilities used for educational purposes, and not to supplant such funds.]

(b) SCHOOL FACILITY EMERGENCY AND MODERNIZATION GRANTS AUTHORIZED.—

(1) IN GENERAL.—From 60 percent of the amount appropriated for each fiscal year under section 6013(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 emergency 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 6003(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 6002 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 6003(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 emergency 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 modernization 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.

SEC. [8008.] *6007*. FACILITIES.

(a) CURRENT FACILITIES.—From the amount appropriated for any fiscal year under section [8014] *6013*(f), the Secretary may continue to provide assistance for school facilities that were supported by the Secretary under section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the

day preceding the date of the enactment of the Improving America's Schools Act of 1994).

* * * * * * *

SEC. [8009.] *6008.* STATE CONSIDERATION OF PAYMENTS IN PROVIDING STATE AID.

(a) GENERAL PROHIBITION.—Except as provided in subsection (b), a State may not—

(1) consider payments under this title in determining for any fiscal year—

(A) the eligibility of a local educational agency for State aid for free public education; or

(B) the amount of such aid; or

(2) make such aid available to local educational agencies in a manner that results in less State aid to any local educational agency that is eligible for such payment than such agency would receive if such agency were not so eligible.

(b) STATE EQUALIZATION PLANS.—

(1) IN GENERAL.—A State may reduce State aid to a local educational agency that receives a payment under section [8002] *6002* or [8003] *6003*(b) (except the amount calculated in excess of 1.0 under section [8003] *6003*(a)(2)(B) *and, with respect to a local educational agency that receives a payment under section [8003] 6003*(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] *6003*(b)(1) and not section [8003] *6003*(b)(2)) for any fiscal year if the Secretary determines, and certifies under subsection (c)(3)(A), that the State has in effect a program of State aid that equalizes expenditures for free public education among local educational agencies in the State.

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(c) PROCEDURES FOR REVIEW OF STATE EQUALIZATION PLANS.—

(1) * * *

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(3) QUALIFICATION PROCEDURES.—If the Secretary determines that a program of State aid qualifies under subsection (b), the Secretary shall—

(A) certify the program and so notify the State; and

(B) afford an opportunity for a hearing, in accordance with section [8011] *6010*(a), to any local educational agency adversely affected by such certification.

(4) NON-QUALIFICATION PROCEDURES.—If the Secretary determines that a program of State aid does not qualify under subsection (b), the Secretary shall—

(A) so notify the State; and

(B) afford an opportunity for a hearing, in accordance with section [8011] *6010*(a), to the State, and to any local educational agency adversely affected by such determination.

* * * * * * *

SEC. [8010.] *6009.* FEDERAL ADMINISTRATION.

(a) * * *

* * * * * * *

(c) SPECIAL RULES.—

(1) CERTAIN CHILDREN ELIGIBLE UNDER SUBPARAGRAPHS (A) AND (G)(ii) OF SECTION [8003] *6003*(a)(1).—(A) The Secretary shall treat as eligible under subparagraph (A) of section [8003] *6003*(a)(1) any child who would be eligible under such subparagraph except that the Federal property on which the child resides or on which the child's parent is employed is not in the same State in which the child attends school, if such child meets the requirements of paragraph (3) of this subsection.

(B) The Secretary shall treat as eligible under subparagraph (G) of section [8003] *6003*(a)(1) any child who would be eligible under such subparagraph except that such child does not meet the requirements of clause (ii) of such subparagraph, if such child meets the requirements of paragraph (3) of this subsection.

(2) REQUIREMENTS.—A child meets the requirements of this paragraph if—

(A) such child resides—

(i) in a State adjacent to the State in which the local educational agency serving the school such child attends is located; or

(ii) with a parent employed on Federal property in a State adjacent to the State in which such agency is located;

(B) the schools of such agency are within a more reasonable commuting distance of such child's home than the schools of the local educational agency that serves the school attendance area where such child resides;

(C) attending the schools of the local educational agency that serves the school attendance area where such child resides will impose a substantial hardship on such child;

(D) the State in which such child attends school provides funds for the education of such child on the same basis as all other public school children in the State, unless otherwise permitted under section [8009] *6008*(b) of this title; and

(E) such agency received a payment for fiscal year 1999 under section [8003] *6003*(b) on behalf of children described in paragraph (1).

SEC. [8011.] *6010.* ADMINISTRATIVE HEARINGS AND JUDICIAL REVIEW.

(a) ADMINISTRATIVE HEARINGS.—A local educational agency and a State that is adversely affected by any action of the Secretary under this title or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall be entitled to a hearing on such action in the same manner as if such agency were a person under chapter 5 of title 5, United States Code if the local educational agency or State, as the case may be, submits to the Secretary a request for the hearing

not later than 60 days after the date of the action of the Secretary under this title.

* * * * * * *

SEC. [8012.] *6011.* FORGIVENESS OF OVERPAYMENTS.

Notwithstanding any other provision of law, the Secretary may forgive the obligation of a local educational agency to repay, in whole or in part, the amount of any overpayment received under this title, or under this title's predecessor authorities, if the Secretary determines that the overpayment was made as a result of an error made by—

(1) the Secretary; or

(2) the local educational agency and repayment of the full amount of the overpayment will result in an undue financial hardship on the agency and seriously harm the agency's educational program.

SEC. [8013.] *6012.* DEFINITIONS.

For purposes of this title:

(1) * * *

* * * * * * *

SEC. [8014.] *6013.* AUTHORIZATION OF APPROPRIATIONS.

(a) PAYMENTS FOR FEDERAL ACQUISITION OF REAL PROPERTY.—For the purpose of making payments under section [8002] *6002*, there are authorized to be appropriated $32,000,000 for fiscal year 2000 and such sums as may be necessary for each of the [three] *six* succeeding fiscal years.

(b) BASIC PAYMENTS; PAYMENTS FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—For the purpose of making payments under section [8003] *6003*(b), there are authorized to be appropriated $809,400,000 for fiscal year 2000 and such sums as may be necessary for each of the [three] *six* succeeding fiscal years.

(c) PAYMENTS FOR CHILDREN WITH DISABILITIES.—For the purpose of making payments under section [8003] *6003*(d), there are authorized to be appropriated $50,000,000 for fiscal year 2000 and such sums as may be necessary for each of the [three] *six* succeeding fiscal years.

(e) CONSTRUCTION.—For the purpose of carrying out section 8007, there are authorized to be appropriated $10,052,000 for fiscal year 2000 and such sums as may be necessary [for each of the three succeeding fiscal years] *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*.

(f) FACILITIES MAINTENANCE.—For the purpose of carrying out section [8008] *6007*, there are authorized to be appropriated $5,000,000 for fiscal year 2000 and such sums as may be necessary for each of the [three] *six* succeeding fiscal years.

(g) ADDITIONAL ASSISTANCE FOR CERTAIN LOCAL EDUCATIONAL AGENCIES IMPACTED BY FEDERAL PROPERTY ACQUISITION.—For the purpose of carrying out section [8002] *6002*(j) there are authorized to be appropriated $1,500,000 for fiscal year 2000 and such sums as may be necessary for each of the [three] *six* succeeding fiscal years.

[TITLE VII—BILINGUAL EDUCATION, LANGUAGE ENHANCEMENT, AND LANGUAGE ACQUISITION PROGRAMS

[PART A—BILINGUAL EDUCATION

[SEC. 7101. SHORT TITLE.

[This part may be cited as the "Bilingual Education Act".

[SEC. 7102. FINDINGS, POLICY, AND PURPOSE.

[(a) FINDINGS.—The Congress finds that—

[(1) language-minority Americans speak virtually all world languages plus many that are indigenous to the United States;

[(2) there are large and growing numbers of children and youth of limited-English proficiency, many of whom have a cultural heritage that differs from that of their English-proficient peers;

[(3) the presence of language-minority Americans is related in part to Federal immigration policies;

[(4) many language-minority Americans are limited in their English proficiency, and many have limited education and income;

[(5) limited English proficient children and youth face a number of challenges in receiving an education that will enable such children and youth to participate fully in American society, including—

[(A) segregated education 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 own parents, which hinders the parents' ability to fully participate in the education of their children; and

[(D) a shortage of teachers and other staff who are professionally trained and qualified to serve such children and youth;

[(6) Native Americans and Native American languages (as such terms are defined in section 103 of the Native American Languages Act), including native residents of the outlying areas, have a unique status under Federal law that requires special policies within the broad purposes of this Act to serve the education needs of language minority students in the United States;

[(7) institutions of higher education can assist in preparing teachers, administrators and other school personnel to understand and build upon the educational strengths and needs of language-minority and culturally diverse student enrollments;

[(8) it is the purpose of this title to help ensure that limited English proficient students master English and develop high levels of academic attainment in content areas;

[(9) quality bilingual education programs enable children and youth to learn English and meet high academic standards including proficiency in more than one language;

[(10) as the world becomes increasingly interdependent and as international communication becomes a daily occurrence in government, business, commerce, and family life, multilingual skills constitute an important national resource which deserves protection and development;

[(11) educational technology has the potential for improving the education of language-minority and limited English proficient students and their families, and the Federal Government should foster this development;

[(12) parent and community participation in bilingual education programs contributes to program effectiveness;

[(13) research, evaluation, and data-collection capabilities in the field of bilingual education need to be strengthened so that educators and other staff can better identify and promote those programs, program implementation strategies, and instructional practices that result in effective education of limited English proficient children;

[(14) the use of a child or youth's native language and culture in classroom instruction can—

[(A) promote self-esteem and contribute to academic achievement and learning English by limited English proficient children and youth;

[(B) benefit English-proficient children and youth who also participate in such programs; and

[(C) develop our Nation's national language resources, thus promoting our Nation's competitiveness in the global economy;

[(15) the Federal Government, as exemplified by title VI of the Civil Rights Act of 1964 and section 204(f) of the Equal Education Opportunities Act of 1974, has a special and continuing obligation to ensure that States and local school districts take appropriate action to provide equal educational opportunities to children and youth of limited English proficiency; and

[(16) the Federal Government also, as exemplified by the Federal Government's efforts under this title, has a special and continuing obligation to assist States and local school districts in developing the capacity to provide programs of instruction that offer limited English proficient children and youth an equal educational opportunity.

[(b) POLICY.—The Congress declares it to be the policy of the United States, in order to ensure equal educational opportunity for all children and youth and to promote educational excellence, to assist State and local educational agencies, institutions of higher education and community-based organizations to build their capacity to establish, implement, and sustain programs of instruction for children and youth of limited English proficiency.

[(c) PURPOSE.—The purpose of this part is to educate limited English proficient children and youth to meet the same rigorous standards for academic performance expected of all children and youth, including meeting challenging State content standards and challenging State student performance standards in academic areas by—

[(1) developing systemic improvement and reform of educational programs serving limited English proficient students

through the development and implementation of exemplary bilingual education programs and special alternative instruction programs;

[(2) developing bilingual skills and multicultural understanding;

[(3) developing the English of such children and youth and, to the extent possible, the native language skills of such children and youth;

[(4) providing similar assistance to Native Americans with certain modifications relative to the unique status of Native American languages under Federal law;

[(5) developing data collection and dissemination, research, materials development, and technical assistance which is focused on school improvement for limited English proficient students; and

[(6) developing programs which strengthen and improve the professional training of educational personnel who work with limited English proficient students.

[SEC. 7103. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—For the purpose of carrying out this part, there are authorized to be appropriated $215,000,000 for the fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

[(b) DISTRIBUTION.—From the sums appropriated under subsection (a) for any fiscal year, the Secretary shall reserve not less than 25 percent of such funds for such year to carry out subpart 3.

[SEC. 7104. 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 and youth, an Indian tribe, a tribally sanctioned educational authority, a Native Hawaiian or Native American Pacific Islander native language education organization, or an elementary or secondary school that is operated or funded by the Bureau of Indian Affairs shall be considered to be a local educational agency as such term is used in this part, subject to the following qualifications:

[(1) INDIAN TRIBE.—The term "Indian 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 established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized for the special programs and services provided by the United States to Indians because of their status as Indians.

[(2) 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 any such school or otherwise to over-

see the delivery of educational services to members of that tribe; and

[(ii) approved by the Secretary for the purpose of this section.

[(b) ELIGIBLE ENTITY APPLICATION.—Notwithstanding any other provision of this part, each eligible entity described in subsection (a) shall submit any application for assistance under this part directly to the Secretary along with timely comments on the need for the proposed program.

[SEC. 7105. RESIDENTS OF THE TERRITORIES AND FREELY ASSOCIATED NATIONS.

For the purpose of carrying out programs under this part in the outlying areas, the term "local educational agency" shall include public institutions or agencies whose mission is the preservation and maintenance of native languages.

[Subpart 1—Bilingual Education Capacity and Demonstration Grants

[SEC. 7111. FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION.

The purpose of this subpart is to assist local educational agencies, institutions of higher education, and community-based organizations, through the grants authorized under sections 7112, 7113, 7114, and 7115 to—

[(1) develop and enhance their capacity to provide high-quality instruction through bilingual education or special alternative instruction programs to children and youth of limited English proficiency; and

[(2) to help such children and youth—

[(A) develop proficiency in English, and to the extent possible, their native language; and

[(B) meet the same challenging State content standards and challenging State student performance standards expected for all children and youth as required by section 1111(b).

[SEC. 7112. PROGRAM DEVELOPMENT AND IMPLEMENTATION GRANTS.

[(a) PURPOSE.—The purpose of this section is to develop and implement new comprehensive, coherent, and successful bilingual education or special alternative instructional programs for limited English proficient students, including programs of early childhood education, kindergarten through twelfth grade education, gifted and talented education, and vocational and applied technology education.

[(b) PROGRAM AUTHORIZED.—

[(1) AUTHORITY.—(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7116 to enable such entities to carry out activities described in paragraph (2).

[(B) Each grant under this section shall be awarded for a period of three years.

[(2) AUTHORIZED ACTIVITIES.—(A) Grants awarded under this section shall be used to improve the education of limited English proficient students and their families by—

[(i) developing and implementing comprehensive preschool, elementary, or secondary bilingual education or special alternative instructional programs that are coordinated with other relevant programs and services to meet the full range of educational needs of limited English proficient students; and

[(ii) providing inservice training to classroom teachers, administrators, and other school or community-based organizational personnel to improve the instruction and assessment of language-minority and limited English proficient students.

[(B) Grants under this section may be used to improve the education of limited English proficient students and their families by—

[(i) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

[(ii) improving the instructional program for limited English proficient students by identifying, acquiring, and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

[(iii) compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited English proficiency;

[(iv) providing tutorials and academic or career counseling for children and youth of limited-English proficiency; and

[(v) providing such other activities, related to the purposes of this part, as the Secretary may approve.

[(c) ELIGIBLE ENTITY.—For the purpose of this section the term "eligible entity" means—

[(1) one or more local educational agencies;

[(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organization or local or State educational agency; or

[(3) a community-based organization or an institution of higher education which has an application approved by the local educational agency to develop and implement early childhood education or family education programs or to conduct an instructional program which supplements the educational services provided by a local educational agency.

[(d) DUE CONSIDERATION.—In awarding grants under this section, the Secretary shall give due consideration to the need for early childhood education, elementary education, and secondary education programs.

[SEC. 7113. PROGRAM ENHANCEMENT PROJECTS.

[(a) PURPOSE.—The purpose of this section is to carry out highly focused, innovative, locally designed projects to expand or enhance existing bilingual education or special alternative instructional programs for limited English proficient students.

[(b) PROGRAM AUTHORIZED.—

[(1) AUTHORITY.—(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7116 to enable such entities to carry out activities described in paragraph (2).

[(B) Each grant under this section shall be awarded for a period of two years.

[(2) AUTHORIZED ACTIVITIES.—(A) Grants under this section shall be used for providing inservice training to classroom teachers, administrators, and other school or community-based organization personnel to improve the instruction and assessment of language-minority and limited English proficient students.

[(B) Grants under this section may be used for—

[(i) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

[(ii) improving the instructional program for limited English proficient students by identifying, acquiring, and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

[(iii) compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited-English proficiency;

[(iv) providing tutorials and academic or career counseling for children and youth of limited-English proficiency;

[(v) providing intensified instruction; and

[(vi) providing such other activities, related to the purposes of this part, as the Secretary may approve.

[(c) ELIGIBLE ENTITY.—For the purpose of this section the term "eligible entity" means—

[(1) one or more local educational agencies;

[(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organization or local or State educational agency; or

[(3) a community-based organization or an institution of higher education which has an application approved by the local educational agency to enhance early childhood education or family education programs or to conduct an instructional program which supplements the educational services provided by a local educational agency.

[SEC. 7114. COMPREHENSIVE SCHOOL GRANTS.

[(a) PURPOSE.—The purpose of this section is to provide financial assistance to eligible entities to implement schoolwide bilingual education programs or special alternative instruction programs for reforming, restructuring, and upgrading all relevant programs and operations, within an individual school, that serve all (or virtually all) children and youth of limited-English proficiency in schools with significant concentrations of such children and youth.

[(b) PROGRAM AUTHORIZED.—

[(1) AUTHORITY.—(A) The Secretary is authorized to award grants to eligible entities having applications approved under

section 7116 to enable such entities to carry out activities described in paragraph (3).

[(B) Each grant under this section shall be awarded for five years.

[(2) TERMINATION.—The Secretary shall terminate grants to eligible entities under this section if the Secretary determines that—

[(A) the program evaluation required by section 7123 indicates that students in the schoolwide program are not being taught to and are not making adequate progress toward achieving challenging State content standards and challenging State student performance standards; or

[(B) in the case of a program to promote dual language facility, such program is not promoting such facility.

[(3) AUTHORIZED ACTIVITIES.—Grants under this section may be used to improve the education of limited English proficient students and their families by—

[(A) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

[(B) improving the instructional program for limited English proficient students by identifying, acquiring and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

[(C) compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited English proficiency;

[(D) providing tutorials and academic or career counseling for children and youth of limited-English proficiency;

[(E) providing intensified instruction; and

[(F) providing such other activities, related to the purposes of this part, as the Secretary may approve.

[(4) SPECIAL RULE.—A grant recipient, before carrying out a program assisted under this section, shall plan, train personnel, develop curriculum, and acquire or develop materials.

[(c) ELIGIBLE ENTITIES.—For the purpose of this section the term "eligible entity" means—

[(1) one or more local educational agencies; or

[(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organizations or a local or State educational agency.

[SEC. 7115. SYSTEMWIDE IMPROVEMENT GRANTS.

[(a) PURPOSE.—The purpose of this section is to implement districtwide bilingual education programs or special alternative instruction programs to improve, reform, and upgrade relevant programs and operations, within an entire local educational agency, that serve a significant number of children and youth of limited English proficiency in local educational agencies with significant concentrations of such children and youth.

[(b) PROGRAM AUTHORIZED.—

[(1) AUTHORITY.—(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7116 to enable such entities to carry out activities described in paragraphs (3) and (4).

[(B) Each grant under this section shall be awarded for 5 years.

[(2) TERMINATION.—The Secretary shall terminate grants to eligible entities under this section if the Secretary determines that—

[(A) the program evaluation required by section 7123 indicates that students in the program are not being taught to and are not making adequate progress toward achieving challenging State content standards and challenging State student performance standards; or

[(B) in the case of a program to promote dual language facility, such program is not promoting such facility.

[(3) PREPARATION.—Grants under this section may be used during the first 12 months exclusively for activities preparatory to the delivery of services.

[(4) USES.—Grants under this section may be used to improve the education of limited English proficient students and their families by reviewing, restructuring, and upgrading—

[(A) educational goals, curriculum guidelines and content, standards and assessments;

[(B) personnel policies and practices including recruitment, certification, staff development, and assignment;

[(C) student grade-promotion and graduation requirements;

[(D) student assignment policies and practices;

[(E) family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

[(F) the instructional program for limited English proficient students by identifying, acquiring and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

[(G) tutorials and academic or career counseling for children and youth of limited-English proficiency; and

[(H) such other activities, related to the purposes of this part, as the Secretary may approve.

[(c) ELIGIBLE ENTITIES.—For the purpose of this section the term "eligible entity" means—

[(1) one or more local educational agencies; or

[(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organizations or a local or State educational agency.

[SEC. 7116. APPLICATIONS.

[(a) IN GENERAL.—

[(1) SECRETARY.—To receive a grant under this subpart, an eligible entity shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

[(2) STATE EDUCATIONAL AGENCY.—An eligible entity, with the exception of schools funded by the Bureau of Indian Af-

fairs, shall submit a copy of its application under this section to the State educational agency.

[(b) STATE REVIEW AND COMMENTS.—

[(1) DEADLINE.—The State educational agency, not later than 45 days after receipt of an application under this section, shall review the application and transmit such application to the Secretary.

[(2) COMMENTS.—(A) Regarding any application submitted under this title, the State educational agency shall—

[(i) submit to the Secretary written comments regarding all such applications; and

[(ii) submit to each eligible entity the comments that pertain to such entity.

[(B) For purposes of this subpart, such comments shall address how the eligible entity—

[(i) will further the academic achievement of limited English proficient students served pursuant to a grant received under this subpart; and

[(ii) how the grant application is consistent with the State plan submitted under section 1111.

[(c) ELIGIBLE ENTITY COMMENTS.—An eligible entity may submit to the Secretary comments that address the comments submitted by the State educational agency.

[(d) COMMENT CONSIDERATION.—In making grants under this subpart the Secretary shall take into consideration comments made by a State educational agency.

[(e) WAIVER.—Notwithstanding subsection (b), the Secretary is authorized to waive the review requirement of subsection (b) if a State educational agency can demonstrate that such review requirement may impede such agency's ability to fulfill the requirements of participation in the State grant program, particularly such agency's data collection efforts and such agency's ability to provide technical assistance to local educational agencies not receiving funds under this Act.

[(f) REQUIRED DOCUMENTATION.—Such application shall include documentation that the applicant has the qualified personnel required to develop, administer, and implement the proposed program.

[(g) CONTENTS.—

[(1) IN GENERAL.—An application for a grant under this subpart shall contain the following:

[(A) A description of the need for the proposed program, including data on the number of children and youth of limited-English proficiency in the school or school district to be served and the characteristics of such children and youth, such as language spoken, dropout rates, proficiency in English and the native language, academic standing in relation to the English-proficient peers of such children and youth, and, where applicable, the recency of immigration.

[(B) A description of the program to be implemented and how such program's design—

[(i) relates to the linguistic and academic needs of the children and youth of limited-English proficiency to be served;

[(ii) is coordinated with other programs under this Act, the Goals 2000: Educate America Act and other Acts, as appropriate, in accordance with section 14306;

[(iii) involves the parents of the children and youth of limited-English proficiency to be served;

[(iv) ensures accountability in achieving high academic standards; and

[(v) promotes coordination of services for the children and youth of limited-English proficiency to be served and their families.

[(C) A description, if appropriate, of the applicant's collaborative activities with institutions of higher education, community-based organizations, local or State educational agencies, private schools, nonprofit organizations, or businesses in carrying out the proposed program.

[(D) An assurance that the applicant will not reduce the level of State and local funds that the applicant expends for bilingual education or special alternative instruction programs if the applicant receives an award under this subpart.

[(E) An assurance that the applicant will employ teachers in the proposed program that, individually or in combination, are proficient in English, including written, as well as oral, communication skills.

[(F) A budget for grant funds.

[(2) ADDITIONAL INFORMATION.—Each application for a grant under section 7114 or 7115 shall—

[(A) describe—

[(i) current services the applicant provides to children and youth of limited-English proficiency;

[(ii) what services children and youth of limited-English proficiency will receive under the grant that such children or youth will not otherwise receive;

[(iii) how funds received under this subpart will be integrated with all other Federal, State, local, and private resources that may be used to serve children and youth of limited-English proficiency;

[(iv) specific achievement and school retention goals for the children and youth to be served by the proposed program and how progress toward achieving such goals will be measured; and

[(v) current family education programs if applicable; and

[(B) provide assurances that—

[(i) the program funded will be integrated with the overall educational program; and

[(ii) the application has been developed in consultation with an advisory council, the majority of whose members are parents and other representatives of the children and youth to be served in such programs.

[(h) APPROVAL OF APPLICATIONS.—An application for a grant under this subpart may be approved only if the Secretary determines that—

[(1) the program will use qualified personnel, including personnel who are proficient in the language or languages used for instruction;

[(2) in designing the program for which application is made, the needs of children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials and, consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and grade levels are of a similar type to those which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public school children;

[(3) student evaluation and assessment procedures in the program are valid, reliable, and fair for limited English proficient students, and that limited English proficient students who are disabled are identified and served in accordance with the requirements of the Individuals with Disabilities Education Act;

[(4) Federal funds made available for the project or activity will be used so as to supplement the level of State and local funds that, in the absence of such Federal funds, would have been expended for special programs for children of limited English proficient individuals and in no case to supplant such State and local funds, except that nothing in this paragraph shall be construed to preclude a local educational agency from using funds under this title for activities carried out under an order of a court of the United States or of any State respecting services to be provided such children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided such children;

[(5) the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program on a regular basis, similar to that proposed for assistance, which will be of sufficient size, scope, and quality to promise significant improvement in the education of students of limited-English proficiency, and that the applicant will have the resources and commitment to continue the program when assistance under this subpart is reduced or no longer available; and

[(6) the applicant provides for utilization of the State and national dissemination sources for program design and in dissemination of results and products.

[(i) PRIORITIES AND SPECIAL RULES.—

[(1) PRIORITY.—The Secretary shall give priority to applications which provide for the development of bilingual proficiency both in English and another language for all participating students.

[(2) SPECIAL ALTERNATIVE INSTRUCTIONAL PROGRAM.—Grants for special alternative instructional programs under this subpart shall not exceed 25 percent of the funds provided for any type of grant under any section, or of the total funds provided, under this subpart for any fiscal year.

[(3) SPECIAL RULE.—Notwithstanding paragraph (2), the Secretary may award grants under this subpart for special alternative instructional programs if an applicant has demonstrated that the applicant cannot develop and implement a bilingual education program for the following reasons:

[(A) Where the diversity of the limited English proficient students' native languages and the small number of students speaking each respective language makes bilingual education impractical.

[(B) Where, despite documented efforts, the applicant has not been able to hire qualified instructional personnel who are able to communicate in the students' native language.

[(4) CONSIDERATION.—In approving applications under this subpart, the Secretary shall give consideration to the degree to which the program for which assistance is sought involves the collaborative efforts of institutions of higher education, community-based organizations, the appropriate local and State educational agency, or businesses.

[(5) DUE CONSIDERATION.—The Secretary shall give due consideration to applications providing training for personnel participating in or preparing to participate in the program which will assist such personnel in meeting State and local certification requirements and that, to the extent possible, describe how college or university credit will be awarded for such training.

[SEC. 7117. INTENSIFIED INSTRUCTION.

In carrying out this subpart, each grant recipient may intensify instruction for limited English proficient students by—

[(1) expanding the educational calendar of the school in which such student is enrolled to include programs before and after school and during the summer months;

[(2) expanding the use of professional and volunteer aids;

[(3) applying technology to the course of instruction; and

[(4) providing intensified instruction through supplementary instruction or activities, including educationally enriching extracurricular activities, during times when school is not routinely in session.

[SEC. 7118. CAPACITY BUILDING.

[Each recipient of a grant under this subpart shall use the grant in ways that will build such recipient's capacity to continue to offer high-quality bilingual and special alternative education programs and services to children and youth of limited-English proficiency once Federal assistance is reduced or eliminated.

[SEC. 7119. SUBGRANTS.

[A local educational agency that receives a grant under this subpart may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a nonprofit organization, or a consortium of such entities to carry out an approved program, including a program to serve out-of-school youth.

[SEC. 7120. PRIORITY ON FUNDING.

The Secretary shall give priority to applications under this subpart that describe a program that—

[(1) enrolls a large percentage or large number of limited English proficient students;

[(2) takes into account significant increases in limited English proficient children and youth, including such children and youth in areas with low concentrations of such children and youth; and

[(3) ensures that activities assisted under this subpart address the needs of school systems of all sizes and geographic areas, including rural and urban schools.

[SEC. 7121. COORDINATION WITH OTHER PROGRAMS.

[In order to secure the most flexible and efficient use of Federal funds, any State receiving funds under this subpart shall coordinate its program with other programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, in accordance with section 14306.

[SEC. 7122. PROGRAMS FOR NATIVE AMERICANS AND PUERTO RICO.

[Programs authorized under this part that serve Native American children, Native Pacific Island children, and children in the Commonwealth of Puerto Rico, notwithstanding any other provision of this part, may include programs of instruction, teacher training, curriculum development, evaluation, and testing designed for Native American children and youth learning and studying Native American languages and children and youth of limited-Spanish proficiency, except that one outcome of such programs serving Native American children shall be increased English proficiency among such children.

[SEC. 7123. EVALUATIONS.

[(a) EVALUATION.—Each recipient of funds under this subpart shall provide the Secretary with an evaluation, in the form prescribed by the Secretary, of such recipient's program every two years.

[(b) USE OF EVALUATION.—Such evaluation shall be used by a grant recipient—

[(1) for program improvement;

[(2) to further define the program's goals and objectives; and

[(3) to determine program effectiveness.

[(c) EVALUATION COMPONENTS.—Evaluations shall include—

[(1) how students are achieving the State student performance standards, if any, including data comparing children and youth of limited-English proficiency with nonlimited English proficient children and youth with regard to school retention, academic achievement, and gains in English (and, where applicable, native language) proficiency;

[(2) program implementation indicators that provide information for informing and improving program management and effectiveness, including data on appropriateness of curriculum in relationship to grade and course requirements, appropriateness of program management, appropriateness of the program's staff professional development, and appropriateness of the language of instruction;

[(3) program context indicators that describe the relationship of the activities funded under the grant to the overall school program and other Federal, State, or local programs serving children and youth of limited English proficiency; and

[(4) such other information as the Secretary may require.

[SEC. 7124. CONSTRUCTION.

[Nothing in this part shall be construed 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.

[Subpart 2—Research, Evaluation, and Dissemination

[SEC. 7131. AUTHORITY.

[(a) IN GENERAL.—The Secretary is authorized to conduct data collection, dissemination, research, and ongoing program evaluation activities in accordance with the provisions of this subpart for the purpose of improving bilingual education and special alternative instruction programs for children and youth of limited English proficiency.

[(b) COMPETITIVE AWARDS.—Research and program evaluation activities carried out under this subpart shall be supported through competitive grants, contracts and cooperative agreements awarded institutions of higher education, nonprofit organizations, and State and local educational agencies.

[(c) ADMINISTRATION.—The Secretary shall conduct data collection, dissemination, and ongoing program evaluation activities authorized by this subpart through the Office of Bilingual Education and Minority Language Affairs.

[SEC. 7132. RESEARCH.

[(a) ADMINISTRATION.—The Secretary shall conduct research activities authorized by this subpart through the Office of Educational Research and Improvement in coordination and collaboration with the Office of Bilingual Education and Minority Language Affairs.

[(b) REQUIREMENTS.—Such research activities—

[(1) shall have a practical application to teachers, counselors, paraprofessionals, school administrators, parents, and others involved in improving the education of limited English proficient students and their families;

[(2) may include research on effective instructional practices for multilingual classes, and on effective instruction strategies to be used by teachers and other staff who do not know the native language of a limited English proficient child or youth in their classrooms;

[(3) may include establishing (through the National Center for Education Statistics in consultation with experts in bilingual education, second language acquisition, and English-as-a-second-language) a common definition of "limited English proficient student" for purposes of national data collection; and

[(4) shall be administered by individuals with expertise in bilingual education and the needs of limited English proficient students and their families.

[(c) FIELD-INITIATED RESEARCH.—

[(1) IN GENERAL.—The Secretary shall reserve not less than 5 percent of the funds made available to carry out this section for field-initiated research conducted by current or recent recipients of grants under subpart 1 or 2 who have received such grants within the previous five years. Such research may provide for longitudinal studies of students or teachers in bilingual education, monitoring the education of such students from entry in bilingual education through secondary school completion.

[(2) APPLICATIONS.—Applicants for assistance under this subsection may submit an application for such assistance to the Secretary at the same time as applications are submitted under subpart 1 or 2. The Secretary shall complete a review of such applications on a timely basis to allow research and program grants to be coordinated when recipients are awarded two or more such grants.

[(d) CONSULTATION.—The Secretary shall consult with agencies and organizations that are engaged in bilingual education research and practice, or related research, and bilingual education researchers and practitioners to identify areas of study and activities to be funded under this section.

[(e) DATA COLLECTION.—The Secretary shall provide for the continuation of data collection on limited English proficient students as part of the data systems operated by the Department.

[SEC. 7133. ACADEMIC EXCELLENCE AWARDS.

[(a) AWARDS.—The Secretary may make grants to, and enter into contracts and cooperative agreements with, State and local educational agencies, nonprofit organizations, and institutions of higher education to promote the adoption and implementation of bilingual education, special alternative instruction programs, and professional development programs that demonstrate promise of assisting children and youth of limited English proficiency to meet challenging State standards.

[(b) APPLICATIONS.—

[(1) IN GENERAL.—Each entity desiring an award under this section shall submit an application to the Secretary in such form, at such time, and containing such information and assurances as the Secretary may reasonably require.

[(2) PEER REVIEW.—The Secretary shall use a peer review process, using effectiveness criteria that the Secretary shall establish, to review applications under this section.

[(c) USE OF FUNDS.—Funds under this section shall be used to enhance the capacity of States and local education agencies to provide high quality academic programs for children and youth of limited English proficiency, which may include—

[(1) completing the development of such programs;

[(2) professional development of staff participating in bilingual education programs;

[(3) sharing strategies and materials; and

[(4) supporting professional networks.

[(d) COORDINATION.—Recipients of funds under this section shall coordinate the activities assisted under this section with activities carried out by comprehensive regional assistance centers assisted under part A of title XIII.

[SEC. 7134. STATE GRANT PROGRAM.

[(a) STATE GRANT PROGRAM.—The Secretary is authorized to make an award to a State educational agency that demonstrates, to the satisfaction of the Secretary, that such agency, through such agency's own programs and other Federal education programs, effectively provides for the education of children and youth of limited English proficiency within the State.

[(b) PAYMENTS.—The amount paid to a State educational agency under subsection (a) shall not exceed 5 percent of the total amount awarded to local educational agencies within the State under subpart 1 for the previous fiscal year, except that in no case shall the amount paid by the Secretary to any State educational agency under this subsection for any fiscal year be less than $100,000.

[(c) USE OF FUNDS.—

[(1) IN GENERAL.—A State educational agency shall use funds awarded under this section for programs authorized by this section to—

[(A) assist local educational agencies in the State with program design, capacity building, assessment of student performance, and program evaluation; and

[(B) collect data on the State's limited English proficient populations and the educational programs and services available to such populations.

[(2) EXCEPTION.—States which do not, as of the date of enactment of the Improving America's Schools Act of 1994, have in place a system for collecting the data described in subparagraph (B) of paragraph (1) for all students in such State, are not required to meet the requirement of such subparagraph. In the event such State develops a system for collecting data on the educational programs and services available to all students in the State, then such State shall comply with the requirement of paragraph (1)(B).

[(3) TRAINING.—The State educational agency may also use funds provided under this section for the training of State educational agency personnel in educational issues affecting limited English proficient children and youth.

[(4) SPECIAL RULE.—Recipients of funds under this section shall not restrict the provision of services under this section to federally funded programs.

[(d) STATE CONSULTATION.—A State educational agency receiving funds under this section shall consult with recipients of grants under this title and other individuals or organizations involved in the development or operation of programs serving limited English proficient children or youth to ensure that such funds are used in a manner consistent with the requirements of this title.

[(e) APPLICATIONS.—A State educational agency desiring to receive funds under this section shall submit an application to the Secretary in such form, at such time, and containing such information and assurances as the Secretary may require.

[(f) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section for any fiscal year shall be used by the State educational agency to supplement and, to the extent practical, to increase to the level of funds that would, in the absence of such funds, be made available by the State for the purposes described in this section, and in no case to supplant such funds.

[(g) REPORT TO THE SECRETARY.—State educational agencies receiving awards under this section shall provide for the annual submission of a summary report to the Secretary describing such State's use of such funds.

[SEC. 7135. NATIONAL CLEARINGHOUSE FOR BILINGUAL EDUCATION.

[(a) ESTABLISHMENT.—The Secretary shall establish and support the operation of a National Clearinghouse for Bilingual Education, which shall collect, analyze, synthesize, and disseminate information about bilingual education and related programs.

[(b) FUNCTIONS.—The National Clearinghouse for Bilingual Education shall—

[(1) be administered as an adjunct clearinghouse of the Educational Resources Information Center Clearinghouses system of clearinghouses supported by the Office of Educational Research and Improvement;

[(2) coordinate its activities with Federal data and information clearinghouses and dissemination networks and systems;

[(3) develop a data base management and monitoring system for improving the operation and effectiveness of federally funded bilingual education programs; and

[(4) develop, maintain, and disseminate, through comprehensive regional assistance centers described in part A of title XIII if appropriate, a listing by geographical area of education professionals, parents, teachers, administrators, community members and others who are native speakers of languages other than English for use as a resource by local educational agencies and schools in the development and implementation of bilingual education programs.

[SEC. 7136. INSTRUCTIONAL MATERIALS DEVELOPMENT.

[The Secretary may provide grants for the development, publication, and dissemination of high-quality instructional materials in Native American and Native Hawaiian languages and the language of Native Pacific Islanders and natives of the outlying areas for which instructional materials are not readily available. The Secretary shall give priority to the development of instructional materials in languages indigenous to the United States or the outlying areas. The Secretary shall also accord priority to applications for assistance under this section which provide for developing and evaluating materials in collaboration with activities assisted under subparts 1 and 2 and which are consistent with voluntary national content standards and challenging State content standards.

[Subpart 3—Professional Development

[SEC. 7141. PURPOSE.

[The purpose of this subpart is to assist in preparing educators to improve the educational services for limited English proficient children and youth by supporting professional development programs and the dissemination of information on appropriate instructional practices for such children and youth.

[SEC. 7142. TRAINING FOR ALL TEACHERS PROGRAM.

[(a) PURPOSE.—The purpose of this section is to provide for the incorporation of courses and curricula on appropriate and effective instructional and assessment methodologies, strategies and re-

sources specific to limited English proficient students into preservice and inservice professional development programs for teachers, pupil services personnel, administrators and other education personnel in order to prepare such individuals to provide effective services to limited English proficient students.

[(b) AUTHORIZATION.—

[(1) AUTHORITY.—The Secretary is authorized to award grants to institutions of higher education, local educational agencies, and State educational agencies or to nonprofit organizations which have entered into consortia arrangements with one of such institutions or agencies.

[(2) DURATION.—Each grant under this section shall be awarded for a period of not more than five years.

[(c) PERMISSIBLE ACTIVITIES.—Activities conducted under this section may include the development of training programs in collaboration with other programs such as programs authorized under titles I and II of this Act, and under the Head Start Act.

[SEC. 7143. BILINGUAL EDUCATION TEACHERS AND PERSONNEL GRANTS.

[(a) PURPOSE.—The purpose of this section is to provide for—

[(1) preservice and inservice professional development for bilingual education teachers, administrators, pupil services personnel, and other educational personnel who are either involved in, or preparing to be involved in, the provision of educational services for children and youth of limited-English proficiency; and

[(2) national professional development institutes that assist schools or departments of education in institutions of higher education to improve the quality of professional development programs for personnel serving, preparing to serve, or who may serve, children and youth of limited-English proficiency.

[(b) PRIORITY.—The Secretary shall give priority in awarding grants under this section to institutions of higher education, in consortia with local or State educational agencies, that offer degree programs which prepare new bilingual education teachers in order to increase the availability of educators to provide high-quality education to limited English proficient students.

[(c) AUTHORIZATION.—

[(1) The Secretary is authorized to award grants for not more than five years to institutions of higher education which have entered into consortia arrangements with local or State educational agencies to achieve the purposes of this section.

[(2) The Secretary is authorized to make grants for not more than five years to State and local educational agencies for inservice professional development programs.

[SEC. 7144. BILINGUAL EDUCATION CAREER LADDER PROGRAM.

[(a) PURPOSE.—The purpose of this section is—

[(1) to upgrade the qualifications and skills of noncertified educational personnel, especially educational paraprofessionals, to meet high professional standards, including certification and licensure as bilingual education teachers and other educational personnel who serve limited English proficient students, through collaborative training programs operated by in-

stitutions of higher education and local and State educational agencies; and

[(2) to help recruit and train secondary school students as bilingual education teachers and other educational personnel to serve limited English proficient students.

[(b) AUTHORIZATION.—

[(1) IN GENERAL.—The Secretary is authorized to award grants for bilingual education career ladder programs to institutions of higher education applying in consortia with local or State educational agencies, which consortia may include community-based organizations or professional education organizations.

[(2) DURATION.—Each grant under this section shall be awarded for a period of not more than five years.

[(c) PERMISSIVE ACTIVITIES.—Grants awarded under this section may be used—

[(1) for the development of bilingual education career ladder program curricula appropriate to the needs of the consortium participants;

[(2) to provide assistance for stipends and costs related to tuition, fees and books for enrolling in courses required to complete the degree and certification requirements to become bilingual education teachers; and

[(3) for programs to introduce secondary school students to careers in bilingual education teaching that are coordinated with other activities assisted under this section.

[(d) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications under this section which provide for—

[(1) participant completion of baccalaureate and master's degree teacher education programs, and certification requirements and may include effective employment placement activities;

[(2) development of teacher proficiency in English a second language, including demonstrating proficiency in the instructional use of English and, as appropriate, a second language in classroom contexts;

[(3) coordination with the Federal TRIO programs under chapter 1 of part A of title IV of the Higher Education Act of 1965, the National Mini Corps under subpart 1 of part F of title V of such Act, the Teacher Corps program under subpart 3 of part C of title V of such Act, and the National Community and Service Trust Act of 1993 programs, and other programs for the recruitment and retention of bilingual students in secondary and postsecondary programs to train to become bilingual educators; and

[(4) the applicant's contribution of additional student financial aid to participating students.

[SEC. 7145. GRADUATE FELLOWSHIPS IN BILINGUAL EDUCATION PROGRAM.

[(a) AUTHORIZATION.—

[(1) IN GENERAL.—The Secretary may award fellowships for masters, doctoral, and post-doctoral study related to instruction of children and youth of limited-English proficiency in such areas as teacher training, program administration, re-

search and evaluation, and curriculum development, and for the support of dissertation research related to such study.

[(2) NUMBER.—For fiscal year 1994 not less than 500 fellowships leading to a master's or doctorate degree shall be awarded under this section.

[(3) INFORMATION.—The Secretary shall include information on the operation and the number of fellowships awarded under the fellowship program in the evaluation required under section 7149.

[(b) FELLOWSHIP REQUIREMENTS.—

[(1) IN GENERAL.—Any person receiving a fellowship under this section shall agree to—

[(A) work in an activity related to the program or in an activity such as an activity authorized under this part, including work as a bilingual education teacher, for a period of time equivalent to the period of time during which such person receives assistance under this section; or

[(B) repay such assistance.

[(2) REGULATIONS.—The Secretary shall establish in regulations such terms and conditions for such agreement as the Secretary deems reasonable and necessary and may waive the requirement of paragraph (1) in extraordinary circumstances.

[(c) PRIORITY.—In awarding fellowships under this section the Secretary may give priority to institutions of higher education that demonstrate experience in assisting fellowship recipients find employment in the field of bilingual education.

[SEC. 7146. APPLICATION.

[(a) IN GENERAL.—

[(1) SECRETARY.—To receive an award under this subpart, an eligible entity shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

[(2) CONSULTATION AND ASSESSMENT.—Each such application shall contain a description of how the applicant has consulted with, and assessed the needs of, public and private schools serving children and youth of limited-English proficiency to determine such school's need for, and the design of, the program for which funds are sought.

[(3) SPECIAL RULE.—(A) An application for a grant under subsection (a) from an applicant who proposes to conduct a master's- or doctoral-level program with funds received under this section shall provide an assurance that such program will include, as a part of the program, a training practicum in a local school program serving children and youth of limited-English proficiency.

[(B) A recipient of a grant under subsection (a) may waive the requirement of a training practicum for a degree candidate with significant experience in a local school program serving children and youth of limited-English proficiency.

[(4) STATE EDUCATIONAL AGENCY.—An eligible entity, with the exception of schools funded by the Bureau of Indian Affairs, shall submit a copy of the application under this subsection to the State educational agency.

[(b) STATE REVIEW AND COMMENTS.—

[(1) DEADLINE.—The State educational agency, not later than 45 days after receipt of such application copy, shall review the application and transmit such application to the Secretary.

[(2) COMMENTS.—(A) Regarding any application submitted under this subpart, the State educational agency shall—

[(i) submit to the Secretary written comments regarding all such applications; and

[(ii) submit to each eligible entity the comments that pertain to such entity.

[(B) For purposes of this subpart, comments shall address how the eligible entity—

[(i) will further the academic achievement of limited English proficient students served pursuant to a grant received under this subpart; and

[(ii) how the grant application is consistent with the State plan submitted under section 1111.

[(3) WAIVER.—Notwithstanding paragraphs (1) and (2), the Secretary is authorized to waive the review requirement if a State educational agency can demonstrate that such review requirement may impede such agency's ability to fulfill the requirements of participation in the State grant program, particularly such agency's data collection efforts and such agency's ability to provide technical assistance to local educational agencies not receiving funds under this Act.

[(c) ELIGIBLE ENTITY COMMENTS.—An eligible entity may submit to the Secretary comments that address the comments submitted by the State educational agency.

[(d) COMMENT CONSIDERATION.—In making awards under this subpart the Secretary shall take into consideration comments made by a State educational agency.

[(e) SPECIAL RULE.—

[(1) OUTREACH AND TECHNICAL ASSISTANCE.—The Secretary shall provide for outreach and technical assistance to institutions of higher education eligible for assistance under title III of the Higher Education Act of 1965 and institutions of higher education that are operated or funded by the Bureau of Indian Affairs to facilitate the participation of such institutions in activities under this part.

[(2) DISTRIBUTION RULE.—In making awards under this subpart, the Secretary, consistent with subsection (d), shall ensure adequate representation of Hispanic-serving institutions that demonstrate competence and experience in the programs and activities authorized under this subpart and are otherwise qualified.

[SEC. 7147. PROGRAM REQUIREMENTS.

[Activities conducted under this subpart shall assist educational personnel in meeting State and local certification requirements for bilingual education and, wherever possible, shall lead toward the awarding of college or university credit.

[SEC. 7148. STIPENDS.

[The Secretary shall provide for the payment of such stipends (including allowances for subsistence and other expenses for such persons and their dependents), as the Secretary determines to be

appropriate, to persons participating in training programs under this subpart.

[SEC. 7149. PROGRAM EVALUATIONS.

[Each recipient of funds under this subpart shall provide the Secretary with an evaluation of the program assisted under this subpart every two years. Such evaluation shall include data on—

[(1) post-program placement of persons trained in a program assisted under this subpart;

[(2) how the training relates to the employment of persons served by the program;

[(3) program completion; and

[(4) such other information as the Secretary may require.

[SEC. 7150. USE OF FUNDS FOR SECOND LANGUAGE COMPETENCE.

[Awards under this subpart may be used to develop a program participant's competence in a second language for use in instructional programs.

[Subpart 4—Transition

[SEC. 7161. SPECIAL RULE.

[Notwithstanding any other provision of law, no recipient of a grant under title VII of this Act (as such title was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall be eligible for fourth- and fifth-year renewals authorized by section 7021(d)(1)(C) of such title (as such section was in effect on the day preceding the date of enactment of such Act).

[PART B—FOREIGN LANGUAGE ASSISTANCE PROGRAM

[SEC. 7201. SHORT TITLE.

[This part may be cited as the "Foreign Language Assistance Act of 1994".

[SEC. 7202. FINDINGS.

The Congress finds as follows:

[(1) Foreign language proficiency is crucial to our Nation's economic competitiveness and national security. Significant improvement in the quantity and quality of foreign language instruction offered in our Nation's elementary and secondary schools is necessary.

[(2) All Americans need a global perspective. To understand the world around us, we must acquaint ourselves with the languages, cultures, and history of other nations.

[(3) Proficiency in two or more languages should be promoted for all American students. Multilingualism enhances cognitive and social growth, competitiveness in the global marketplace, national security, and understanding of diverse people and cultures.

[(4) The United States lags behind other developed countries in offering foreign language study to elementary and secondary school students.

[(5) Four out of five new jobs in the United States are created from foreign trade.

[(6) The optimum time to begin learning a second language is in elementary school, when children have the ability to learn and excel in several foreign language acquisition skills, including pronunciation, and when children are most open to appreciating and valuing a culture other than their own.

[(7) Foreign language study can increase childrens' capacity for critical and creative thinking skills and children who study a second language show greater cognitive development in areas such as mental flexibility, creativity, tolerance, and higher order thinking skills.

[(8) Children who have studied a foreign language in elementary school achieve expected gains and score higher on standardized tests of reading, language arts, and mathematics than children who have not studied a foreign language.

[SEC. 7203. PROGRAM AUTHORIZED.

[(a) PROGRAM AUTHORITY.—

[(1) IN GENERAL.—The Secretary shall make grants, on a competitive basis, to State educational agencies or local educational agencies to pay the Federal share of the cost of innovative model programs providing for the establishment, improvement or expansion of foreign language study for elementary and secondary school students.

[(2) DURATION.—Each grant under paragraph (1) shall be awarded for a period of three years.

[(b) REQUIREMENTS.—

[(1) GRANTS TO STATE EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a State educational agency, the Secretary shall support programs that promote systemic approaches to improving foreign language learning in the State.

[(2) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a local educational agency, the Secretary shall support programs that—

[(A) show the promise of being continued beyond the grant period;

[(B) demonstrate approaches that can be disseminated and duplicated in other local educational agencies; and

[(C) may include a professional development component.

[(c) FEDERAL SHARE.—

[(1) IN GENERAL.—The Federal share for each fiscal year shall be 50 percent.

[(2) WAIVER.—The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the activities assisted under this part.

[(3) SPECIAL RULE.—Not less than three-fourths of the funds appropriated under section 7206 shall be used for the expansion of foreign language learning in the elementary grades.

[(4) RESERVATION.—The Secretary may reserve not more than 5 percent of funds appropriated under section 7206 to evaluate the efficacy of programs under this part.

[SEC. 7204. APPLICATIONS.

[(a) IN GENERAL.—Any State educational agency or local educational agency desiring a grant under this part shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

[(b) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications describing programs that—

[(1) include intensive summer foreign language programs for professional development;

[(2) link non-native English speakers in the community with the schools in order to promote two-way language learning; or

[(3) promote the sequential study of a foreign language for students, beginning in elementary schools.

[SEC. 7205. ELEMENTARY SCHOOL FOREIGN LANGUAGE INCENTIVE PROGRAM.

[(a) INCENTIVE PAYMENTS.—From amounts appropriated under section 7206 the Secretary shall make an incentive payment for each fiscal year to each public elementary school that provides to students attending such school a program designed to lead to communicative competency in a foreign language.

[(b) AMOUNT.—The Secretary shall determine the amount of the incentive payment under subsection (a) for each public elementary school for each fiscal year on the basis of the number of students participating in a program described in such subsection at such school for such year compared to the total number of such students at all such schools in the United States for such year.

[(c) REQUIREMENT.—The Secretary shall consider a program to be designed to lead to communicative competency in a foreign language if such program is comparable to a program that provides not less than 45 minutes of instruction in a foreign language not less than four days per week throughout an academic year.

[SEC. 7206. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $35,000,000 for the fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part, of which not more than $20,000,000 may be used in each fiscal year to carry out section 7205.

[PART C—EMERGENCY IMMIGRANT EDUCATION PROGRAM

[SEC. 7301. FINDINGS AND PURPOSE.

[(a) FINDINGS.—The Congress finds that—

[(1) the education of our Nation's children and youth is one of the most sacred government responsibilities;

[(2) local educational agencies have struggled to fund adequately education services;

[(3) in the case of Plyler v. Doe, the Supreme Court held that States have a responsibility under the Equal Protection Clause of the Constitution to educate all children, regardless of immigration status; and

(4) immigration policy is solely a responsibility of the Federal Government.

[(b) PURPOSE.—The purpose of this part is to assist eligible local educational agencies that experience unexpectedly large increases in their student population due to immigration to—

[(1) provide high-quality instruction to immigrant children and youth; and

[(2) help such children and youth—

[(A) with their transition into American society; and

[(B) meet the same challenging State performance standards expected of all children and youth.

[SEC. 7302. STATE ADMINISTRATIVE COSTS.

[For any fiscal year, a State educational agency may reserve not more than 1.5 percent of the amount allocated to such agency under section 7304 to pay the costs of performing such agency's administrative functions under this part.

[SEC. 7303. WITHHOLDING.

[Whenever the Secretary, after providing reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirement of any provision of this part, the Secretary shall notify that agency that further payments will not be made to the agency under this part, or in the discretion of the Secretary, that the State educational agency shall not make further payments under this part to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this part, or payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

[SEC. 7304. STATE ALLOCATIONS.

[(a) PAYMENTS.—The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 1995 through 1999 for the purpose set forth in section 7301(b).

[(b) ALLOCATIONS.—

[(1) IN GENERAL.—Except as provided in subsections (c) and (d), of the amount appropriated for each fiscal year for this part, each State participating in the program assisted under this part shall receive an allocation equal to the proportion of such State's number of immigrant children and youth who are enrolled in public elementary or secondary schools under the jurisdiction of each local educational agency described in paragraph (2) within such State, and in nonpublic elementary or secondary schools within the district served by each such local educational agency, relative to the total number of immigrant children and youth so enrolled in all the States participating in the program assisted under this part.

[(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of immigrant children and youth who are enrolled in public elementary or secondary schools under the jurisdiction of such agencies, and in nonpublic elementary or secondary schools within the districts served by such agencies, during the fiscal year for

which the payments are to be made under this part, is equal to—

[(A) at least 500; or

[(B) at least 3 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year,

whichever number is less.

[(c) DETERMINATIONS OF NUMBER OF CHILDREN AND YOUTH.—

[(1) IN GENERAL.—Determinations by the Secretary under this section for any period with respect to the number of immigrant children and youth shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

[(2) SPECIAL RULE.—No such determination with respect to the number of immigrant children and youth shall operate because of an underestimate or overestimate to deprive any State educational agency of the allocation under this section that such State would otherwise have received had such determination been made on the basis of accurate data.

[(d) REALLOCATION.—Whenever the Secretary determines that any amount of a payment made to a State under this part for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from any appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

[(e) RESERVATION OF FUNDS.—

[(1) IN GENERAL.—Notwithstanding any other provision of this part, if the amount appropriated to carry out this part exceeds $50,000,000 for a fiscal year, a State educational agency may reserve not more than 20 percent of such agency's payment under this part for such year to award grants, on a competitive basis, to local educational agencies within the State as follows:

[(A) At least one-half of such grants shall be made available to eligible local educational agencies (as described in subsection (b)(2)) within the State with the highest numbers and percentages of immigrant children and youth.

[(B) Funds reserved under this paragraph and not made available under subparagraph (A) may be distributed to local educational agencies within the State experiencing a sudden influx of immigrant children and youth which are otherwise not eligible for assistance under this part.

[(2) USE OF GRANT FUNDS.—Each local educational agency receiving a grant under paragraph (1) shall use such grant funds to carry out the activities described in section 7307.

[(3) INFORMATION.—Local educational agencies with the highest number of immigrant children and youth receiving funds under paragraph (1) may make information available on serving immigrant children and youth to local educational agencies in the State with sparse numbers of such children.

[SEC. 7305. STATE APPLICATIONS.

[(a) SUBMISSION.—No State educational agency shall receive any payment under this part for any fiscal year unless such 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. Each such application shall—

[(1) provide that the educational programs, services, and activities for which payments under this part are made will be administered by or under the supervision of the agency;

[(2) provide assurances that payments under this part will be used for purposes set forth in sections 7301 and 7307, including a description of how local educational agencies receiving funds under this part will use such funds to meet such purposes and will coordinate with other programs assisted under this Act, the Goals 2000: Educate America Act, and other Acts as appropriate;

[(3) provide an assurance that local educational agencies receiving funds under this part will coordinate the use of such funds with programs assisted under part A or title I;

[(4) provide assurances that such payments, with the exception of payments reserved under section 7304(e), will be distributed among local educational agencies within that State on the basis of the number of immigrant children and youth counted with respect to each such local educational agency under section 7304(b)(1);

[(5) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this part without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

[(6) provide for making such reports as the Secretary may reasonably require to perform the Secretary's functions under this part;

[(7) provide assurances—

[(A) that to the extent consistent with the number of immigrant children and youth enrolled in the nonpublic elementary or secondary schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of such children and youth secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children and youth;

[(B) that the control of funds provided under this part to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property; and

[(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or

through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such nonpublic elementary or secondary school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds;

[(8) provide that funds reserved under subsection (e) of section 7304 be awarded on a competitive basis based on merit and need in accordance with such subsection; and

[(9) provide an assurance that State and local educational agencies receiving funds under this part will comply with the requirements of section 1120(b).

[(b) APPLICATION REVIEW.—

[(1) IN GENERAL.—The Secretary shall review all applications submitted pursuant to this section by State educational agencies.

[(2) APPROVAL.—The Secretary shall approve any application submitted by a State educational agency that meets the requirements of this section.

[(3) DISAPPROVAL.—The Secretary shall disapprove any application submitted by a State educational agency which does not meet the requirements of this section, but shall not finally disapprove an application except after providing reasonable notice, technical assistance, and an opportunity for a hearing to the State.

[SEC. 7306. ADMINISTRATIVE PROVISIONS.

[(a) NOTIFICATION OF AMOUNT.—The Secretary, not later than June 1 of each year, shall notify each State educational agency that has an application approved under section 7305 of the amount of such agency's allocation under section 7304 for the succeeding year.

[(b) SERVICES TO CHILDREN ENROLLED IN NONPUBLIC SCHOOLS.—If by reason of any provision of law a local educational agency is prohibited from providing educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 7305(a)(7), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services, subject to the requirements of this part, to such children. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with the provisions of title I.

[SEC. 7307. USES OF FUNDS.

[(a) USE OF FUNDS.—Funds awarded under this part shall be used to pay for enhanced instructional opportunities for immigrant children and youth, which may include—

[(1) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

[(2) salaries of personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

[(3) tutorials, mentoring, and academic or career counseling for immigrant children and youth;

[(4) identification and acquisition of curricular materials, educational software, and technologies to be used in the program;

[(5) basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

[(6) such other activities, related to the purposes of this part, as the Secretary may authorize.

[(b) CONSORTIA.—A local educational agency that receives a grant under this part may collaborate or form a consortium with one or more local educational agencies, institutions of higher education, and nonprofit organizations to carry out the program described in an application approved under this part.

[(c) SUBGRANTS.—A local educational agency that receives a grant under this part may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a nonprofit organization, or a consortium of such entities to carry out a program described in an application approved under this part, including a program to serve out-of-school youth.

[(d) CONSTRUCTION.—Nothing in this part shall be construed to prohibit a local educational agency from serving immigrant children simultaneously with students with similar educational needs, in the same educational settings where appropriate.

[SEC. 7308. REPORTS.

[(a) BIENNIAL REPORT.—Each State educational agency receiving funds under this part shall submit, once every two years, a report to the Secretary concerning the expenditure of funds by local educational agencies under this part. Each local educational agency receiving funds under this part shall submit to the State educational agency such information as may be necessary for such report.

[(b) REPORT TO CONGRESS.—The Secretary shall submit, once every two years, a report to the appropriate committees of the Congress concerning programs assisted under this part in accordance with section 14701.

[SEC. 7309. AUTHORIZATION OF APPROPRIATIONS.

[For the purpose of carrying out this part, there are authorized to be appropriated $100,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

[PART D—ADMINISTRATION

[SEC. 7401. RELEASE TIME.

[The Secretary shall allow professional development programs funded under part A to use funds provided under part A for professional release time to enable individuals to participate in programs assisted under part A.

[SEC. 7402. EDUCATION TECHNOLOGY.

[Funds made available under part A may be used to provide for the acquisition or development of education technology or instructional materials, including authentic materials in languages other than English, 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 title.

[SEC. 7403. NOTIFICATION.

[The State educational agency, and when applicable, the State board for postsecondary education, shall be notified within three working days of the date an award under part A is made to an eligible entity within the State.

[SEC. 7404. CONTINUED ELIGIBILITY.

[Entities receiving grants under this title shall remain eligible for grants for subsequent activities which extend or expand and do not duplicate those activities supported by a previous grant under this title. In considering applications for grants under this title, the Secretary shall take into consideration the applicant's record of accomplishments under previous grants under this title.

[SEC. 7405. COORDINATIONS AND REPORTING REQUIREMENTS.

[(a) 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. The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Agriculture, the Attorney General and the heads of other relevant agencies to identify and eliminate barriers to appropriate coordination of programs that affect language-minority and limited English proficient students and their families. The Secretary shall provide for continuing consultation and collaboration, between the Office and relevant programs operated by the Department, including programs under title I and other programs under this Act, in planning, contracts, providing joint technical assistance, providing joint field monitoring activities and in other relevant activities to ensure effective program coordination to provide high quality education opportunities to all language-minority and limited English proficient students.

[(b) DATA.—The Secretary shall, to the extent feasible, ensure that all data collected by the Department shall include the collection and reporting of data on limited English proficient students.

[(c) PUBLICATION OF PROPOSALS.—The Secretary shall publish and disseminate all requests for proposals for programs funded under part A.

[(d) REPORT.—The Director shall prepare and, not later than February 1 of every other year, shall submit to the Secretary and to the Committee on Labor and Human Resources of the Senate and to the Committee on Education and Labor of the House of Representatives a report on—

[(1) the activities carried out under this title and the effectiveness of such activities in improving the education provided to limited English proficient children and youth;

[(2) a critical synthesis of data reported by the States pursuant to section 7134;

[(3) an estimate of the number of certified bilingual education personnel in the field and an estimate of the number of bilingual education teachers which will be needed for the succeeding five fiscal years;

[(4) the major findings of research carried out under this title; and

[(5) recommendations for further developing the capacity of our Nation's schools to educate effectively limited English proficient students.

[PART E—GENERAL PROVISIONS

[SEC. 7501. DEFINITIONS; REGULATIONS.

[Except as otherwise provided, for purposes of this title—

[(1) BILINGUAL EDUCATION PROGRAM.—The term "bilingual education program" means an educational program for limited English proficient students that—

[(A) makes instructional use of both English and a student's native language;

[(B) enables limited English proficient students to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking, so as to meet age-appropriate grade-promotion and graduation standards in concert with the National Education Goals;

[(C) may also develop the native language skills of limited English proficient students, or ancestral languages of American Indians, Alaska Natives, Native Hawaiians and native residents of the outlying areas; and

[(D) may include the participation of English-proficient students if such program is designed to enable all enrolled students to become proficient in English and a second language.

[(2) CHILDREN AND YOUTH.—The term "children and youth" means individuals aged 3 through 21.

[(3) 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 Native Hawaiian organizations including Native Hawaiian Educational Organizations as such term is defined in section 4009 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4901 et seq.), as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994.

[(4) COMMUNITY COLLEGE.—The term "community college" means an institution of higher education as defined in section 101 of the Higher Education Act of 1965 which provides not less than a two-year program which is acceptable for full credit toward a bachelor's degree, including institutions receiving as-

sistance under the Tribally Controlled Community College Assistance Act of 1978.

[(5) DIRECTOR.—The term "Director" means the Director of the Office of Bilingual Education and Minority Languages Affairs established under section 210 of the Department of Education Organization Act.

[(6) FAMILY EDUCATION PROGRAM.—(A) The term "family education program" means a bilingual education or special alternative instructional program that—

[(i) is designed—

[(I) to help limited English proficient adults and out-of-school youths achieve proficiency in the English language; and

[(II) to provide instruction on how parents and family members can facilitate the educational achievement of their children;

[(ii) when feasible, uses instructional programs such as the models developed under the Even Start Family Literacy Programs, which promote adult literacy and train parents to support the educational growth of their children and the Parents as Teachers Program and the Home Instruction Program for Preschool Youngsters; and

[(iii) gives preference to participation by parents and immediate family members of children attending school.

[(B) Such term may include programs that provide instruction to facilitate higher education and employment outcomes.

[(7) IMMIGRANT CHILDREN AND YOUTH.—The term "immigrant children and youth" means individuals who—

[(A) are aged 3 through 21;

[(B) were not born in any State; and

[(C) have not been attending one or more schools in any one or more States for more than three full academic years.

[(8) LIMITED ENGLISH PROFICIENCY AND LIMITED ENGLISH PROFICIENT.—The terms "limited English proficiency" and "limited English proficient", when used with reference to an individual, mean an individual—

[(A) who—

[(i) was not born in the United States or whose native language is a language other than English and comes from an environment where a language other than English is dominant; or

[(ii) is a Native American or Alaska Native or who is a native resident of the outlying areas and 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 and whose native language is other than English and 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 such individual the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

[(9) 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.

[(10) 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 five years successful experience in providing educational services in traditional Native American languages.

[(11) NATIVE LANGUAGE.—The term "native language", when used with reference to an individual of limited-English proficiency, means the language normally used by such individual, or in the case of a child or youth, the language normally used by the parents of the child or youth.

[(12) OFFICE.—The term "Office" means the Office of Bilingual Education and Minority Languages Affairs.

[(13) OTHER PROGRAMS FOR PERSONS OF LIMITED-ENGLISH PROFICIENCY.—The term "other programs for persons of limited-English proficiency" means any programs administered by the Secretary that serve persons of limited-English proficiency.

[(14) PARAPROFESSIONAL.—The term "paraprofessional" means an individual who is employed in preschool, elementary or secondary school under the supervision of a certified or licensed teacher, including individuals employed in bilingual education, special education and migrant education.

[(15) SPECIAL ALTERNATIVE INSTRUCTIONAL PROGRAM.—The term "special alternative instructional program" means an educational program for limited English proficient students that—

[(A) utilizes specially designed English language curricula and services but does not use the student's native language for instructional purposes;

[(B) enables limited English proficient students to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking so as to meet age-appropriate grade-promotion and graduation standards in concert with the National Education Goals; and

[(C) is particularly appropriate for schools where the diversity of the limited English proficient students' native languages and the small number of students speaking each respective language makes bilingual education impractical and where there is a critical shortage of bilingual education teachers.

[SEC. 7502. REGULATIONS AND NOTIFICATION.

[(a) REGULATION RULE.—In developing regulations under this title, the Secretary shall consult with State and local educational agencies, organizations representing limited English proficient individuals, and organizations representing teachers and other personnel involved in bilingual education.

[(b) PARENTAL NOTIFICATION.—

[(1) IN GENERAL.—Parents of children and youth participating in programs assisted under part A shall be informed of—

[(A) a student's level of English proficiency, how such level was assessed, the status of a student's academic achievement and the implications of a student's educational strengths and needs for age and grade appropriate academic attainment, promotion, and graduation;

[(B) what programs are available to meet the student's educational strengths and needs and how the programs differ in content and instructional goals, and in the case of a student with a disability, how the program meets the objectives of a student's individualized education program; and

[(C) the instructional goals of the bilingual education or special alternative instructional program, and how the program will specifically help the limited English proficient student acquire English and meet age-appropriate standards for grade-promotion and graduation, including—

[(i) the benefits, nature, and past academic results of the bilingual educational program and of the instructional alternatives; and

[(ii) the reasons for the selection of their child as being in need of bilingual education.

[(2) OPTION TO DECLINE.—(A) Such parents shall also be informed that such parents have the option of declining enrollment of their children and youth in such programs and shall be given an opportunity to so decline if such parents so choose.

[(B) A local educational agency shall not be relieved of any of its obligations under title VI of the Civil Rights Act of 1964 because parents choose not to enroll their children in bilingual education programs.

[(3) RECEIPT OF INFORMATION.—Such parents shall receive, in a manner and form understandable to such parents, including, if necessary and to the extent feasible, in the native language of such parents, the information required by this subsection. At a minimum, such parents shall receive—

[(A) timely information about projects funded under part A; and

[(B) if the parents of participating children so desire, notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from such parents.

[(4) SPECIAL RULE.—Students shall not be admitted to or excluded from any federally assisted education program merely on the basis of a surname or language-minority status.]

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)(iv)(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)(iv)(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 ac-

tivities 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 improve 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 authorized 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 nonadministrative State funds allocated to the State for use for State-level activities under each of the following provisions to 1 or more of the State's allocations under any other of such provisions:

(A) Part A of Title II.

(B) Subpart 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 1 or more of its allocations for such fiscal year under any other provision listed in paragraph (2).

(B) AGENCIES IDENTIFIED FOR IMPROVEMENT.—A local educational agency identified for improvement under section 1116(c)(2) may transfer in accordance with this part not more than 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) Part A of title V or section 5212(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.

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 determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State or, in the case of the United States for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

(ii) any direct current expenditures by the State for the operation of 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 en-

compass 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 Federated 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 subsection (a) and for establishing limitations on the amount of funds under such programs that may be used for administration on a consolidated basis.

(c) CONDITIONS.—A local educational agency that consolidates administrative funds under this section for any fiscal year shall not use any other funds under the programs included in the consolidation for administration for that fiscal year.

(d) USES OF ADMINISTRATIVE FUNDS.—A local educational agency that consolidates administrative funds under this section may use such consolidated funds for the administration of such programs 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 assurances, 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 Governor and State educational agency under such programs on a consolidated basis.

(b) REQUIRED CONSOLIDATED PLANS OR APPLICATIONS.—A State that has an approved consolidated State plan or application under section 8302 may require local educational agencies in the State receiving funds under more than one program included in the consolidated State plan or 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 Governor and State educational agency shall collaborate with local educational agencies in the State in es-

tablishing 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 educational 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 NONRECIPIENT 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.

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. REQUIRED APPROVAL OR CERTIFICATION PROHIBITED.

(a) IN GENERAL.—Notwithstanding any other provision of Federal law, no State shall be required to have academic content standards or student academic achievement standards approved or certified by the Federal Government, in order to receive assistance under this Act.

(b) CONSTRUCTION.—Nothing in this section shall be construed to affect requirements under title I of this Act.

SEC. 8518. 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. 8519. RULE OF CONSTRUCTION ON PERSONALLY IDENTIFIABLE INFORMATION.

Nothing in this Act shall be construed to permit the development of a national database of personally identifiable information on individuals involved in studies or in data collection efforts under this Act.

SEC. 8520. SEVERABILITY.

If any provision of this Act is held invalid, the remainder of this Act shall be unaffected thereby.

PART F—SENSE OF CONGRESS

SEC. 8601. PAPERWORK REDUCTION.

(a) FINDINGS.—The Congress finds that—

(1) instruction and other classroom activities provide the greatest opportunity for students, especially at-risk and disadvantaged students, to attain high standards and achieve academic success;

(2) one of the greatest obstacles to establishing an effective, classroom-centered education system is the cost of paperwork compliance;

(3) paperwork places a burden on teachers and administrators who must complete Federal and State forms to apply for Federal funds and absorbs time and money which otherwise would be spent on students;

(4) the Education at a Crossroads Report released in 1998 by the Education Subcommittee on Oversight and Investigations states that requirements by the Department of Education result in more than 48,600,000 hours of paperwork per year; and

(5) paperwork distracts from the mission of schools, encumbers teachers, and administrators with nonacademic responsibilities, and competes with teaching and classroom activities which promote learning and achievement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal and State educational agencies should reduce the paperwork requirements placed on schools, teachers, 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.

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 information relating to performance under the program or project.

(b) TITLE I EXCLUDED.—The Secretary may not reserve under subsection (a) funds appropriated to carry out any program authorized under title I.

(c) EVALUATION ACTIVITIES AUTHORIZED ELSEWHERE.—If, under any other provision of this Act (other than title I), funds are authorized to be reserved or used for evaluation activities with respect to a program or project, the Secretary may not reserve additional funds under this section for the evaluation of such program or project.

PART [A] *H*—COMPREHENSIVE REGIONAL ASSISTANCE CENTERS

SEC. [13101.] *8701.* PROGRAM AUTHORIZED.

(a) COMPREHENSIVE REGIONAL ASSISTANCE CENTERS.—

(1) * * *

* * * * * * *

SEC. [13102.] *8702.* REQUIREMENTS OF COMPREHENSIVE REGIONAL ASSISTANCE CENTERS.

(a) IN GENERAL.—Each comprehensive regional assistance center established under section [13101(a)] *8701(a)* shall—

(1) * * *

* * * * * * *

(7) provide services to States, local educational agencies, tribes, and schools, in coordination with the National Diffusion Network State Facilitators activities under section [13201] *8751*, in order to better implement the purposes of this part and provide the support and assistance diffusion agents need to carry out such agents' mission effectively; and

* * * * * * *

SEC. [13103.] *8703.* MAINTENANCE OF SERVICE AND APPLICATION REQUIREMENTS.

(a) * * *

(b) APPLICATION REQUIREMENTS.—Each entity or consortium desiring assistance under this part shall submit an application to the Secretary at such time, in such manner and accompanied by such information, as the Secretary may require. Each such application shall—

(1) demonstrate how the comprehensive regional assistance center will provide expertise and services in the areas described in section [13102] *8702*;

(2) demonstrate how such centers will work with the National Diffusion Network under section [13201] *8751* to conduct outreach to local educational agencies receiving priority under section [13401] *8851*;

* * * * * * *

SEC. [13104.] *8704.* TRANSITION.

(a) * * *

(b) EXTENSION OF PREVIOUS CENTERS.—

(1) IN GENERAL.—The Secretary shall, notwithstanding any other provision of law, use funds appropriated under section [13105] *8705* to extend or continue contracts and grants for

existing categorical technical assistance centers assisted under this Act (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) through fiscal year 1996, and take other necessary steps to ensure a smooth transition of services provided under this part and that such services will not be interrupted, curtailed, or substantially diminished.

* * * * * * *

SEC. [13105.] *8705.* AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this part, there are authorized to be appropriated $70,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

PART [B] *I*—NATIONAL DIFFUSION NETWORK

SEC. [13201.] *8751.* PROGRAM AUTHORIZED.

(a) * * *

* * * * * * *

(e) STATE FACILITATOR ACTIVITIES.—The National Diffusion Network State Facilitators shall provide professional development and technical assistance services to assist State educational agencies, local educational agencies, tribal divisions of education, schools, family and adult literacy programs, and other entities assisted under this Act, in—

(1) * * *

* * * * * * *

(3) identifying educational technology needs and securing the necessary technical assistance to address such needs in coordination with the Eisenhower regional consortia [under part C and the regional technical assistance and professional development consortia under subpart 3 of title III; and] *under part F; and*

* * * * * * *

(f) ADDITIONAL DUTIES.—In addition, National Diffusion Network State Facilitators shall—

(1) * * *

* * * * * * *

(4) develop and implement an aggressive outreach plan for reaching the local educational agencies and schools receiving priority under section [13401] *8851*; and

* * * * * * *

SEC. [13202.] *8752.* AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this part, there are authorized to be appropriated $25,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

PART [C] *J*—EISENHOWER REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIA

SEC. [13301.] *8801.* PROGRAM ESTABLISHED.

(a) IN GENERAL.—

(1) * * *

* * * * * * *

(3) SPECIAL RULE.—In any fiscal year, if the amount made available pursuant to section [13308] *8808* is less than $4,500,000, then the Secretary may waive the provisions of paragraph (2) and award grants or contracts of sufficient size, scope, and quality to carry out this section.

* * * * * * *

SEC. [13302.] *8802.* USE OF FUNDS.

Funds provided under this part may be used by a regional consortium, under the direction of a regional board established under section [13304] *8804*, to—

(1) work cooperatively with the other regional consortia, the Eisenhower National Clearinghouse for Science and Mathematics Education established under section 2102(b) and federally funded technical assistance providers to more effectively accomplish the activities described in this section;

(2) assist, train and provide technical assistance to classroom teachers, administrators, and other educators to identify, implement, assess or adapt the instructional materials, teaching methods and assessment tools described in section [13301(a)(1)] *8801(a)(1)*;

(3) provide for the training of classroom teachers to enable such teachers to instruct other teachers, administrators, and educators in the use of the instructional materials, teaching methods and assessment tools described in section [13301(a)(1)] *8801(a)(1)* in the classroom;

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SEC. [13303.] *8803.* APPLICATION AND REVIEW.

(a) IN GENERAL.—Each eligible entity desiring a grant or contract under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Each such application shall—

(1) * * *

* * * * * * *

SEC. [13304.] *8804.* REGIONAL BOARDS.

(a) IN GENERAL.—Each eligible entity receiving a grant or contract under this part shall establish a regional board to oversee the administration and establishment of program priorities for the regional consortium established by such eligible entity. Such regional board shall be broadly representative of the agencies and organizations participating in the regional consortium.

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SEC. [13305.] *8805.* PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.

(a) PAYMENTS.—The Secretary shall pay to each eligible entity having an application approved under section [13303] *8803* the Federal share of the cost of the activities described in the application.

(b) FEDERAL SHARE.—For the purpose of subsection (a), the Federal share shall be 80 percent.

(c) NON-FEDERAL SHARE.—The non-Federal share of the cost of activities described in the application submitted under section [13303] *8803* may be in cash or in kind, fairly evaluated. At least 10 percent of such non-Federal share shall be from sources other than the Federal Government, or State or local government.

SEC. [13306.] *8806.* EVALUATION.

(a) EVALUATION REQUIRED.—The Secretary, through the Office of Educational Research and Improvement and in accordance with section [14701] *8651*, shall collect sufficient data on, and evaluate the effectiveness of, the activities of each regional consortium.

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SEC. 13307. *8807.* DEFINITIONS.

For purposes of this part:

(1) * * *

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(4) The term "regional consortium" means each regional mathematics and science education consortium established pursuant to section [13301] *8801*.

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SEC. [13308.] *8808.* AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $23,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part.

PART [D] *K*—TECHNOLOGY-BASED TECHNICAL ASSISTANCE

SEC. [13401.] *8851.* TECHNOLOGY-BASED TECHNICAL ASSISTANCE.

The Secretary is authorized to provide a technology-based technical assistance service that will—

(1) support the administration and implementation of programs under this Act by providing information, including legal and regulatory information, and technical guidance and information, about best practices; and

(2) be accessible to all States, local educational agencies, schools, community-based organizations and others who are recipients of funds under this Act.

[Subpart 3] *PART L*—REGIONAL TECHNICAL SUPPORT AND PROFESSIONAL DEVELOPMENT

SEC. [3141.] *8901.* REGIONAL TECHNICAL SUPPORT AND PROFESSIONAL DEVELOPMENT.

(a) GRANTS AUTHORIZED.—

(1) AUTHORITY.—The Secretary, through the Office of Educational Technology, shall make grants in accordance with the provisions of this section, to regional entities such as the Eisenhower Mathematics and Science Regional Consortia under [part C of title XIII] *part J*, the regional education laboratories, the comprehensive regional assistance centers, or such other regional entities as may be designated or established by the Secretary. In awarding grants under this section, the Secretary shall give priority to such consortia and shall ensure that each geographic region of the United States shall be served by such a consortium.

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[TITLE IX—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

[PART A—INDIAN EDUCATION

[SEC. 9101. FINDINGS.

[The 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 content standards and student performance 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 special educational and culturally related academic needs of American Indian and Alaska Native students;

[(2) since the date of 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 increased 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, for example, 9 percent of Indian students who were eighth graders in 1988 had already 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. 9102. PURPOSE.

[(a) PURPOSE.—It is the purpose of this part to support the efforts of local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities to meet the special educational and culturally related academic needs of American Indians and Alaska Natives, so that such students can achieve to the same challenging State performance standards expected of all students.

[(b) PROGRAMS.—This part carries out the purpose described in subsection (a) by authorizing programs of direct assistance for—

[(1) meeting the special educational and culturally related academic needs of American Indians and Alaska Natives;

[(2) the education of Indian children and adults;

[(3) the training of Indian persons as educators and counselors, and in other professions serving Indian people; and

[(4) research, evaluation, data collection, and technical assistance.

[Subpart 1—Formula Grants to Local Educational Agencies

[SEC. 9111. PURPOSE.

[It is the purpose of this subpart 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 content standards and State student performance standards that are used for all students; and

[(2) are designed to assist Indian students meet those standards and assist the Nation in reaching the National Education Goals.

[SEC. 9112. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

[(a) IN GENERAL.—

[(1) ENROLLMENT REQUIREMENTS.—A local educational agency shall be eligible for a grant under this subpart for any fiscal year if the number of Indian children eligible under section 9116 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 subpart does not establish a parent committee under section 9114(c)(4) for such grant, an Indian tribe that represents no 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 subpart.

[SEC. 9113. 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 subpart an amount equal to the product of—

[(A) the number of Indian children who are eligible under section 9116 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) of this section, a local educational agency or an Indian tribe (as authorized under section 9112(b)) that is eligible for a grant under section 9112, and a school that is operated or supported by the Bureau of Indian Affairs that is eligible for a grant under subsection (d), that submits an application that is approved by the Secretary, shall, subject to appropriations, receive a grant under this subpart in an amount that is not less than $3,000.

[(2) CONSORTIA.—Local educational agencies may form a consortium for the purpose of obtaining grants under this Act.

[(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 quality programs.

[(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.—In addition to the grants awarded under subsection (a), and subject to paragraph (2), the Secretary shall allocate to the Secretary of the Interior an amount equal to the product of—

[(1) the total number of Indian children enrolled in schools that are operated by—

[(A) the Bureau of Indian Affairs; or

[(B) an Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, for the children of such 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 (part B of title V of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988); and

[(2) the greater of—

[(A) the average per-pupil expenditure of the State in which the school is located; or

[(B) 80 percent of the average per-pupil expenditure in the United States.

[(e) RATABLE REDUCTIONS.—If the sums appropriated for any fiscal year under section 9162(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. 9114. APPLICATIONS.

[(a) APPLICATION REQUIRED.—Each local educational agency that desires to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may 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, and promotes the goals in, the State and local improvement plans, either approved or being developed, under title III of the Goals 2000: Educate America Act or, if such plans are not approved or being developed, with the State and local plans under sections 1111 and 1112 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 adopted under title I for all children;

[(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 subpart will be used for activities described in section 9115;

[(5) describes the professional development opportunities that will be provided, as needed, to ensure that—

[(A) teachers and other school professionals who are new to the Indian community are prepared to work with Indian children; and

[(B) all teachers who will be involved in programs assisted under this subpart have been properly trained to carry out such programs; and

[(6) describes how the local educational agency—

[(A) will periodically assess the progress of all Indian children enrolled in the schools of the local educational agency, including Indian children who do not participate in programs assisted under this subpart, in meeting the goals described in paragraph (2);

[(B) will provide the results of each assessment referred to in subparagraph (A) to—

[(i) the committee 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 subpart only to supplement the level of funds that, in the absence of the Federal funds made available under this subpart, such agency would make available for the education of Indian children, and not to supplant such funds;

[(2) the local educational agency will 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 subpart; and

[(B) determine the extent to which funds provided to the local educational agency under this subpart are effective in improving the educational achievement of Indian students served by such agency;

[(3) the program for which assistance is sought—

[(A) is based on a local assessment and prioritization of the special educational and culturally related academic needs of the American Indian and Alaska Native students for whom the local educational agency is providing an education;

[(B) will use the best available talents and resources, including individuals from the Indian community; and

[(C) was developed by such agency in open consultation with parents of Indian children and teachers, and, if appropriate, Indian students from secondary schools, including 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) the membership of which is at least more than one-half 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 9115(c), 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 Indians and Alaskan Native students; and

[(E) has adopted reasonable bylaws for the conduct of the activities of the committee and abides by such bylaws.

[SEC. 9115. AUTHORIZED SERVICES AND ACTIVITIES.

[(a) GENERAL REQUIREMENTS.—Each local educational agency that receives a grant under this subpart shall use the grant funds, in a manner consistent with the purpose specified in section 9111, for services and activities that—

[(1) are designed to carry out the comprehensive plan of the local educational agency for Indian students, and described in the application of the local educational agency submitted to the Secretary under section 9114(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 content standards and State student performance standards;

[(4) integrated educational services in combination with other programs that meet the needs of Indian children and their families;

[(5) school-to-work transition activities to enable Indian students to participate in programs such as the programs supported by the School-to-Work Opportunities Act of 1994 and 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; and

[(7) the acquisition of equipment, but only if the acquisition of the equipment is essential to meet the purpose described in section 9111.

[(c) SCHOOLWIDE PROGRAMS.—Notwithstanding any other provision of law, a local educational agency may use funds made available to such agency under this subpart to support a schoolwide program under section 1114 if—

[(1) the committee composed of parents established pursuant to section 9114(c)(4) approves the use of the funds for the schoolwide program; and

[(2) the schoolwide program is consistent with the purpose described in section 9111.

[SEC. 9116. STUDENT ELIGIBILITY FORMS.

[(a) IN GENERAL.—The Secretary shall require that, as part of an application for a grant under this subpart, each applicant shall maintain a file, with respect to each Indian child for whom the local educational agency provides a free public education, that contains a form that sets forth information establishing the status of the child as an Indian child eligible for assistance under this subpart and that otherwise meets the requirements of subsection (b).

[(b) FORMS.—

[(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 defined in section 9161(4)) 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 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 9113, 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 defined in section 9161(4)) 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 9113.

[(c) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect a definition contained in section 9161.

[(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 9113, 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 subpart, the Secretary shall conduct a monitoring and evaluation review of a sampling of the recipients of grants under this subpart. The sampling conducted under this subparagraph shall take into account 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 subpart shall—

[(A) be ineligible to apply for any other grant under this subpart; and

[(B) be liable to the United States for any funds that have not been expended.

[(3) EXCLUDED CHILDREN.—A student who provides false information for the form required under subsection (d) shall not be counted for the purpose of computing the amount of a grant under section 9113.

[(g) DISTRIBUTION.—For the purposes of the distribution of funds under this subpart to schools that receive funding from the Bureau of Indian Affairs pursuant to—

[(1) section 1130 of the Education Amendments of 1978; and

[(2) the Act of April 16, 1934 (48 Stat. 596, chapter 147),

the Secretary shall, in lieu of meeting the requirements of this section for counting Indian children, use a count of the number of students in such schools certified by the Bureau of Indian Affairs.

[SEC. 9117. PAYMENTS.

[(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary shall pay to each local educational agency that submits an application that is approved by the Secretary under this subpart the amount determined under section 9113. The Secretary shall notify the local educational agency of the amount of the payment not later than June 1 of the year for which the Secretary makes the payment.

[(b) PAYMENTS TAKEN INTO ACCOUNT BY THE STATE.—The Secretary may not make a grant under this subpart to a local educational agency for a fiscal year if, for such fiscal year, the State in which the local educational agency is located takes into consideration payments made under this subpart (or under subpart 1 of the Indian Education Act of 1988) 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 9113 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, that 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.—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 subpart 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 one year at a time, if the Secretary determines that the failure to comply with such requirement is due to exceptional or uncontrollable cir-

cumstances, 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 subpart, any amounts that—

[(1) based on estimates made by local educational agencies or other information, the Secretary determines will not be needed by such agencies to carry out approved programs under this subpart; or

[(2) otherwise become available for reallocation under this subpart.

[SEC. 9118. STATE EDUCATIONAL AGENCY REVIEW.

[(a) APPLICATION.—Each entity desiring assistance 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 reasonably require except that this subsection shall not apply to Bureau-funded schools.

[(b) SPECIAL RULE.—Before submitting an application under subsection (a) to the Secretary, the entity shall submit its application to the State educational agency. The State educational agency may comment on such application, however if such agency comments on such application such agency shall comment on all applications submitted by entities within the State and shall provide such comments to the appropriate local educational agency, which local educational agency shall be given an opportunity to respond to such comments.

[Subpart 2—Special Programs and Projects To Improve Educational Opportunities for Indian Children

[SEC. 9121. 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 subpart with—

[(A) other programs funded under this Act; and

[(B) other Federal programs operated for the benefit of American Indian and Alaska Native children.

[(b) ELIGIBLE ENTITIES.—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 deprived children;

[(B) educational services that are not available to such children in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in one or more of the core academic subjects of English, mathematics, science, foreign languages, art, history, and geography;

[(C) bilingual and bicultural programs and projects;

[(D) special health and nutrition services, and other related activities, that address the special health, social, and psychological problems of Indian children;

[(E) special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or reenter school, and to increase the rate of secondary school graduation;

[(F) comprehensive guidance, counseling, and testing services;

[(G) early childhood and kindergarten programs, including family-based preschool programs that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

[(H) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to aid such students in the transition from secondary school to postsecondary education;

[(I) partnership projects between schools and local businesses for school-to-work transition programs designed to provide Indian youth with the knowledge and skills the youth need to make an effective transition from school to a first job in 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; or

[(K) other services that meet the purpose described in subsection (a)(1).

[(2) PRESERVICE OR INSERVICE TRAINING.—Preservice or inservice training of professional and paraprofessional personnel 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 dissemination 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 a 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 subsection 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) 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; and

[(iii) such other assurances and information as the Secretary may reasonably require.

[SEC. 9122. PROFESSIONAL DEVELOPMENT.

[(a) PURPOSES.—The purposes of this section are—

[(1) to increase the number of qualified Indian individuals in 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 in-service or preservice training.

[(B) For individuals who are being trained to enter any field other than education, the training received pursuant to a grant under this section shall be in a program that results in a graduate degree.

[(e) APPLICATION.—

[(1) IN GENERAL.—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.

[(2) PREFERENCE.—In awarding grants under this section, the Secretary shall give preference to applications describing programs that train Indian individuals.

[(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 program 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).

[SEC. 9123. FELLOWSHIPS FOR INDIAN STUDENTS.

[(a) FELLOWSHIPS.—

[(1) AUTHORITY.—The Secretary is authorized to award fellowships to Indian students to enable such students to study in graduate and professional programs at institutions of higher education.

[(2) REQUIREMENTS.—The fellowships described in paragraph (1) shall be awarded to Indian students to enable such students to pursue a course of study—

[(A) of not more than 4 academic years; and

[(B) that leads—

[(i) toward a postbaccalaureate degree in medicine, clinical psychology, psychology, law, education, and related fields; or

[(ii) to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields.

[(b) STIPENDS.—The Secretary shall pay to Indian students awarded fellowships under subsection (a) such stipends (including allowances for subsistence of such students and dependents of such students) as the Secretary determines to be consistent with prevailing practices under comparable federally supported programs.

[(c) PAYMENTS TO INSTITUTIONS IN LIEU OF TUITION.—The Secretary shall pay to the institution of higher education at which a fellowship recipient is pursuing a course of study, in lieu of tuition charged such recipient, such amounts as the Secretary may determine to be necessary to cover the cost of education provided such recipient.

[(d) SPECIAL RULES.—

[(1) IN GENERAL.—If a fellowship awarded under subsection (a) is vacated prior to the end of the period for which the fellowship is awarded, the Secretary may award an additional fellowship for the unexpired portion of the period of the fellowship.

[(2) WRITTEN NOTICE.—Not later than 45 days before the commencement of an academic term, the Secretary shall provide to each individual who is awarded a fellowship under subsection (a) for such academic term written notice of—

[(A) the amount of the fellowship; and

[(B) any stipends or other payments that will be made under this section to, or for the benefit of, the individual for the academic term.

[(3) PRIORITY.—Not more than 10 percent of the fellowships awarded under subsection (a) shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a speciality in the area of alcohol and substance abuse counseling and education.

[(e) SERVICE OBLIGATION.—

[(1) IN GENERAL.—The Secretary shall require, by regulation, that an individual who receives financial assistance under this section—

[(A) perform work—

[(i) related to the training for which the individual receives assistance under this section; and

[(ii) that benefits Indian people; or

[(B) repay all or a prorated portion of such assistance.

[(2) REPORTING PROCEDURE.—The Secretary shall establish, by regulation, a reporting procedure under which the recipient of training assistance under this section, not later than 12 months after the date of completion of the training and periodically thereafter, shall provide information concerning the com-

pliance of such recipient with the work requirement under paragraph (1).

[(f) ADMINISTRATION OF FELLOWSHIPS.—The Secretary may administer the fellowships authorized under this section through a grant to, or contract or cooperative agreement with, an Indian organization with demonstrated qualifications to administer all facets of the program assisted under this section.

[SEC. 9124. GIFTED AND TALENTED.

[(a) PROGRAM AUTHORIZED.—The Secretary is authorized to—

[(1) establish two centers for gifted and talented Indian students at tribally controlled community colleges in accordance with this section; and

[(2) support demonstration projects described in subsection (c).

[(b) ELIGIBLE ENTITIES.—The Secretary shall make grants to, or enter into contracts, for the activities described in subsection (a), with—

[(1) two tribally controlled community colleges that—

[(A) are eligible for funding under the Tribally Controlled Community College Assistance Act of 1978; and

[(B) are fully accredited; or

[(2) if the Secretary does not receive applications that the Secretary determines to be approvable from two colleges that meet the requirements of paragraph (1), the American Indian Higher Education Consortium.

[(c) USE OF FUNDS.—

[(1) IN GENERAL.—The grants made, or contracts entered into, by the Secretary under subsection (a) shall be used for—

[(A) the establishment of centers described in subsection (a); and

[(B) carrying out demonstration projects designed to—

[(i) address the special needs of Indian students in elementary and secondary schools who are gifted and talented; and

[(ii) provide such support services to the families of the students described in clause (i) as are needed to enable such students to benefit from the projects.

[(2) SUBCONTRACTS.—Each recipient of a grant or contract under subsection (a) may enter into a contract with any other entity, including the Children's Television Workshop, to carry out the demonstration project under this subsection.

[(3) DEMONSTRATION PROJECTS.—Demonstration projects assisted under subsection (a) may include—

[(A) the identification of the special needs of gifted and talented Indian students, particularly at the elementary school level, giving attention to—

[(i) the emotional and psychosocial needs of such students; and

[(ii) providing such support services to the families of such students as are needed to enable such students to benefit from the project;

[(B) the conduct of educational, psychosocial, and developmental activities that the Secretary determines holds a reasonable promise of resulting in substantial progress to-

ward meeting the educational needs of such gifted and talented children, including but not limited to—

[(i) demonstrating and exploring the use of Indian languages and exposure to Indian cultural traditions; and

[(ii) mentoring and apprenticeship programs;

[(C) the provision of technical assistance and the coordination of activities at schools that receive grants under subsection (d) with respect to the activities assisted under such grants, the evaluation of programs assisted under such grants, or the dissemination of such evaluations;

[(D) the use of public television in meeting the special educational needs of such gifted and talented children;

[(E) leadership programs designed to replicate programs for such children throughout the United States, including disseminating information derived from the demonstration projects conducted under subsection (a); and

[(F) appropriate research, evaluation, and related activities pertaining to the needs of such children and to the provision of such support services to the families of such children that are needed to enable such children to benefit from the project.

[(4) APPLICATION.—Each entity desiring a grant under subsection (a) shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

[(d) ADDITIONAL GRANTS.—

[(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall award 5 grants to schools funded by the Bureau of Indian Affairs (hereafter in this section referred to as "Bureau schools") for program research and development and the development and dissemination of curriculum and teacher training material, regarding—

[(A) gifted and talented students;

[(B) college preparatory studies (including programs for Indian students with an interest in pursuing teaching careers);

[(C) students with special culturally related academic needs, including students with social, lingual, and cultural needs; or

[(D) mathematics and science education.

[(2) APPLICATIONS.—Each Bureau school desiring a grant to conduct one or more of the activities described in paragraph (1) shall submit an application to the Secretary in such form and at such time as the Secretary may prescribe.

[(3) SPECIAL RULE.—Each application described in paragraph (2) shall be developed, and each grant under this subsection shall be administered, jointly by the supervisor of the Bureau school and the local educational agency serving such school.

[(4) REQUIREMENTS.—In awarding grants under paragraph (1), the Secretary shall achieve a mixture of the programs described in paragraph (1) that ensures that Indian students at all grade levels and in all geographic areas of the United States are able to participate in a program assisted under this subsection.

[(5) GRANT PERIOD.—Subject to the availability of appropriations, grants under paragraph (1) shall be awarded for a 3-year period and may be renewed by the Secretary for additional 3-year periods if the Secretary determines that the performance of the grant recipient has been satisfactory.

[(6) DISSEMINATION.—(A) The dissemination of any materials developed from activities assisted under paragraph (1) shall be carried out in cooperation with entities that receive funds pursuant to subsection (b).

[(B) The Secretary shall report to the Secretary of the Interior and to the Congress any results from activities described in paragraph (3)(B).

[(7) EVALUATION COSTS.—(A) The costs of evaluating any activities assisted under paragraph (1) shall be divided between the Bureau schools conducting such activities and the recipients of grants or contracts under subsection (b) who conduct demonstration projects under such subsection.

[(B) If no funds are provided under subsection (b) for—

[(i) the evaluation of activities assisted under paragraph (1);

[(ii) technical assistance and coordination with respect to such activities; or

[(iii) the dissemination of the evaluations referred to in clause (i),

then the Secretary shall make such grants, or enter into such contracts, as are necessary to provide for the evaluations, technical assistance, and coordination of such activities, and the dissemination of the evaluations.

[(e) INFORMATION NETWORK.—The Secretary shall encourage each recipient of a grant or contract under this section to work cooperatively as part of a national network to ensure that the information developed by the grant or contract recipient is readily available to the entire educational community.

[SEC. 9125. GRANTS TO TRIBES FOR EDUCATION ADMINISTRATIVE PLANNING AND DEVELOPMENT.

[(a) IN GENERAL.—The Secretary may make grants to Indian tribes, and tribal organizations approved by Indian tribes, to plan and develop a centralized tribal administrative entity to—

[(1) coordinate all education programs operated by the tribe or within the territorial jurisdiction of the tribe;

[(2) develop education codes for schools within the territorial jurisdiction of the tribe;

[(3) provide support services and technical assistance to schools serving children of the tribe; and

[(4) perform child-find screening services for the preschool-aged children of the tribe to—

[(A) ensure placement in appropriate educational facilities; and

[(B) coordinate the provision of any needed special services for conditions such as disabilities and English language skill deficiencies.

[(b) PERIOD OF GRANT.—Each grant under this section may be awarded for a period of not more than 3 years, except that such grant may be renewed upon the termination of the initial period of the grant if the grant recipient demonstrates to the satisfaction of

the Secretary that renewing the grant for an additional 3-year period is necessary to carry out the objectives of the grant described in subsection (c)(2)(A).

[(c) APPLICATION FOR GRANT.—

[(1) IN GENERAL.—Each Indian tribe and tribal organization desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

[(2) CONTENTS.—Each application described in paragraph (1) shall contain—

[(A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant; and

[(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and determining whether such objectives are achieved.

[(3) APPROVAL.—The Secretary may approve an application submitted by a tribe or tribal organization pursuant to this section only if the Secretary is satisfied that such application, including any documentation submitted with the application—

[(A) demonstrates that the applicant has consulted with other education entities, if any, within the territorial jurisdiction of the applicant who will be affected by the activities to be conducted under the grant;

[(B) provides for consultation with such other education entities in the operation and evaluation of the activities conducted under the grant; and

[(C) demonstrates that there will be adequate resources provided under this section or from other sources to complete the activities for which assistance is sought, except that the availability of such other resources shall not be a basis for disapproval of such application.

[(d) RESTRICTION.—A tribe may not receive funds under this section if such tribe receives funds under section 1144 of the Indian Education Amendments of 1978.

[(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Education $3,000,000 for each of the fiscal years 1995 through 1999 to carry out this section.

[Subpart 3—Special Programs Relating to Adult Education for Indians

[SEC. 9131. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS.

[(a) IN GENERAL.—The Secretary shall award grants to State and local educational agencies, and to Indian tribes, institutions, and organizations—

[(1) to support planning, pilot, and demonstration projects that are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

[(2) to assist in the establishment and operation of programs that are designed to stimulate—

[(A) basic literacy opportunities for all nonliterate Indian adults; and

[(B) the provision of opportunities to all Indian adults to qualify for a secondary school diploma, or its recognized equivalent, in the shortest period of time feasible;

[(3) to support a major research and development program to develop more innovative and effective techniques for achieving literacy and secondary school equivalency for Indians;

[(4) to provide for basic surveys and evaluations to define accurately the extent of the problems of illiteracy and lack of secondary school completion among Indians; and

[(5) to encourage the dissemination of information and materials relating to, and the evaluation of, the effectiveness of education programs that may offer educational opportunities to Indian adults.

[(b) EDUCATIONAL SERVICES.—The Secretary may make grants to Indian tribes, institutions, and organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

[(c) INFORMATION AND EVALUATION.—The Secretary may make grants to, and enter into contracts with, public agencies and institutions and Indian tribes, institutions, and organizations, for—

[(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations of the programs, services, and resources; and

[(2) the evaluation of federally assisted programs in which Indian adults may participate to determine the effectiveness of the programs in achieving the purposes of the programs with respect to Indian adults.

[(d) APPLICATIONS.—

[(1) IN GENERAL.—Each entity desiring a grant under this section shall submit to the Secretary an application at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

[(2) CONTENTS.—Each application described in paragraph (1) shall contain—

[(A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant; and

[(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and determining whether the objectives of the grant are achieved.

[(3) APPROVAL.—The Secretary shall not approve an application described in paragraph (1) unless the Secretary determines that such application, including any documentation submitted with the application, indicates—

[(A) there has been adequate participation, by the individuals to be served and appropriate tribal communities, in the planning and development of the activities to be assisted; and

[(B) the individuals and tribal communities referred to in subparagraph (A) will participate in the operation and evaluation of the activities to be assisted.

[(4) PRIORITY.—In approving applications under paragraph (1), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

[Subpart 4—National Research Activities

[SEC. 9141. NATIONAL ACTIVITIES.

[(a) AUTHORIZED ACTIVITIES.—The Secretary may use funds made available under section 9162(b) for each fiscal year to—

[(1) conduct research related to effective approaches for the education of Indian children and adults;

[(2) evaluate federally assisted education programs from which Indian children and adults may benefit;

[(3) collect and analyze data on the educational status and needs of Indians; and

[(4) carry out other activities that are consistent with the purpose of this part.

[(b) ELIGIBILITY.—The Secretary may carry out any of the activities described in subsection (a) directly or through grants to, or contracts or cooperative agreements with Indian tribes, Indian organizations, State educational agencies, local educational agencies, institutions of higher education, including Indian institutions of higher education, and other public and private agencies and institutions.

[(c) COORDINATION.—Research activities supported under this section—

[(1) shall be carried out in consultation with the 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 and the Office of Educational Research and Improvement.

[Subpart 5—Federal Administration

[SEC. 9151. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.

[(a) MEMBERSHIP.—There is established a National Advisory Council on Indian Education (hereafter in this section referred to as the "Council"), which shall—

[(1) consist of 15 Indian members, who shall be appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations; and

[(2) represent different geographic areas of the United States.

[(b) DUTIES.—The Council shall—

[(1) advise the Secretary concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under this part—

[(A) with respect to which the Secretary has jurisdiction; and

[(B)(i) that includes Indian children or adults as participants; or

[(ii) that may benefit Indian children or adults;

[(2) make recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs; and

[(3) submit to 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. 9152. PEER REVIEW.

[The Secretary may use a peer review process to review applications submitted to the Secretary under subpart 2, 3, or 4.

[SEC. 9153. PREFERENCE FOR INDIAN APPLICANTS.

[In making grants under subpart 2, 3, or 4, 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. 9154. MINIMUM GRANT CRITERIA.

[The Secretary may not approve an application for a grant under subpart 2 or 3 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.

[Subpart 6—Definitions; Authorizations of Appropriations

[SEC. 9161. DEFINITIONS.

[As used in this part:

[(1) ADULT.—The term "adult" means an individual who—

[(A) has attained the age of 16 years; or

[(B) has attained an age that is greater than the age of compulsory school attendance under an applicable State law.

[(2) ADULT EDUCATION.—The term "adult education" has the meaning given such term in section 203 of the Adult Education and Family Literacy Act.

[(3) FREE PUBLIC EDUCATION.—The term "free public education" means education that is—

[(A) provided at public expense, under public supervision and direction, and without tuition charge; and

[(B) provided as elementary or secondary education in the applicable State or to preschool children.

[(4) INDIAN.—The term "Indian" means an individual who is—

[(A) a member of an Indian tribe or band, as membership is defined by the tribe or band, including—

[(i) any tribe or band terminated since 1940; and

[(ii) any tribe or band recognized by the State in which the tribe or band resides;

[(B) a descendant, in the first or second degree, of an individual described in subparagraph (A);

[(C) considered by the Secretary of the Interior to be an Indian for any purpose;

[(D) an Eskimo, Aleut, or other Alaska Native; or

[(E) a member of an organized Indian group that received a grant under the Indian Education Act of 1988 as it was in effect the day preceding the date of enactment of the Act entitled the "Improving America's Schools Act of 1994".

[SEC. 9162. AUTHORIZATIONS OF APPROPRIATIONS.

[(a) SUBPART 1.—For the purpose of carrying out subpart 1 of this part, there are authorized to be appropriated to the Department of Education $61,300,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

[(b) SUBPARTS 2 THROUGH 4.—For the purpose of carrying out subparts 2, 3, and 4 of this part, there are authorized to be appropriated to the Department of Education $26,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

[(c) SUBPART 5.—For the purpose of carrying out subpart 5 of this part, there are authorized to be appropriated to the Department of Education $3,775,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

[PART B—NATIVE HAWAIIANS

[SEC. 9201. SHORT TITLE.

[This part may be cited as the "Native Hawaiian Education Act".

[SEC. 9202. FINDINGS.

[The Congress finds and declares as follows:

[(1) Native Hawaiians are a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago, whose society was organized as a nation and internationally recognized as such by the United States, Britain, France, and Japan, as evidenced by treaties governing friendship, commerce, and navigation.

[(2) At the time of the arrival of the first non-indigenous people in Hawai'i in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient subsistence social system based on a communal land tenure system with a sophisticated language, culture, and religion.

[(3) A unified monarchial government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawai'i.

[(4) From 1826 until 1893, the United States recognized the sovereignty and independence of the Kingdom of Hawai'i, which was established in 1810 under Kamehameha I, extended full and complete diplomatic recognition to the Kingdom of

Hawai'i, and entered into treaties and conventions with the Kingdom of Hawai'i to govern friendship, commerce and navigation in 1826, 1842, 1849, 1875, and 1887.

[(5) In 1893, the sovereign, independent, internationally recognized, and indigenous government of Hawai'i, the Kingdom of Hawai'i, was overthrown by a small group of non-Hawaiians, including United States citizens, who were assisted in their efforts by the United States Minister, a United States naval representative, and armed naval forces of the United States. Because of the participation of United States agents and citizens in the overthrow of the Kingdom of Hawai'i, the Congress, on behalf of the people of the United States, apologized to Native Hawaiians for the overthrow and the deprivation of the rights of Native Hawaiians to self-determination through Public Law 103–150 (107 Stat. 1510).

[(6) In 1898, the joint resolution entitled "A Joint Resolution to provide for annexing the Hawaiian Islands to the United States", approved July 7, 1898 (30 Stat. 750), ceded absolute title of all lands held by the Republic of Hawai'i, including the government and crown lands of the former Kingdom of Hawai'i, to the United States, but mandated that revenue generated from these lands be used "solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes".

[(7) By 1919, the Native Hawaiian population had declined from an estimated 1,000,000 in 1778 to an alarming 22,600, and in recognition of this severe decline, the Congress in 1921 enacted the Hawaiian Homes Commission Act, 1920, which designated approximately 200,000 acres of ceded public lands for homesteading by Native Hawaiians.

[(8) Through the enactment of the Hawaiian Homes Commission Act, 1920, the Congress affirmed the special relationship between the United States and the Native Hawaiians, as expressed by then Secretary of the Interior Franklin K. Lane, who was quoted in the committee report for the Hawaiian Homes Commission Act, 1920, as saying: "One thing that impressed me . . . was the fact that the natives of the island who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty.".

[(9) In 1938, the United States Congress again acknowledged the unique status of the Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781 et seq.), a provision to lease lands within the National Parks extension to Native Hawaiians and to permit fishing in the area "only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance.".

[(10) Under the Act entitled "An Act to provide for the admission of the State of Hawai'i into the Union" approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for the administration of the Hawaiian Home Lands to the State of Hawai'i but reaffirmed the trust relationship which existed between the United States and the Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges and legis-

lative amendments affecting the rights of beneficiaries under such Act.

[(11) In 1959, under the Act entitled "An Act to provide for the admission of the State of Hawai'i into the Union", approved March 18, 1959 (73 Stat. 4), the United States ceded to the State of Hawai'i title to the public lands formerly held by the United States, but mandated that such lands be held by the State "in public trust' and reaffirmed the special relationship which existed between the United States and the Hawaiian people by retaining the legal responsibility to enforce the public trust responsibility of the State of Hawai'i for the betterment of the conditions of Native Hawaiians, as defined in section 201(a) of the Hawaiian Homes Commission Act, 1920.

[(12) The United States assumed special responsibilities for Native Hawaiian lands and resources at the time of the annexation of the Territory in 1898, upon adoption of the Hawaiian Homes Commission Act, 1920, and upon admission of the State of Hawai'i into the Union in 1959, and has retained certain of those responsibilities.

[(13) In recognition of the special relationship which exists between the United States and the Native Hawaiian people, the Congress has extended to Native Hawaiians the same rights and privileges accorded to American Indian, Alaska Native, Eskimo, and Aleut communities under the Native American Programs Act of 1974, the American Indian Religious Freedom Act, the National Museum of the American Indian Act, the Native American Graves Protection and Repatriation Act, the National Historic Preservation Act, and the Native American Languages Act.

[(14) In recognition of the special relationship which exists between the United States and the Native Hawaiian people, the Congress has enacted numerous special provisions of law for the benefit of Native Hawaiians in the areas of health, education, labor, and housing.

[(15) In 1981, the Senate instructed the Office of Education to submit to the Congress a comprehensive report on Native Hawaiian education. The report, entitled the "Native Hawaiian Educational Assessment Project", was released in 1983 and documented that Native Hawaiians scored below parity with national norms on standardized achievement tests, were disproportionately represented in many negative social and physical statistics, indicative of special educational needs, and had educational needs which were related to their unique cultural situation, such as different learning styles and low self-image.

[(16) In recognition of the educational needs of Native Hawaiians, in 1988, the Congress enacted title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 to authorize and develop supplemental educational programs to benefit Native Hawaiians.

[(17) In 1993, the Kamehameha Schools Bishop Estate released a ten-year update of the Native Hawaiian Educational Assessment Project, which found that despite the successes of the programs established under title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School

Improvement Amendments of 1988, many of the same educational needs still exist for Native Hawaiians. For example—

[(A) educational risk factors continue to start even before birth for many Native Hawaiian children, including—

[(i) late or no prenatal care;

[(ii) half of Native Hawaiian women who give birth are unmarried; and

[(iii) high rates of births to teenage parents;

[(B) Native Hawaiian students continue to begin their school experience lagging behind other students in terms of readiness factors such as vocabulary test scores;

[(C) Native Hawaiian students continue to score below national norms on standardized education achievement tests at all grade levels;

[(D) both public and private schools continue to show a pattern of lower percentages of Native Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

[(E) Native Hawaiian students continue to be overrepresented among students qualifying for special education programs provided to students with learning disabilities, mild mental retardation, emotional impairment, and other such disabilities;

[(F) Native Hawaiians continue to be underrepresented in institutions of higher education and among adults who have completed four or more years of college;

[(G) Native Hawaiians continue to be disproportionately represented in many negative social and physical statistics, indicative of special educational needs, for example—

[(i) Native Hawaiian students are more likely to be retained in grade level and to be excessively absent in secondary school;

[(ii) Native Hawaiian students are the highest users of drugs and alcohol in the State of Hawai'i; and

[(iii) Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect; and

[(H) Native Hawaiians now comprise over 23 percent of the students served by the State of Hawai'i Department of Education and there are and will continue to be geographically rural, isolated areas with a high Native Hawaiian population density.

[(18) The findings described in paragraphs (1) through (17) are contrary to the high rate of literacy and integration of traditional culture and Western education achieved by Native Hawaiians through a Hawaiian language-based public school system established in 1840 by Kamehameha III.

[(19) After the overthrow of the Kingdom of Hawai'i in 1893, Hawaiian medium schools were banned. After annexation, throughout the territorial and statehood period, and until 1986, use of Hawaiian as a medium of education in public schools was declared unlawful, thereby causing incalculable harm to a culture that placed a very high value on the power of language, as exemplified in the traditional saying: "I ka

"ōlelo no ke ola; I ka "ōlelo no ka make. In the language rests life; In the language rests death.".

[(20) Despite the consequences of over 100 years of non-indigenous influence, the Native Hawaiian people are determined to preserve, develop, and transmit to future generations their ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.

[(21) The State of Hawai'i, in the constitution and statutes of the State of Hawai'i—

[(A) reaffirms and protects the unique right of the Native Hawaiian people to practice and perpetuate their culture and religious customs, beliefs, practices, and language; and

[(B) recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawai'i, which may be used as the language of instruction for all subjects and grades in the public school system.

[SEC. 9203. PURPOSE.

[It is the purpose of this part to—

[(1) authorize and develop supplemental educational programs to assist Native Hawaiians in reaching the National Education Goals;

[(2) provide direction and guidance to appropriate Federal, State, and local agencies to focus resources, including resources made available under this part, on Native Hawaiian education, through the establishment of a Native Hawaiian Education Council, and five island councils;

[(3) supplement and expand existing programs and authorities in the area of education to further the purposes of the title; and

[(4) encourage the maximum participation of Native Hawaiians in planning and management of Native Hawaiian Education Programs.

[SEC. 9204. NATIVE HAWAIIAN EDUCATION COUNCIL AND ISLAND COUNCILS.

[(a) ESTABLISHMENT OF NATIVE HAWAIIAN EDUCATION COUNCIL.—In order to better effectuate the purposes of this part through the coordination of educational and related services and programs available to Native Hawaiians, including those programs receiving funding under this part, the Secretary is authorized to establish a Native Hawaiian Education Council (hereafter in this part referred to as the "Education Council").

[(b) COMPOSITION OF EDUCATION COUNCIL.—The Education Council shall consist of not more than 25 members, including a representative of—

[(1) each recipient of funds from the Secretary under this part;

[(2) the State of Hawai'i Department of Education;

[(3) the State of Hawai'i Office of Hawaiian Affairs;

[(4) Native Hawaiian educational organizations, such as Alu Like, Inc., Kamehameha Schools Bishop Estate, Hawaiian Language Immersion Advisory Council, Aha Punana Leo, and the Queen Lili"uokalani Trust and Children's Center; and

[(5) each Native Hawaiian education island council established under subsection (f).

[(c) CONDITIONS AND TERMS.—At least three-fourths of the members of the Education Council shall be Native Hawaiians. Members of the Education Council shall be appointed for three-year terms.

[(d) ADMINISTRATIVE GRANT FOR THE EDUCATION COUNCIL.—The Secretary shall make a direct grant to the Education Council in order to enable the Education Council to—

[(1) coordinate the educational and related services and programs available to Native Hawaiians, including the programs assisted under this part, and assess the extent to which such services and programs meet the needs of Native Hawaiians; and

[(2) provide direction and guidance, through the issuance of reports and recommendations, to appropriate Federal, State, and local agencies in order to focus and improve the use of resources, including resources made available under this part, on Native Hawaiian education.

[(e) ADDITIONAL DUTIES OF THE EDUCATION COUNCIL.—

[(1) IN GENERAL.—The Education Council shall provide copies of any reports and recommendations issued by the Education Council to the Secretary, the Committee on Indian Affairs of the Senate, and the Committee on Education and Labor of the House of Representatives, including any information that the Education Council provides to the Secretary pursuant to subsection (i).

[(2) ANNUAL REPORT.—The Education Council shall present to the Secretary an annual report on the Education Council's activities.

[(3) ISLAND COUNCIL SUPPORT AND ASSISTANCE.—The Education Council shall provide such administrative support and financial assistance to the island councils established pursuant to subsection (f) as the Secretary deems appropriate.

[(f) ESTABLISHMENT OF ISLAND COUNCILS.—

[(1) IN GENERAL.—In order to better effectuate the purposes of this part and to ensure the adequate representation of island and community interests within the Education Council, the Office of Hawaiian Affairs of the State of Hawai'i is authorized to facilitate the establishment of Native Hawaiian education island councils (hereafter in this part referred to as "island councils") for the following islands:

[(A) Hawai'i.

[(B) Maui and Lana'i.

[(C) Moloka'i.

[(D) Kaua'i and Ni'ihau.

[(E) O'ahu.

[(2) COMPOSITION OF ISLAND COUNCILS.—Each island council shall consist of parents, students, and other community members who have an interest in the education of Native Hawaiians, and shall be representative of the educational needs of all age groups, from preschool through adulthood. At least three-fourths of the members of each island council shall be Native Hawaiians

[(g) ADMINISTRATIVE PROVISIONS RELATING TO EDUCATION COUNCIL AND ISLAND COUNCILS.—The Education Council and each island

council shall meet at the call of the chairperson of the respective council, or upon the request of the majority of the members of the respective council, but in any event not less than four times during each calendar year. The provisions of the Federal Advisory Committee Act shall not apply to the Education Council and each island council.

[(h) COMPENSATION.—Members of the Education Council and each island council shall not receive any compensation for services on the Education Council and each island council, respectively.

[(i) REPORT.—Not later than four years after the date of the enactment of the Improving America's Schools Act of 1994, the Secretary shall prepare and submit to the Committee on Indian Affairs of the Senate, and the Committee on Education and Labor of the House of Representatives, a report which summarizes the annual reports of the Education Council, describes the allocation and utilization of funds under this part, and contains recommendations for changes in Federal, State, and local policy to advance the purposes of this part.

[(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

[SEC. 9205. NATIVE HAWAIIAN FAMILY-BASED EDUCATION CENTERS.

[(a) GENERAL AUTHORITY.—The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, to expand the operation of Family-Based Education Centers throughout the Hawaiian Islands. The programs of such centers may be conducted in the Hawaiian language, the English language, or a combination thereof, and shall include—

[(1) parent-infant programs for prenatal through three-year-olds;

[(2) preschool programs for four- and five-year-olds;

[(3) continued research and development; and

[(4) a long-term followup and assessment program, which may include educational support services for Native Hawaiian language immersion programs or transition to English speaking programs.

[(b) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

[(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized to be appropriated for the centers described in subsection (a), there are authorized to be appropriated $6,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

[SEC. 9206. NATIVE HAWAIIAN HIGHER EDUCATION PROGRAM.

[(a) GENERAL AUTHORITY.—

[(1) IN GENERAL.—The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, to enable such organizations or entities to provide a program of baccalaureate and post-baccalaureate fellowship assistance to Native Hawaiian students.

[(2) ACTIVITIES.—Such program may include—

[(A) full or partial fellowship support for Native Hawaiian students enrolled at two- or four-year degree granting institutions of higher education with awards to be based on academic potential and financial need; and

[(B) full or partial fellowship support for Native Hawaiian students enrolled at post-baccalaureate degree granting institutions of higher education with priority given to providing fellowship support for professions in which Native Hawaiians are underrepresented and with fellowship awards to be based on academic potential and financial need;

[(C) counseling and support services for students receiving fellowship assistance under paragraph (1);

[(D) college preparation and guidance counseling at the secondary school level for students who may be eligible for fellowship support pursuant to subsection (a)(2)(A);

[(E) appropriate research and evaluation of the activities authorized by this section; and

[(F) implementation of faculty development programs for the improvement and matriculation of Native Hawaiian students.

[(b) SPECIAL CONDITIONS REQUIRED.—For the purpose of fellowships awarded under subsection (a), fellowship conditions shall be established whereby fellowship recipients obtain an enforceable contract obligation to provide their professional services, either during the fellowship period or upon completion of a baccalaureate or post-baccalaureate degree program, to the Native Hawaiian community.

[(c) SPECIAL RULE.—No policy shall be made in implementing this section to prevent a Native Hawaiian student enrolled at an accredited two- or four-year degree granting institution of higher education outside of the State of Hawai'i from receiving a fellowship pursuant to subsections (a) and (b) of this section.

[(d) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

[(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

[SEC. 9207. NATIVE HAWAIIAN GIFTED AND TALENTED PROGRAM.

[(a) GENERAL AUTHORITY.—The Secretary is authorized to make a grant, to a Native Hawaiian educational organization or an educational entity with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the

Native Hawaiian language, for a gifted and talented program designed to—

[(1) address the special needs of Native Hawaiian elementary and secondary school students who are gifted and talented students; and

[(2) provide those support services to the families of such students that are needed to enable such students to benefit from the program.

[(b) USES OF FUNDS.—The program funded under this section may include—

[(1) the identification of the special needs of Native Hawaiian gifted and talented students, particularly with respect to—

[(A) the emotional and psychosocial needs of such students; and

[(B) the provision of those support services to the families of such students that are needed to enable such students to benefit from the program;

[(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such students, including demonstrating and exploring the use of the Native Hawaiian language and exposure to Native Hawaiian cultural traditions;

[(3) leadership programs designed to—

[(A) replicate programs throughout the State of Hawai'i for gifted and talented students who are not served under this section; and

[(B) coordinate with other Native American gifted and talented leadership programs, including the dissemination of information derived from the program conducted under this section; and

[(4) appropriate research, evaluation, and related activities pertaining to—

[(A) the needs of such students; and

[(B) the provision of those support services to the families of such students that are needed to enable such students to benefit from the program.

[(c) INFORMATION PROVISION.—The Secretary is authorized to facilitate the establishment of a national network of Native Hawaiian and American Indian Gifted and Talented Centers, and ensure that the information developed by these centers shall be readily available to the educational community at large.

[(d) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

[(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized to be appropriated for the program described in this section, there are authorized to be appropriated $1,500,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

[SEC. 9208. NATIVE HAWAIIAN SPECIAL EDUCATION PROGRAM.

[(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to, or enter into contracts with, Native Hawaiian edu-

cational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, to operate a program to address the special education needs of Native Hawaiian students. Such program may include—

[(1) the identification of Native Hawaiian students with disabilities or who are otherwise in need of special educational services;

[(2) the identification of the special education needs of such students, particularly with respect to—

[(A) the emotional and psychosocial needs of such students; and

[(B) the provision of those support services to the families of such students that are needed to enable such students to benefit from the program;

[(3) the conduct of educational activities consistent with part B of the Education of Individuals with Disabilities Education Act which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such students;

[(4) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such students, including demonstrating and exploring the use of the Native Hawaiian language and exposure to Native Hawaiian cultural traditions; and

[(5) appropriate research, evaluation, and related activities pertaining to—

[(A) the needs of such students;

[(B) the provision of those support services to the families of such students that are needed to enable such student to benefit from the program; and

[(C) the outcomes and benefits of activities assisted under this section upon such students.

[(b) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

[(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized to be appropriated for the program described in this section, there are authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

[SEC. 9209. NATIVE HAWAIIAN CURRICULUM DEVELOPMENT, TEACHER TRAINING AND RECRUITMENT PROGRAM.

[(a) GENERAL AUTHORITY.—The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, for the following purposes:

[(1) CURRICULA.—The development of curricula to address the needs of Native Hawaiian students, particularly elementary and secondary school students, which may include programs of instruction conducted in the Native Hawaiian lan-

guage, and mathematics and science curricula incorporating the relevant application of Native Hawaiian culture and traditions.

[(2) PRETEACHER TRAINING.—The development and implementation of preteacher training programs in order to ensure that student teachers within the State of Hawai'i, particularly student teachers who are likely to be employed in schools with a high concentration of Native Hawaiian students, are prepared to better address the unique needs of Native Hawaiian students, within the context of Native Hawaiian culture, language and traditions.

[(3) INSERVICE TEACHER TRAINING.—The development and implementation of inservice teacher training programs, in order to ensure that teachers, particularly teachers employed in schools with a high concentration of Native Hawaiian students, are prepared to better address the unique needs of Native Hawaiian students, within the context of Native Hawaiian culture, language and traditions.

[(4) TEACHER RECRUITMENT.—The development and implementation of teacher recruitment programs to meet the objectives of—

[(A) enhancing teacher recruitment within communities with a high concentration of Native Hawaiian students; and

[(B) increasing the numbers of teachers who are of Native Hawaiian ancestry.

[(b) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to awarding grants for activities described in subsection (a) that—

[(1) focus on the needs of at-risk youth; or

[(2) employ a program of instruction conducted in the Native Hawaiian language, except that entities receiving grants awarded pursuant to subsection (a)(2) shall coordinate in the development of new curricula.

[(c) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

[(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

[SEC. 9210. NATIVE HAWAIIAN COMMUNITY-BASED EDUCATION LEARNING CENTERS.

[(a) GENERAL AUTHORITY.—The Secretary is authorized to make direct grants, to collaborative efforts between community-based Native Hawaiian organizations and community colleges, to develop, establish, and operate a minimum of three community-based education learning centers.

[(b) PURPOSE.—The learning centers described in subsection (a) shall meet the needs of families and communities through interdepartmental and interagency coordination of new and existing public and private programs and services, which may include—

[(1) preschool programs;

[(2) after-school programs; and

[(3) vocational and adult education programs.

[(c) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

[(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

[SEC. 9211. ADMINISTRATIVE PROVISIONS.

[(a) APPLICATION REQUIRED.—No grant may be made under this part, nor any contract be entered into under this part, 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 title.

[(b) SPECIAL RULE.—Each application submitted under this title shall be accompanied by the comments of each local educational agency serving students who will participate in the project for which assistance is sought.

[SEC. 9212. DEFINITIONS.

[For the purposes of this part—

[(1) The term "Native Hawaiian" means any individual who is—

[(A) a citizen of the United States; and

[(B) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawai'i, as evidenced by—

[(i) genealogical records;

[(ii) Kūpuna (elders) or Kama'āina (long-term community residents) verification; or

[(iii) certified birth records.

[(2) The term "Native Hawaiian educational organization" means a private nonprofit organization that—

[(A) serves the interests of Native Hawaiians;

[(B) has Native Hawaiians in substantive and policy-making positions within the organization;

[(C) has a demonstrated expertise in the education of Native Hawaiian youth; and

[(D) has demonstrated expertise in research and program development.

[(3) The term "Native Hawaiian Organization" means a private nonprofit organization that—

[(A) serves the interests of Native Hawaiians;

[(B) has Native Hawaiians in substantive and policy-making positions within the organizations; and

[(C) is recognized by the Governor of Hawai'i for the purpose of planning, conducting, or administering programs (or portions of programs) for the benefit of Native Hawaiians.

[(4) The term "Native Hawaiian language" means the single Native American language indigenous to the original inhabitants of the State of Hawai'i.

[(5) The term "Office of Hawaiian Affairs" means the Office of Hawaiian Affairs established by the Constitution of the State of Hawai'i.

[(6) The term "Native Hawaiian community-based organization" means any organization which is composed primarily of Native Hawaiians from a specific community and which assists in the social, cultural and educational development of Native Hawaiians in that community.

[PART C—ALASKA NATIVE EDUCATION

[SEC. 9301. SHORT TITLE.

[This part may be cited as the "Alaska Native Educational Equity, Support and Assistance Act".

[SEC. 9302. 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 Native community to improve educational opportunity for all students.

[SEC. 9303. PURPOSE.

[It is the purpose of this part 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 part; and

[(4) provide direction and guidance to appropriate Federal, State and local agencies to focus resources, including resources made available under this part, on meeting the educational needs of Alaska Natives.

[SEC. 9304. ALASKA NATIVE EDUCATIONAL PLANNING, CURRICULUM DEVELOPMENT, TEACHER TRAINING AND RECRUITMENT PROGRAM.

[(a) GENERAL AUTHORITY.—The Secretary shall make direct grants to Alaska Native organizations or educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, or to partnerships involving Alaska Native organizations, for the following purposes:

[(1) EDUCATIONAL PLANNING.—The consolidation of existing educational plans, recommendations and research into implementation methods and strategies to improve schooling for Alaska Natives.

[(2) IMPLEMENTATION OF EDUCATIONAL PLANS.—The adoption and implementation of specific educational plans developed under subsection (1) above.

[(3) CURRICULA.—The development of curricula to address the needs of Alaska Native students, particularly elementary and secondary school students, which may include innovative programs and pilot and demonstration programs to develop and introduce curriculum materials that reflect cultural diversities or the contributions of Alaska Native people, programs of instruction conducted in Native languages, and the development of networks to introduce successful techniques, programs and curriculum materials to rural and urban schools, including:

[(A) multimedia social studies curricula which fully and accurately portray the role of Native Americans historically and contemporarily; and

[(B) curricula and teaching materials for instructions in Native languages.

[(4) PRETEACHER TRAINING.—The development and implementation of preteacher training programs in order to ensure that student teachers within the State of Alaska, particularly student teachers who are likely to be employed in schools with a high concentration of Alaska Native students, are prepared to better address the cultural diversity and unique needs of Alaska Native students;

[(5) TEACHER RECRUITMENT.—The development and implementation of teacher recruitment programs to meet the objectives of—

[(A) increasing the numbers of teachers who are Alaska Natives;

[(B) enhancing teacher recruitment within communities with a high concentration of Alaska Native students; and

[(C) improving the teacher selection processes in order to recruit teachers who are more positively responsive to rural conditions and who are suited for effective cross-cultural instruction.

[(6) INSERVICE TEACHER TRAINING.—The development and implementation of inservice teacher training programs in order to ensure that teachers are prepared to better address the unique needs of Alaska Native students.

[(b) ADMINISTRATIVE COSTS.—Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

[(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

[SEC. 9305. ALASKA NATIVE HOME BASED EDUCATION FOR PRESCHOOL CHILDREN.

[(a) GENERAL AUTHORITY.—The Secretary shall make direct grants to Alaska Native organizations or educational entities with experience in developing or operating Alaska Native programs, or to partnerships involving Alaska Native organizations, to implement home instruction programs for Alaska Native preschool youngsters. The objective of such programs shall be to develop parents as educators for their children and to assure the active involvement of parents in the education of their children from the earliest ages.

[(b) PROGRAM ELEMENTS.—Home based education programs for Alaska Native children shall include—

[(1) parent-infant programs for prenatal through three-year olds;

[(2) preschool programs for four- and five-year olds;

[(3) training, education and support programs to teach parents skills in observation, reading readiness, story telling and critical thinking;

[(4) continued research and development; and

[(5) a long-term followup and assessment program.

[(c) ELIGIBILITY OF HIPPY PROGRAMS.—Programs based on the HIPPY (Home Instruction Program for Preschool Youngsters) model shall be eligible for funding under this section.

[(d) ADMINISTRATIVE COSTS.—Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

[(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

[SEC. 9306. ALASKA NATIVE STUDENT ENRICHMENT PROGRAMS.

[(a) GENERAL AUTHORITY.—The Secretary shall make a grant or grants to Alaska Native educational organizations or educational entities with experience in developing or operating Alaska Native programs, or to partnerships including Alaska Native organizations, for enrichment programs for Alaska Native students in the areas of science and mathematics education. The programs shall be designed to—

[(1) prepare qualified students from rural areas who are preparing to enter village high schools to excel in science and mathematics; and

[(2) provide those support services to the families of such students that are needed to enable such students to benefit from the program.

[(b) USES OF FUNDS.—The program funded under this section may include—

[(1) the identification of the students eligible to participate in the program;

[(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial enrichment of the educational performance of the participating students;

[(3) leadership programs designed to provide for the replication of the program in other subject matter areas and the dissemination of information derived from the program; and

[(4) appropriate research, evaluation and related activities pertaining to the benefits of such enrichment programs.

[(c) ADMINISTRATIVE COSTS.—Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

[(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

[SEC. 9307. ADMINISTRATIVE PROVISIONS.

[(a) APPLICATION REQUIRED.—No grant may be made under this part, nor any contract be entered into under this part, 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 part.

[(b) APPLICATIONS BY LOCAL SCHOOL DISTRICTS OR STATE EDUCATIONAL ENTITIES.—Local school districts or State educational entities shall apply for funding under this part in partnership with Alaska Native organizations.

[(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 local educational agency serving students who will participate in the program for which assistance is sought shall be informed regarding each application submitted under this part, except that approval by or concurrence from such local educational agency shall not be required.

[(e) IMPLEMENTATION OF AUTHORITIES.—The Secretary shall expeditiously obligate funds appropriated as provided in this part.

[SEC. 9308. DEFINITIONS.

[For purposes of this part—

[(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 policymaking positions within the organization.

[TITLE X—PROGRAMS OF NATIONAL SIGNIFICANCE

[PART A—FUND FOR THE IMPROVEMENT OF EDUCATION

[SEC. 10101. FUND FOR THE IMPROVEMENT OF EDUCATION.

[(a) FUND AUTHORIZED.—From funds appropriated under subsection (d), the Secretary is authorized to support nationally significant programs and projects to improve the quality of education, assist all students to meet challenging State content standards and challenging State student performance standards, and contribute to achievement of the National Education Goals. The Secretary is authorized to carry out such programs and projects directly or through grants to, or contracts with, State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions.

[(b) USES OF FUNDS.—

[(1) IN GENERAL.—Funds under this section may be used for—

[(A) activities that will promote systemic education reform at the State and local levels, such as—

[(i) research and development related to challenging State content and challenging State student performance standards;

[(ii) the development and evaluation of model strategies for—

[(I) assessment of student learning;

[(II) professional development for teachers and administrators;

[(III) parent and community involvement; and

[(IV) other aspects of systemic reform;

[(iii) developing and evaluating strategies for eliminating ability-grouping practices, and developing policies and programs that place all students on a college-preparatory path of study, particularly in academic fields such as mathematics, science, English, and social studies, including comprehensive inservice programs for teachers and pupil services personnel and academic enrichment programs that supplement regular courses for students;

[(iv) developing and evaluating programs that directly involve parents and family members in the academic progress of their children;

[(v) developing and evaluating strategies for integrating instruction and assessment such that teachers

and administrators can focus on what students should know and be able to do at particular grade levels, which instruction shall promote the synthesis of knowledge, encourage the development of problem-solving skills drawing on a vast range of disciplines, and promote the development of higher order thinking by all students; and

[(vi) developing and evaluating strategies for supporting professional development for teachers across all disciplines and for pupil services personnel, guidance counselors, and administrators, including inservice training that improves the skills of pupil services personnel, counselors and administrators for working with students from diverse populations;

[(B) demonstrations at the State and local levels that are designed to yield nationally significant results, including approaches to public school choice and school-based decisionmaking;

[(C) joint activities with other agencies to assist the effort to achieve the National Education Goals, including activities related to improving the transition from preschool to school and from school to work, as well as activities related to the integration of education and health and social services;

[(D) activities to promote and evaluate counseling and mentoring for students, including intergenerational mentoring;

[(E) activities to promote and evaluate coordinated pupil services programs;

[(F) activities to promote comprehensive health education;

[(G) activities to promote environmental education;

[(H) activities to promote consumer, economic, and personal finance education, such as saving, investing, and entrepreneurial education;

[(I) activities to promote programs to assist students to demonstrate competence in foreign languages;

[(J) studies and evaluation of various education reform strategies and innovations being pursued by the Federal Government, States, and local educational agencies;

[(K) activities to promote metric education;

[(L) the identification and recognition of exemplary schools and programs, such as Blue Ribbon Schools;

[(M) programs designed to promote gender equity in education by evaluating and eliminating gender bias in instruction and educational materials, identifying, and analyzing gender inequities in educational practices, and implementing and evaluating educational policies and practices designed to achieve gender equity;

[(N) programs designed to reduce excessive student mobility, retain students who move within a school district at the same school, educate parents about the effect of mobility on a child's education and encourage parents to participate in school activities;

[(O) experiential-based learning, such as service-learning;

[(P) the development and expansion of public-private partnership programs which extend the learning experience, via computers, beyond the classroom environment into student homes through such programs as the Buddy System Computer Project;

[(Q) other programs and projects that meet the purposes of this section;

[(R) activities to promote child abuse education and prevention programs;

[(S) activities to raise standards and expectations for academic achievement among all students, especially disadvantaged students traditionally underserved in schools;

[(T) activities to provide the academic support, enrichment and motivation to enable all students to reach such standards;

[(U) demonstrations relating to the planning and evaluations of the effectiveness of projects under which local educational agencies or schools contract with private management organizations to reform a school or schools;

[(V) demonstrations that are designed to test whether prenatal and counseling provided to pregnant students may have a positive effect on pregnancy outcomes, with such education and counseling emphasizing the importance of prenatal care, the value of sound diet and nutrition habits, and the harmful effects of smoking, alcohol, and substance abuse on fetal development;

[(W) programs under section 10102;

[(X) programs under section 10103;

[(Y) programs under section 10104; and

[(Z) programs under section 10105;

[(2) ADDITIONAL USES.—The Secretary may also use funds under this section to complete the project periods for direct grants or contracts awarded under the provisions of this Act, the Fund for the Improvement and Reform of Schools and Teaching Act, or title III of the Education for Economic Security Act, as such Acts were in effect on the day preceding the date of the enactment of the Improving America's Schools Act of 1994.

[(3) SPECIAL RULE.—The Secretary shall not make available more than $1,000,000 to carry out paragraph (1)(R), nor more than $1,000,000 to carry out paragraph (1)(V) during the period beginning on October 1, 1994, through September 30, 1999.

[(c) AWARDS.—

[(1) IN GENERAL.—The Secretary may—

[(A) make awards under this section on the basis of competitions announced by the Secretary; and

[(B) support meritorious unsolicited proposals.

[(2) SPECIAL RULE.—The Secretary shall ensure that programs, projects, and activities supported under this section are designed so that the effectiveness of such programs, projects, and activities is readily ascertainable.

[(3) PEER REVIEW.—The Secretary shall use a peer review process in reviewing applications for assistance under this section and may use funds appropriated under subsection (d) for the cost of such peer review.

[(d) AUTHORIZATION.—For the purpose of carrying out this section, there are authorized to be appropriated $50,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

[SEC. 10102. ELEMENTARY SCHOOL COUNSELING DEMONSTRATION.

[(a) COUNSELING DEMONSTRATION.—

[(1) In General.—The Secretary may award grants under this section to establish or expand elementary school counseling programs.

[(2) PRIORITY.—In awarding grants under this section, the Secretary shall give special consideration to applications describing programs that—

[(A) demonstrate the greatest need for new or additional counseling services among the children in the elementary schools served by the applicant;

[(B) propose the most promising and innovative approaches for initiating or expanding elementary 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 areas.

[(4) DURATION.—A grant under this section shall be awarded for a period not to exceed three years.

[(5) MAXIMUM GRANT.—A grant under this section shall not exceed $400,000 for any fiscal year.

[(b) APPLICATIONS.—

[(1) IN GENERAL.—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

[(2) CONTENTS.—Each application for a grant under this section shall—

[(A) describe the elementary school population to be targeted by the program, the particular personal, social, emotional, educational, and career development needs of such population, and the current school counseling resources available for meeting such needs;

[(B) describe the activities, services, and training to be provided by the program and the specific approaches to be used to meet the needs described in subparagraph (A);

[(C) describe the methods to be used to evaluate the outcomes and effectiveness of the program;

[(D) describe the collaborative efforts to be undertaken with institutions of higher education, businesses, labor organizations, community groups, social service agencies, and other public or private entities to enhance the program and promote school-linked services integration;

[(E) describe collaborative efforts with institutions of higher education which specifically seek to enhance or improve graduate programs specializing in the preparation of elementary school counselors, school psychologists, and school social workers;

[(F) document that the applicant has the personnel qualified to develop, implement, and administer the program;

[(G) describe how any diverse cultural populations, if applicable, would be served through the program;

[(H) assure that the funds made available under this part for any fiscal year will be used to supplement and, to the extent practicable, increase the level of funds that would otherwise be available from non-Federal sources for the program described in the application, and in no case supplant such funds from non-Federal sources; and

[(I) assure that the applicant will appoint an advisory board composed of parents, school counselors, school psychologists, school social workers, other pupil services personnel, teachers, school administrators, and community leaders to advise the local educational agency on the design and implementation of the program.

[(c) USE OF FUNDS.—

[(1) IN GENERAL.—Grant funds under this section shall be used to initiate or expand elementary school counseling programs that comply with the requirements in paragraph (2).

[(2) PROGRAM REQUIREMENTS.—Each program assisted under this section shall—

[(A) be comprehensive in addressing the personal, social, emotional, and educational needs of all students;

[(B) use a developmental, preventive approach to counseling;

[(C) increase the range, availability, quantity, and quality of counseling services in the elementary schools of the local educational agency;

[(D) expand counseling services only through qualified school counselors, school psychologists, and school social workers;

[(E) use innovative approaches to increase children's understanding of peer and family relationships, work and self, decisionmaking, academic and career planning, or to improve social functioning;

[(F) provide counseling services that are well-balanced among classroom group and small group counseling, individual counseling, and consultation with parents, teachers, administrators, and other pupil services personnel;

[(G) include inservice training for school counselors, school social workers, school psychologists, other pupil services personnel, teachers, and instructional staff;

[(H) involve parents of participating students in the design, implementation, and evaluation of a counseling program;

[(I) involve collaborative efforts with institutions of higher education, businesses, labor organizations, community groups, social service agencies, or other public or

private entities to enhance the program and promote school-linked services integration; and

[(J) evaluate annually the effectiveness and outcomes of the counseling services and activities assisted under this section.

[(3) REPORT.—The Secretary shall issue a report evaluating the programs assisted pursuant to each grant under this subsection at the end of each grant period in accordance with section 14701, but in no case later than January 30, 1998.

[(4) DISSEMINATION.—The Secretary shall make the programs assisted under this section available for dissemination, either through the National Diffusion Network or other appropriate means.

[(5) LIMIT ON ADMINISTRATION.—Not more than five percent of the amounts made available under this section in any fiscal year shall be used for administrative costs to carry out this section.

[(d) 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 holds a master's degree in social work and is licensed or certified by the State in which services are provided or holds a school social work specialist credential; and

[(4) the term "supervisor" means an individual who has the equivalent number of years of professional experience in such individual's respective discipline as is required of teaching experience for the supervisor or administrative credential in the State of such individual.

[SEC. 10103. PARTNERSHIPS IN CHARACTER EDUCATION PILOT PROJECT.

[(a) PROGRAM AUTHORIZED.—

[(1) IN GENERAL.—The Secretary is authorized to make up to a total of ten grants annually to partnerships of State educational agencies and local educational agencies for the design and implementation of character education programs that incorporate the elements of character listed in subsection (d), as well as other character elements identified by applicants.

[(2) MAXIMUM AMOUNT OF GRANT.—No State educational agency shall receive more than a total of $1,000,000 in grants under this part.

[(3) DURATION.—Each grant under this section shall be awarded for a period not to exceed five years, of which the State educational agency shall not use more than one year for planning and program design.

[(b) STATE EDUCATIONAL AGENCY APPLICATIONS.—

[(1) REQUIREMENT.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

[(2) PARTNERSHIPS.—Each State educational agency desiring a grant under this section shall form a partnership with at least one local educational agency to be eligible for funding. The partnership shall pursue State and local initiatives to meet the objectives of this section.

[(3) APPLICATION.—Each application under this section shall include—

[(A) a list of the local educational agencies entering into the partnership with the State educational agency;

[(B) a description of the goals of the partnership;

[(C) a description of activities that will be pursued by the participating local educational agencies, including—

[(i) how parents, students, and other members of the community, including members of private and nonprofit organizations, will be involved in the design and implementation of the program;

[(ii) curriculum and instructional practices;

[(iii) methods of teacher training and parent education that will be used or developed; and

[(iv) examples of activities that will be carried out under this part;

[(D) a description of how the State educational agency will provide technical and professional assistance to its local educational agency partners in the development and implementation of character education programs;

[(E) a description of how the State educational agency will evaluate the success of local programs and how local educational agencies will evaluate the progress of their own programs;

[(F) a description of how the State educational agency will assist other interested local educational agencies that are not members of the original partnership in designing and establishing programs;

[(G) a description of how the State educational agency will establish a clearinghouse for information on model programs, materials, and other information the State and local educational agencies determine to be appropriate;

[(H) an assurance that the State educational agency will annually provide to the Secretary such information as may be required to determine the effectiveness of the program; and

[(I) any other information that the Secretary may require.

[(4) NON-PARTNER LOCAL EDUCATIONAL AGENCIES.—Any local educational agency that was not a partner with the State when the application was submitted may become a partner by submitting an application for partnership to the State educational agency, containing such information that the State educational agency may require.

[(c) EVALUATION AND PROGRAM DEVELOPMENT.—

[(1) REQUIREMENT.—Each State educational agency receiving a grant under this section shall submit to the Secretary a comprehensive evaluation of the program assisted under this part, including the impact on students, teachers, administrators, parents, and others—

[(A) by the mid-term of the program; and

[(B) not later than one year after completion of such program.

[(2) CONTRACTS FOR EVALUATION.—Each State educational agency receiving a grant under this section may contract with outside sources, including institutions of higher education, and private and nonprofit organizations, for purposes of evaluating their program and measuring the success of the program toward fostering in students the elements of character listed in subsection (b).

[(3) FACTORS.—Factors which may be considered in evaluating the success of the program may include—

[(A) discipline problems;

[(B) students' grades;

[(C) participation in extracurricular activities;

[(D) parental and community involvement;

[(E) faculty and administration involvement; and

[(F) student and staff morale.

[(4) MATERIALS AND PROGRAM DEVELOPMENT.—Local educational agencies, after consulting with the State educational agency, may contract with outside sources, including institutions of higher education, and private and nonprofit organizations, for assistance in developing curriculum, materials, teacher training, and other activities related to character education.

[(d) ELEMENTS OF CHARACTER.—

[(1) IN GENERAL.—Applicants desiring funding under this part shall develop character education programs that incorporate the following elements of character:

[(A) Caring.

[(B) Civic virtue and citizenship.

[(C) Justice and fairness.

[(D) Respect.

[(E) Responsibility.

[(F) Trustworthiness.

[(G) Any other elements deemed appropriate by the members of the partnership.

[(2) ADDITIONAL ELEMENTS OF CHARACTER.—A local educational agency participating under this section may, after consultation with schools and communities of such agency, define additional elements of character that the agency determines to be important to the schools and communities of such agency.

[(e) USE OF FUNDS.—Of the total funds received by a State educational agency in any fiscal year under this section—

[(1) not more than 30 percent of such funds may be retained by the State educational agency, of which—

[(A) not more than 10 percent of such funds may be used for administrative purposes; and

[(B) the remainder of such funds may be used for—

[(i) collaborative initiatives with local educational agencies;

[(ii) the establishment of the clearinghouse, preparation of materials, teacher training; and

[(iii) other appropriate activities; and

[(2) the remaining of such funds shall be used to award subgrants to local educational agencies, of which—

[(A) not more than 10 percent of such funds may be retained for administrative purposes; and

[(B) the remainder of such funds may be used to—

[(i) award subgrants to schools within the local educational agency; and

[(ii) pursue collaborative efforts with the State educational agency.

[(f) SELECTION OF GRANTEES.—

[(1) CRITERIA.—The Secretary shall select, through peer review, partnerships to receive grants under this section on the basis of the quality of the applications submitted under subsection (b), taking into consideration such factors as—

[(A) the quality of the activities proposed by local educational agencies;

[(B) the extent to which the program fosters in students the elements of character;

[(C) the extent of parental, student, and community involvement;

[(D) the number of local educational agencies involved in the effort;

[(E) the quality of the plan for measuring and assessing success; and

[(F) the likelihood that the goals of the program will be realistically achieved.

[(2) DIVERSITY OF PROJECTS.—The Secretary shall approve applications under this section in a manner that ensures, to the extent practicable, that programs assisted under this section—

[(A) serve different areas of the Nation, including urban, suburban, and rural areas; and

[(B) serve schools that serve minorities, Native Americans, students of limited-English proficiency, and disadvantaged students.

[SEC. 10104. PROMOTING SCHOLAR-ATHLETE COMPETITIONS.

[(a) IN GENERAL.—The Secretary is authorized to award a grant to a nonprofit organization to reimburse such organizations for the costs of conducting scholar-athlete games to be held in 1999.

[(b) PRIORITY.—In awarding the grant under subsection (a), the Secretary shall give priority to a nonprofit organization that—

[(1) is described in section 501(c)(3) of, and exempt from taxation under section 501(a) of, the Internal Revenue Code of 1986, and is affiliated with a university capable of hosting a large educational, cultural, and athletic event that will serve as a national model;

[(2) has the capability and experience in administering federally funded scholar-athlete games;

[(3) has the ability to provide matching funds, on a dollar-for-dollar basis, from foundations and the private sector for the purpose of conducting a scholar-athlete program;

[(4) has the organizational structure and capability to administer a model scholar-athlete program in the summer of 1999;

[(5) has the organizational structure and expertise to replicate the scholar-athlete program in various venues throughout the United States internationally; and

[(6) has plans for conducting scholar-athlete games after 1999 without Federal assistance.

[SEC. 10105. SMALLER LEARNING COMMUNITIES.

[(a) IN GENERAL.—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall describe—

[(1) strategies and methods the applicant will use to create the smaller learning community or communities;

[(2) curriculum and instructional practices, including any particular themes or emphases, to be used in the learning environment;

[(3) the extent of involvement of teachers and other school personnel in investigating, designing, implementing and sustaining the smaller learning community or communities;

[(4) the process to be used for involving students, parents and other stakeholders in the development and implementation of the smaller learning community or communities;

[(5) any cooperation or collaboration among community agencies, organizations, businesses, and others to develop or implement a plan to create the smaller learning community or communities;

[(6) the training and professional development activities that will be offered to teachers and others involved in the activities assisted under this part;

[(7) the goals and objectives of the activities assisted under this part, including a description of how such activities will better enable all students to reach challenging State content standards and State student performance standards;

[(8) the methods by which the applicant will assess progress in meeting such goals and objectives;

[(9) if the smaller learning community or communities exist as a school-within-a-school, the relationship, including governance and administration, of the smaller learning community to the rest of the school;

[(10) a description of the administrative and managerial relationship between the local educational agency and the smaller learning community or communities, including how such agency will demonstrate a commitment to the continuity of the smaller learning community or communities, including the continuity of student and teacher assignment to a particular learning community;

[(11) how the applicant will coordinate or use funds provided under this part with other funds provided under this Act or other Federal laws;

[(12) grade levels or ages of students who will participate in the smaller learning community or communities; and

[(13) the method of placing students in the smaller learning community or communities, such that students are not placed according to ability, performance or any other measure, so that students are placed at random or by their own choice, not pursuant to testing or other judgments.

[(b) AUTHORIZED ACTIVITIES.—Funds under this section may be used—

[(1) to study the feasibility of creating the smaller learning community or communities as well as effective and innovative organizational and instructional strategies that will be used in the smaller learning community or communities;

[(2) to research, develop and implement strategies for creating the smaller learning community or communities, as well as effective and innovative changes in curriculum and instruction, geared to high State content standards and State student performance standards;

[(3) to provide professional development for school staff in innovative teaching methods that challenge and engage students to be used in the smaller learning community or communities; and

[(4) to develop and implement strategies to include parents, business representatives, local institutions of higher education, community-based organizations, and other community members in the smaller learning communities, as facilitators of activities that enable teachers to participate in professional development activities, as well as to provide links between students and their community.

[SEC. 10106. NATIONAL STUDENT AND PARENT MOCK ELECTION.

[(a) IN GENERAL.—The Secretary is authorized to award grants to national nonprofit, nonpartisan organizations that work to promote voter participation in American elections to enable such organizations to carry out voter education activities for students and their parents. Such activities shall—

[(1) be limited to simulated national elections that permit participation by students and parents from all 50 States in the United States; and

[(2) consist of—

[(A) school forums and local cable call-in shows on the national issues to be voted upon in an "issue forum";

[(B) speeches and debates before students and parents by local candidates or stand-ins for such candidates;

[(C) quiz team competitions, mock press conferences and speechwriting competitions;

[(D) weekly meetings to follow the course of the campaign; or

[(E) school and neighborhood campaigns to increase voter turnout, including newsletters, posters, telephone chains, and transportation.

[(b) REQUIREMENT.—Each organization receiving a grant under this section shall present awards to outstanding student and parent mock election projects.

[SEC. 10107. MODEL PROJECTS.

[(a) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants to cultural institutions to enable such institutions to develop and expand model projects of outreach activities for at-risk children in the communities served by such institutions, including activities which integrate such institution's cultural programming with other disciplines, including environmental, mathematics, and science programs.

[(b) PRIORITY.—In awarding grants under this section the Secretary shall give priority to activities that are part of an overall State, local, and private commitment, seek to improve learning for at-risk youth, and are substantially funded by State, local, or private funds.

[PART B—GIFTED AND TALENTED CHILDREN

[SEC. 10201. SHORT TITLE.

[This part may be cited as the "Jacob K. Javits Gifted and Talented Students Education Act of 1994".

[SEC. 10202. FINDINGS AND PURPOSES.

[(a) FINDINGS.—The Congress finds and declares that—

[(1) all students can learn to high standards and must develop their talents and realize their potential if the United States is to prosper;

[(2) gifted and talented students are a national resource vital to the future of the Nation and its security and well-being;

[(3) too often schools fail to challenge students to do their best work, and students who are not challenged will not learn to challenging State content standards and challenging State student performance standards, fully develop their talents, and realize their potential;

[(4) unless the special abilities of gifted and talented students are recognized and developed during such students' elementary and secondary school years, much of such students' special potential for contributing to the national interest is likely to be lost;

[(5) gifted and talented students from economically disadvantaged families and areas, and students of limited-English proficiency are at greatest risk of being unrecognized and of not being provided adequate or appropriate educational services;

[(6) State and local educational agencies and private nonprofit schools often lack the necessary specialized resources to plan and implement effective programs for the early identification of gifted and talented students and for the provision of educational services and programs appropriate to their special needs;

[(7) the Federal Government can best carry out the limited but essential role of stimulating research and development and personnel training and providing a national focal point of information and technical assistance that is necessary to ensure that the Nation's schools are able to meet the special educational needs of gifted and talented students, and thereby serve a profound national interest; and

[(8) the experience and knowledge gained in developing and implementing programs for gifted and talented students can and should be used as a basis to—

[(A) develop a rich and challenging curriculum for all students; and

[(B) provide all students with important and challenging subject matter to study and encourage the habits of hard work.

[(b) STATEMENT OF PURPOSE.—It is the purpose of this part—

[(1) to provide financial assistance to State and local educational agencies, institutions of higher education, and other public and private agencies and organizations, to initiate a coordinated program of research, demonstration projects, personnel training, and similar activities designed to build a nationwide capability in elementary and secondary schools to meet the special educational needs of gifted and talented students;

[(2) to encourage the development of rich and challenging curricula for all students through the appropriate application and adaptation of materials and instructional methods developed under this part; and

[(3) to supplement and make more effective the expenditure of State and local funds, for the education of gifted and talented students.

[SEC. 10203. CONSTRUCTION.

[Nothing in this part shall be construed to prohibit a recipient of funds under this part from serving gifted and talented students simultaneously with students with similar educational needs, in the same educational settings where appropriate.

[SEC. 10204. AUTHORIZED PROGRAMS.

[(a) ESTABLISHMENT OF PROGRAM.—

[(1) IN GENERAL.—From the sums appropriated under section 10207 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, or other public agencies and private agencies and organizations (including Indian tribes and Indian organizations (as such terms are defined by the Indian Self-Determination and Education Assistance Act) and Native Hawaiian organizations) to assist such agencies, institutions, and or-

ganizations which submit applications in carrying out programs or projects authorized by this part that are designed to meet the educational needs of gifted and talented students, including the training of personnel in the education of gifted and talented students and in the use, where appropriate, of gifted and talented services, materials, and methods for all students.

[(2) APPLICATION.—Each entity desiring assistance under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall describe how—

[(A) the proposed gifted and talented services, materials, and methods can be adapted, if appropriate, for use by all students; and

[(B) the proposed programs can be evaluated.

[(b) USES OF FUNDS.—Programs and projects assisted under this section may include—

[(1) professional development (including fellowships) for personnel (including leadership personnel) involved in the education of gifted and talented students;

[(2) 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, summer programs, mentoring programs, service learning programs, and cooperative programs involving business, industry, and education;

[(3) training of personnel and parents involved in gifted and talented programs with respect to the impact of gender role socialization on the educational needs of gifted and talented children and in gender equitable education methods, techniques and practices;

[(4) implementing innovative strategies, such as cooperative learning, peer tutoring and service learning;

[(5) strengthening the capability of State educational agencies and institutions of higher education to provide leadership and assistance to local educational agencies and nonprofit private schools in the planning, operation, and improvement of programs for the identification and education of gifted and talented students and the appropriate use of gifted and talented programs and methods to serve all students;

[(6) programs of technical assistance and information dissemination, including how gifted and talented programs and methods, where appropriate, may be adapted for use by all students; and

[(7) carrying out—

[(A) 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 purposes of this part.

[(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 agency, or a combination or consortium of such institutions and agencies, for the purpose of carrying out activities described in paragraph (7) of subsection (b).

[(2) DIRECTOR.—Such National Center shall have 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 other 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)(7) or (c).

[(e) COORDINATION.—Research activities supported under this section—

[(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 research activities which are jointly funded and carried out with such Office.

[SEC. 10205. PROGRAM PRIORITIES.

[(a) GENERAL PRIORITY.—In the administration of this part the Secretary shall give highest priority—

[(1) to the identification of and the 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); and

[(2) to programs and projects designed to develop or improve the capability of schools in an entire State or region of the Nation through cooperative efforts and participation of State and local educational agencies, institutions of higher education, and other public and private agencies and organizations (including business, industry, and labor), to plan, conduct, and improve programs for the identification of and service to gifted and talented students, such as mentoring and apprenticeship programs.

[(b) SERVICE PRIORITY.—In approving applications for assistance under section 10204(a)(2), the Secretary shall assure that in each fiscal year at least one-half of the applications approved under such section address the priority described in subsection (a)(1).

[SEC. 10206. GENERAL PROVISIONS.

[(a) PARTICIPATION OF PRIVATE SCHOOL CHILDREN AND TEACHERS.—In making grants and entering into contracts under this part, 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 part;

[(2) ensure that information on the activities and results of programs and projects funded under this part is disseminated to appropriate State and local agencies and other appropriate organizations, including nonprofit private organizations; and

[(3) evaluate the effectiveness of programs under this part in accordance with section 14701, 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 Congress not later than January 1, 1998.

[(c) PROGRAM OPERATIONS.—The Secretary shall ensure that the programs under this part 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 the programs authorized by this part;

[(2) coordinate all programs for gifted and talented students administered by the Department;

[(3) 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

[(4) 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. 10207. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated $10,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out the provisions of this part.

[PART C—PUBLIC CHARTER SCHOOLS

[Subpart 1—Basic Charter School Grant Program

[SEC. 10301. 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 learn to challenging State content standards and challenging State student performance 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 content standards and challenging State student performance standards for all students;

[(4) charter schools, as such schools have been implemented in a few States, 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, which 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 subpart to increase national understanding of the charter schools model by—

[(1) providing financial assistance for the planning, program design and initial implementation of charter schools;

[(2) evaluating the effects of such schools, including the effects on students, student achievement, staff, and parents; and

[(3) expanding the number of high-quality charter schools available to students across the Nation.

[SEC. 10302. PROGRAM AUTHORIZED.

[(a) IN GENERAL.—The Secretary may award grants to State educational agencies having applications approved pursuant to section 10303 to enable such agencies to conduct a charter school grant program in accordance with this subpart.

[(b) SPECIAL RULE.—If a State educational agency elects not to participate in the program authorized by this subpart or does not have an application approved under section 10303, the Secretary may award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 10303(c).

[(c) PROGRAM PERIODS.—

[(1) GRANTS TO STATES.—Grants awarded to State educational agencies under this subpart 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 subpart 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 10304(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.—

[(A) FISCAL YEARS 1999, 2000, AND 2001.—In awarding grants under this subpart for any of the fiscal years 1999, 2000, and 2001 from funds appropriated under section 10311 that are in excess of $51,000,000 for the fiscal year, 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).

[(B) SUCCEEDING FISCAL YEARS.—In awarding grants under this subpart for fiscal year 2002 or any succeeding fiscal year from any funds appropriated under section 10311, 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 subpart.

[(B) The State—

[(i) provides for one authorized public chartering agency that is not a local educational agency, such as a State chartering board, for each individual or entity seeking to operate a charter school pursuant to such State law; or

[(ii) in the case of a State in which local educational agencies are the only authorized public chartering agencies, allows for an appeals process for the denial of an application for a charter school.

[(C) The State ensures that each charter school has a high degree of autonomy over the charter school's budgets and expenditures.

[(f) AMOUNT CRITERIA.—In determining the amount of a grant to be awarded under this subpart to a State educational agency, the

Secretary shall take into consideration the number of charter schools that are operating, or are approved to open, in the State.

[SEC. 10303. APPLICATIONS.

[(a) APPLICATIONS FROM STATE AGENCIES.—Each State educational agency desiring a grant from the Secretary under this subpart shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

[(b) CONTENTS OF A STATE EDUCATIONAL AGENCY APPLICATION.—Each application submitted pursuant to subsection (a) shall—

[(1) describe the objectives of the State educational agency's charter school grant program and a description of how such objectives will be fulfilled, including steps taken by the State educational agency to inform teachers, parents, and communities of the State educational agency's charter school grant program; and

[(2) describe how the State educational agency—

[(A) will inform each charter school in the State regarding—

[(i) Federal funds that the charter school is eligible to receive; and

[(ii) Federal programs in which the charter school may participate;

[(B) will ensure that each charter school in the State receives the charter school's commensurate share of Federal education funds that are allocated by formula each year, including during the first year of operation of the charter school; and

[(C) will disseminate best or promising practices of charter schools to each local educational agency in the State; and

[(3) contain assurances that the State educational agency will require each eligible applicant desiring to receive a subgrant to submit an application to the State educational agency containing—

[(A) a description of the educational program to be implemented by the proposed charter school, including—

[(i) how the program will enable all students to meet challenging State student performance 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 subpart;

[(L) a description of how a charter school that is considered a local educational agency under State law, or a local educational agency in which a charter school is located, will comply with sections 613(a)(5) and 613(e)(1)(B) of the Individuals with Disabilities Education Act;

[(M) if the eligible applicant desires to use subgrant funds for dissemination activities under section 10302(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 10302(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; and

[(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 10304(e).

[SEC. 10304. ADMINISTRATION.

[(a) SELECTION CRITERIA FOR STATE EDUCATIONAL AGENCIES.—The Secretary shall award grants to State educational agencies under this subpart on the basis of the quality of the applications submitted under section 10303(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 content standards and State student performance 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 subpart in the State; and

[(7) in the case of State educational agencies that propose to use grant funds to support dissemination activities under section 10302(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student achievement.

[(b) SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.—The Secretary shall award grants to eligible applicants under this subpart on the basis of the quality of the applications submitted under section 10303(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 10302(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 subpart, shall use a peer re-

view process to review applications for assistance under this subpart.

[(d) DIVERSITY OF PROJECTS.—The Secretary and each State educational agency receiving a grant under this subpart, shall award subgrants under this subpart in a manner that, to the extent possible, ensures that such grants and subgrants—

[(1) are distributed throughout different areas of the Nation and each State, including urban and rural areas; and

[(2) will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.

[(e) WAIVERS.—The Secretary may waive any statutory or regulatory requirement over which the Secretary exercises administrative authority except any such requirement relating to the elements of a charter school described in section 10310(1), if—

[(1) the waiver is requested in an approved application under this subpart; and

[(2) the Secretary determines that granting such a waiver will promote the purpose of this subpart.

[(f) USE OF FUNDS.—

[(1) STATE EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under this subpart shall use such grant funds to award subgrants to one or more eligible applicants in the State to enable such applicant to plan and implement a charter school in accordance with this subpart, except that the State educational agency may reserve not more than 10 percent of the grant funds to support dissemination activities described in paragraph (6).

[(2) ELIGIBLE APPLICANTS.—Each eligible applicant receiving funds from the Secretary or a State educational agency shall use such funds to plan and implement a charter school, or to disseminate information about the charter school and successful practices in the charter school, in accordance with this subpart.

[(3) ALLOWABLE ACTIVITIES.—An eligible applicant receiving a grant or subgrant under this subpart may use the grant or subgrant funds only for—

[(A) post-award planning and design of the educational program, which may include—

[(i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and

[(ii) professional development of teachers and other staff who will work in the charter school; and

[(B) initial implementation of the charter school, which may include—

[(i) informing the community about the school;

[(ii) acquiring necessary equipment and educational materials and supplies;

[(iii) acquiring or developing curriculum materials; and

[(iv) other initial operational costs that cannot be met from State or local sources.

[(4) ADMINISTRATIVE EXPENSES.—Each State educational agency receiving a grant pursuant to this subpart may reserve

not more than 5 percent of such grant funds for administrative expenses associated with the charter school grant program assisted under this subpart.

[(5) REVOLVING LOAN FUNDS.—Each State educational agency receiving a grant pursuant to this subpart may reserve not more than 10 percent of the grant 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 subpart, 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 subpart, whether or not the charter school has applied for or received funds under this subpart for planning, program design, or implementation, to carry out the activities described in subparagraph (B) if the charter school has been in operation for at least 3 consecutive years and has demonstrated overall success, including—

[(i) substantial progress in improving student achievement;

[(ii) high levels of parent satisfaction; and

[(iii) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

[(B) ACTIVITIES.—A charter school described in subparagraph (A) may use funds reserved under paragraph (1) to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school, through such activities as—

[(i) assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;

[(ii) developing partnerships with other public schools, including charter schools, designed to improve student performance in each of the schools participating in the partnership;

[(iii) developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and

[(iv) conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools.

[(g) TRIBALLY CONTROLLED SCHOOLS.—Each State that receives a grant under this subpart and designates a tribally controlled school as a charter school shall not consider payments to a school

under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507) in determining—

[(1) the eligibility of the school to receive any other Federal, State, or local aid; or

[(2) the amount of such aid.

[SEC. 10305. NATIONAL ACTIVITIES.

[(a) IN GENERAL.—The Secretary shall reserve for each fiscal year the greater of 5 percent or $5,000,000 of the amount appropriated to carry out this subpart, except that in no fiscal year shall the total amount so reserved exceed $8,000,000, to carry out the following activities:

[(1) To provide charter schools, either directly or through State educational agencies, with—

[(A) information regarding—

[(i) Federal funds that charter schools are eligible to receive; and

[(ii) other Federal programs in which charter schools may participate; and

[(B) assistance in applying for Federal education funds that are allocated by formula, including assistance with filing deadlines and submission of applications.

[(2) To provide for the completion of the 4-year national study (which began in 1995) of charter schools.

[(3) To provide for other evaluations or studies that include the evaluation of the impact of charter schools on student 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.

[(4) To provide—

[(A) information to applicants for assistance under this subpart;

[(B) assistance to applicants for assistance under this subpart with the preparation of applications under section 10303;

[(C) assistance in the planning and startup of charter schools;

[(D) training and technical assistance to existing charter schools; and

[(E) for the dissemination to other public schools of best or promising practices in charter schools.

[(5) 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. 10306. 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 not later than 6 months after the date of the enactment of the Charter School Expansion Act of 1998 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. 10307. SOLICITATION OF INPUT FROM CHARTER SCHOOL OPERATORS.

[To the extent practicable, the Secretary shall ensure that administrators, teachers, and other individuals directly involved in the operation of charter schools are consulted in the development of any rules or regulations required to implement this subpart, as well as in the development of any rules or regulations relevant to charter schools that are required to implement subpart 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. 10308. 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, and to another public school upon the transfer of the student from a charter school to another public school, in accordance with applicable State law.

[SEC. 10309. PAPERWORK REDUCTION.

[To the extent practicable, the Secretary and each authorized public chartering agency shall ensure that implementation of this subpart results in a minimum of paperwork for any eligible applicant or charter school.

[SEC. 10310. DEFINITIONS.

[As used in this subpart:

[(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 subpart B of the Individuals with Disabilities Education Act;

[(H) is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

[(I) agrees to comply with the same Federal and State audit requirements as do other elementary and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

[(J) meets all applicable Federal, State, and local health and safety requirements;

[(K) operates in accordance with State law; and

[(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

[(2) 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 an authorized public chartering agency participating in a partnership with a developer to establish a charter school in accordance with this subpart.

[(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. 10311. AUTHORIZATION OF APPROPRIATIONS.

[For the purpose of carrying out this subpart, there are authorized to be appropriated $100,000,000 for fiscal year 1999 and such sums as may be necessary for each of the four succeeding fiscal years.

[Subpart 2—Credit Enhancement Initiatives To Assist Charter School Facility Acquisition, Construction, and Renovation

[SEC. 10321. PURPOSE.

[The purpose of this subpart is to provide one-time grants to eligible entities to permit them to demonstrate innovative credit enhancement initiatives that assist charter schools to address the cost of acquiring, constructing, and renovating facilities.

[SEC. 10322. GRANTS TO ELIGIBLE ENTITIES.

[(a) IN GENERAL.—The Secretary shall use 100 percent of the amount available to carry out this subpart to award not less than three grants to eligible entities having applications approved under this subpart to demonstrate innovative methods of assisting charter schools to address the cost of acquiring, constructing, and renovating facilities by enhancing the availability of loans or bond financing.

[(b) GRANTEE SELECTION.—The Secretary shall evaluate each application submitted, and shall make a determination of which are sufficient to merit approval and which are not. The Secretary shall award at least one grant to an eligible entity described in section 10330(2)(A), at least one grant to an eligible entity described in section 10330(2)(B), and at least one grant to an eligible entity described in section 10330(2)(C), if applications are submitted that permit the Secretary to do so without approving an application that is not of sufficient quality to merit approval.

[(c) GRANT CHARACTERISTICS.—Grants under this subpart shall be of a sufficient size, scope, and quality so as to ensure an effective demonstration of an innovative means of enhancing credit for the financing of charter school acquisition, construction, or renovation.

[(d) SPECIAL RULE.—In the event the Secretary determines that the funds available are insufficient to permit the Secretary to award not less than three grants in accordance with subsections (a) through (c), such three-grant minimum and the second sentence of subsection (b) shall not apply, and the Secretary may determine the appropriate number of grants to be awarded in accordance with subsection (c).

[SEC. 10323. APPLICATIONS.

[(a) IN GENERAL.—To receive a grant under this subpart, an eligible entity shall submit to the Secretary an application in such form as the Secretary may reasonably require.

[(b) CONTENTS.—An application under subsection (a) shall contain—

[(1) a statement identifying the activities proposed to be undertaken with funds received under this subpart, including how the applicant will determine which charter schools will receive assistance, and how much and what types of assistance charter schools will receive;

[(2) a description of the involvement of charter schools in the application's development and the design of the proposed activities;

[(3) a description of the applicant's expertise in capital market financing;

[(4) a description of how the proposed activities will leverage the maximum amount of private-sector financing capital relative to the amount of government funding used and otherwise enhance credit available to charter schools;

[(5) a description of how the applicant possesses sufficient expertise in education to evaluate the likelihood of success of a charter school program for which facilities financing is sought;

[(6) in the case of an application submitted by a State governmental entity, a description of the actions that the entity has taken, or will take, to ensure that charter schools within the State receive the funding they need to have adequate facilities; and

[(7) such other information as the Secretary may reasonably require.

[SEC. 10324. CHARTER SCHOOL OBJECTIVES.

[An eligible entity receiving a grant under this subpart shall use the funds deposited in the reserve account established under section 10325(a) to assist one or more charter schools to access private sector capital to accomplish one or both of the following objectives:

[(1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a charter school.

[(2) The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a charter school.

[SEC. 10325. RESERVE ACCOUNT.

[(a) USE OF FUNDS.—To assist charter schools to accomplish the objectives described in section 10324, an eligible entity receiving a grant under this subpart shall, in accordance with State and local law, directly or indirectly, alone or in collaboration with others, deposit the funds received under this subpart (other than funds used for administrative costs in accordance with section 10326) in a reserve account established and maintained by the entity for this purpose. Amounts deposited in such account shall be used by the entity for one or more of the following purposes:

[(1) Guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein, the proceeds of which are used for an objective described in section 10324.

[(2) Guaranteeing and insuring leases of personal and real property for an objective described in section 10324.

[(3) Facilitating financing by identifying potential lending sources, encouraging private lending, and other similar activities that directly promote lending to, or for the benefit of, charter schools.

[(4) Facilitating the issuance of bonds by charter schools, or by other public entities for the benefit of charter schools, by providing technical, administrative, and other appropriate assistance (including the recruitment of bond counsel, underwriters, and potential investors and the consolidation of multiple charter school projects within a single bond issue).

[(b) INVESTMENT.—Funds received under this subpart and deposited in the reserve account shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities.

[(c) REINVESTMENT OF EARNINGS.—Any earnings on funds received under this subpart shall be deposited in the reserve account established under subsection (a) and used in accordance with such subsection.

[SEC. 10326. LIMITATION ON ADMINISTRATIVE COSTS.

[An eligible entity may use not more than 0.25 percent of the funds received under this subpart for the administrative costs of carrying out its responsibilities under this subpart.

[SEC. 10327. AUDITS AND REPORTS.

[(a) FINANCIAL RECORD MAINTENANCE AND AUDIT.—The financial records of each eligible entity receiving a grant under this subpart shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

[(b) REPORTS.—

[(1) GRANTEE ANNUAL REPORTS.—Each eligible entity receiving a grant under this subpart annually shall submit to the Secretary a report of its operations and activities under this subpart.

[(2) CONTENTS.—Each such annual report shall include—

[(A) a copy of the most recent financial statements, and any accompanying opinion on such statements, prepared by the independent public accountant reviewing the financial records of the eligible entity;

[(B) a copy of any report made on an audit of the financial records of the eligible entity that was conducted under subsection (a) during the reporting period;

[(C) an evaluation by the eligible entity of the effectiveness of its use of the Federal funds provided under this subpart in leveraging private funds;

[(D) a listing and description of the charter schools served during the reporting period;

[(E) a description of the activities carried out by the eligible entity to assist charter schools in meeting the objectives set forth in section 10324; and

[(F) a description of the characteristics of lenders and other financial institutions participating in the activities undertaken by the eligible entity under this subpart during the reporting period.

[(3) SECRETARIAL REPORT.—The Secretary shall review the reports submitted under paragraph (1) and shall provide a comprehensive annual report to Congress on the activities conducted under this subpart.

[SEC. 10328. NO FULL FAITH AND CREDIT FOR GRANTEE OBLIGATIONS.

[No financial obligation of an eligible entity entered into pursuant to this subpart (such as an obligation under a guarantee, bond, note, evidence of debt, or loan) shall be an obligation of, or guaranteed in any respect by, the United States. The full faith and credit of the United States is not pledged to the payment of funds which may be required to be paid under any obligation made by an eligible entity pursuant to any provision of this subpart.

[SEC. 10329. RECOVERY OF FUNDS.

[(a) IN GENERAL.—The Secretary, in accordance with chapter 37 of title 31, United States Code, shall collect—

[(1) all of the funds in a reserve account established by an eligible entity under section 10325(a) if the Secretary determines, not earlier than 2 years after the date on which the entity first received funds under this subpart, that the entity has failed to make substantial progress in carrying out the purposes described in section 10325(a); or

[(2) all or a portion of the funds in a reserve account established by an eligible entity under section 10325(a) if the Secretary determines that the eligible entity has permanently ceased to use all or a portion of the funds in such account to accomplish any purpose described in section 10325(a).

[(b) EXERCISE OF AUTHORITY.—The Secretary shall not exercise the authority provided in subsection (a) to collect from any eligible entity any funds that are being properly used to achieve one or more of the purposes described in section 10325(a).

[(c) PROCEDURES.—The provisions of sections 451, 452, and 458 of the General Education Provisions Act (20 U.S.C. 1234 et seq.) shall apply to the recovery of funds under subsection (a).

[(d) CONSTRUCTION.—This section shall not be construed to impair or affect the authority of the Secretary to recover funds under part D of the General Education Provisions Act (20 U.S.C. 1234 et seq.).

[SEC. 10330. DEFINITIONS.

[In this subpart:

[(1) The term "charter school" has the meaning given such term in section 10310.

[(2) The term "eligible entity" means—

[(A) a public entity, such as a State or local governmental entity;

[(B) a private nonprofit entity; or

[(C) a consortium of entities described in subparagraphs (A) and (B).

[SEC. 10331. AUTHORIZATION OF APPROPRIATIONS.

[For the purpose of carrying out this subpart, there are authorized to be appropriated $100,000,000 for fiscal year 2001.

[PART D—ARTS IN EDUCATION

[Subpart 1—Arts Education

[SEC. 10401. SUPPORT FOR ARTS EDUCATION.

[(a) FINDINGS.—The Congress finds that—

[(1) the arts are forms of understanding and ways of knowing that are fundamentally important to education;

[(2) the arts are important to excellent education and to effective school reform;

[(3) the most significant contribution of the arts to education reform is the transformation of teaching and learning;

[(4) such transformation is best realized in the context of comprehensive, systemic education reform;

[(5) demonstrated competency in the arts for American students is among the National Education Goals;

[(6) participation in performing arts activities has proven to be an effective strategy for promoting the inclusion of persons with disabilities in mainstream settings;

[(7) opportunities in the arts have enabled persons of all ages with disabilities to participate more fully in school and community activities;

[(8) the arts can motivate at-risk students to stay in school and become active participants in the educational process; and

[(9) arts education should be an integral part of the elementary and secondary school curriculum.

[(b) PURPOSES.—The purposes of this subpart are to—

[(1) support systemic education reform by strengthening arts education as an integral part of the elementary and secondary school curriculum;

[(2) help ensure that all students have the opportunity to learn to challenging State content standards and challenging State student performance standards in the arts; and

[(3) support the national effort to enable all students to demonstrate competence in the arts in accordance with the National Education Goals.

[(c) ELIGIBLE RECIPIENTS.—In order to carry out the purposes of this subpart, the Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with—

[(1) State educational agencies;

[(2) local educational agencies;

[(3) institutions of higher education;

[(4) museums and other cultural institutions; and

[(5) other public and private agencies, institutions, and organizations.

[(d) AUTHORIZED ACTIVITIES.—Funds under this subpart may be used for—

[(1) research on arts education;

[(2) the development of, and dissemination of information about, model arts education programs;

[(3) the development of model arts education assessments based on high standards;

[(4) the development and implementation of curriculum frameworks for arts education;

[(5) the development of model preservice and inservice professional development programs for arts educators and other instructional staff;

[(6) supporting collaborative activities with other Federal agencies or institutions involved in arts education, such as the National Endowment for the Arts, the Institute of Museum and Library Services, the John F. Kennedy Center for the Performing Arts, Very Special Arts, and the National Gallery of Art;

[(7) supporting model projects and programs in the performing arts for children and youth through arrangements made with the John F. Kennedy Center for the Performing Arts;

[(8) supporting model projects and programs by Very Special Arts which assure the participation in mainstream settings in arts and education programs of individuals with disabilities;

[(9) supporting model projects and programs to integrate arts education into the regular elementary and secondary school curriculum; and

[(10) other activities that further the purposes of this subpart.

[(e) COORDINATION.—

[(1) IN GENERAL.—A recipient of funds under this subpart shall, to the extent possible, coordinate projects assisted under this subpart with appropriate activities of public and private cultural agencies, institutions, and organizations, including museums, arts education associations, libraries, and theaters.

[(2) SPECIAL RULE.—In carrying out this subpart, the Secretary shall coordinate with the National Endowment for the Arts, the Institute of Museum and Library Services, the John F. Kennedy Center for the Performing Arts, Very Special Arts, and the National Gallery of Art.

[(f) AUTHORIZATION.—

[(1) IN GENERAL.—For the purpose of carrying out this subpart, there are authorized to be appropriated $11,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

[(2) SPECIAL RULE.—If the amount appropriated under paragraph (1) for any fiscal year is $9,000,000 or less, then such amount shall only be available to carry out the activities described in paragraphs (7) and (8) of subsection (d).

[Subpart 2—Cultural Partnerships for At-Risk Children and Youth

[SEC. 10411. FINDINGS AND PURPOSE.

[(a) FINDINGS.—The Congress finds:

[(1) With local school budget cuts there are inadequate arts and cultural programs available for children and youth in schools, especially at the elementary school level.

[(2) The arts promote progress in academic subjects as shown by research conducted by the National Endowment for the Arts.

[(3) Children and youth who receive instruction in the arts and humanities, or who are involved in cultural activities, remain in school longer and are more successful than children who do not receive such instruction.

[(4) Learning in the arts and humanities promotes progress in other academic subjects, and generates positive self-esteem and a greater sense of accomplishment in young people.

[(5) School-university and school-cultural institution partnerships that upgrade teacher training in the arts and humanities have significantly contributed to improved instruction and achievement levels of school-aged children.

[(6) Museum outreach, cultural activities and informal education for at-risk children and youth have contributed significantly to the educational achievement and enhanced interest in learning of at-risk children and youth.

[(7) The Goals 2000: Educate America Act, other legislation and local, State and national resources support the integration of the arts and humanities into the regular curriculum and school day for all children.

[(8) While all children benefit from instruction in the arts and the humanities, at-risk children and youth have a special, additional need for arts and cultural programs both in school and after school.

[(b) PURPOSE.—The purpose of this subpart is to make demonstration grants to eligible entities to improve the educational performance and future potential of at-risk children and youth by providing comprehensive and coordinated educational and cultural services.

[SEC. 10412. PROGRAM AUTHORIZED.

[(a) IN GENERAL.—The Secretary is authorized to award grants to eligible entities to pay the Federal share of the costs of the activities described in section 10413.

[(b) SPECIAL REQUIREMENTS.—

[(1) IN GENERAL.—The Secretary shall award grants under this subpart only to programs designed to—

[(A) promote and enhance educational and cultural activities;

[(B) provide multi-year services to at-risk children and youth and to integrate community cultural resources into in-school and after-school educational programs;

[(C) provide integration of community cultural resources into the regular curriculum and school day;

[(D) focus school and cultural resources in the community on coordinated cultural services to address the needs of at-risk children and youth;

[(E) provide effective cultural programs to facilitate the transition from preschool programs to elementary school programs, including programs under the Head Start Act and part H of the Individuals with Disabilities Education Act;

[(F) facilitate school-to-work transition from secondary schools and alternative schools to job training, higher edu-

cation and employment through educational programs and activities that utilize school resources;

[(G) increase parental and community involvement in the educational, social, and cultural development of at-risk children and youth; or

[(H)(i) develop programs and strategies that provide high-quality coordinated educational and cultural services; and

[(ii) provide a model to replicate such services in other schools and communities.

[(2) PARTNERSHIP.—An interagency partnership comprised of the Secretary of Education, the Chairman of the National Endowment for the Humanities, the Chairman of the National Endowment for the Arts, and the Director of the Institute of Museum and Library Services, or their designees, shall establish criteria and procedures for awarding grants, including the establishment of panels to review the applications, and shall administer the grants program authorized by this section. The Secretary shall publish such criteria and procedures in the Federal Register.

[(3) COORDINATION.—Grants may only be awarded under this subpart to eligible entities that agree to coordinate activities carried out under other Federal, State, and local grants, received by the members of the partnership for purposes and target populations described in this subpart, into an integrated service delivery system located at a school, cultural, or other community-based site accessible to and utilized by at-risk youth.

[(4) ELIGIBLE ENTITIES.—For purposes of this subpart, the term "eligible entity" means a partnership between—

[(A) a local educational agency or an individual school that is eligible to participate in a schoolwide program under section 1114; and

[(B) at least one institution of higher education, museum, local arts agency, or cultural entity that is accessible to individuals within the school district of such local educational agency or school, and that has a history of providing quality services to the community, which may include—

[(i) nonprofit institutions of higher education, museums, libraries, performing, presenting and exhibiting arts organizations, literary arts organizations, State and local arts organizations, cultural institutions, and zoological and botanical organizations; or

[(ii) private for-profit entities with a history of training children and youth in the arts.

[(5) GEOGRAPHIC DISTRIBUTION.—In awarding grants under this subpart the Secretary, to the extent feasible, shall ensure an equitable geographic distribution of such grants.

[(6) DURATION.—Grants made under this subpart may be renewable for a maximum of five years if the Secretary determines that the eligible recipient has made satisfactory progress toward the achievement of the program objectives described in the application.

[(7) MODELS.—The Secretary, in consultation with the Chairman of the National Endowment for the Humanities, the Chairman of the National Endowment for the Arts and the director of the Institute of Museum and Library Services, or their designees, shall submit successful models under this title to the National Diffusion Network for review.

[(c) TARGET POPULATION.—To be eligible for a grant under this subpart, an eligible entity shall serve—

[(1) students enrolled in schools participating in a schoolwide program under section 1114 and the families of such students to the extent practicable;

[(2) out-of-school children and youth at risk of disadvantages resulting from teenage parenting, substance abuse, recent migration, disability, limited-English proficiency, illiteracy, being the child of a teenage parent, living in a single parent household, or dropping out of school; or

[(3) any combination of in-school and out-of-school at-risk children and youth.

[SEC. 10413. AUTHORIZED ACTIVITIES.

[(a) IN GENERAL.—Grants awarded under this subpart may be used—

[(1) to plan, develop, acquire, expand, and improve school-based or community-based coordinated educational and cultural programs to strengthen the educational performance and future potential of in-school or out-of-school at-risk children and youth through grants, cooperative agreements, contracts for services, or administrative coordination;

[(2) to provide at-risk students with integrated cultural activities designed to develop a love of learning that fosters the smooth transition of preschool children to elementary school;

[(3) to design collaborative cultural activities for students in secondary or alternative schools that ensure the smooth transition to job training, higher education, or full employment;

[(4) to provide child care for children of at-risk students who would not otherwise be able to participate in the program;

[(5) to provide transportation necessary for participation in the program;

[(6) to work with existing school personnel to develop curriculum materials and programs in the arts;

[(7) to work with existing school personnel on staff development activities that encourage the integration of the arts into the curriculum;

[(8) for stipends that allow local artists to work with at-risk children and youth in schools;

[(9) for training individuals who are not trained to work with children and youth;

[(10) for cultural programs that encourage the active participation of parents in the education of their children;

[(11) for programs that use the arts and culture to reform current school practices, including lengthening the school day or academic year;

[(12) for equipment or supplies that the Secretary determines appropriate; and

[(13) for evaluation, administration, and supervision.

[(b) PLANNING GRANTS.—

[(1) APPLICATION.—An eligible entity may submit an application to the Secretary for a planning grant for an amount not to exceed $50,000. Such grants shall be for periods of not more than one year.

[(2) LIMIT ON PLANNING GRANTS.—Not more than 10 percent of the amounts appropriated in each fiscal year under this subpart shall be used for grants under this subsection, and an eligible entity may receive not more than one such planning grant.

[(c) GENERAL PROVISIONS.—

[(1) IN GENERAL.—Each eligible entity desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

[(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

[(A) describe the cultural entity or entities that will participate in the partnership;

[(B) describe the target population to be served;

[(C) describe the services to be provided;

[(D) describe a plan for evaluating the success of the program;

[(E) in the case of each local educational agency or school participating in the eligible recipient partnership, describe how the activities assisted under this subpart will be perpetuated beyond the duration of the grant;

[(F) describe the manner in which the eligible entity will improve the educational achievement or future potential of at-risk youth through more effective coordination of cultural services in the community;

[(G) describe the overall and operational goals of the program;

[(H) describe the nature and location of all planned sites where services will be delivered and a description of services which will be provided at each site; and

[(I) describe training that will be provided to individuals who are not trained to work with children and youth, and how teachers will be involved.

[SEC. 10414. PAYMENTS; AMOUNTS OF AWARD; COST SHARE; LIMITATIONS.

[(a) PAYMENTS.—

[(1) IN GENERAL.—The Secretary shall pay to each eligible recipient having an application approved under section 10413(c) the Federal share of the cost of the activities described in the application.

[(2) SPECIAL RULE.—(A) Grants awarded under this subpart shall be of sufficient size, scope, and quality to be effective.

[(B) The Secretary shall award grants under this subpart so as to ensure nonduplication of services provided by grant recipients and services provided by—

[(i) the National Endowment for the Humanities;

[(ii) the National Endowment for the Arts; and

[(iii) the Institute of Museum and Library Services.

[(b) COST SHARE.—

[(1) FEDERAL SHARE.—The Federal share of a grant under this subpart shall be 80 percent of the cost of carrying out the activities described in the application.

[(2) NON-FEDERAL SHARE.—The non-Federal share of a grant under this subpart shall be 20 percent of the cost of carrying out the activities described in the application and may be in cash or in kind, fairly evaluated, including the provision of equipment, services, or facilities.

[(c) LIMITATIONS.—

[(1) NONINSTRUCTIONAL SERVICES.—Not more than 25 percent of the grant funds provided in any fiscal year under this subpart may be used for noninstructional activities such as the activities described in paragraphs (4), (5), and (12) of section 10413(a).

[(2) SUPPLEMENT AND NOT SUPPLANT.—Grant funds awarded under this part shall be used to supplement not supplant the amount of funds made available from non-Federal sources, for the activities assisted under this subpart, in amounts that exceed the amounts expended for such activities in the year preceding the year for which the grant is awarded.

[(3) ADMINISTRATIVE COSTS.—(A) The Secretary may reserve not more than five percent of the grant funds received under this subpart in each fiscal year for the costs of administration.

[(B) Each eligible recipient may reserve not more than 5 percent of any grant funds received under this subpart in each fiscal year for the costs of administration.

[SEC. 10415. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated to carry out this subpart, $45,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years.]

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[PART F—CIVIC EDUCATION

[SEC. 10601. INSTRUCTION ON THE HISTORY AND PRINCIPLES OF DEMOCRACY IN THE UNITED STATES.

[(a) GENERAL AUTHORITY.—

[(1) PROGRAM ESTABLISHED.—(A) The Secretary is authorized to carry out a program to enhance the attainment of the third and sixth National Education Goals by educating students about the history and principles of the Constitution of the United States, including the Bill of Rights, and to foster civic competence and responsibility.

[(B) Such program shall be known as "We the People . . . The Citizen and the Constitution".

[(2) EDUCATIONAL ACTIVITIES.—The program required by paragraph (1) shall—

[(A) continue and expand the educational activities of the "We the People . . . The Citizen and the Constitution" program administered by the Center for Civic Education; and

[(B) enhance student attainment of challenging content standards in civics and government.

[(3) CONTRACT OR GRANT AUTHORIZED.—The Secretary is authorized to award a grant or enter into a contract with the Center for Civic Education to carry out the program described in paragraph (1).

[(b) PROGRAM CONTENT.—The education program authorized by this section shall provide—

[(1) a course of instruction on the basic principles of our Nation's constitutional democracy and the history of the Constitution and the Bill of Rights;

[(2) at the request of a participating school, school and community simulated congressional hearings following the course of study; and

[(3) an annual national competition of simulated congressional hearings for secondary students who wish to participate in such program.

[(c) AVAILABILITY OF PROGRAM.—The education program authorized by this section shall be made available to public and private elementary and secondary schools in the 435 congressional districts, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

[(d) SPECIAL RULE.—After the provisions of subsection (b) have been implemented, funds provided under this section may be used for—

[(1) advanced training of teachers about the United States Constitution and the political system the United States created; or

[(2) 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, which course shall provide for—

[(A) optional school and community simulated State legislative hearings;

[(B) an annual competition of simulated legislative hearings at the State legislative district, State, and national levels for middle school students who wish to participate in the program; and

[(C) participation by public and private middle schools in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

[SEC. 10602. INSTRUCTION IN CIVICS, GOVERNMENT, AND THE LAW.

[(a) PROGRAM ESTABLISHED.—The Secretary is authorized to carry out a program of awarding grants and contracts to assist State and local educational agencies and other public and private nonprofit agencies, organizations, and institutions to enhance—

[(1) attainment by students of challenging State content standards and challenging State student performance standards in civics, government, and the law; and

[(2) attainment by the Nation of the third and the sixth National Education Goals.

[(b) AUTHORIZED ACTIVITIES.—Assistance under this section may support new and ongoing programs in elementary and secondary schools that provide for—

[(1) the development and implementation of curricular programs that enhance student understanding of—

[(A) the values and principles which underlie, and the institutions and processes which comprise, our Nation's system of government;

[(B) the role of law in our constitutional democracy, including activities to promote—

[(i) legal literacy;

[(ii) a dedication by students to the use of nonviolent means of conflict resolution such as arbitration, mediation, negotiation, trials, and appellate hearings; and

[(iii) respect for cultural diversity and acceptance of cultural differences; and

[(C) the rights and responsibilities of citizenship;

[(2) professional development for teachers, including preservice and inservice training;

[(3) outside-the-classroom learning experiences for students, including community service activities;

[(4) the active participation of community leaders, from the public and private sectors, in the schools; and

[(5) the provision of technical assistance to State and local educational agencies and other institutions and organizations working to further the progress of the Nation in attaining the third and sixth National Education Goals regarding civics and government.

[(c) APPLICATIONS, PEER REVIEW AND PRIORITY.—

[(1) SUBMISSION OF APPLICATIONS.—A State or local educational agency, other public or private nonprofit agency, organization, or institution that desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

[(2) PEER REVIEW.—(A) The Secretary shall convene a panel of individuals for purpose of reviewing and rating applications submitted under paragraph (1).

[(B) Such individuals shall have experience with education programs in civics, government, and the law.

[(3) PRIORITY.—In awarding grants or awarding contracts under this section, the Secretary shall give priority consideration to applications which propose the operation of statewide programs.

[(d) DURATION OF GRANTS AND EXCEPTION.—

[(1) DURATION.—Except as provided in paragraph (2), the Secretary shall award grants and contracts under this section for periods of two or three years.

[(2) EXCEPTION.—The Secretary may award a grant or a contract under this section for a period of less than 2 years if the Secretary determines that special circumstances exist which warrant a 1-year grant or contract award.

[SEC. 10603. REPORT; AUTHORIZATION OF APPROPRIATIONS.

[(a) REPORT.—The Secretary shall report, on a biennial basis to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate regarding the distribution and use of funds authorized under this part.

[(b) AUTHORIZATION OF APPROPRIATIONS.—

[(1) GENERAL.—There are authorized to be appropriated to carry out this part $15,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

[(2) ALLOCATION.—Except as provided in paragraph (3), from the amount appropriated under subsection (a), the Secretary shall allocate—

[(A) 40 percent of such amount to carry out section 10601; and

[(B) 60 percent of such amount to carry out section 10602.

[(3) SPECIAL RULE.—From funds appropriated under paragraph (1), the Secretary shall make available for fiscal year 1995 and each succeeding fiscal year thereafter for the programs under sections 16101 and 16102 not less than the amount made available for fiscal year 1994 to carry out such programs under sections 4609 and 1562, respectively, of this Act (as such sections were in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994).

[PART G—ALLEN J. ELLENDER FELLOWSHIP PROGRAM

[SEC. 10701. FINDINGS.

[The Congress finds as follows:

[(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, the teachers who work with such students, and older Americans, so that such students, teachers, and older Americans may participate in the programs supported by the Close Up Foundation.

[Subpart 1—Program for Middle and Secondary School Students

[SEC. 10711. ESTABLISHMENT.

[(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants in accordance with the provisions of this subpart 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 middle and secondary school students.

[(b) USE OF FUNDS.—Grants under this subpart shall be used only to provide financial assistance to economically disadvantaged students who participate in the program described in subsection (a). Financial assistance received pursuant to this subpart by such students shall be known as Allen J. Ellender fellowships.

[SEC. 10712. APPLICATIONS.

[(a) APPLICATION REQUIRED.—No grant under this subpart 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 such application shall contain provisions to assure—

[(1) that fellowship grants are made to economically disadvantaged middle and secondary school students;

[(2) 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 student with disabilities, ethnic minority students, and gifted and talented students; and

[(3) the proper disbursement of the funds received under this subpart.

[Subpart 2—Program for Middle and Secondary School Teachers

[SEC. 10721. ESTABLISHMENT.

[(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants in accordance with the provisions of this subpart 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 teaching skills enhancement for middle and secondary school teachers.

[(b) USE OF FUNDS.—Grants under this subpart shall be used only for financial assistance to teachers who participate in the program described in subsection (a). Financial assistance received pursuant to this subpart by such individuals shall be known as Allen J. Ellender fellowships.

[SEC. 10722. APPLICATIONS.

[(a) APPLICATION REQUIRED.—No grant under this subpart 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 such application shall contain provisions to assure—

[(1) 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 section 10711(a);

[(2) that not more than one teacher in each school participating in the programs provided for in section 10711(a) may receive a fellowship in any fiscal year; and

[(3) the proper disbursement of the funds received under this subpart.

[Subpart 3—Programs for Recent Immigrants, Students of Migrant Parents and Older Americans

[SEC. 10731. ESTABLISHMENT.

[(a) GENERAL AUTHORITY.—

[(1) IN GENERAL.—The Secretary is authorized to make grants in accordance with the provisions of this subpart 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 older Americans, recent immigrants and students of migrant parents.

[(2) DEFINITION.—For the purpose of this subpart, the term "older American" means an individual who has attained 55 years of age.

[(b) USE OF FUNDS.—Grants under this subpart 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 Allen J. Ellender fellowships.

[SEC. 10732. APPLICATIONS.

[(a) APPLICATION REQUIRED.—No grant under this subpart 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.—Except such application shall contain provisions to assure—

[(1) that fellowship grants are made to economically disadvantaged older Americans, recent immigrants and students of migrant parents;

[(2) that every effort will be made to ensure the participation of older Americans, 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 older Americans, recent immigrants and students of migrant parents with special needs, including individuals with disabilities, ethnic minorities, and gifted and talented students;

[(3) that activities permitted by subsection (a) are fully described; and

[(4) the proper disbursement of the funds received under this subpart.

[Subpart 4—General Provisions

[SEC. 10741. ADMINISTRATIVE PROVISIONS.

[(a) GENERAL RULE.—Payments under this part 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 part.

[SEC. 10742. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—There are authorized to be appropriated to carry out the provisions of subparts 1, 2, and 3 of this part $4,400,000 for fiscal year 1995 and such sums as may be necessary of each of the four succeeding fiscal years.

[(b) SPECIAL RULE.—Of the funds appropriated pursuant to subsection (a), not more than 30 percent may be used for teachers associated with students participating in the programs described in section 10711(a).

[PART I—21ST CENTURY COMMUNITY LEARNING CENTERS

[SEC. 10901. SHORT TITLE.

[This part may be cited as the "21st Century Community Learning Centers Act".

[SEC. 10902. FINDINGS.

[The Congress finds that—

[(1) a local public school often serves as a center for the delivery of education and human resources for all members of a community;

[(2) public schools, primarily in rural and inner city communities, should collaborate with other public and nonprofit agencies and organizations, local businesses, educational entities (such as vocational and adult education programs, school-to-work programs, community colleges, and universities), recreational, cultural, and other community and human service entities, for the purpose of meeting the needs of, and expanding the opportunities available to, the residents of the communities served by such schools;

[(3) by using school facilities, equipment, and resources, communities can promote a more efficient use of public education facilities, especially in rural and inner city areas where limited financial resources have enhanced the necessity for local public schools to become social service centers;

[(4) the high technology, global economy of the 21st century will require lifelong learning to keep America's workforce com-

petitive and successful, and local public schools should provide centers for lifelong learning and educational opportunities for individuals of all ages; and

[(5) 21st Century Community Learning Centers enable the entire community to develop an education strategy that addresses the educational needs of all members of local communities.

[SEC. 10903. PROGRAM AUTHORIZATION.

[(a) GRANTS BY THE SECRETARY.—The Secretary is authorized, in accordance with the provisions of this part, to award grants to rural and inner-city public elementary or secondary schools, or consortia of such schools, to enable such schools or consortia to plan, implement, or to expand projects that benefit the educational, health, social service, cultural, and recreational needs of a rural or inner-city community.

[(b) EQUITABLE DISTRIBUTION.—In awarding grants under this part, the Secretary shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

[(c) GRANT PERIOD.—The Secretary shall award grants under this part for a period not to exceed 3 years.

[(d) AMOUNT.—The Secretary shall not award a grant under this part in any fiscal year in an amount less than $35,000.

[SEC. 10904. APPLICATION REQUIRED.

[(a) APPLICATION.—To be eligible to receive a grant under this part, an elementary or secondary school or consortium shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably prescribe. Each such application shall include—

[(1) a comprehensive local plan that enables the school or consortium to serve as a center for the delivery of education and human resources for members of a community;

[(2) an evaluation of the needs, available resources, and goals and objectives for the proposed project in order to determine which activities will be undertaken to address such needs; and

[(3) a description of the proposed project, including—

[(A) a description of the mechanism that will be used to disseminate information in a manner that is understandable and accessible to the community;

[(B) identification of Federal, State, and local programs to be merged or coordinated so that public resources may be maximized;

[(C) a description of the collaborative efforts to be undertaken by community-based organizations, related public agencies, businesses, or other appropriate organizations;

[(D) a description of how the school or consortium will serve as a delivery center for existing and new services, especially for interactive telecommunication used for education and professional training; and

[(E) an assurance that the school or consortium will establish a facility utilization policy that specifically states—

[(i) the rules and regulations applicable to building and equipment use; and

[(ii) supervision guidelines.

[(b) PRIORITY.—The Secretary shall give priority to applications describing projects that offer a broad selection of services which address the needs of the community.

[SEC. 10905. USES OF FUNDS.

[Grants awarded under this part may be used to plan, implement, or expand community learning centers which include not less than four of the following activities:

[(1) Literacy education programs.

[(2) Senior citizen programs.

[(3) Children's day care services.

[(4) Integrated education, health, social service, recreational, or cultural programs.

[(5) Summer and weekend school programs in conjunction with recreation programs.

[(6) Nutrition and health programs.

[(7) Expanded library service hours to serve community needs.

[(8) Telecommunications and technology education programs for individuals of all ages.

[(9) Parenting skills education programs.

[(10) Support and training for child day care providers.

[(11) Employment counseling, training, and placement.

[(12) Services for individuals who leave school before graduating from secondary school, regardless of the age of such individual.

[(13) Services for individuals with disabilities.

[SEC. 10906. DEFINITION.

[For the purpose of this part, the term "community learning center" means an entity within a public elementary or secondary school building that—

[(1) provides educational, recreational, health, and social service programs for residents of all ages within a local community; and

[(2) is operated by a local educational agency in conjunction with local governmental agencies, businesses, vocational education programs, institutions of higher education, community colleges, and cultural, recreational, and other community and human service entities.

[SEC. 10907. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part.

[PART J—URBAN AND RURAL EDUCATION ASSISTANCE

[SEC. 10951. AUTHORIZATION OF APPROPRIATIONS.

[(a) DEMONSTRATION GRANTS.—

[(1) IN GENERAL.—There are authorized to be appropriated $125,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out subparts 1 and 2 (other than section 10975).

[(2) RESERVATION FOR SUBPART 1.—The Secretary shall reserve 50 percent of the amount appropriated under paragraph (1) to carry out subpart 1.

[(3) RESERVATION FOR SUBPART 2.—The Secretary shall reserve 50 percent of the amount appropriated under paragraph (1) to carry out subpart 2 (other than section 10975).

[(b) HIGHER EDUCATION GRANTS.—There are authorized to be appropriated $25,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out section 10975.

[(c) FEDERAL FUNDS TO SUPPLEMENT NOT SUPPLANT NON-FEDERAL FUNDS.—An eligible local educational agency may use funds received under this part only to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of students participating in activities assisted under this part, and in no such case may such funds be used to supplant funds from non-Federal sources.

[SEC. 10952. DEFINITIONS.

[Except as otherwise provided, for the purposes of this part:

[(1) CENTRAL CITY.—The term "central city" has the same meaning used by the Bureau of the Census.

[(2) METROPOLITAN STATISTICAL AREA.—The term "metropolitan statistical area" has the same meaning used by the Bureau of the Census.

[(3) POVERTY LEVEL.—The term "poverty level" means the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census.

[(4) RURAL ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term "rural eligible local educational agency" means a local educational agency—

[(A)(i) in which at least 15 percent of the children enrolled in the schools served by such agency are eligible to be counted under part A of title I; and

[(ii) which is not in a metropolitan statistical area; or

[(B) in which the total enrollment in the schools served by such agency is less than 2,500 students and that does not serve schools located in a metropolitan statistical area.

[(5) URBAN ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term "urban eligible local educational agency" means a local educational agency that—

[(A) serves the largest central city in a State;

[(B) enrolls more than 30,000 students and serves a central city with a population of at least 200,000 in a metropolitan statistical area; or

[(C) enrolls between 25,000 and 30,000 students and serves a central city with a population of at least 140,000 in a metropolitan statistical area.

[Subpart 1—Urban Education Demonstration Grants

[SEC. 10961. FINDINGS.

[The Congress finds that—

[(1) the ability of the Nation's major urban public school systems to meet the Nation's educational goals will determine the country's economic competitiveness and academic standing in the world community;

[(2) the quality of public education in the Nation's major urban areas has a direct effect on the economic development of the Nation's inner-cities;

[(3) the success of urban public schools in boosting the achievement of its minority youth attending such schools will determine the ability of the Nation to close the gap between the "haves and the have-nots" in society;

[(4) the cost to America's businesses to provide remedial education to high school graduates is approximately $21,000,000,000 per year;

[(5) approximately one-third of the Nation's workforce will be members of minority groups by the year 2000;

[(6) urban schools enroll a disproportionately large share of the Nation's poor and "at-risk" youth;

[(7) urban schools enroll approximately one-third of the Nation's poor, 40 percent of the Nation's African American children, and 30 percent of the Nation's Hispanic youth;

[(8) nearly 20 percent of the Nation's limited-English-proficient children and 15 percent of the Nation's disabled youth are enrolled in urban public schools;

[(9) the academic performance of students in the average inner-city public school system is below that of students in most other kinds of school systems;

[(10) urban public school systems have higher dropout rates, more problems with health care, and less parental participation than other kinds of school systems;

[(11) urban preschoolers have one-half the access to early childhood development programs as do other children;

[(12) shortages of teachers in urban public school systems are 2.5 times greater than such shortages in other kinds of school systems;

[(13) declining numbers of urban minority high school graduates are pursuing postsecondary educational opportunities;

[(14) urban public school systems have greater problems with teenage pregnancy, discipline, drug abuse, and gangs than do other kinds of school systems;

[(15) 75 percent of urban public school buildings are over 25 years old, 33 percent of such buildings are over 50 years old, and such buildings are often in serious disrepair and create poor and demoralizing working and learning conditions;

[(16) solving the challenges facing our Nation's urban schools will require the concerted and collaborative efforts of all levels of government and all sectors of the community;

[(17) Federal and State funding of urban public schools has not adequately reflected need; and

[(18) Federal funding that is well-targeted, flexible, and accountable would contribute significantly to addressing the comprehensive needs of inner-city public schools.

[SEC. 10962. PURPOSE.

[It is the purpose of this subpart to provide financial assistance to—

[(1) assist urban public schools in meeting the National Education Goals;

[(2) improve the educational and social well-being of urban public school children;

[(3) close the achievement gap between urban and nonurban public school children, while improving the achievement level of all children nationally;

[(4) conduct coordinated research on urban public education problems, solutions, and promising practices;

[(5) improve the Nation's global economic and educational competitiveness by improving the Nation's urban schools; and

[(6) encourage community, parental, and business collaboration in the improvement of urban schools.

[SEC. 10963. URBAN SCHOOL GRANTS.

[(a) AUTHORITY.—The Secretary is authorized to make grants to eligible local educational agencies serving an urban area or State educational agencies in the case where the State educational agency is the local educational agency for activities designed to assist in local school improvement efforts and school reform, and to assist the schools of such agencies in meeting the National Education Goals.

[(b) AUTHORIZED ACTIVITIES.—Funds under this section may be used to—

[(1) increase the academic achievement of urban public school children to at least the national average, such as—

[(A) effective public schools programs;

[(B) tutoring, mentoring, and other activities to improve academic achievement directly;

[(C) activities designed to increase the participation of minority and female students in entry level and advanced courses in mathematics and science;

[(D) supplementary academic instruction;

[(E) efforts to improve problem-solving and higher-order thinking skills;

[(F) programs to increase student motivation for learning; and

[(G) efforts to lengthen the school day or school year, or to reduce class sizes;

[(2) ensure the readiness of all urban public school children for school, such as—

[(A) full workday, full calendar-year comprehensive early childhood development programs;

[(B) parenting classes and parent involvement activities;

[(C) activities designed to coordinate prekindergarten and child care programs;

[(D) efforts to integrate developmentally appropriate prekindergarten services into the overall public school program;

[(E) upgrading the qualifications of early childhood education staff and standards for programs;

[(F) collaborative efforts with health and social service agencies to provide comprehensive services and to facilitate the transition from home to school;

[(G) establishment of comprehensive child care centers in public secondary schools for students who are parents and their children; and

[(H) augmenting early childhood development programs to meet the special educational and cultural needs of limited-English-proficient preschool children;

[(3) increase the graduation rates of urban public school students to at least the national average, such as—

[(A) dropout prevention activities and support services for public school students at-risk of dropping out of school;

[(B) reentry, outreach, and support activities to recruit students who have dropped out of school to return to school;

[(C) development of systemwide policies and practices that encourage students to stay in school;

[(D) efforts to provide individualized student support, such as mentoring programs;

[(E) collaborative activities between schools, parents, community groups, agencies, and institutions of higher education aimed at preventing individuals from dropping out of school;

[(F) programs to increase student attendance; and

[(G) alternative programs for students, especially bilingual and special education students, who have dropped out of school or are at risk of dropping out of school;

[(4) prepare urban public school students to enter higher education, pursue careers, and exercise their responsibilities as citizens, such as—

[(A) activities designed to increase the number and percentages of students, particularly minority students, enrolling in postsecondary educational institutions after graduation from public secondary schools;

[(B) in-school youth employment, vocational education, and career education programs that improve the transition from school to work;

[(C) activities designed in collaboration with colleges and universities to assist urban public school graduates in completing higher education;

[(D) efforts to increase voter registration among eligible public secondary school students;

[(E) activities designed to promote community service and volunteerism among students, parents, teachers, and the community; and

[(F) civic education and other programs designed to enhance responsible citizenship and understanding of the political process;

[(5) recruit and retain qualified teachers, such as—

[(A) school-based management projects and activities;

[(B) programs designed to test efforts to increase the professionalization of teachers or to bring teachers up to national voluntary standards;

[(C) alternative routes to certification for qualified individuals from business, the military, and other fields;

[(D) efforts to recruit and retain teachers, particularly minority teachers, specializing in critical shortage areas,

including early childhood teachers, mathematics and science teachers, and special education and bilingual teachers;

[(E) upgrading the skills of teacher aides and paraprofessionals to permit such individuals to become certified teachers;

[(F) activities specifically designed to increase the number of minority teachers in urban schools;

[(G) incentives for teachers to work in inner-city public schools; and

[(H) collaborative activities with urban universities to revise and upgrade teacher training programs;

[(6) provide for ongoing staff development to increase the professional capacities of the teaching staff and the skills of teacher aides and paraprofessionals;

[(7) decrease the use of drugs and alcohol among urban public school students and enhance the physical and emotional health of such students, such as—

[(A) activities designed to improve the self-esteem and self-worth of urban public school students;

[(B) the provision of health care services and other social services and the coordination of such services with other health care providers;

[(C) programs designed to improve safety and discipline and reduce in-school violence, vandalism, and gang activity;

[(D) activities that begin in the early grades and are designed to prevent drug and alcohol abuse and smoking among students and teachers;

[(E) collaborative activities with other agencies, businesses, and community groups to discourage the advertisement and glorification of drugs and alcohol;

[(F) efforts to enhance health education and nutrition education; and

[(G) alternative public schools, and schools-within-schools programs, including bilingual and special education programs for public school students with special needs; or

[(8) plan, develop, operate, or expand programs and activities that are designed to assist urban public schools in meeting the National Education Goals, including—

[(A) training of teachers and other educational personnel in subject areas, or in instructional technology and methods that will improve the delivery of services in urban settings and assist in the achievement of the National Education Goals, including staff development efforts that emphasize multicultural and gender and disability bias-free curricula;

[(B) coordination and collaboration with other municipal agencies, child care organizations, universities, or the private sector;

[(C) parental involvement and outreach efforts and other activities designed to enhance parental encouragement of student learning;

[(D) pupil services and other support services that contribute to progress in achieving National Education Goals;

[(E) efforts to acquire and improve access to educational technology;

[(F) assist the schools most in need of services by replicating successful efforts of other urban local educational agencies and expanding successful programs within the eligible agency; or

[(G) efforts to improve and strengthen the curriculum and coordinate services across grade levels.

[(c) APPLICATIONS.—

[(1) IN GENERAL.—An eligible local educational agency desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require, consistent with this section.

[(2) DURATION.—An application submitted pursuant to paragraph (1) may be for a period of not more than five years.

[(d) PAYMENTS.—The Secretary shall make an award only to urban eligible local educational agencies that—

[(1) comply with the provisions of section 10966; and

[(2) demonstrate to the satisfaction of the Secretary that the data submitted pursuant to section 10961 shows progress toward meeting National Education Goals.

[(e) ADMINISTRATIVE COSTS.—Not more than five percent of any award made under this subpart may be used for administrative costs.

[SEC. 10964. SPECIAL RULES.

[(a) SPECIAL CONSIDERATION.—In making awards under this subpart, the Secretary shall give special consideration to urban eligible local educational agencies in which there is—

[(1) low achievement;

[(2) high poverty; and

[(3) racial isolation.

[(b) FLEXIBILITY.—Each urban eligible local educational agency shall have the flexibility to serve homeless children, children in schools undergoing desegregation, immigrants, migrants, or other highly mobile populations within the program assisted under this subpart.

[Subpart 2—Rural Education Initiative

[SEC. 10971. SHORT TITLE.

[This subpart may be cited as the "Rural Education Achievement Program".

[SEC. 10972. PURPOSE.

[It is the purpose of this subpart to address the unique needs of rural school districts that frequently—

[(1) lack the personnel and resources needed to compete for Federal competitive grants; and

[(2) receive formula allocations in amounts too small to be effective in meeting their intended purposes.

[SEC. 10973. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated to carry out this subpart $62,500,000 for fiscal year 2001.

[SEC. 10974. 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, section 2210(b), section 3134, or section 4116.

[(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 paragraph (1) not later than a date that is established by the State educational agency for the notification.

[(b) ELIGIBILITY.—A local educational agency shall be eligible to use the applicable funding in accordance with subsection (a) if—

[(1) 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

[(2) 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.

[(c) APPLICABLE FUNDING.—In this section, the term "applicable funding" means funds provided under each of titles II, IV, and VI, except for funds made available under section 321 of the Department of Education Appropriations Act, 2001.

[(d) DISBURSAL.—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 made available under this section shall be used to supplement and not supplant any other State or local education funds.

[(f) SPECIAL RULE.—References in Federal law to funds for the provisions of law set forth in subsection (c) may be considered to be references to funds for this section.

[(g) CONSTRUCTION.—Nothing in this subpart shall be construed to prohibit a local educational agency that enters into cooperative arrangements with other local educational agencies for the provision of special, compensatory, or other education services pursuant to State law or a written agreement from entering into similar arrangements for the use or the coordination of the use of the funds made available under this subpart.

[SEC. 10975. COMPETITIVE GRANT PROGRAM AUTHORIZED.

[(a) IN GENERAL.—The Secretary is authorized to award grants to eligible local educational agencies to enable the local educational agencies to carry out local activities authorized in part A of title I, section 2210(b), section 3134, or section 4116.

[(b) ELIGIBILITY.—A local educational agency shall be eligible to receive a grant under this section if—

[(1) 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

[(2) 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.

[(c) AMOUNT.—

[(1) IN GENERAL.—The Secretary shall award a grant to a local educational agency under this section for a fiscal year in an amount equal to the amount determined under paragraph (2) for the fiscal year minus the total amount received under the provisions of law described under section 10974(c) for the fiscal year.

[(2) DETERMINATION.—The amount referred to in paragraph (1) is equal to $100 multiplied by the total number of students in excess of 50 students that are in average daily attendance at the schools served by the local educational agency, plus $20,000, except that the amount may not exceed $60,000.

[(3) CENSUS DETERMINATION.—

[(A) IN GENERAL.—Each local educational agency desiring a grant under this section shall determine for each year the number of kindergarten through grade 12 students in average daily attendance at the schools served by the local educational agency during the period beginning or the first day of classes and ending on December 1.

[(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.

[(4) PENALTY.—If the Secretary determines that a local educational agency has knowingly submitted false information under paragraph (3) for the purpose of gaining additional funds under this section, then the local educational agency shall be fined an amount equal to twice the difference between the amount the local educational agency received under this section, and the correct amount the local educational agency would have received under this section if the agency had submitted accurate information under paragraph (3).

[(d) 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.

[(e) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement and not supplant any other State or local education funds.

[SEC. 10976. ACCOUNTABILITY.

[(a) ACADEMIC ACHIEVEMENT.—

[(1) IN GENERAL.—Each local educational agency that uses or receives funds under section 10974 or 10975 for a fiscal year shall—

[(A) administer an assessment that is used statewide and is consistent with the assessment described in section 1111(b), to assess the academic achievement of students in the schools served by the local educational agency; or

[(B) in the case of a local educational agency for which there is no statewide assessment described in subparagraph (A), administer a test, that is selected by the local educational agency, to assess the academic achievement of students in the schools served by the local educational agency.

[(2) SPECIAL RULE.—Each local educational agency that uses or receives funds under section 10974 or 10975 shall use the same assessment or test described in paragraph (1) for each year of participation in the program carried out 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 10974(c) shall—

[(1) after the third year that a local educational agency in the State participates in a program authorized under section 10974 or 10975 and on the basis of the results of the assessments or tests described in subsection (a), determine whether the students served by the local educational agency participating in the program performed better on the assessments or tests after the third year of the participation than the students performed on the assessments or tests after the first year of the participation;

[(2) permit only the local educational agencies that participated in the program and served students that performed better on the assessments or tests, as described in paragraph (1), to continue to participate in the program for an additional period of 3 years; and

[(3) prohibit the local educational agencies that participated in the program and served students that did not perform better on the assessments or tests, as described in paragraph (1), from participating in the program, for a period of 3 years from the date of the determination.

[SEC. 10977. RATABLE REDUCTIONS IN CASE OF INSUFFICIENT APPROPRIATIONS.

[(a) IN GENERAL.—If the amount appropriated for any fiscal year and made available for grants under this subpart is insufficient to pay the full amount for which all agencies are eligible under this subpart, the Secretary shall ratably reduce each such amount.

[(b) ADDITIONAL AMOUNTS.—If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subsection (a) shall be increased on the same basis as such payments were reduced.

[SEC. 10978. APPLICABILITY.

[Sections 10951 and 10952 shall not apply to this subpart.

[Subpart 3—White House Conferences

[SEC. 10981. WHITE HOUSE CONFERENCE ON URBAN EDUCATION.

[(a) AUTHORIZATION TO CALL CONFERENCE.—

[(1) IN GENERAL.—The President is authorized to call and conduct a White House Conference on Urban Education (referred to in this section as the "Conference") which shall be

held not earlier than November 1, 1995, and not later than October 30, 1996.

[(2) PURPOSE.—The purpose of the Conference shall be to—

[(A) develop recommendations and strategies for the improvement of urban education;

[(B) marshal the forces of the private sector, governmental agencies at all levels, parents, teachers, communities, and education officials to assist urban public schools in achieving National Education Goals; and

[(C) conduct the initial planning for a permanent national advisory commission on urban education.

[(b) COMPOSITION OF CONFERENCE.—

[(1) IN GENERAL.—The Conference shall be comprised of 12 individuals, including—

[(A) representatives of urban public school systems, including members of the governing body of local educational agencies, and school superintendents;

[(B) representatives of the Congress, the Department of Education, and other Federal agencies;

[(C) State elected officials and representatives from State educational agencies; and

[(D) individuals with special knowledge of and expertise in urban education.

[(2) SELECTION.—The President shall select one-third of the participants of the Conference, the majority leader of the Senate, in consultation with the minority leader of the Senate, shall select one-third of such participants, and the Speaker of the House of Representatives, in consultation with the minority leader of the House, shall select the remaining one-third of such participants.

[(3) REPRESENTATION.—In selecting the participants of the Conference, the President, the majority leader of the Senate, and the Speaker of the House of Representatives shall ensure that the participants are as representative of the ethnic, racial, and linguistic diversity of cities as is practicable.

[(c) REPORT.—

[(1) IN GENERAL.—Not later than 120 days following the termination of the Conference, a final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President. The final report shall be made public and, not later than 90 days after receipt by the President, transmitted to the Congress together with a statement of the President containing recommendations for implementing the report.

[(2) PUBLICATION AND DISTRIBUTION.—The Conference is authorized to publish and distribute the report described in this section. Copies of the report shall be provided to the Federal depository libraries and made available to local urban public school leaders.

[SEC. 10982. WHITE HOUSE CONFERENCE ON RURAL EDUCATION.

[(a) AUTHORIZATION TO CALL CONFERENCE.—

[(1) IN GENERAL.—The President is authorized to call and conduct a White House Conference on Rural Education (hereafter in this section referred to as the "Conference").

[(2) DATE.—The Conference shall be held not earlier than November 1, 1995, and not later than October 30, 1996.

[(3) PURPOSE.—The purposes of the Conference shall be to—

[(A) develop recommendations and strategies for the improvement of rural public education;

[(B) marshal the forces of the private sector, governmental agencies at all levels, parents, teachers, communities, and education officials to assist rural public schools in achieving National Education Goals, and make recommendations on the roles rural public schools can play to assist with local rural community economic revitalization; and

[(C) conduct the initial planning for a permanent national commission on rural public education.

[(b) COMPOSITION OF CONFERENCE.—

[(1) IN GENERAL.—The Conference shall be comprised of—

[(A) representatives of eligible public school systems, including members of the governing body of local educational agencies, school superintendents, and classroom teachers;

[(B) representatives of the Congress, the Department, and other Federal agencies;

[(C) State elected officials and representatives from State educational agencies;

[(D) individuals with special knowledge of, and expertise in, rural education, including individuals involved with rural postsecondary education; and

[(E) individuals with special knowledge of, and expertise in, rural business.

[(2) SELECTION.—The President shall select one-third of the participants of the Conference, the majority leader of the Senate, in consultation with the minority leader of the Senate, shall select one-third of such participants, and the Speaker of the House of Representatives, in consultation with the minority leader of the House, shall select the remaining one-third of such participants.

[(3) REPRESENTATION.—In selecting the participants of the Conference, the President, the majority leader of the Senate, and the Speaker of the House of Representatives shall ensure that the participants are as representative of the ethnic, racial, and language diversity of rural areas as is practicable.

[(c) REPORT.—

[(1) IN GENERAL.—Not later than 120 days following the termination of the Conference, a final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President. The final report shall be made public and, not later than 90 days after receipt by the President, transmitted to the Congress together with a statement of the President containing recommendations for implementing the report.

[(2) PUBLICATION AND DISTRIBUTION.—The Conference is authorized to publish and distribute the report described in this section. Copies of the report shall be provided to the Federal depository libraries and made available to local rural school leaders and teachers.]

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[PART L—PHYSICAL EDUCATION FOR PROGRESS

[SEC. 10999A. SHORT TITLE.

[This part may be cited as the "Physical Education for Progress Act".

[SEC. 10999B. PURPOSE.

[The purpose of this part is to award grants and contracts to local educational agencies to enable the local educational agencies to initiate, expand and improve physical education programs for all kindergarten through 12th grade students.

[SEC. 10999C. FINDINGS.

[Congress makes the following findings:

[(1) Physical education is essential to the development of growing children.

[(2) Physical education helps improve the overall health of children by improving their cardiovascular endurance, muscular strength and power, and flexibility, and by enhancing weight regulation, bone development, posture, skillful moving, active lifestyle habits, and constructive use of leisure time.

[(3) Physical education helps improve the self esteem, interpersonal relationships, responsible behavior, and independence of children.

[(4) Children who participate in high quality daily physical education programs tend to be more healthy and physically fit.

[(5) The percentage of young people who are overweight has more than doubled in the 30 years preceding 1999.

[(6) Low levels of activity contribute to the high prevalence of obesity among children in the United States.

[(7) Obesity related diseases cost the United States economy more than $100,000,000,000 every year.

[(8) Inactivity and poor diet cause at least 300,000 deaths a year in the United States.

[(9) Physically fit adults have significantly reduced risk factors for heart attacks and stroke.

[(10) Children are not as active as they should be and fewer than one in four children get 20 minutes of vigorous activity every day of the week.

[(11) The Surgeon General's 1996 Report on Physical Activity and Health, and the Centers for Disease Control and Prevention, recommend daily physical education for all students in kindergarten through grade 12.

[(12) Twelve years after Congress passed House Concurrent Resolution 97, 100th Congress, agreed to December 11, 1987, encouraging State and local governments and local educational agencies to provide high quality daily physical education programs for all children in kindergarten through grade 12, little progress has been made.

[(13) Every student in our Nation's schools, from kindergarten through grade 12, should have the opportunity to participate in quality physical education. It is the unique role of quality physical education programs to develop the health-related fitness, physical competence, and cognitive understanding

about physical activity for all students so that the students can adopt healthy and physically active lifestyles.

[SEC. 10999D. PROGRAM AUTHORIZED.

[The Secretary is authorized to award grants to, and enter into contracts with, local educational agencies to pay the Federal share of the costs of initiating, expanding, and improving physical education programs for kindergarten through grade 12 students by—

[(1) providing equipment and support to enable students to actively participate in physical education activities; and

[(2) providing funds for staff and teacher training and education.

[SEC. 10999E. APPLICATIONS; PROGRAM ELEMENTS.

[(a) APPLICATIONS.—Each local educational agency desiring a grant or contract under this part shall submit to the Secretary an application that contains a plan to initiate, expand, or improve physical education programs in the schools served by the agency in order to make progress toward meeting State standards for physical education.

[(b) PROGRAM ELEMENTS.—A physical education program described in any application submitted under subsection (a) may provide—

[(1) fitness education and assessment to help children understand, improve, or maintain their physical well-being;

[(2) instruction in a variety of motor skills and physical activities designed to enhance the physical, mental, and social or emotional development of every child;

[(3) development of cognitive concepts about motor skill and physical fitness that support a lifelong healthy lifestyle;

[(4) opportunities to develop positive social and cooperative skills through physical activity participation;

[(5) instruction in healthy eating habits and good nutrition; and

[(6) teachers of physical education the opportunity for professional development to stay abreast of the latest research, issues, and trends in the field of physical education.

[(c) SPECIAL RULE.—For the purpose of this part, extracurricular activities such as team sports and Reserve Officers' Training Corps (ROTC) program activities shall not be considered as part of the curriculum of a physical education program assisted under this part.

[SEC. 10999F. PROPORTIONALITY.

[The Secretary shall ensure that grants awarded and contracts entered into under this part shall be equitably distributed between local educational agencies serving urban and rural areas, and between local educational agencies serving large and small numbers of students.

[SEC. 10999G. PRIVATE SCHOOL STUDENTS AND HOME-SCHOOLED STUDENTS.

[An application for funds under this part may provide for the participation, in the activities funded under this part, of—

[(1) home-schooled children, and their parents and teachers; or

[(2) children enrolled in private nonprofit elementary schools or secondary schools, and their parents and teachers.

[SEC. 10999H. REPORT REQUIRED FOR CONTINUED FUNDING.

[As a condition to continue to receive grant or contract funding after the first year of a multiyear grant or contract under this part, the administrator of the grant or contract for the local educational agency shall submit to the Secretary an annual report that describes the activities conducted during the preceding year and demonstrates that progress has been made toward meeting State standards for physical education.

[SEC. 10999I. REPORT TO CONGRESS.

[The Secretary shall submit a report to Congress not later than June 1, 2003, that describes the programs assisted under this part, documents the success of such programs in improving physical fitness, and makes such recommendations as the Secretary determines appropriate for the continuation and improvement of the programs assisted under this part.

[SEC. 10999J. ADMINISTRATIVE COSTS.

[Not more than 5 percent of the grant or contract funds made available to a local educational agency under this part for any fiscal year may be used for administrative costs.

[SEC. 10999K. FEDERAL SHARE; SUPPLEMENT NOT SUPPLANT.

[(a) FEDERAL SHARE.—The Federal share under this part may not exceed—

[(1) 90 percent of the total cost of a project for the first year for which the project receives assistance under this part; and

[(2) 75 percent of such cost for the second and each subsequent such year.

[(b) SUPPLEMENT NOT SUPPLANT.—Funds made available under this part shall be used to supplement and not supplant other Federal, State and local funds available for physical education activities.

[SEC. 10999L. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated $30,000,000 for fiscal year 2001, $70,000,000 for fiscal year 2002, and $100,000,000 for each of the fiscal years 2003 through 2005, to carry out this part. Such funds shall remain available until expended.

[TITLE XI—COORDINATED SERVICES

[SEC. 11001. FINDINGS AND PURPOSE.

[(a) FINDINGS.—The Congress finds the following:

[(1) Growing numbers of children are negatively affected by influences outside of the classroom which increase such children's risk of academic failure.

[(2) Factors such as poor nutrition, unsafe living conditions, physical and sexual abuse, family and gang violence, inadequate health care, unemployment, lack of child care, and substance abuse, adversely affect family relationships and the ability of a child to learn.

[(3) Parents and other caregivers in today's high pressure society often face demands which place restraints on such parents' and caregivers' time and affect such parents' and caregivers' ability to adequately provide for the needs of the families of such parents and caregivers.

[(4) Access to health and social service programs can address the basic physical and emotional needs of children so that children can fully participate in the learning experiences offered children in school.

[(5) Services for at-risk students need to be more convenient, and less fragmented, regulated and duplicative, in order to meet the needs of children and their families.

[(6) School personnel, parents, and support service providers often lack knowledge of, and access to, available services for at-risk students and their families in the community, and have few resources to coordinate services and make services accessible.

[(7) Service providers, such as teachers, social workers, health care and child care providers, juvenile justice workers and others, are often trained in separate disciplines that provide little support for the coordination of services.

[(8) Coordination of services is more cost effective because such coordination substitutes prevention for expensive crisis intervention.

[(9) Coordinating health and social services with education can help the Nation meet the National Education Goals by ensuring better outcomes for children.

[(b) PURPOSE OF COORDINATING SERVICES.—The purpose of this title is to provide elementary and secondary school students and their families better access to the social, health and education services necessary for students to succeed in school and for their families to take an active role in ensuring that such students receive the best possible education.

[SEC. 11002. DEFINITIONS.

[For the purpose of this title—

[(1) the term "coordinated services project" means a comprehensive approach to meeting the educational, health, social service, and other needs of children and their families, including foster children and their foster families, through a communitywide partnership that links public and private agencies providing such services or access to such services through a coordination site at or near a school; and

[(2) the term "eligible entity" means a local educational agency, school, or a consortium of schools.

[SEC. 11003. AUTHORITY.

[In order to use funds made available under section 14206(b) for the development, or the implementation or expansion, of a coordinated service project an eligible entity shall have an application approved under subsection (b) or (c), respectively, of section 11004.

[SEC. 11004. PROJECT DEVELOPMENT AND IMPLEMENTATION.

[(a) APPLICATIONS.—Each eligible entity desiring to use funds made available under section 14206(b) shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

[(b) PROJECT DEVELOPMENT PLAN.—The application for the development of the coordinated services project under this title shall cover a period of not more than 1 year and shall include a plan that—

[(1) demonstrates that an assessment will be performed of the economic, social, and health barriers to educational achievement experienced by children and families, including foster children and their foster families, in the community, and the local, State, Federal, and privately funded services available to meet such needs;

[(2) identifies the measures that will be taken to establish a communitywide partnership that links public and private agencies providing services to children and families; and

[(3) identifies any other measures that will be taken to develop a comprehensive plan for the implementation or expansion of a coordinated services project.

[(c) PROJECT IMPLEMENTATION OR EXPANSION PLAN.—The application for the implementation or expansion of a coordinated services project under this title shall contain a plan that includes—

[(1) the results of a children and families needs assessment, which shall include an assessment of the needs of foster children;

[(2) a description of the entities operating the coordinated services project;

[(3) a description of the proposed coordinated services project, the objectives of such project, where such project will be located, and the staff that will be used to carry out such project;

[(4) a description of how the success of the coordinated services project will be evaluated;

[(5) a description of the training to be provided to teachers and appropriate personnel;

[(6) information regarding whether a sliding scale fee for services will be employed, and if not, an explanation of why such scale is not feasible; and

[(7) when applicable, strategies to ensure that the health and welfare needs of migratory families are addressed.

[SEC. 11005. USES OF FUNDS.

[(a) USES.—

[(1) IN GENERAL.—Funds made available under section 14206(b) may be used for planning for, or the implementation or expansion of, activities which include—

[(A) hiring a services coordinator;

[(B) making minor renovations to existing buildings;

[(C) purchasing basic operating equipment;

[(D) improving communications and information-sharing among entities participating in the coordinated services project;

[(E) providing training to teachers and appropriate personnel concerning such teacher's and personnel's role in a coordinated services project; or

[(F) conducting the needs assessment required in section 11004(b)(1).

[(2) PROHIBITION.—Funds made available under section 14206(b) shall not be used for the direct provision of any health or health-related services.

[(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT, NON-FEDERAL FUNDS.—An eligible entity shall use funds received under this title only to supplement the amount of funds that would, in the ab-

sence of such Federal funds, be made available from non-Federal sources for coordinated services, and not to supplant such funds.

[SEC. 11006. CONTINUING AUTHORITY.

[The Secretary shall prohibit an eligible entity from using funds made available under section 14206(b) if the Secretary determines that the coordinated services project assisted under this title is not achieving effective coordination after two years of implementation of such project.

[SEC. 11007. FEDERAL AGENCY COORDINATION.

[(a) AGENCY COORDINATION.—The Secretaries of Education, Health and Human Services, Labor, Housing and Urban Development, Treasury, and Agriculture, and the Attorney General shall review the programs administered by their agencies to identify barriers to service coordination.

[(b) REPORT TO CONGRESS.—Such Secretaries and the Attorney General shall submit jointly a report to the Congress not later than two years after the date of the enactment of the Improving America's Schools Act of 1994, based on the review required under subsection (a) recommending legislative and regulatory action to address such barriers, and during the time preceding the submission of such report, shall use waiver authorities authorized under this and other Acts to address such barriers.

[TITLE XII—SCHOOL FACILITIES INFRASTRUCTURE IMPROVEMENT ACT

[SEC. 12001. SHORT TITLE.

[This title may be cited as the "Education Infrastructure Act of 1994".

[SEC. 12002. FINDINGS.

[The Congress finds the following:

[(1) According to a 1991 survey conducted by the American Association of School Administrators, 74 percent of all public school buildings in the United States need to be replaced.

[(2) Almost one-third of such buildings were built prior to World War II.

[(3) It is estimated that one of every four public school buildings in the United States is in inadequate condition, and of such buildings, 61 percent need maintenance or major repairs, 43 percent are obsolete, 42 percent contain environmental hazards, 25 percent are overcrowded, and 13 percent are structurally unsound.

[(4) Large numbers of local educational agencies have difficulties securing financing for school facility improvement, including school libraries, media centers, and facilities.

[(5) Improving the quality of public elementary and secondary schools will help our Nation meet the National Education Goals.

[(6) The challenges facing our Nation's public elementary and secondary schools require the concerted and collaborative efforts of all levels of government and all sectors of the community.

[SEC. 12003. PURPOSE.

[The purpose of this title is to help the Nation meet the National Education Goals through the provision of Federal funds to enable local educational agencies to meet the costs associated with the improvement of schools within their jurisdiction.

[SEC. 12004. IMPROVEMENT OF PUBLIC ELEMENTARY AND SECONDARY EDUCATION FACILITIES PROGRAM AUTHORIZED.

[(a) PROGRAM AUTHORITY.—

[(1) IN GENERAL.—From amounts appropriated under section 12013 for any fiscal year, the Secretary shall award grants to eligible local educational agencies with applications approved under section 12005 to carry out the authorized activities described in section 12007.

[(2) SPECIAL RULE.—The Secretary may reserve not more than 1 percent of the amount appropriated under section 12013 to provide assistance to Indian schools in accordance with this title.

[(b) AWARD CATEGORIES.—

[(1) IN GENERAL.—From the funds appropriated to carry out this title for each fiscal year, the Secretary shall award grants to eligible local educational agencies in each of the following categories:

[(A) Eligible local educational agencies in which the number of students enrolled is less than 2,500.

[(B) Such agencies in which such number is 2,500 or greater but less than 5,000.

[(C) Such agencies in which such number is 5,000 or greater but less than 10,000.

[(D) Such agencies in which such number is 10,000 or greater but less than 25,000.

[(E) Such agencies in which such number is 25,000 or greater but less than 50,000.

[(F) Such agencies in which such number is 50,000 or greater.

[(c) MAXIMUM AWARD AMOUNTS.—The Secretary shall annually set the maximum award amounts for each category described in subsection (b)(1).

[SEC. 12005. AWARD OF GRANTS.

[(a) CRITERIA.—The Secretary shall award grants under this title on the basis of—

[(1) high numbers or percentages of the total number of children aged 5 to 17, inclusive, residing in the geographic area served by an eligible local educational agency who are counted under subpart 2 of part A of title I;

[(2) the extent to which the eligible local educational agency lacks the fiscal capacity, including the ability to raise funds through the full use of such agency's bonding capacity and otherwise, to undertake the project without Federal assistance;

[(3) the threat of the condition of the physical plant poses to the safety and well-being of students;

[(4) the demonstrated need for the construction, reconstruction, or renovation based on the condition of the facility;

[(5) the age of the facility to be renovated or replaced; and

[(6) such other criteria as the Secretary may prescribe by regulation.

[(b) ALLOCATION AMONG CATEGORIES.—The Secretary shall allocate funds under this title among each of the categories described in paragraph (1) on such basis as the Secretary determines is appropriate, including—

[(1) the relative numbers or percentages of students counted under subpart 2 of part A of title I; and

[(2) the relative costs of carrying out activities under this title in eligible local educational agencies in each such category.

[(c) FREQUENCY OF AWARDS.—No local educational agency may receive more than one grant under this title in any five-year period.

[(d) SPECIAL RULE.—The Secretary shall only award grants under this title if the Secretary determines that sufficient funds will be provided under this title or from other sources, such as the issuance of bonds, or savings generated from performance contracting, to carry out the activities for which assistance is sought.

[SEC. 12006. APPLICATIONS.

[(a) APPLICATIONS REQUIRED.—Each eligible local educational agency desiring to receive a grant under this title shall submit an application to the Secretary.

[(b) APPLICATION CONTENTS.—Each application described in subsection (a) shall contain—

[(1) an assurance that the application was developed in consultation with parents and classroom teachers;

[(2) a description of each architectural, civil, structural, mechanical, or electrical deficiency to be corrected with funds provided under this title, including the priority for the repair of the deficiency;

[(3) a description of the criteria used by the applicant to determine the type of corrective action necessary to meet the purpose of this title;

[(4) a description of the improvement to be supported with funds provided under this title;

[(5) a cost estimate of the proposed improvement;

[(6) an identification of other resources, such as unused bonding capacity, that are available to carry out the activities for which funds are requested under this title;

[(7) a description of how activities supported with funds provided under this title will promote energy conservation; and

[(8) such other information and assurances as the Secretary may reasonably require.

[SEC. 12007. AUTHORIZED ACTIVITIES.

[(a) IN GENERAL.—Each eligible local educational agency receiving a grant under this title shall use the grant funds only to ensure the health and safety of students through the repair, renovation, alteration, and construction of a public elementary or secondary school library, media center, or facility, used for academic or vocational instruction.

[(b) PARTICULAR ACTIVITIES.—Subject to subsection (a), each eligible local educational agency receiving a grant under this title may use the grant funds to meet the requirements of section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

[SEC. 12008. GENERAL PROVISIONS.

[(a) BUDGET AND ACCOUNTING.—In the performance of, and with respect to, the functions, powers, and duties under this title, the Secretary, notwithstanding the provisions of any other law, shall—

[(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code; and

[(2) maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of chapter 35 of title 31, United States Code, but such financial transactions of the Secretary, as the making of loans and vouchers approved by the Secretary, in connection with such financial transactions shall be final and conclusive upon all officers of the Government.

[(b) USE OF FUNDS.—Funds made available to the Secretary pursuant to the provisions of this title shall be deposited in a checking account or accounts with the Treasurer of the United States. Receipts and assets obtained or held by the Secretary in connection with the performance of functions under this title, and all funds available for carrying out the functions of the Secretary under this title (including appropriations therefor, which are hereby authorized), shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with the performance of such functions.

[(c) LEGAL POWERS.—In the performance of, and with respect to, the functions, powers, and duties under this title, the Secretary, notwithstanding the provisions of any other law, may—

[(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this title;

[(2) sue and be sued;

[(3) foreclose on any property or commence any action to protect or enforce any right conferred upon the Secretary by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which the Secretary has made a loan pursuant to this part;

[(4) in the event of any such acquisition, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, but any such acquisition of real property shall not deprive any State or political subdivision of such State civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

[(5) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as the Secretary may fix;

[(6) obtain insurance against loss in connection with property and other assets held; and

[(7) include in any contract or instrument made pursuant to this title such other covenants, conditions, or provisions as may be necessary to assure that the purposes of this title will be achieved.

[(d) CONTRACTS FOR SUPPLIES OR SERVICES.—Section 3709 of the Revised Statutes shall not apply to any contract for services or supplies on account of any property acquired pursuant to this subtitle if the amount of such contract does not exceed $1,000.

[(e) APPLICABILITY OF GOVERNMENT CORPORATION CONTROL ACT.—The provisions of section 9107(a) of title 31, United States Code, which are applicable to corporations or agencies subject to chapter 91 of such title, shall also be applicable to the activities of the Secretary under this title.

[SEC. 12009. FAIR WAGES.

[All laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part by a grant under this title, shall be paid wages not less than those determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act); as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have the authority and functions set forth in reorganization plan of No. 14 of 1950 (15 FR 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934 (commonly known as the Copeland Anti-Kickback Act) as amended (40 U.S.C. 276c, 48 Stat. 948).

[SEC. 12010. REQUIREMENTS.

[(a) SPECIAL RULES.—

[(1) MAINTENANCE OF EFFORT.—An eligible local educational agency may receive a grant under this title for any fiscal year only if the Secretary finds that either the 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 local educational agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the fiscal year for which the determination is made.

[(2) SUPPLEMENT NOT SUPPLANT.—An eligible local educational agency shall use funds received under this title 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 repair, renovation, alteration, and construction of school facilities used for educational purposes, and not to supplant such funds.

[(b) GENERAL LIMITATIONS.—

[(1) REAL PROPERTY.—No part of any grant funds under this title shall be used for the acquisition of any interest in real property.

[(2) MAINTENANCE.—Nothing in this title shall be construed to authorize the payment of maintenance costs in connection with any projects constructed in whole or in part with Federal funds provided under this title.

[(3) ENVIRONMENTAL SAFEGUARDS.—All projects carried out with Federal funds provided under this title shall comply with all relevant Federal, State, and local environmental laws and regulations.

[(4) ATHLETIC AND SIMILAR FACILITIES.—No funds received under this title shall be used for stadiums or other facilities that are primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

[SEC. 12011. FEDERAL ASSESSMENT.

[The Secretary shall reserve not more than 1 percent of funds appropriated for each fiscal year under section 15013—

[(1) to collect such data as the Secretary determines necessary at the school, local, and State levels;

[(2) to conduct studies and evaluations, including national studies and evaluations, in order to—

[(A) monitor the progress of projects supported with funds provided under this title; and

[(B) evaluate the state of United States public elementary and secondary school libraries, media centers, and facilities; and

[(3) to report to the Congress by July 1, 1997, regarding the findings of the studies and evaluations described in paragraph (2).

[SEC. 12012. DEFINITIONS.

[For the purpose of this title—

[(1) the term "construction" means the alteration or renovation of a building, structure, or facility, including—

[(A) the concurrent installation of equipment; and

[(B) the complete or partial replacement of an existing facility, but only if such replacement is less expensive and more cost-effective than alteration, renovation, or repair of the facility;

[(2) the term "school" means a public structure suitable for use as a classroom, laboratory, library, media center, or related facility, the primary purpose of which is the instruction of public elementary and secondary school students; and

[(3) the term "eligible local educational agency" means a local educational agency in which—

[(A) not less than 15 percent of the children that reside in the geographic area served by such agency are eligible to be counted under subpart 2 of part A of title I of this Act; or

[(B) the United States owns Federal property described in section 8015(5), that has an assessed value (determined as of the time or times when acquired) aggregating 90 percent or more of the assessed value of all real property in such agency (determined as of the time or times when so acquired); and

[(C) demonstrates in the application submitted under section 12006 that such agency has urgent repair, renovation, alteration and construction needs for its public elementary or secondary schools used for academic or vocational instruction.

[SEC. 12013. AUTHORIZATION.

[There are authorized to be appropriated to carry out this title $200,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

[TITLE XIII—SUPPORT AND ASSISTANCE PROGRAMS TO IMPROVE EDUCATION

[SEC. 13001. FINDINGS.

[The Congress finds that—

[(1) high-quality technical assistance can enhance the improvements in teaching and learning achieved through the implementation of programs under this Act;

[(2) comprehensive technical assistance and effective program dissemination are essential ingredients of the overall strategy of the Improving America's Schools Act of 1994 to improve programs and provide all children opportunities to meet challenging State content standards and challenging State student performance standards;

[(3) States, local educational agencies, tribes, and schools serving students with special needs, such as students with limited-English proficiency and students with disabilities, have great need for comprehensive technical assistance in order to use funds under this Act to provide such students with opportunities to learn to challenging State content standards and challenging State student performance standards;

[(4) current technical assistance and dissemination efforts are fragmented and categorical in nature, and thus fail to address adequately the needs of States, local educational agencies and tribes for help in integrating into a coherent strategy for improving teaching and learning the various programs under this Act with State and local programs and other education reform efforts;

[(5) too little creative use is made of technology as a means of providing information and assistance in a cost-effective way;

[(6) comprehensive technical assistance can help schools and school systems focus on improving opportunities for all children to meet challenging State content standards and challenging State student performance standards, as such schools and systems implement programs under this Act;

[(7) comprehensive technical assistance will provide coordinated assistance to help States, local educational agencies, tribes, participating colleges and universities, and schools integrate Federal, State, and local education programs in ways that contribute to improving schools and entire school systems;

[(8) technical assistance in support of programs under this Act should be coordinated with the Department's regional offices, the regional educational laboratories, State Literacy Resource Centers, vocational resource centers, and other technical assistance efforts supported by the Department; and

[(9) technical assistance providers should prioritize assistance for local educational agencies and schools.

[SEC. 13002. PURPOSE.

[The purpose of this title is to create a national technical assistance and dissemination system to make available to States, local educational agencies, tribes, schools, and other recipients of funds under this Act technical assistance in—

[(1) administering and implementing programs under this Act;

[(2) implementing school reform programs in a manner that improves teaching and learning for all students;

[(3) coordinating such programs with other Federal, State, and local education plans and activities, so that all students, particularly students at risk of educational failure, are provided opportunities to meet challenging State content standards and challenging State student performance standards; and

[(4) adopting, adapting, and implementing promising and proven practices for improving teaching and learning.

[TITLE XIV—GENERAL PROVISIONS

[PART A—DEFINITIONS

[SEC. 14101. 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 section 602(a)(1) of the Individuals with Disabilities Education Act, 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 determination is made (or, if satisfactory data for that

year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State or, in the case of the United States for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

[(ii) any direct current expenditures by the State for the operation of 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) CHILD.—The term "child" means any person within the age limits for which the State provides free public education.

[(4) 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.

[(5) CONSOLIDATED LOCAL APPLICATION.—The term "consolidated local application" means an application submitted by a local educational agency pursuant to section 14302.

[(6) CONSOLIDATED LOCAL PLAN.—The term "consolidated local plan" means a plan submitted by a local educational agency pursuant to section 14302.

[(7) CONSOLIDATED STATE APPLICATION.—The term "consolidated State application" means an application submitted by a State educational agency pursuant to section 14302.

[(8) CONSOLIDATED STATE PLAN.—The term "consolidated State plan" means a plan submitted by a State educational agency pursuant to section 14302.

[(9) 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.

[(10) COVERED PROGRAM.—The term "covered program" means each of the programs authorized by—

[(A) part A of title I;

[(B) part C of title I;

[(C) title II (other than section 2103 and part D);

[(D) subpart 2 of part A of title III;

[(E) part A of title IV (other than section 4114); and

[(F) title VI.

[(11) The term "current expenditures" means expenditures for free public education—

[(A) including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities; but

[(B) not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds received under title I and title VI.

[(12) DEPARTMENT.—The term "Department" means the Department of Education.

[(13) 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.

[(14) 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.

[(15) 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.

[(16) 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.

[(17) 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.

[(18) 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.

[(19) 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.

[(20) 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.

[(21) OTHER STAFF.—The term "other staff" means pupil services personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

[(22) OUTLYING AREA.—The term "outlying area" means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and for the purpose of section 1121 and any other discretionary grant program under this Act, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

[(23) PARENT.—The term "parent" includes a legal guardian or other person standing in loco parentis.

[(24) PUBLIC TELECOMMUNICATION ENTITY.—The term "public telecommunication entity" has the same meaning given to such term in section 397(12) of the Communications Act of 1934.

[(25) 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(a)(17) 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.

[(26) 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.

[(27) SECRETARY.—The term "Secretary" means the Secretary of Education.

[(28) 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.

[(29) STATE EDUCATIONAL AGENCY.—The term "State educational agency" means the agency primarily responsible for the State supervision of public elementary and secondary schools.

[(30) TECHNOLOGY.—The term "technology" means the latest state-of-the-art technology products and services, such as closed circuit television systems, educational television or radio programs and services, cable television, satellite, copper fiber optic transmission, computer hardware and software, video and audio laser and CD–ROM disks, video and audio tapes, including interactive forms of such products and services, or other technologies.

[SEC. 14102. APPLICABILITY OF THIS TITLE.

[Parts B, C, D, E, and F of this title do not apply to title VIII of this Act.

[SEC. 14103. 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. 14201. 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 specified under paragraph (2) if such State educational agency can demonstrate that the majority of such agency's resources come from non-Federal sources.

[(2) APPLICABILITY.—This section applies to programs under title I, those covered programs described in subparagraphs (C), (D), (E), and (F) of section 14101(10), and administrative funds under section 308(c) of the Goals 2000: Educate America Act.

[(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 the 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; and

[(E) technical assistance under programs specified in subsection (a)(2).

[(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).

[(f) CONSOLIDATION OF FUNDS FOR STANDARDS AND ASSESSMENT DEVELOPMENT.—In order to develop challenging State standards and assessments, a State educational agency may consolidate the amounts made available to such agency for such purposes under title I of this Act and title III of the Goals 2000: Educate America Act.

[SEC. 14202. 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. 14203. CONSOLIDATION OF FUNDS FOR LOCAL ADMINISTRATION.

[(a) GENERAL AUTHORITY.—In accordance with regulations of the Secretary, a local educational agency, with the approval of its State educational agency, may consolidate and use for the administration of one or more covered programs for any fiscal year not more than the percentage, established in each covered program, of the total amount available to the local educational agency under such covered programs.

[(b) STATE PROCEDURES.—Within one year from the date of enactment of the Improving America's Schools Act of 1994, a State educational agency shall, in collaboration with local educational agencies in the State, establish procedures for responding to requests from local educational agencies to consolidate administrative funds under subsection (a) and for establishing limitations on the amount of funds under covered 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 covered programs and for the uses described in section 14201(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 covered program, to account for costs relating to the administration of covered programs included in the consolidation.

[SEC. 14204. ADMINISTRATIVE FUNDS STUDIES.

[(a) FEDERAL FUNDS STUDY.—

[(1) IN GENERAL.—The Secretary shall conduct a study of the use of funds under this Act for the administration, by State and local educational agencies, of all covered programs, including the percentage of grant funds used for such purpose in all covered programs.

[(2) STATE DATA.—Beginning in fiscal year 1995 and each succeeding fiscal year thereafter, each State educational agency which receives funds under title I shall submit to the Secretary a report on the use of title I funds for the State administration of activities assisted under title I. Such report shall include the proportion of State administrative funds provided under section 1603 that are expended for—

[(A) basic program operation and compliance monitoring;

[(B) statewide program services such as development of standards and assessments, curriculum development, and program evaluation; and

[(C) technical assistance and other direct support to local educational agencies and schools.

[(3) FEDERAL FUNDS REPORT.—The Secretary shall complete the study conducted under this section not later than July 1, 1997, and shall submit to the President and the appropriate committees of the Congress a report regarding such study within 30 days of the completion of such study.

[(4) RESULTS.—Based on the results of the study described in subsection (a)(1), which may include collection and analysis of the data under paragraph (2) and section 410(b) of the Improving America's Schools Act of 1994, the Secretary shall—

[(A) develop a definition of what types of activities constitute the administration of programs under this Act by State and local educational agencies; and

[(B) within one year of the completion of such study, promulgate final regulations or guidelines regarding the use of funds for administration under all programs, including the use of such funds on a consolidated basis and limitations on the amount of such funds that may be used for administration where such limitation is not otherwise specified in law.

[(b) GENERAL ADMINISTRATIVE FUNDS STUDY AND REPORT.—Upon the date of completion of the pilot model data system described in section 410(b) of the Improving America's Schools Act of 1994, the Secretary shall study the information obtained through the use of such data system and other relevant information, as well as any other data systems which are in use on such date that ac-

count for administrative expenses at the school, local educational agency, and State educational agency level, and shall report to the Congress not later than July 1, 1997, regarding—

[(1) the potential for the reduction of administrative expenses at the school, local educational agency, and State educational agency levels;

[(2) the potential usefulness of such data system to reduce such administrative expenses;

[(3) any other methods which may be employed by schools, local educational agencies or State educational agencies to reduce administrative expenses and maximize the use of funds for functions directly affecting student learning; and

[(4) if appropriate, steps which may be taken to assist schools, local educational agencies and State educational agencies to account for and reduce administrative expenses.

[SEC. 14205. CONSOLIDATED SET-ASIDE FOR DEPARTMENT OF THE INTERIOR FUNDS.

[(a) GENERAL AUTHORITY.—

[(1) TRANSFER.—The Secretary shall transfer to the Department of the Interior, as a consolidated amount for covered programs, the Indian education programs under part A of title IX of this Act, 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, the steps to be taken to achieve the National Education Goals, and 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.

[SEC. 14206. AVAILABILITY OF UNNEEDED PROGRAM FUNDS.

[(a) UNNEEDED PROGRAM FUNDS.—With the approval of its State educational agency, a local educational agency that determines for any fiscal year that funds under a covered program (other than part A of title I) are not needed for the purpose of that covered program, may use such funds, not to exceed five percent of the total amount of such local educational agency's funds under that covered program, for the purpose of another covered program.

[(b) COORDINATION OF SERVICES.—A local educational agency, individual school, or consortium of schools may use a total of not more than five percent of the funds such agency, school, or consortium, respectively, receives under this Act for the establishment

and implementation of a coordinated services project in accordance with the requirements of title XI of this Act.

[PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

[SEC. 14301. PURPOSE.

[It is the purpose of this part to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery under this Act and enhanced integration of programs under this Act with educational activities carried out with State and local funds.

[SEC. 14302. OPTIONAL CONSOLIDATED STATE PLANS OR APPLICATIONS.

[(a) GENERAL AUTHORITY.—

[(1) SIMPLIFICATION.—In order to simplify application requirements and reduce the burden for State educational agencies under this Act, the Secretary, in accordance with subsection (b), shall establish procedures and criteria under which a State educational agency may submit a consolidated State plan or a consolidated State application meeting the requirements of this section for—

[(A) each of the covered programs in which the State participates; and

[(B) the additional programs described in paragraph (2).

[(2) ADDITIONAL PROGRAMS.—A State educational agency may also include in its consolidated State plan or consolidated State application—

[(A) the Even Start program under part B of title I;

[(B) the Prevention and Intervention Programs for Youth Who Are Neglected, Delinquent, or At-Risk of Dropping Out under part D of title I;

[(C) programs under the Goals 2000: Educate America Act;

[(D) programs under the School-to-Work Opportunities Act of 1994; and

[(E) such other programs as the Secretary may designate.

[(3) CONSOLIDATED APPLICATIONS AND PLANS.—A State educational agency that submits a consolidated State plan or a consolidated State application under this section shall not be required to submit separate State plans or applications under any of the programs to which the consolidated State plan or consolidated State application under this section applies.

[(b) COLLABORATION.—

[(1) IN GENERAL.—In establishing criteria and procedures under this section, the Secretary shall collaborate with State educational agencies and, as appropriate, with other State agencies, local educational agencies, public and private nonprofit agencies, organizations, and institutions, private schools, and representatives of parents, students, and teachers.

[(2) CONTENTS.—Through the collaborative process described in subsection (b)(1), the Secretary shall establish, for each pro-

gram 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. 14303. GENERAL APPLICABILITY OF STATE EDUCATIONAL AGENCY ASSURANCES.

[(a) ASSURANCES.—A State educational agency that submits a consolidated State plan or consolidated State application under this Act, whether separately or under section 14302, shall have on file with the Secretary a single set of assurances, applicable to each program for which such plan or application is submitted, that provides that—

[(1) each 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. 14304. ADDITIONAL COORDINATION.

[(a) ADDITIONAL COORDINATION.—In order to explore ways for State educational agencies to reduce administrative burdens and promote the coordination of the education services of this Act with other health and social service programs administered by such agencies, the Secretary is directed to seek agreements with other Federal agencies (including the Departments of Health and Human Services, Justice, Labor and Agriculture) for the purpose of establishing procedures and criteria under which a State educational agency would submit a consolidated State plan or consolidated State application that meets the requirements of the covered programs.

[(b) REPORT.—The Secretary shall report to the relevant committees 6 months after the date of enactment of the Improving America's Schools Act of 1994.

[SEC. 14305. CONSOLIDATED LOCAL PLANS OR APPLICATIONS.

[(a) GENERAL AUTHORITY.—A local educational agency receiving funds under more than one covered program may submit plans or applications to the State educational agency under such programs on a consolidated basis.

[(b) REQUIRED CONSOLIDATED PLANS OR APPLICATIONS.—A State educational agency that has submitted and had approved a consolidated State plan or application under section 14302 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.

[(c) COLLABORATION.—A State educational agency shall collaborate with local educational agencies in the State in establishing procedures for the submission of the consolidated State plans or consolidated State applications under this section.

[(d) NECESSARY MATERIALS.—The State educational agency shall require only descriptions, information, assurances, and other material that are absolutely necessary for the consideration of the local educational agency plan or application.

[SEC. 14306. OTHER GENERAL ASSURANCES.

[(a) ASSURANCES.—Any applicant other than a State educational agency that submits a plan or application under this Act, whether separately or pursuant to section 14304, shall have on file with the State educational agency a single set of assurances, applicable to each program for which a plan or application is submitted, that provides that—

[(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

[(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to 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 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 State educational agency or the Secretary may find necessary to carry out the State educational agency's or the Secretary's duties; and

[(7) before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and has considered such comment.

[(b) GEPA PROVISION.—Section 442 of the General Education Provisions Act does not apply to programs under this Act.

[SEC. 14307. RELATIONSHIP OF STATE AND LOCAL PLANS TO PLANS UNDER THE GOALS 2000: EDUCATE AMERICA ACT.

[(a) STATE PLANS.—

[(1) IN GENERAL.—Each State plan submitted under the following programs shall be integrated with each other and the State's improvement plan, if any, either approved or being developed, under title III of the Goals 2000: Educate America Act, the School-to-Work Opportunities Act of 1994, and the Carl D. Perkins Vocational and Technical Education Act of 1998:

[(A) Part A of title I (helping disadvantaged children meet high standards).

[(B) Part C of title I (education of migratory children).

[(C) Part D of title I (education of neglected, delinquent, and at-risk youth).

[(D) Title II (professional development).

[(E) Title IV (safe and drug-free schools).

[(F) Title VI (innovative education program strategies).

[(G) Subpart 4 of part A of title IX (Indian education).

[(2) SPECIAL RULE.—Notwithstanding any other provision of this Act, if a requirement relating to a State plan referred to in paragraph (1) is already satisfied by the approved State im-

provement plan for such State under title III of the Goals 2000: Educate America Act, the State plan referred to in paragraph (1) need not separately address that requirement.

[(3) AMENDMENT.—Any State plan referred to in paragraph (1) may, if necessary, be submitted as an amendment to the State improvement plan for such State under title III of the Goals 2000: Educate America Act.

[(b) LOCAL PLANS.—

[(1) IN GENERAL.—Each local educational agency plan submitted under the following programs shall be integrated with each other and its local improvement plan, if any, either approved or being developed, under title III of the Goals 2000: Educate America Act:

[(A) Part A of title I (helping disadvantaged children meet high standards).

[(B) Title II (professional development).

[(C) Title IV (safe and drug-free schools).

[(D) Subpart 4 of part A of title IX (Indian education).

[(E) Subpart 1 of part A of title VII (bilingual education).

[(F) Title VI (innovative education program strategies).

[(G) Part C of title VII (emergency immigrant education).

[(2) PLAN OF OPERATION.—Each plan of operation included in an application submitted by an eligible entity under part B of title I (Even Start) shall be consistent with, and promote the goals of, the State and local improvement plans, either approved or being developed, under title III of the Goals 2000: Educate America Act or, if those plans are not approved or being developed, with the State and local plans under sections 1111 and 1112.

[(3) SPECIAL RULE.—Notwithstanding any other provision of this Act, if a requirement relating to a local plan referred to in paragraph (1) is already satisfied by the local educational agency's approved local improvement plan under title III of the Goals 2000: Educate America Act, the local plan referred to in paragraph (1) need not separately address that requirement.

[(4) SUBMISSION.—Any local plan referred to in paragraph (1) may, if necessary, be submitted as an amendment to the local educational agency's improvement plan under title III of the Goals 2000: Educate America Act.

[PART D—WAIVERS

[SEC. 14401. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

[(a) IN GENERAL.—Except as provided in subsection (c), the Secretary may waive any statutory or regulatory requirement of this Act for a State educational agency, local educational agency, Indian tribe, or school through a local educational agency, that—

[(1) receives funds under a program authorized by this Act; and

[(2) requests a waiver under subsection (b).

[(b) REQUEST FOR WAIVER.—

[(1) IN GENERAL.—A State educational agency, local educational agency, or Indian tribe which desires a waiver shall submit a waiver request to the Secretary that—

[(A) identifies the Federal programs affected by such requested waiver;

[(B) describes which Federal requirements are to be waived and how the waiving of such requirements will—

[(i) increase the quality of instruction for students; or

[(ii) improve the academic performance of students;

[(C) if applicable, describes which similar State and local requirements will be waived and how the waiving of such requirements will assist the local educational agencies, Indian tribes or schools, as appropriate, to achieve the objectives described in clauses (i) and (ii) of subparagraph (B);

[(D) describes specific, measurable educational improvement goals and expected outcomes for all affected students;

[(E) describes the methods to be used to measure progress in meeting such goals and outcomes; and

[(F) describes how schools will continue to provide assistance to the same populations served by programs for which waivers are requested.

[(2) ADDITIONAL INFORMATION.—Such requests—

[(A) may provide for waivers of requirements applicable to State educational agencies, local educational agencies, Indian tribes, and schools; and

[(B) shall be developed and submitted—

[(i)(I) by local educational agencies (on behalf of 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 C of title X; or

[(9) the prohibitions regarding—

[(A) State aid in section 14502; or

[(B) use of funds for religious worship or instruction in section 14507.

[(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 three 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 1997 and each subsequent year, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources 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 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. 14501. 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) 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) 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. 14502. PROHIBITION REGARDING STATE AID.

[A State shall not take into consideration payments under this Act (other than under title VIII) in determining the eligibility of any local educational agency in such State for State aid, or the amount of State aid, with respect to free public education of children.

[SEC. 14503. 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 a State educational agency, local educational agency, or educational service agency or consortium of such agencies receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary and secondary schools in such agency or consortium, such agency or consortium 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 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 educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in such program.

[(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 or consortium described in subsection (a)(1) 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 C of title I (migrant education);

[(B) title II (other than section 2103 and part D of such title);

[(C) title VII;

[(D) title III (other than part B of such title) (Star Schools); and

[(E) part A of title IV (other than section 4114).

[(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 or consortium of such agencies 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 and where the services will be provided; and

[(D) how the services will be assessed.

[(2) TIMING.—Such consultation shall occur before the agency or consortium makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act.

[(3) DISCUSSION REQUIRED.—Such consultation shall include a discussion of service delivery mechanisms that the agency or consortium 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, 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.

[(C) Funds used to provide services under this section shall not be commingled with non-Federal funds.

[SEC. 14504. STANDARDS FOR BY-PASS.

[If, by reason of any provision of law, a State educational agency, local educational agency, educational service agency or consortium 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 or consortium has substantially failed or is unwilling to provide for such participation, as required by section 14503, the Secretary shall—

[(1) waive the requirements of that section for such agency or consortium; and

[(2) arrange for the provision of equitable services to such children, teachers, or other educational personnel through ar-

rangements that shall be subject to the requirements of this section and of sections 14503, 14505, and 14506.

[SEC. 14505. 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 14503 by a State educational agency, local educational agency, educational service agency, or consortium of such agencies. 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 THE 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. 14506. BY-PASS DETERMINATION PROCESS.

[(a) REVIEW.—

[(1) IN GENERAL.—(A) The Secretary shall not take any final action under section 14504 until the State educational agency, local educational agency, educational service agency, or consortium of such agencies 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 or consortium is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), such agency or consortium 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 mod-

ify 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 or consortium 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 14503 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 Improving America's Schools Act of 1994 shall remain in effect to the extent the Secretary determines that such determination is consistent with the purpose of this section.

[SEC. 14507. 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. 14508. APPLICABILITY TO HOME SCHOOLS.

[Nothing in this Act shall be construed to affect home schools.

[SEC. 14509. GENERAL PROVISION REGARDING NONRECIPIENT NONPUBLIC SCHOOLS.

[Nothing in this Act 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. 14510. SCHOOL PRAYER.

[Any State or local educational agency that is adjudged by a Federal court of competent jurisdiction to have willfully violated a Federal court order mandating that such local educational agency remedy a violation of the constitutional right of any student with respect to prayer in public schools, in addition to any other judicial remedies, shall be ineligible to receive Federal funds under this Act until such time as the local educational agency complies with such order. Funds that are withheld under this section shall not be re-

imbursed for the period during which the local educational agency was in willful noncompliance.

[SEC. 14511. 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 includes the health benefits of abstinence; or

[(4) to operate a program of condom distribution in schools.

[(b) LOCAL CONTROL.—Nothing in this section shall be construed to—

[(1) authorize an officer or employee of the Federal Government to mandate, direct, review, or control a State, local educational agency, or schools' instructional content, curriculum, and related activities;

[(2) limit the application of the General Education Provisions Act;

[(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

[(4) create any legally enforceable right.

[SEC. 14512. PROHIBITION ON FEDERAL MANDATES, DIRECTION, AND CONTROL.

[Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

[SEC. 14513. REPORT.

[The Secretary shall report to the Congress not later than 180 days after the date of enactment of the Improving America's Schools Act of 1994 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 Improving America's Schools Act of 1994, particularly with respect to permitting children with similar educational needs to be served in the same educational settings, where appropriate.

[SEC. 14514. REQUIRED PARTICIPATION PROHIBITED.

[Notwithstanding any other provision of law, no State shall be required to participate in any program under the Goals 2000: Educate America Act, or to have content standards or student performance standards approved or certified under such Act, in order to receive assistance under this Act.

[PART F—GUN POSSESSION

[SEC. 14601. GUN-FREE REQUIREMENTS.

[(a) SHORT TITLE.—This section may be cited as the "Gun-Free Schools Act of 1994".

[(b) REQUIREMENTS.—

[(1) IN GENERAL.—Except as provided in paragraph (3), each State receiving Federal funds under this Act shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school under the jurisdiction of local educational agencies 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.

[(2) CONSTRUCTION.—Nothing in this title shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student's regular school setting from providing educational services to such student in an alternative setting.

[(3) SPECIAL RULE.—(A) Any State that has a law in effect prior to the date of enactment of the Improving America's Schools Act of 1994 which is in conflict with the not less than one year expulsion requirement described in paragraph (1) shall have the period of time described in subparagraph (B) to comply with such requirement.

[(B) The period of time shall be the period beginning on the date of enactment of the Improving America's Schools Act and ending one year after such date.

[(4) DEFINITION.—For the purpose of this section, the term "weapon" means a firearm as such term is defined in section 921 of title 18, United States Code.

[(c) SPECIAL RULE.—The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act.

[(d) 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 State law required by subsection (b); and

[(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b), including—

[(A) the name of the school concerned;

[(B) the number of students expelled from such school; and

[(C) the type of weapons concerned.

[(e) REPORTING.—Each State shall report the information described in subsection (c) to the Secretary on an annual basis.

[(f) REPORT TO CONGRESS.—Two years after the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall report to Congress if any State is not in compliance with the requirements of this title.

[SEC. 14602. POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.

[(a) IN GENERAL.—No funds shall be made available under this Act to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.

[(b) DEFINITIONS.—For the purpose of this section, the terms "firearm" and "school" have the same meaning given to such terms by section 921(a) of title 18, United States Code.

[SEC. 14603. DATA AND POLICY DISSEMINATION UNDER IDEA.

[The Secretary shall—

[(1) widely disseminate the policy of the Department in effect on the date of enactment of the Improving America's Schools Act of 1994 with respect to disciplining children with disabilities;

[(2) collect data on the incidence of children with disabilities (as such term is defined in section 602(a)(1) of the Individuals With Disabilities Education Act) engaging in life threatening behavior or bringing weapons to schools; and

[(3) submit a report to Congress not later than January 31, 1995, analyzing the strengths and problems with the current approaches regarding disciplining children with disabilities.

[PART G—EVALUATIONS

[SEC. 14701. EVALUATIONS.

[(a) EVALUATIONS.—

[(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary is authorized to reserve not more than 0.50 percent of the amount appropriated to carry out each program authorized under this Act—

[(A) to carry out comprehensive evaluations of categorical programs and demonstration projects, and studies of program effectiveness, under this Act, and the administrative impact of such programs on schools and local educational agencies in accordance with subsection (b);

[(B) to evaluate the aggregate short- and long-term effects and cost efficiencies across Federal programs under this Act and related Federal preschool, elementary and secondary programs under other Federal law; and

[(C) to strengthen the usefulness of grant recipient evaluations for continuous program progress through improving the quality, timeliness, efficiency, and utilization of program information on program performance.

[(2) SPECIAL RULE.—(A) Paragraph (1) shall not apply to any program under title I.

[(B) If funds are made available under any program assisted under this Act (other than a program under title I) for evaluation activities, then the Secretary shall reserve no additional funds pursuant to the authority in subsection (a)(1) to evaluate such program, but shall coordinate the evaluation of such program with the national evaluation described in subsection (b).

[(b) NATIONAL EVALUATIONS.—

[(1) IN GENERAL.—The Secretary shall use the funds made available under subsection (a) to carry out—

[(A) independent studies of categorical and demonstration programs under this Act and the administrative impact of such programs on schools and local educational agencies, that are coordinated with research supported through the Office of Educational Research and Improvement, using rigorous methodological designs and techniques, including longitudinal designs, control groups, and random assignment, as appropriate, to determine—

[(i) the success of such programs in meeting the measurable goals and objectives, through appropriate targeting, quality services, and efficient administration, and in contributing to achieving the National Education Goals, with a priority on assessing program impact on student performance;

[(ii) the short- and long-term effects of program participation on program participants, as appropriate;

[(iii) the cost and efficiency of such programs;

[(iv) to the extent feasible, the cost of serving all students eligible to be served under such programs;

[(v) specific intervention strategies and implementation of such strategies that, based on theory, research and evaluation, offer the promise of improved achievement of program objectives;

[(vi) promising means of identifying and disseminating effective management and educational practices;

[(vii) the effect of such programs on school and local educational agencies' administrative responsibilities and structure, including the use of local and State resources, with particular attention to schools and agencies serving a high concentration of disadvantaged students; and

[(viii) the effect of Federal categorical programs at the elementary and secondary levels on the proliferation of State categorical education aid programs and regulations, including an evaluation of the State regulations that are developed in response to Federal education laws;

[(B) in collaboration with the national assessment conducted pursuant to section 1601, a comprehensive evaluation of how the Federal Government has assisted the States to reform their educational systems through the various education laws enacted during the 103d Congress, which evaluation shall—

[(i) encompass the changes made in Federal programs pursuant to the Improving America's Schools Act of 1994 as well as in any other law enacted during the 103d Congress that amended a Federal program assisting preschool, elementary, or secondary education;

[(ii) encompass new initiatives such as initiatives under the Goals 2000: Educate America Act, and the

School-to-Work Opportunities Act of 1994, and be coordinated with evaluations of such Acts;

[(iii) include a comprehensive review of the programs developed under the Acts described in clauses (i) and (ii) to determine such programs' overall effect on—

[(I) the readiness of children for schooling;

[(II) the improvement in educational attainment of students in elementary and secondary education; and

[(III) the improvement in skills needed by students to obtain employment or pursue further education upon completion of secondary school or further education;

[(iv) include a comprehensive review of the programs under the Acts described in clauses (i) and (ii) to determine such programs' overall effect—

[(I) on school reform efforts undertaken by States;

[(II) on efforts by States to adopt educational standards to improve schooling for all children, to align their curricula, teacher training, and assessments with such standards, and to bring flexibility to the rules governing how education is to be provided; and

[(III) on student populations that have been the traditional beneficiaries of Federal assistance in order to determine whether such population's educational attainment has been improved as a result of such programs;

[(v) evaluate how the National Assessment Governing Board, the Advisory Council on Education Statistics, and the National Education Goals Panel coordinate, interact, or duplicate efforts to assist the States in reforming the educational systems of States; and

[(vi) include a review of the programs under the Acts described in clauses (i) and (ii) in such detail as the Secretary deems appropriate, and may involve cooperation with other Federal departments and agencies in order to incorporate evaluations and recommendations of such departments and agencies; and

[(C) a study of the waivers granted under section 14401, which study shall include—

[(i) data on the total number of waiver requests that were granted and the total number of such requests that were denied, disaggregated by the statutory or regulatory requirement for which the waivers were requested; and

[(ii) an analysis of the effect of waivers on categorical program requirements and other flexibility provisions in this Act, the School-to-Work Opportunities Act of 1994, and the Goals 2000: Educate America Act, on improvement in educational achievement of participating students and on school and local educational agency administrative responsibilities, structure, and

resources based on an appropriate sample of State educational agencies, local educational agencies, schools, and tribes receiving waivers.

[(D) a study of the waivers provided under section 1114 to support schoolwide programs which shall include—

[(i) the extent to which schoolwide programs are meeting the intent and purposes of any program for which provisions were waived; and

[(ii) the extent to which the needs of all students are being served by such programs particularly students who would be eligible for assistance under any provisions waived.

[(2) INDEPENDENT PANEL.—The Secretary shall appoint an independent panel to review the plan for the evaluation described in paragraph (1), to advise the Secretary on such evaluation's progress, and to comment, if the panel so wishes, on the final report described in paragraph (3).

[(3) REPORT.—The Secretary shall submit a final report on the evaluation described in this subsection by January 1, 1998, to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate.

[(c) RECIPIENT EVALUATION AND QUALITY ASSURANCE IMPROVEMENT.—The Secretary is authorized to provide guidance, technical assistance, and model programs to recipients of assistance under this Act to strengthen information for quality assurance and performance information feedback at State and local levels. Such guidance and assistance shall promote the development, measurement and reporting of valid, reliable, timely and consistent performance indicators within a program in order to promote continuous program improvement. Nothing in this subsection shall be construed to establish a national data system.

[PART H—SENSE OF THE CONGRESS

[SEC. 14801. SENSE OF CONGRESS TO INCREASE THE TOTAL SHARE OF FEDERAL SPENDING ON EDUCATION.

[(a) FINDINGS.—The Congress finds that—

[(1) in order to increase our Nation's standard of living and to increase the number of good jobs, the United States must increase its productivity and ability to compete in the international marketplace by improving the educational level of our workforce;

[(2) although efforts are being made to establish higher educational standards and goals, there is a substantial shortage of resources to meet such standards and goals;

[(3) States and local communities are finding it increasingly difficult to meet ever higher educational standards and goals, and States will not be able to fund needed changes without Federal help to reach such standards and goals;

[(4) the Federal Government has established many educational programs but failed to provide adequate funding for such programs, for example one such program provides education to our Nation's disabled students and was established

with a promise of 40 percent Federal funding but currently receives only eight percent Federal funding;

[(5) the annual shortfall in Federal education programs is approximately half of the promised funding;

[(6) many needed educational improvements will not need Federal funds, however, other suggested changes such as lengthened school years, better pay, after-school activities, mentoring for students at risk, programs for gifted students, and replacing substandard buildings, will require substantial Federal assistance; and

[(7) the Federal contribution to education is less than two percent of the total Federal budget, and in order to make education a national priority, the total percentage of Federal educational funding should be increased by one percent each year over the next eight years to reach 10 percent of the total Federal budget.

[(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the total share of the Federal spending on education should increase by at least one percent each year until such share reaches 10 percent of the total Federal budget.

[SEC. 14802. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

[(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.]

DEPARTMENT OF EDUCATION ORGANIZATION ACT

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TITLE II—ESTABLISHMENT OF THE DEPARTMENT

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[OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS]

OFFICE OF EDUCATIONAL SERVICES FOR LIMITED ENGLISH PROFICIENT CHILDREN

SEC. 209. There shall be in the Department an [Office of Bilingual Education and Minority Languages Affairs] *Office of Educational Services for Limited English Proficient Children*, to be administered by a [Director of Bilingual Education and Minority Languages Affairs,] *Director of Educational Services for Limited English Proficient Children,* who shall be appointed by the Secretary. The Director shall coordinate the administration of bilingual education programs by the Department and shall consult with the Secretary concerning policy decisions affecting bilingual education and minority languages affairs. The Director shall report directly to the Secretary, and shall perform such additional functions as the Secretary may prescribe.

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[SEC. 216. OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS.]

SEC. 216. OFFICE OF EDUCATIONAL SERVICES FOR LIMITED ENGLISH PROFICIENT CHILDREN.

(a) ESTABLISHMENT.—There shall be, in the Department, an [Office of Bilingual Education and Minority Languages Affairs] *Office of Educational Services for Limited English Proficient Children* through which the Secretary shall carry out functions relating to bilingual education.

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PART B OF TITLE XI OF THE EDUCATION AMENDMENTS OF 1978

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[PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

[SEC. 1121. STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS.

[(a)(1) The purpose of the standards developed under this section shall be to afford Indian students being served by a Bureau funded school with the same opportunities as all other students to achieve the National Education Goals embodied in the Goals 2000: Educate America Act. Consistent with the provisions of this section and section 1131, the Secretary shall take such actions as are necessary to coordinate standards developed and implemented under this section with those in the State improvement plans developed and implemented pursuant to the Goals 2000: Educate America Act for the States in which each Bureau funded school operates. In developing and reviewing such standards and coordination, the Secretary shall utilize the findings and recommendations of the panel established in section 315(b)(4) of such Act.

[(2) The Secretary shall take immediate steps to encourage school boards of Bureau funded schools to engage their communities in adopting declarations of purposes of education in their

communities, analyzing the implications of such purposes for their schools, and determining how such purposes may be made to motivate students and faculties and otherwise animate their schools by May 1, 1995. Such declarations shall represent the aspirations of a community for the kinds of persons such community wants its children to increasingly become, and shall include such purposes as assuring that all learners are becoming accomplished in ways important to themselves and respected by their parents and communities, shaping worthwhile and satisfying lives for themselves, exemplifying the best values of the community and humankind, and becoming increasingly effective in shaping the character and quality of the world all learners share.

[(b) Within 18 months of the publication of the voluntary national content standards described in section 203(a)(2) of the Goals 2000: Educate America Act, the Secretary, in consultation with the Secretary of Education and Indian organizations and tribes, shall carry out or cause to be carried out by contract with an Indian organization such studies and surveys, making the fullest use possible of other existing studies, surveys, and plans, as are necessary 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)(1) The Secretary shall revise the minimum academic standards published in the Federal Register of September 9, 1985 (50 Fed. Reg. 174) for the basic education of Indian children in accordance with the purpose described in subsection (a) and the findings of the studies and surveys described in subsection (b), and shall publish such revised standards in the Federal Register for the purpose of receiving comments from the tribes and other interested parties. Within 21 months of the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall establish final standards, distribute such standards to all the tribes and publish such final standards in the Federal Register. The Secretary shall revise such final 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.

[(2) The standards described in paragraph (1) shall apply to Bureau schools, and subject to subsection (f), to contract or grant schools, and may also serve as a model for educational programs for Indian children in public schools. In establishing and revising such standards, the Secretary shall take into account the special needs of Indian students and the support and reinforcement of the specific cultural heritage of each tribe.

[(d) 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 shall be in compliance with the minimum standards required for accreditation of schools in the State where the school is located.

[(e) 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 subsection (c) and (d), where such standards are deemed by such body to be inappropriate. The tribal governing body or designated school board shall, within 60 days thereafter, submit to the Secretary a proposal for alternative standards that take into account the specific needs of the tribe's children. Such revised 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 unreviewable.

[(f)(1) The Secretary, through contracting and grant-making procedures, shall assist school boards of contract or grant schools in the 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. At the request of a contract or grant school board, the Secretary shall provide alternative or modified standards for the standards established under subsections (c) and (d) to take into account the needs of the Indian children and the contract or grant school.

[(2) Within 1 year of the date of the enactment of the Indian Education Technical Amendments Act of 1985, 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 or grant schools. Such standards shall yield data results comparable to those used by Bureau schools.

[(g) Subject to subsections (e) and (f), the Secretary shall begin to implement the standards established under this section immediately upon the date of their establishment. Not later than January 1, 1995, and at each time thereafter 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 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 time lines for bringing each school up to the level required by such standards.

[(h)(1) 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, except that, 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, the requirements of this subsection shall not apply. The requirements of this subsection shall not apply when a temporary closure, consolidation, or substantial curtailment is required by plant conditions which constitute an immediate hazard to health and safety.

[(2) The Secretary shall, by regulation, promulgate standards and procedures for the closing, consolidation, or substantial curtail-

ment of Bureau schools in accordance with the requirements of this subsection.

[(3) Whenever closure, transfer to any other 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 as soon as such consideration or review begins, 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 any other authority, consolidate, or substantially curtail a school, the affected tribe, tribal governing body, and designated local 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 Congress and published in the Federal Register.

[(4) The Secretary may terminate, contract, transfer to any other authority, or consolidate or substantially curtail the operation or facilities of—

[(A) any Bureau funded school that is operated on or after April 1, 1987,

[(B) any program of such a school that is operated on or after April 1, 1987, 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) There are authorized to be appropriated such sums as may be necessary, for academic program costs, in order to bring all Bureau schools and contract or grant schools up to the level required by the applicable standards established under this section.

[(j)(1) All Bureau funded schools shall include within their curriculum a program of instruction relating to alcohol and substance abuse prevention and treatment. The Assistant Secretary shall provide the technical assistance necessary to develop and implement such a program for students in kindergarten and grades 1 through 12, at the request of—

[(A) any Bureau school (subject to the approval of the school board of such school);

[(B) any school board of a school operating under a contract entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.); or

[(C) any school board of a school operating under a grant under the Tribally Controlled Schools Act of 1988.

[(2) In schools operated directly by the Bureau, the Secretary shall provide for—

[(A) accurate reporting of all incidents relating to alcohol and substance abuse; and

[(B) individual student crisis intervention.

[(3) The programs requested under paragraph (1) shall be developed in consultation with the Indian tribe that is to be served by such program and health personnel in the local community of such tribe.

[(4) Schools requesting program assistance under this subsection are encouraged to involve family units and, where appropriate, tribal elders and Native healers in such instructions.

[(k) For purposes of this section, 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.

[(l)(1)(A)(i) The Secretary shall only consider the factors described in subparagraphs (B) and (C) 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) The Secretary shall give consideration to all of the factors under clause (i), but none of the applications under clause (i) may be denied based primarily upon the geographic proximity of public education.

[(B) The Secretary shall consider the following factors relating to the program that is the subject of an application described in subparagraph (A):

[(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 or, in the case of a Bureau funded school, of projected needs analysis done either by a tribe or by Bureau personnel.

[(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.

[(C) The Secretary shall consider with respect to applications described in subparagraph (A) the following factors relating to all the educational services available at the time the application is considered:

[(i) Geographic and demographic factors in the affected areas.

[(ii) Adequacy and comparability of programs already available.

[(iii) Consistency of available programs with tribal educational codes or tribal legislation on education.

[(iv) The history and success of these services for the proposed population to be served, as determined from all factors and not just standardized examination performance.

[(2)(A) The Secretary shall make a determination of whether to approve any application described in paragraph (1)(A) by not later than the date that is 180 days after the day on which such application is submitted to the Secretary.

[(B) If the Secretary fails to make the determination described in subparagraph (A) with respect to an application by the date described in subparagraph (A), the application shall be treated as having been approved by the Secretary.

[(3)(A) Any application described in paragraph (1)(A) may be submitted to 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)—

[(i) shall provide information concerning each of the factors described in paragraph (1)(B), and

[(ii) may provide information concerning the factors described in paragraph (1)(C).

[(4) 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 by not later than the date that is 180 days after the day on which 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)(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 with the commencement of the academic year succeeding 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 by reason of 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.

[SEC. 1122. NATIONAL CRITERIA FOR DORMITORY SITUATIONS.

[(a) The Secretary, in consultation with the Secretary of the Department of Education, and in consultation with Indian organizations and tribes, shall conduct or cause to be conducted by contract with an Indian organization, a study of the costs applicable to boarding arrangements for Indian students provided in Bureau schools, and contract or grant schools, for the purpose of establishing national criteria for such dormitory situations. Such criteria shall include adult-child ratios, needs for counselors (including special needs related to off-reservation boarding arrangements), space, and privacy.

[(b) Not later than January 1, 1996, the Secretary shall propose such criteria, and shall distribute such proposed criteria to the tribes and publish such proposed criteria in the Federal Register for the purpose of receiving comments from the tribes and other interested parties. Within 18 months of the date of the enactment of the Improving America's Schools Act of 1994, the Secretary shall establish final criteria, distribute such final criteria to all the tribes, and publish such final criteria in the Federal Register. The Secretary shall revise such final criteria periodically as necessary.

Any revisions to the criteria established under this section shall be developed subject to requirements established under section 1131.

[(c) The Secretary shall begin to implement the criteria established under this section immediately upon the date of the establishment of such criteria. Not later than January 1, 1997, and at each time thereafter 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 Bureau contract boarding schools up to the criteria established under this section. Such plan shall include predictions for the relative need for each boarding school in the future, detailed information on the status of each school in relation to the criteria established under this section, specific cost estimates for meeting such criteria at each school, and specific time lines for bringing each school up to the level required by such criteria.

[(d)(1) The criteria established under this section may be waived in the same manner as the standards provided under section 1121(c) may be waived under section 1121(e).

[(2) 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.

[(e) There are authorized to be appropriated such sums as may be necessary in order to bring each school up to the level required by the criteria established under this section.

[SEC. 1123. REGULATIONS.

[(a) 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. Accordingly, such provisions may be altered only by means of an amendment to this subsection that is contained in an Act or joint resolution which is enacted into law. To the extent that such provisions of part 32 do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

[(b) The provisions of parts 31, 33, 36, 39, 42, and 43 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, shall be applied by the Federal Government and shall not, before July 1, 1989, be amended, revoked, or altered in any manner. No officer or employee of the executive branch shall have the authority to issue any other regulations, prior to July 1, 1989, that supersede, supplement, or otherwise affect the provisions of such parts. To the extent that the provisions of such parts do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

[(c) After June 30, 1989, no regulation prescribed for the application of any program provided under this title shall become effective unless—

[(1) the regulation has been published as a proposed regulation in the Federal Register,

[(2) an opportunity of not less than 90 days has been afforded the public to comment on the published proposed regulation, and

[(3) the regulation has, after such period for public comment, been published in the Federal Register as a final regulation.

[(d) For purposes of this section, 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) The Secretary shall, in accordance with this section, establish separate geographical attendance areas for each Bureau school.

[(b)(1) Except as provided in paragraph (2), on or after July 1, 1985, no attendance area shall be changed 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 (i) afforded at least six months notice of the intention of the Bureau to change or establish such attendance area, and (ii) given 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.

[(2) In any case where there is more than 1 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) In any case where there is only 1 Bureau operated program located on an Indian reservation, the attendance area for the program shall be the boundaries of the reservation served, and those students residing near the reservation shall also receive services from such program.

[(d) The Bureau shall include in the regulations the requirement that each appropriate education line officer coordinate and consult with the affected tribes and relevant school boards in the establishment of such geographic boundaries.

[SEC. 1125. FACILITIES CONSTRUCTION.

[(a) The Secretary shall immediately begin to bring all schools, dormitories, and other facilities operated by the Bureau or under contract or grant with the Bureau in connection with the education of Indian children into compliance with all applicable Federal, tribal, or State health and safety standards, whichever provide 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 (29 U.S.C. 794), and with the Americans with Disabilities Act of 1990, except that nothing in this section shall require termination of the oper-

ations of any facility which does not comply with such provisions and which is in use on the date of enactment of the Improving America's Schools Act of 1994.

[(b) By January 1, 1996, and at each time thereafter 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 such facilities into compliance with such standards. 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 time lines for bringing each school into compliance with such standards.

[(c) Within six months of the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress, and publish in the Federal Register, the system used to establish priorities for school construction projects. At the time any budget request for school construction is presented, the Secretary shall publish in the Federal Register and submit with the budget request the current list of all school construction priorities.

[(d)(1) A Bureau school may be closed or consolidated, and the programs of a Bureau school may be substantially curtailed, by reason of plant conditions that constitute an immediate hazard to health and safety only if a health and safety officer of the Bureau determines that such conditions exist at the Bureau school.

[(2)(A) In making determinations described in paragraph (1) before July 1, 1989, health and safety officers of the Bureau shall use the health and safety guidelines of the Bureau that were in effect on January 1, 1988.

[(B)(i) If—

[(I) the Secretary fails to publish in the Federal Register in final form before July 1, 1989, and

[(II) action described in paragraph (1) is taken after June 30, 1989, and before the date on which such regulations are published in final form in the Federal Register by reason of the condition of any plant,

an inspection of the condition of such plant shall be conducted by an appropriate tribal, county, municipal, or State health and safety officer 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.

[(ii) The inspection required under clause (i) shall be conducted by a health and safety officer designated jointly by the Secretary and the tribes affected by the action described in paragraph (1). If the Secretary and such tribes are unable to agree on the designation of the health and safety officer, the Secretary shall designate the health and safety officer and shall provide notice of such designation to each of such tribes before the inspection is conducted by such officer.

[(iii) If the health and safety officer conducting an inspection of a plant required under clause (i) determines that conditions at the plant do not constitute an immediate hazard to health and safety, any consolidation or curtailment that was made by reason of conditions at the plant shall immediately cease and any school closed by reason of conditions at the plant shall be reopened immediately.

[(3) If—

[(A) a Bureau school is temporarily closed or consolidated, or the programs of a Bureau school are substantially curtailed, by reason of plant conditions that constitute an immediate hazard to health and safety, and

[(B) the Secretary estimates that the closure, consolidation, or curtailment will be more than 1 year in duration,

the Secretary shall submit to the Congress, by not later than the date that is 6 months after the date on which the closure, consolidation, or curtailment is initiated, a report which sets forth the reasons for such temporary actions and the actions the Secretary is taking to eliminate the conditions that constitute the hazard.

[(e) There are authorized to be appropriated such sums as may be necessary to carry out subsection (a).

[SEC. 1126. BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS.

[(a) 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.

[(b) The Director of the Office shall direct and supervise the operations of all personnel directly and substantially involved with provision of education services by the Bureau, including school or institution custodial or maintenance personnel. The Assistant Secretary for Indian Affairs shall provide for the adequate coordination between the affected Bureau Offices and the Office to facilitate the consideration of all contract functions relating to education. Except as required by section 1129, nothing in this Act shall be construed to require the provision of separate support services for Indian education.

[(c) Education personnel who are under the direction and supervision of the Director of the Office 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, and curriculum.

[(d)(1) The Assistant Secretary shall submit in the annual Budget a plan—

[(A) for school facilities to be constructed under the system required by section 1125(c);

[(B) for establishing priorities among projects and for the improvement and repair of education facilities, which together shall form the basis for the distribution of appropriated funds; and

[(C) including a 5-year plan for capital improvements.

[(2)(A) 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 education facility;

[(ii) similar treatment of all Bureau funded schools;

[(iii) a notice of an allocation of appropriated funds from the Director of the Office directly to the appropriate education line officers; and

[(iv) a system for the conduct of routine preventive maintenance.

[(B) The appropriate education line officers shall make arrangements for the maintenance of education facilities with the local supervisors of the Bureau maintenance personnel who are under the authority of the agency superintendent or area directors, respectively. 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 part 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. Subject to the requirements of subsection (b) of this section, nothing in this Act shall be construed to require the provision of separate operations and maintenance personnel for the Office.

[(3) The requirements of this subsection shall be implemented not later than July 1, 1995.

[(e) 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 of, 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 use to which such gift or bequest is put, and any positive results achieved by such action.

[(f) For the purpose of this section the term "functions" includes powers and duties.

[SEC. 1127. ALLOTMENT FORMULA.

[(a)(1) The Secretary shall establish, by regulation adopted in accordance with section 1139, 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 size 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 boarding arrangements, where determined necessary by a tribal governing body or designated local school board;

[(vii) costs associated with greater lengths of service by educational personnel; and

[(viii) special programs 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) Upon the establishment of the standards required by sections 1121 and 1122, the Secretary shall revise the formula established under this subsection to reflect the cost and funding standards so established. Prior to January 1, 1996, the Secretary shall review the formula established under this section and shall take such steps as may be necessary to increase the availability of counseling services for students in off-reservation boarding schools and other Bureau operated residential facilities. Concurrent with such action, the Secretary shall review the standards established under section 1121 to be certain that adequate provision is made for parental notification regarding, and consent for, such counseling services.

[(b) Notwithstanding any other provisions 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)(1) For fiscal year 1990, and for each subsequent fiscal year, the Secretary shall adjust the formula established under subsection (a) to—

[(A) use 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) consider 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; and

[(C) take into account the provision of residential services on a less than 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.

[(2)(A) The Secretary shall reserve for national school board training 0.2 percent of the funds appropriated for each fiscal year for distribution under this section. Such training shall be conducted through the same organizations through which, and in the same manner in which, the training was conducted in fiscal year 1992, except that the contracts for distribution of such funds shall require that such funds be distributed by the recipient organizations in a manner that assures the same pro rata share is made available for training for each school board in the system. If the contract for such training is not awarded before May 1 of each fiscal year, the contract under which such training was provided for the fiscal year preceding such fiscal year shall be renewed by the Secretary for such fiscal year. The agenda for the training sessions shall be

established by the school boards through their regional or national organizations.

[(B) For each year in which the Secretary uses a weighted unit formula established under subsection (a) to fund Bureau schools, a Bureau school which generates less than 168 weighted units shall receive an additional 2 weighted units to defray school board activities.

[(C) 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) $5,000, or

[(ii) the lesser of—

[(I) $15,000, or

[(II) 1 percent of such allotted funds,

for school board activities for such school, including and 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.

[(3) The Secretary shall adjust the formula established under subsection (a) to use a weighted unit of 2.0 for each eligible Indian student that—

[(A) is gifted and talented, and

[(B) is enrolled in the school on a full-time basis,

in considering the number of eligible Indian students served by the school.

[(4)(A) The Secretary shall adjust the formula established under subsection (a) to use a weighted unit of 0.25 for each eligible Indian student who is enrolled in a year-long credit course in an Indian or Native language as part of the regular curriculum of a school, in considering the number of eligible Indian students served by such school.

[(B) The adjustment required under subparagraph (A) 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 following the 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.

[(d) 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, 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 at a schoolsite (as defined in section 5204(c)(2) of the Tribally Controlled Schools Act of 1988). Funds reserved under this subsection shall remain avail-

able 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 enacted to meet increased pay costs attributable to school level personnel shall be distributed under this section.

[(f) For the purpose of this section, the term "eligible Indian student" means a student who—

[(1) is a member of or is at least a ¼ 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 to Indians 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 boarding school.

[(g)(1) 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.

[(2) 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,

[(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 school site, 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, is in addition to the school's allocation under this section.

[(3) 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 is in addition to funding under this section.

[(h) 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 immediately.

[(i) Beginning with academic year 1994–1995, tuition for the out-of-State students boarding 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 amount 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)(1) The Secretary shall, subject to the availability of appropriated funds, provide grants to each tribe or tribal organization operating a contract school or grant school in the amount determined 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 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) Amounts appropriated to fund the grants provided under this section shall be in addition to, and shall not reduce, the amounts appropriated for the program being administered by the contract or grant school.

[(b)(1) 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) 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 department 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)(1) 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) The administrative cost percentage rate shall be determined to the 1/100 of a decimal point.

[(d)(1)(A) 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.

[(B) 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 subparagraph (A).

[(2) 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.

[(3) 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.

[(4) 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—

[(A) 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

[(B) operates 1 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, and of the indirect costs, that are associated with operating the contract or grant school, a school operated under the Tribally Controlled Schools Act of 1988, and all of such other programs, except 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.

[(e) For purposes of this section:

[(1)(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) 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)(A) Except as otherwise provided in this 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 2 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) The term "maximum base rate" means 50 percent.

[(5) The term "minimum base rate" means 11 percent.

[(6) The term "standard direct cost base" means $600,000.

[(7) 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, construc-

tion, 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.

[(f)(1) Upon the date of enactment of the Indian Education Amendments of 1988, the Secretary shall—

[(A) conduct such studies as may be needed to establish an empirical basis for determining relevant factors substantially affecting the required administrative costs of tribal elementary and secondary educational 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) 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 gen-

erated 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) In carrying out the studies required under this subsection, the Secretary shall obtain the input of, and afford an opportunity to participate to, the Inspector General of the Department of the Interior.

[(4) Determinations described in paragraph (2)(C) shall be based on what is pragmatically possible to do at each location studied, given prudent management practice, irrespective of whether required administrative services were actually or fully delivered at these sites, or other services were delivered instead, during the period of the study.

[(5) Upon completion of the studies conducted under paragraph (1), but in no case later than October 1, 1989, the Secretary shall submit to the Congress a report on the findings of the studies, together with determinations based upon such findings that would affect the definitions of terms used in the formula that is set forth in subsection (c).

[(6) The Secretary shall include in the Bureau's justification for each appropriations request for each fiscal year beginning after fiscal year 1989, a projection of the overall costs associated with the formula set forth in subsection (c) for all tribal elementary or secondary educational programs which the Secretary expects to be funded in the fiscal year for which the appropriations are sought.

[(7) 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.

[(g)(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this section.

[(2) 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 grant determined under subsection (b) bears to the total of all grants determined under subsection (b) for all tribes and tribal organizations for such fiscal year.

[(h)(1) Notwithstanding any other provision of this section, the amount of the grants provided under this section for fiscal year 1989 shall—

[(A) in lieu of being determined under subsection (b), be determined for each tribal elementary or secondary educational program on the same basis that indirect costs were determined for such programs for fiscal year 1988, and

[(B) be subject to the provisions of subsection (d).

[(2) Notwithstanding any other provision of this section, the amount of the grant provided under this section for fiscal year 1990 with respect to each tribal elementary and secondary educational program that was operated by a tribe or tribal organization in fiscal year 1989 shall be equal to—

[(A) if the amount of the grant determined under subsection (b) for fiscal year 1990 with respect to such program exceeds the amount received by the tribe or tribal organization with respect to such program for administrative costs for fiscal year 1988 (or fiscal year 1989 if such program was not operated by the tribe or tribal organization during fiscal year 1988), the sum of—

[(i) such amount received, plus

[(ii) ⅓ of the excess of—

[(I) such amount determined under subsection (b), over

[(II) such amount received, or

[(B) if such amount received exceeds such amount determined under subsection (b), the excess of—

[(i) such amount received, over

[(ii) an amount equal to ⅓ of the excess of—

[(I) such amount received, over

[(II) such amount determined under subsection (b).

[(3) Notwithstanding any other provision of this section, the amount of the grants provided under this section for fiscal year 1991 with respect to each tribal elementary and secondary educational program that was operated by a tribe or tribal organization in fiscal year 1989 shall be equal to—

[(A) if the amount of the grant determined under subsection (b) for fiscal year 1991 with respect to such program exceeds the amount received by the tribe or tribal organization with respect to such program for administrative costs for fiscal year 1990, the sum of—

[(i) such amount received, plus

[(ii) ½ of the excess of—

[(I) such amount determined under subsection (b), over

[(II) such amount received, or

[(B) if such amount received exceeds such amount determined under subsection (b), the excess of—

[(i) such amount received, over

[(ii) an amount equal to ½ of the excess of—

[(I) such amount received over,

[(II) such amount determined under subsection (b).

[(i) 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) Within 24 months of the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall establish within the Office 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) The Division shall have the capacity to conduct such studies, surveys, or other activities as are necessary to gather demographic information on Bureau-funded schools (current and future) and project the amount necessary to provide Indian students in such schools the educational program set forth in this part.

[(c) The Division shall prepare projections on such amounts, along with such other information as the Director of the Office shall require, for each fiscal year beginning after October 1, 1996. The Director of the Office and the Assistant Secretary for Indian Affairs shall use such reports when preparing their annual budget submissions.

[SEC. 1130. UNIFORM DIRECT FUNDING AND SUPPORT.

[(a)(1) Within six months after the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall establish, by regulation adopted in accordance with section 1139, 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)(A) For the purpose of affording adequate notice of funding available pursuant to the allotments made by section 1127, amounts appropriated in an appropriation 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, on 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 actual student attendance.

[(3)(A) Notwithstanding any law or regulation, the supervisor of a Bureau school may expend an aggregate of not more than $35,000 of the amount allotted the school under section 1127 to acquire supplies and equipment for the school without competitive bidding if—

[(i) the cost for any single item purchased does not exceed $10,000;

[(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 prices paid, the quantities acquired, and any other information the supervisor or school board considers relevant.

[(B) 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) 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) 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,

to fund allotments made under section 1127, 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) In the case of all Bureau schools, allotted funds shall be expended on the basis of local financial plans which shall be prepared by the local school supervisor in active consultation with the local school board for each school, and 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. The supervisor shall provide the appropriate 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. The supervisor of the school 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 line education 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) 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 the development of tribal codes of education from funds appropriated pursuant to section 104(a) of such Act.

[(d) 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)(1) 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 of Indian Affairs shall provide for the utilization of any such school facility during any summer in which such utilization is requested.

[(2) Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934 (25 U.S.C. 452 et seq.) 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) The Assistant Secretary of 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)(1) From funds allotted to a Bureau school under section 1127, the Secretary shall, if specifically requested by the tribal governing body (within the meaning of section 1121(k)), 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) 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) 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) Notwithstanding any other provision of law, funds received by a Bureau funded school under this title shall not be considered Federal funds for purposes of meeting a matching funds requirement in any Federal program.

[SEC. 1131. POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION.

[(a) It shall be the policy of the Secretary and the Bureau, in carrying out the functions of the Bureau, to facilitate Indian control of Indian affairs in all matters relating to education.

[(b)(1) All actions under this Act shall be done with active consultation with tribes.

[(2) 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 other alternatives, with the views and concerns of the interested parties given effect unless the Secretary determines, from information educed or presented by the interested parties during 1 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. EDUCATION PERSONNEL.

[(a)(1) 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, and removal of civil service employees, shall not apply to educators or to education positions (as defined in subsection (n)).

[(2) Paragraph (1) shall take effect 1 year after the date of enactment of this Act.

[(b) Not later than the effective date of subsection (a)(2), the Secretary shall prescribe regulations to carry out this section. Such regulations shall govern—

[(1) the establishment of education positions,

[(2) the establishment of qualifications for educators,

[(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 length of the school year applicable to education positions described in subsection (n)(1)(A),

[(10) the leave system for educators, and

[(11) such other matters as may be appropriate.

[(c)(1) 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 (d)(2)(A), a determination by a school board that such a person be hired shall be followed by the 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 paragraph (1)(A)(ii) or that such individual has applied at the national level for an education position.

[(2) 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)(1) In prescribing regulations to govern the appointment of educators, the Secretary shall require—

[(A)(i) that educators employed in a school (other than the supervisor of the school) shall be hired by the supervisor of the school unless there are no qualified applicants available, in which case the vacant position shall be filled at the national level from the 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; and

[(iii) educators employed in an agency office of the Bureau shall be hired by the superintendent for education of the agency office;

[(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, and that subject to paragraph (2), a determination by the school board that such individual should or should not be so employed shall be followed by the supervisor (or with respect to the position of supervisor, by the agency superintendent for education); and

[(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, subject to paragraph (3), a determination by such school board that such individual should or should not be employed shall be followed by the agency superintendent for education.

[(2)(A) The supervisor of a school may appeal to the appropriate agency education line officer any determination by the local school board for the school that an individual be employed, or not be employed, in an education position in the school (other than that of supervisor) by filing a written statement describing the determination and the reasons the supervisor believes such determination 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 education line officer may, for good cause, overturn the determination of the local school board. The 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 determination.

[(B) The education line officer of an agency office of the Bureau may appeal to the Director of the Office any determination by the local school board for the school that an individual be employed, or not be employed, as the supervisor of a school by filing a written statement describing the determination and the reasons the supervisor believes such determination 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 Director may, for good cause, overturn the determination of the local school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such education line officer identifying the reasons for overturning such determination.

[(3) The education line officer of an agency office of the Bureau may appeal to the Director of the Office any determination by the agency school board that an individual be employed, or not be employed, in an education position in such agency office by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the agency 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 Director may, for good cause, overturn the determination of the agency school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such education line officer identifying the reasons for overturning such determination.

[(4) 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 immediately be forwarded to the Secretary, who shall, as soon as possible 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. 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 had 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.

[(5) Except as expressly provided, nothing in this section shall be construed as conferring upon local school boards, authority over, or control of, educators.

[(e)(1) 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) educators employed in Bureau schools shall be notified 60 days prior to the end of the school year whether their employment contract will be renewed for the following year.

[(2) 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) 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)(1) Notwithstanding any provision of the Indian preference laws, such laws shall not apply in the case of any personnel action within the purview of this section respecting an applicant or employee not entitled to Indian preference if each tribal organization concerned grants, in writing, a waiver of the application of such laws with respect to such personnel action, if such a waiver is in writing deemed to be a necessity by the tribal organization, except that this paragraph shall in no way relieve the Bureau of 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) 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 (43 U.S.C. 1602(c); 85 Stat. 688)); or

[(B) in connection with any personnel action referred to in this subsection, any local school board as defined in section 1146, and which has been delegated by such governing body the authority to grant a waiver under such subsection with respect to such personnel action.

[(3) The term "Indian preference laws" means section 12 of the Act of June 18, 1934 (25 U.S.C. 472; 48 Stat. 986) or any other provision of law granting a preference to Indians in promotions and other personnel actions, except that such term shall not be considered to include section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)).

[(g) Subject to the authority of the Office of Personnel Management to determine finally the applicability of chapter 51 of title 5, United States Code, to specific positions and employees in the executive branch, the Secretary shall determine in accordance with subsection (a)(1) the applicability or inapplicability of such chapter to positions and employees in the Bureau.

[(h)(1)(A) Except as otherwise provided in this section, the Secretary shall fix the basic compensation or annual salary rate for educators and education positions at rates comparable to the 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.

[(B) By not later than October 28, 1988, the Secretary shall establish, for contracts for the 1991–1992 academic year, and thereafter, the rates 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 enactment of such amendments and thereafter) to comparable positions in overseas schools under the Defense Department Overseas Teachers Pay and Personnel Practices Act, unless the Secretary establishes such rates within such 6-month period through collective bargaining with the appropriate union representative of the education employees that is recognized by the Bureau.

[(C) By not later than October 28, 1988, the Secretary shall establish the rates of basic compensation or annual salary rates for the positions of teachers and counselors (including dormitory and home-living counselors)—

[(i) for contracts for the 1989–1990 academic year, at rates which reflect ⅓ of the changes in the rates applicable to such positions on April 28, 1988, that must be made to conform the rates to the rates established under subparagraph (B) for such positions for contracts for the 1991–1992 academic year, and

[(ii) for contracts for the 1990–1991 academic year, at rates which reflect ⅔ of such changes.

[(D) The establishment of rates of basic compensation and annual salary rates by the Secretary under subparagraphs (B) and (C) shall not preclude the use of regulations and procedures used by the Bureau before the enactment of the Indian Education Amendments of 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.

[(E)(i) Except as provided in clause (ii), the establishment of rates of basic compensation and annual salary rates by the Secretary 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 the election under paragraph (2) of subsection (o).

[(ii) Any individual described in clause (i) may, during the 5-year period beginning on the date on which the Secretary establishes rates of basic compensation and annual salary rates under subparagraph (B), make an irrevocable election to have the basic compensation rate or annual salary rate of such individual determined in accordance with this paragraph.

[(iii) If an individual makes the election described in clause (ii), such election shall not affect the application to the individual of the same retirement system and leave system that applies to the individual during the fiscal year preceding the fiscal year in which such election is made, except that the individual must use leave accrued during a contract period by the end of that contract period.

[(F) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each of the fiscal years 1990, 1991, and 1992 a written statement by the Secretary which specifies—

[(i) the amount of funds the Secretary needs to pay basic compensation and the annual salaries of educators for such fiscal year, and

[(ii) the amount of funds the Secretary estimates would be needed to pay basic compensation and the annual salaries of educators for such fiscal year if the amendments made to this paragraph by the Indian Education Amendments of 1988 had not been enacted.

[(2) Each educator employed in an education position in Alaska shall be paid a cost-of-living allowance equal to 25 percent of the rate of basic compensation to which such educator is entitled.

[(3)(A) The Secretary may pay a postdifferential 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 1 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) The request under clause (i) shall be deemed granted as requested 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 differential authorized by reason of this subparagraph at the beginning of a school year after either—

[(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.

[(i) Any individual—

[(1) who on the date of enactment of this Act is holding a position which is determined under subsection (f) to be an education position and who elects under subsection (o)(2) to be covered under the provisions of this section, or

[(2) who is an employee of the Federal Government or the municipal government of the District of Columbia and is transferred, promoted, or reappointed, without break in service, from a position under a different leave system to an education position,

shall be credited for the purpose of the leave system provided under regulations prescribed pursuant to subsection (b)(10), with the annual and sick leave to such individual's credit immediately before the effective date of such election, transfer, promotion, or reappointment.

[(j) 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) shall not be so liquidated.

[(k) 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.

[(l) 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.

[(m) In the case of any educator employed in an education position described in subsection (n)(1)(A) who—

[(1) is employed at the close of a school year,

[(2) agrees in writing to serve in such a 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 such receipt of additional compensation.

[(n) For the purpose of this section—

[(1) 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) The term "educator" means an individual whose services are required, or who is employed, in an education position.

[(o)(1) Subsections (a) through (n) of this section apply to an educator hired after November 1, 1979 (and to an educator who elected application under paragraph (2)) and to the position in which such individual is employed. Subject to paragraph (2), the enactment of this Act shall not affect the continued employment of an individual employed on October 31, 1979 in an education position, or such individual's right to receive the compensation attached to such position.

[(2) Any individual employed in an education position on October 31, 1979, may, not later than November 1, 1983, make an irrevocable election to be covered under the provisions of subsections (a) through (n) of this section.

[(p)(1) An educator who was employed in an education position on October 31, 1979, who was eligible to make an election under paragraph (2) of subsection (o) at that time, and who did not make the election under paragraph (2) of subsection (o), may not be placed on furlough (within the meaning of section 7511(a)(5) of title 5, United States Code) without the consent of such educator for an aggregate of more than 4 weeks within the same calendar year, unless—

[(A) the supervisor, with the approval of the local school board (or of the education line officer upon appeal under paragraph (2)), of the Bureau school at which such educator provides services determines that a longer period of furlough is necessary due to an insufficient amount of funds available for personnel compensation at such school, as determined under the financial plan process as determined under section 1130(b) of this Act, and

[(B) all educators (other than principals and clerical employees) providing services at such Bureau school are placed on furloughs of equal length, except that the supervisor, with the approval of the local school board (or of the agency education line officer upon appeal under paragraph (2)), may continue 1 or more educators in pay status if—

[(i) such educators are needed to operate summer programs, attend summer training sessions, or participate in special activities including curriculum development committees; and

[(ii) such educators are selected based upon such educator's qualifications, after public notice of the minimum qualifications reasonably necessary and without discrimination as to supervisory, nonsupervisory, or other status of the educators who apply.

[(2) The supervisor of a Bureau school may appeal to the appropriate agency education line officer any refusal by the local school board to approve any determination of the supervisor that is described in paragraph (1)(A) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be approved. 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 education line officer may, for good cause, approve the determination of the supervisor. The educational line officer shall transmit the determination of such appeal in the form of a written opinion to such local school board and to the supervisor identifying the reasons for approving such determination.

[SEC. 1133. MANAGEMENT INFORMATION SYSTEM.

The Secretary shall establish within the Office, within 1 year after the date of the enactment of the Indian Education Amendments of 1984, a computerized management information system, which shall provide information to the Office. Such information shall include—

[(1) student enrollment;

[(2) curriculum;

[(3) staff;

[(4) facilities;

[(5) community demographics;

[(6) student assessment information; and

[(7) information on the administrative and program costs attributable to each Bureau program, divided into discreet elements.

[SEC. 1134. BUREAU EDUCATION POLICIES.

[Within 180 days of the date of enactment of this Act, the Secretary shall develop, publish in the Federal Register, and submit to all agency and area offices of the Bureau, all tribal governments, and the appropriate committees of the Congress, a draft set of education policies, procedures, and practices for education-related action of the Bureau. The Secretary shall, within 1 year of the date of enactment of this Act, provide that such uniform policies, procedures, and practices shall be finalized and promulgated. Thereafter, such policies, procedures, and practices and their periodic revisions, shall serve as the foundation for future Bureau actions in education.

[SEC. 1135. 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. 1136. 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. 1137. BIENNIAL REPORT.

[(a) The Secretary shall submit to each appropriate committee of the Congress a detailed biennial report on the state of education within the Bureau and any problems encountered in the field of education during the 2-year period covered by the report. Such report shall contain suggestions for improving the Bureau educational system and increasing 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, among other things, include—

[(1) information on the funds provided previously private schools under section 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458d) and recommendations with respect to the future use of such funds;

[(2) the needs and costs of operation and maintenance of tribally controlled community colleges eligible for assistance under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.) and recommendations with respect to meeting such needs and costs; and

[(3) the plans required by sections 1121(g), 1122(c), and 1125(b), of this Act.

[(b) 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 school at least once in every three years. Audits of Bureau schools shall be based upon the extent to which such school has complied with its local financial plan under section 1129.

[SEC. 1138. RIGHTS OF INDIAN STUDENTS.

[Within six months of the date of enactment of this Act, the Secretary shall prescribe such rules and regulations as are necessary to ensure the constitutional and civil rights of Indian students attending Bureau 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. 1140. 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 title 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.

[SEC. 1141. PRORATION OF PAY.

[(a) 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.

[(b) During the course of such year the employee may change election once.

[(c) That portion of the employee's pay which would be paid between academic school years may be paid in lump sum at the election of the employee.

[(d) For the purposes of this section the terms "educator" and "education position" have the meaning contained in paragraphs (1) and (2) of section 1132(n). This section applies to those individuals employed under the provisions of section 1132 of this title or title 5, United States Code.

[SEC. 1142. EXTRACURRICULAR ACTIVITIES.

[(a) 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.

[(b) If an employee elects not to be compensated through the stipend established by this section, the appropriate provisions of title 5, United States Code, shall apply.

[(c) This section applies to all Bureau employees, whether employed under section 1132 of this title or title 5, United States Code.

[SEC. 1143. EARLY CHILDHOOD DEVELOPMENT PROGRAM.

[(a) 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)(1) 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) 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 1 tribe that has less than 500 members, or

[(ii) by 1 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)(1) 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) Applications submitted under paragraph (1) shall set forth the early childhood development program that the applicant desires to operate.

[(d) 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) 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 American 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 American Indians.

[(f) The Secretary shall, out of funds appropriated under the authority of subsection (g), include in the grants provided under subsection (a) amounts for administrative costs incurred by the tribe or tribal organization in establishing and maintaining the early childhood development program.

[(g) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $10,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

[SEC. 1144. TRIBAL DEPARTMENTS OF EDUCATION.

[(a) 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 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 (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) by encouraging tribal administrative support of all Bureau funded educational programs as well as encouraging tribal cooperation and coordination with all educational programs receiving financial support from State agencies, other Federal agencies, or private entities,

[(5) provide for the development and enforcement of 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 (25 U.S.C. 450h) that are in effect on the date application for such grants are made.

[(c)(1) In approving and funding applications for 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 tech-

nical 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) 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) The Secretary shall not impose any terms, conditions, or requirements on the provision of grants under this section that are not specified in this section.

[(e) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $2,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

[SEC. 1145. PAYMENTS.

[(a)(1) Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in 2 payments—

[(A) one payment to be made not later than July 15 of each year in an amount equal to one-half 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) For any school for which no payment 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) 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) The provisions of chapter 39 of title 31, United States Code, shall apply to the payments required to be made by paragraphs (1), (2), and (3) of this subsection.

[SEC. 1146. DEFINITIONS.

[For the purpose of this part, unless otherwise specified—

[(1) the term "agency school board" means a body, the members of which are appointed by the school boards of the schools located within such agency, 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;

[(2) the term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior;

[(3) the term "Bureau funded school" means—

[(A) a Bureau school;

[(B) a contract school; or

[(C) a school for which assistance is provided under the Tribally Controlled Schools Act of 1988;

[(4) 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) the term "contract or grant school" means an elementary or secondary school or a 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 (25 U.S.C. 450f, 450h(a), and 458d) or under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2504);

[(6) the term "education line officer" means education personnel under the supervision of the Director, whether located in central, area, or agency offices;

[(7) the term "family literacy services" has the meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801);

[(8) the term "financial plan" means a plan of services to be provided by each Bureau school;

[(9) 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 Indian tribes;

[(10) 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) 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) the term "Office" means the Office of Indian Education Programs within the Bureau;

[(13) the term "Secretary" means the Secretary of the Interior;

[(14) the term "supervisor" means the individual in the position of ultimate authority at a Bureau school; and

[(15) 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 established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1801 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.]

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 boundaries 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 revising 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 providing 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) situations), therapeutic programs, space, and privacy. Such standards shall be implemented in Bureau operated schools, and shall serve as minimum standards for contract or grant schools. Once established, any revisions of such standards shall be developed according to the requirements established under section 1138A.

(b) IMPLEMENTATION.—The Secretary shall implement the revised standards established under this section immediately upon their completion.

(c) PLAN.—At the time of each annual budget submission for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress, the tribes, and the affected schools, and publish in the Federal Register, a detailed plan to bring all Bureau funded schools that provide home-living (dormitory) situations up to the standards established under this section. Such plan shall include a statement of the relative needs of each Bureau funded home-living (dormitory) school, projected future needs of each Bureau funded home-living (dormitory) school, detailed information on the status of each school in relation to the standards established under this section, specific cost estimates for meeting each standard for each such school, aggregate cost estimates for bringing all such schools into compliance 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 enable 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 Bureau determines that such conditions exist at the Bureau funded school.

(2) INSPECTION.—(A) After making a determination described in paragraph (1), the Bureau health and safety officer shall conduct an inspection of 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 established 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 Bu-

reau 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 determined 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 appropriated for the program being administered by the contract or grant school.

(b) DETERMINATION OF GRANT AMOUNT.—

(1) IN GENERAL.—The amount of the grant provided to each tribe or tribal organization under this section for each fiscal year shall be determined by applying the administrative cost 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 department 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 Behind 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 information 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 programs 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 tech-

nical 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 positions at rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5, United States Code, is applicable or on the basis of the Federal Wage System schedule in effect for the locality, and 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 Behind Act of 2001, each school board may set the rate of compensation or annual salary rate for teachers and counselors (including academic counselors) who are new hires at the school and who have not worked at the school 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-differential 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 ac-

crued 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 obtain 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 cooperation and coordination with all educational programs receiving financial support from State agencies, other Federal agencies, or private entities;

(5) provide for the development and enforcement of 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 requirements 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 established 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.

TRIBALLY CONTROLLED SCHOOLS ACT OF 1988

* * * * * * *

[SEC. 5202. FINDINGS.

[The 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 to the Indian people 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 the 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 nor created the diverse opportunities and personal satisfaction which 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.—The 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 educational services so as to render such services more responsive to the needs and desires of those communities.

[(b) COMMITMENT.—The 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.—The Congress declares that a major national goal of the United States is to provide the resources, processes, and structures 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.—The 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.—The 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.—The Congress hereby repudiates and rejects House Concurrent Resolution 108 of the 83rd Congress and any policy of unilateral termination of Federal relations with any Indian Nation.

[SEC. 5204. GRANTS AUTHORIZED.

[(a) IN GENERAL.—

[(1) 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 schools;

[(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 schools with assistance under this part and submit applications (which are approved by their tribal governing bodies) to the Secretary for such grants.

[(2) 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 provided.

[(3)(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 operation 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).

[(C) If funds allocated to a tribally controlled school under title I of the Elementary and Secondary Education Act of 1965, the Individuals with Disabilities Education Act, or any Federal education law other than title XI of the Education Amendments of 1978 are included in a grant provided under this part, a portion of the grant equal to the amount of the funds allocated under such law shall be expended only for those activities for which funds provided under such law may be expended under the terms of such law.

[(b) LIMITATIONS.—

[(1) No more than one grant may be provided under this part with respect to any Indian tribe or tribal organization for any fiscal year.

[(2) Funds provided under any grant made under this part may not be used in connection with religious worship or sectarian instruction.

[(3) Funds provided under any grant made under this part may not be expended for administrative costs (as defined under section 1128A(e)(1) of the Education Amendments of 1978) in excess of the amount generated for such costs under section 1128A of such Act.

[(c) LIMITATION ON TRANSFER OF FUNDS AMONG SCHOOLSITES.—

[(1) In the case of a grantee which operates schools at more than one schoolsite, the grantee may expend no more than the lesser of—

[(A) 10 percent of the funds allocated for a schoolsite under section 1128 of the Education Amendments of 1978, or

[(B) $400,000 of such funds,

at any other schoolsite.

[(2) 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 with, the Bureau for which a discreet stu-

dent count is identified under the funding formula established under section 1128 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 into applying for, or accepting,

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.—Whenever an 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 not more than 120 days after the date on which the tribal governing body requests the retrocession, or such later date as may be 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.

The tribe requesting retrocession shall specify whether the retrocession is to status as a Bureau school or as a contract school under title XI of the Education Amendments of 1978. 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—

[(1) with assistance under this part, or

[(2) upon assumption of operation of the program under this part if it was a Bureau funded school under title XI of the Education Amendments of 1978 before receiving assistance under this part.

[(g) NO TERMINATION FOR ADMINISTRATIVE CONVENIENCE.—Grants provided under this Act may not be terminated, modified, suspended, or reduced only 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 1128 and 1128A of the Education Amendments of 1978 with respect to the tribally controlled schools eligible for assistance under this part that 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 (25 U.S.C. 450j), or any other provision of law, other facilities accounts for such schools for such fiscal year (including but not limited to all those referenced under section 1216(d) of the Education Amendments of 1978, or any other law), and

[(3) the total amount 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 allocated to such schools for such fiscal year.

[(b) SPECIAL RULES.—

[(1) In the allocation of funds under sections 1128, 1128A, and 1126(d) of the Education Amendments of 1978, tribally controlled schools for which grants are provided under this part shall be treated as contract schools.

[(2) In the 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, tribally controlled schools for which grants are provided under this part shall be treated as Bureau schools.

[(3)(A) Funds allocated to a tribally controlled school by reason of paragraph (1) or (2) 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).

[(4) Notwithstanding the provision of paragraph 5204(a)(2) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2503(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 such paragraph (a)(2), the grantee shall maintain a separate account for such funds and shall, at the end of the period designated for the work covered by the funds received, render a separate accounting of the work done and the funds used to the Secretary. Funds received from these accounts may only be used for the purposes for which they were appropriated and for

the work encompassed by the application or submission under which they were received, except that 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 one-fourth of the total cost of such new construction. 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 funds: *Provided,* That such period may be extended upon mutual agreement.

[(5) If the Secretary fails to make a determination 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 of 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) IN GENERAL.—

[(1) A tribally controlled school is eligible for assistance under this part if the school—

[(A) was, on April 28, 1988, 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 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) 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 enactment of this Act 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 SCHOOLS AND CERTAIN ELECTING SCHOOLS.—

[(1) A school that was a Bureau funded school under title XI of the Education Amendments of 1978 on April 28, 1988., 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 of 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)(A) By no 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) if the school 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 Indian 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) substantive knowledge of operating the school,

[(iv) adequately trained personnel, or

[(v) any other necessary components in the operation of the school.

[(c) ADDITIONAL REQUIREMENTS FOR A SCHOOL WHICH IS NOT A BUREAU FUNDED SCHOOL.—

[(1) 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 of 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)(A) By no 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 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 to education; and

[(IV) the history and success of these services for the proposed population to be served, as determined from all factors and not just 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 an earlier date, at the Secretary's discretion.

[(d) APPLICATIONS AND REPORTS.—

[(1) All applications and reports submitted to the Secretary under this part, and any amendments to such applications or reports, shall be filed with the agency or area education officer designated by the Director of the Office of Indian Education 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 is submitted to the Secretary.

[(2) Any application that is submitted under this part 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 in 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 with 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) Whenever the Secretary declines to provide a grant under this part, 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) 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) The Secretary shall reconsider any amended application submitted under this part within 60 days after the amended application is submitted to the Secretary.

[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.—Each recipient of a grant provided under this part shall submit to the Secretary and to the tribal governing body (within the meaning of section 1121(j) of the Education Amendments of 1978) of the tribally controlled school an annual report that shall be limited to—

[(1) an annual financial statement reporting revenue and expenditures as defined by the cost accounting established by the grantee;

[(2) a biannual financial audit conducted pursuant to the standards of the Single Audit Act of 1984;

[(3) an annual submission to the Secretary of the number of students served and a brief description of programs offered under the grant; and

[(4) a program evaluation conducted by an impartial entity, to be based on the standards established for purposes of subsection (c)(1)(A)(ii).

[(c) REVOCATION OF ELIGIBILITY.—

[(1)(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 as recognized by the Secretary of Education, 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 students within the education programs 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 school accepts 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 once every 3 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 enactment of this Act, such evaluation to be conducted by an impartial evaluator agreed to by the Secretary and the grantee. If the Secretary and a 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 purposes of subparagraph (A)(ii) shall be consistent with section 1121(e) of the Education Amendments of 1978.

[(2) 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 1121(j) 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 any remedial actions.

The Secretary shall provide such technical assistance as is necessary 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) Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in 2 payments, of which—

[(A) the first payment shall be made not later than July 15 of each year in an amount equal to one-half 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) 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) 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) 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) 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) Notwithstanding any other provision of law, any interest or investment income that accrues on 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 em-

ployee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law.

[(2) Funds provided under this part may be—

[(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

[(B) deposited only into accounts that are insured by an agency or instrumentality of the United States.

[(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.—All provisions of sections 5, 6, 7, 104, 105(f), 106(f), 109, and 111 of the Indian Self-Determination and Education Assistance Act, except those provisions relating to indirect costs and length of contract, shall apply to grants provided under this part.

[(b) ELECTION FOR GRANT IN LIEU OF CONTRACT.—

[(1) 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 enactment of this Act 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) 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) the date that is 60 days after the date of such election.

[(3) 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. For fiscal year 1989, the Secretary may waive this paragraph for elections received prior to September 30, 1988.

[(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 service if a grant has been made under this part to pay such expenses.

[(d) TRANSFERS AND CARRYOVERS.—

[(1) A tribe or tribal organization assuming the operation of 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 (25 U.S.C. 450 et seq.).

[(2) A tribe or tribal organization assuming the operation of a contract school with assistance under this part shall be entitled to the transfer or use of the buildings, equipment, sup-

plies, 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 (25 U.S.C. 450 et seq.).

[(3) Any tribe or tribal organization which assumes operation of a Bureau school with assistance under this part and any tribe or tribal organization which elects to operate a school with assistance under this part rather than to continue as a contract school shall be entitled to any funds which would carrover 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) of this Act, any dispute regarding the amount of a grant under section 5205 (and the amount of any funds referred to in that section), any payments to be made under section 5208 of this Act, and any dispute involving an administrative cost grant under section 1128A of the Education Amendments of 1978 (25 U.S.C. 2008a) shall be handled 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 (Public Law 93–658; 25 U.S.C. 450 et seq.). 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 reports 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. DEFINITIONS.

[For purposes of this part—

[(1) The term "eligible Indian student" has the meaning of such term in section 1128(f) of the Education Amendments of 1978 (25 U.S.C. 2008(f)).

[(2) The term "Indian 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 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.

[(3)(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 perform 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.

[(4) The term "Secretary" means the Secretary of the Interior.

[(5) 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.

[(6) The term "a 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.

[(7) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.]

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 educational 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 applica-

tions (which are approved 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 programs 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 gen-

erally 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 provision 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 assistance 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 reports 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.

SECTION 411 OF THE NATIONAL EDUCATION STATISTICS ACT OF 1994

SEC. 411. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.

(a) * * *

(b) PURPOSE; STATE ASSESSMENTS.—

(1) * * *

[(2) STATE ASSESSMENTS.—(A)(i) The Commissioner, in carrying out the National Assessment, may conduct State assessments of student achievement in grades 4, 8, and 12.

[(ii) Each such State assessment, in each subject area and at each grade level, shall be conducted on a developmental basis until the Commissioner determines, as the result of an evaluation required by subsection (f), that such assessment produces high quality data that are valid and reliable.

[(B)(i) States wishing to participate in State assessments shall enter into an agreement with the Secretary pursuant to subsection (d)(2).

[(ii) Such agreement shall contain information sufficient to give States full information about the process for consensus decisionmaking on objectives to be tested, and the standards for sampling, test administration, test security, data collection, validation, and reporting.

[(C) 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 such data. Refusal by a State to release its data shall not restrict the release of data from other States that have approved the release of such data.]

(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 assess-

ment 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.

* * * * * * *

[(d) PARTICIPATION.—

[(1) NATIONAL AND REGIONAL.—Participation in the national and regional assessments by State and local educational agencies shall be voluntary.

[(2) STATE.—Participation in assessments made on a State basis shall be voluntary. The Commissioner shall enter into an agreement with any State that desires to carry out an assessment for the State under this subsection. Each such agreement shall contain provisions designed to ensure that the State will—

[(A) participate in the assessment; and

[(B) pay from non-Federal sources the non-Federal share of such participation.

[(3) NON-FEDERAL SHARE.—(A) For each fiscal year, the non-Federal share for the purpose of paragraph (2)(B) shall be—

[(i) the cost of conducting the assessment at the school level for all public schools in the State sample;

[(ii) the cost of coordination within the State; and

[(iii) other reasonable costs specified by the Secretary in the agreement described in paragraph (2), such as the cost of analyzing and reporting the data.

[(B) The non-Federal share of payments under this paragraph may be in cash or in kind, fairly valued.

[(C) The agreement described in paragraph (2) shall describe the manner in which the costs of administering the assessment to private nonprofit schools included in the State sample will be met.]

(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.

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MCKINNEY-VENTO HOMELESS ASSISTANCE ACT

[Public Law 100–77]

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TITLE VII—EDUCATION, TRAINING, AND COMMUNITY SERVICES PROGRAMS

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[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 shall ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate 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 will review and undertake steps to revise such laws, regulations, practices, or policies to ensure that homeless children and youth are afforded the same free, appropriate public education as provided to other children and youth;

[(3) homelessness alone should not be sufficient reason to separate students from the mainstream school environment; and

[(4) homeless children and youth should 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 performance 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(c), 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 to all States for that year, except that no State shall receive less than $100,000.

[(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 Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau (until the effective date of the Compact of Free Association with the Government of Palau), according to their respective need for assistance under this subtitle, as determined by the Secretary.

[(B)(i) The Secretary is authorized to transfer one 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, 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) DEFINITION.—As used in this subsection, the term "State" shall not include the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or Palau.

[(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 children, and homeless 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) IN GENERAL.—(A) Subject to subparagraph (B), if the amount allotted to the State educational agency for any fiscal year under this subtitle exceeds the amount such agency received for fiscal year 1990 under this subtitle, such agency shall provide grants to local educational agencies for purposes of section 723.

[(B) The State educational agency may reserve not more than the greater of 5 percent of the amount such agency receives under this subtitle for any fiscal year, or the amount such agency received under this subtitle for fiscal year 1990,

to conduct activities under subsection (f) directly or through grants or contracts.

[(2) SPECIAL RULE.—If the amount allotted to a State educational agency for any fiscal year under this subtitle is less than the amount such agency received for fiscal year 1990 under this subtitle, such agency, at such agency's discretion, may provide grants to local educational agencies in accordance with section 723 or may conduct activities under subsection (f) directly or through grants or contracts.

[(f) FUNCTIONS OF THE OFFICE OF COORDINATOR.—The Coordinator of Education of Homeless Children and Youth established in each State shall—

[(1) estimate the number of homeless children and youth in the State and the number of such children and youth served with assistance provided under the grants or contracts under this subtitle;

[(2) 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 allowing homeless children and youth to enroll in, attend, and succeed in, school;

[(3) develop and carry out the State plan described in subsection (g);

[(4) prepare and submit to the Secretary not later than October 1, 1997, and on October 1 of every third year thereafter, a report on the information gathered pursuant to paragraphs (1) and (2) and such additional information as the Secretary may require to carry out the Secretary's responsibilities under this subtitle;

[(5) 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 and youth who are preschool age, and families of such children and youth; and

[(6) develop relationships and coordinate with other relevant education, child development, or preschool programs and providers of services to homeless children, homeless families, and runaway and homeless youth (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youth), to improve the provision of comprehensive services to homeless children and youth and their families.

[(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 describe how such children and youth are or will be given the opportunity to meet the same challenging State student performance standards all students are expected to meet, shall describe the procedures

the State educational agency will use to identify such children and youth in the State and to assess their special needs, and shall—

[(A) describe procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youth;

[(B) describe programs for school personnel (including principals, attendance officers, teachers and enrollment personnel), to heighten the awareness of such personnel of the specific needs of runaway and homeless youth;

[(C) 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;

[(D) 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; and

[(ii) 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;

[(E) address problems set forth in the report provided to the Secretary under subsection (f)(4);

[(F) address other problems with respect to the education of homeless children and youth, including problems caused by—

[(i) transportation issues; and

[(ii) enrollment delays that are caused by—

[(I) immunization requirements;

[(II) residency requirements;

[(III) lack of birth certificates, school records, or other documentation; or

[(IV) guardianship issues;

[(G) demonstrate that the State educational agency and local educational agencies in the State have developed, and will review and revise, policies to remove barriers to the enrollment and retention of homeless children and youth in schools in the State; and

[(H) contain an assurance that the State educational agency and local educational agencies in the State will adopt policies and practices to ensure that homeless children and youth are not isolated or stigmatized.

[(2) COMPLIANCE.—Each plan adopted under this subsection shall also show how the State will ensure that local educational agencies in the State will comply with the requirements of paragraphs (3) through (9).

[(3) LOCAL EDUCATIONAL AGENCY REQUIREMENTS.—(A) The local educational agency of each homeless child and 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—

[(I) for the remainder of the academic year; or

[(II) in any case in which a family becomes homeless between academic years, for the following academic year; or

[(ii) enroll the child or youth in any school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.

[(B) In determining the best interests of the child or youth under subparagraph (A), the local educational agency shall comply, to the extent feasible, with the request made by a parent or guardian regarding school selection.

[(C) For purposes of this paragraph, the term "school of origin" means the school that the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.

[(D) 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 by the parents.

[(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 according to the provisions of 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 education;

[(D) programs for gifted and talented students; and

[(E) school meals programs.

[(5) RECORDS.—Any record ordinarily kept by the school, including immunization records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, of each homeless child or youth shall be maintained—

[(A) so that the records are available, in a timely fashion, when a child or youth enters a new school district; and

[(B) in a manner consistent with section 444 of the General Education Provisions Act.

[(6) COORDINATION.—Each local educational agency serving homeless children and youth that receives assistance under this subtitle shall coordinate with local social services agencies and other agencies or programs providing services to such children or youth and their families, including services and programs funded under the Runaway and Homeless Youth Act.

[(7) LIAISON.—(A) Each local educational agency that receives assistance under this subtitle shall designate a homelessness liaison to ensure that—

[(i) homeless children and youth enroll and succeed in the schools of that agency; and

[(ii) 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.

[(B) State coordinators and local educational agencies shall inform school personnel, service providers, and advocates working with homeless families of the duties of the liaisons.

[(8) REVIEW AND REVISIONS.—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). 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. Special attention shall be given to ensuring the enrollment and attendance of homeless children and youth who are not currently attending school.

[(9) COORDINATION.—Where applicable, each State and local educational agency that receives assistance under this subtitle shall coordinate with State and local housing agencies responsible for developing the comprehensive housing affordability strategy described in section 105 of the Cranston-Gonzalez National Affordable Housing Act to minimize educational disruption for children who become homeless.

[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.—Unless otherwise specified, services under paragraph (1) may be provided through programs on school grounds or at other facilities. Where such services are provided through programs to homeless students on school grounds, schools may provide services to other children and youth who are determined by the local educational agency to be at risk of failing in, or dropping out of, schools, in the same setting or classroom. To the maximum extent practicable, such services shall be provided through existing programs and mechanisms that integrate homeless individuals with nonhomeless individuals.

[(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 edu-

cational agency may reasonably require according to guidelines issued by the Secretary. Each such application shall include—

[(1) a description of the services and programs for which assistance is sought and the problems to be addressed through the provision of such services and programs;

[(2) 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;

[(3) an assurance that the applicant complies with, or will use requested funds to come into compliance with, paragraphs (3) through (9) of section 722(g); and

[(4) a description of policies and procedures 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 section 722(g) and from amounts made available to such agency under section 726, award grants under this section to local educational agencies submitting an application under subsection (b) on the basis of the need of such agencies.

[(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, retention, and educational success of homeless children and youth;

[(B) the extent to which the application reflects coordination with other local and State agencies that serve homeless children and youth, as well as the State plan required by section 722(g);

[(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 agency determines appropriate.

[(3) DURATION OF GRANTS.—Grants awarded under this section shall be for terms not to exceed three 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 content standards and challenging State student performance standards the State establishes for other children or 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 education, and school meals 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), 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 before- and after-school, mentoring, and summer programs for homeless children and youth in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities;

[(8) where 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 records, academic records, guardianship records, and evaluations for special programs or services;

[(9) 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;

[(10) the development of coordination between schools and agencies providing services to homeless children and youth, including programs funded under the Runaway and Homeless Youth Act;

[(11) the provision of pupil services (including violence prevention counseling) and referrals for such services;

[(12) activities to address the particular needs of homeless children and youth that may arise from domestic violence;

[(13) the adaptation of space and purchase of supplies for nonschool facilities made available under subsection (a)(2) to provide services under this subsection;

[(14) the provision of school supplies, including those supplies to be distributed at shelters or temporary housing facilities, or other appropriate locations; and

[(15) 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 plans submitted by the State educational agencies 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.

[(c) EVALUATION AND DISSEMINATION.—The Secretary shall conduct evaluation and dissemination activities 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.

[(d) 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.

[(e) DETERMINATION BY SECRETARY.—The Secretary, based on the information received from the States and information gathered by the Secretary under subsection (d), 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).

[(f) REPORTS.—The Secretary shall prepare and submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate on the programs and activities authorized by this subtitle by December 31, 1997, and every third year thereafter.

[SEC. 725. DEFINITIONS.

[For the purpose of this subtitle, unless otherwise stated—

[(1) the term "Secretary" means the Secretary of Education; and

[(2) 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 $30,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.]

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 one 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 minimum 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 enrollment 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 academic 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, in-

cluding 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 attended 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 agen-

cies responsible for developing the comprehensive 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 nonhomeless 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 children 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, retention, 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 nonhomeless 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 activities 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.

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SECTION 1 OF PUBLIC LAW 106–400

SECTION 1. DESIGNATION.

[Section 1 of**]** *Section 101 of* the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 note; Public Law 100–77) is amended by striking subsection (a) and inserting the following new subsection:

"(a) SHORT TITLE.—This Act may be cited as the 'McKinney-Vento Homeless Assistance Act'.".

GOALS 2000: EDUCATE AMERICA ACT

* * * * * * *

TITLE II—NATIONAL EDUCATION REFORM LEADERSHIP, STANDARDS, AND ASSESSMENTS

[PART A—NATIONAL EDUCATION GOALS PANEL

[SEC. 201. PURPOSE.

[It is the purpose of this part to establish a bipartisan mechanism for—

[(1) building a national consensus for education improvement;

[(2) reporting on progress toward achieving the National Education Goals; and

[(3) reviewing the voluntary national content standards and voluntary national student performance standards.

[SEC. 202. NATIONAL EDUCATION GOALS PANEL.

[(a) ESTABLISHMENT.—There is established in the executive branch a National Education Goals Panel (hereafter in this title referred to as the "Goals Panel") to advise the President, the Secretary, and the Congress.

[(b) COMPOSITION.—The Goals Panel shall be composed of 18 members (hereafter in this part referred to as "members"), including—

[(1) 2 members appointed by the President;

[(2) 8 members who are Governors, 3 of whom shall be from the same political party as the President and 5 of whom shall be from the opposite political party of the President, appointed by the Chairperson and Vice Chairperson of the National Governors' Association, with the Chairperson and Vice Chairperson each appointing representatives of such Chairperson's or Vice Chairperson's respective political party, in consultation with each other;

[(3) 4 Members of the Congress, of whom—

[(A) 1 member shall be appointed by the Majority Leader of the Senate from among the Members of the Senate;

[(B) 1 member shall be appointed by the Minority Leader of the Senate from among the Members of the Senate;

[(C) 1 member shall be appointed by the Majority Leader of the House of Representatives from among the Members of the House of Representatives; and

[(D) 1 member shall be appointed by the Minority Leader of the House of Representatives from among the Members of the House of Representatives; and

[(4) 4 members of State legislatures appointed by the President of the National Conference of State Legislatures, of whom 2 shall be of the same political party as the President of the United States.

[(c) SPECIAL APPOINTMENT RULES.—

[(1) IN GENERAL.—The members appointed pursuant to subsection (b)(2) shall be appointed as follows:

[(A) If the Chairperson of the National Governors' Association is from the same political party as the President,

the Chairperson shall appoint 3 individuals and the Vice Chairperson of such association shall appoint 5 individuals.

[(B) If the Chairperson of the National Governors' Association is from the opposite political party as the President, the Chairperson shall appoint 5 individuals and the Vice Chairperson of such association shall appoint 3 individuals.

[(2) SPECIAL RULE.—If the National Governors' Association has appointed a panel that meets the requirements of subsections (b) and (c), except for the requirements of paragraph (4) of subsection (b), prior to the date of enactment of this Act, then the members serving on such panel shall be deemed to be in compliance with the provisions of such subsections and shall not be required to be reappointed pursuant to such subsections.

[(3) REPRESENTATION.—To the extent feasible, the membership of the Goals Panel shall be geographically representative and reflect the racial, ethnic, and gender diversity of the United States.

[(d) TERMS.—The terms of service of members shall be as follows:

[(1) PRESIDENTIAL APPOINTEES.—Members appointed under subsection (b)(1) shall serve at the pleasure of the President.

[(2) GOVERNORS.—Members appointed under paragraph (2) of subsection (b) shall serve for 2-year terms, except that the initial appointments under such paragraph shall be made to ensure staggered terms with one-half of such members' terms concluding every 2 years.

[(3) CONGRESSIONAL APPOINTEES AND STATE LEGISLATORS.—Members appointed under paragraphs (3) and (4) of subsection (b) shall serve for 2-year terms.

[(e) DATE OF APPOINTMENT.—The initial members shall be appointed not later than 60 days after the date of enactment of this Act.

[(f) INITIATION.—The Goals Panel may begin to carry out its duties under this part when 10 members of the Goals Panel have been appointed.

[(g) VACANCIES.—A vacancy on the Goals Panel shall not affect the powers of the Goals Panel, but shall be filled in the same manner as the original appointment.

[(h) TRAVEL.—Each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for each day the member is engaged in the performance of duties for the Goals Panel away from the home or regular place of business of the member.

[(i) CHAIRPERSON.—

[(1) IN GENERAL.—The members shall select a Chairperson from among the members.

[(2) TERM AND POLITICAL AFFILIATION.—The Chairperson of the Goals Panel shall serve a 1-year term and shall alternate between political parties.

[(j) CONFLICT OF INTEREST.—A member of the Goals Panel who is an elected official of a State which has developed content or stu-

dent performance standards may not participate in Goals Panel consideration of such standards.

[(k) EX OFFICIO MEMBER.—If the President has not appointed the Secretary as 1 of the 2 members the President appoints pursuant to subsection (b)(1), then the Secretary shall serve as a nonvoting ex officio member of the Goals Panel.

[SEC. 203. DUTIES.

[(a) IN GENERAL.—The Goals Panel shall—

[(1) report to the President, the Secretary, and the Congress regarding the progress the Nation and the States are making toward achieving the National Education Goals established under title I of this Act, including issuing an annual report;

[(2) review voluntary national content standards and voluntary national student performance standards;

[(3) report on promising or effective actions being taken at the national, State, and local levels, and in the public and private sectors, to achieve the National Education Goals; and

[(4) help build a nationwide, bipartisan consensus for the reforms necessary to achieve the National Education Goals.

[(b) REPORT.—

[(1) IN GENERAL.—The Goals Panel shall annually prepare and submit to the President, the Secretary, the appropriate committees of Congress, and the Governor of each State a report that shall—

[(A) report on the progress of the United States toward achieving the National Education Goals; and

[(B) identify actions that should be taken by Federal, State, and local governments to enhance progress toward achieving the National Education Goals and to provide all students with a fair opportunity-to-learn.

[(2) FORM; DATA.—Reports shall be presented in a form, and include data, that is understandable to parents and the general public.

[SEC. 204. POWERS OF THE GOALS PANEL.

[(a) HEARINGS.—

[(1) IN GENERAL.—The Goals Panel shall, for the purpose of carrying out this part, conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Goals Panel considers appropriate.

[(2) REPRESENTATION.—In carrying out this part, the Goals Panel shall conduct hearings to receive reports, views, and analyses of a broad spectrum of experts and the public on the establishment of voluntary national content standards, voluntary national student performance standards, and State assessments.

[(b) INFORMATION.—The Goals Panel may secure directly from any department or agency of the United States information necessary to enable the Goals Panel to carry out this part. Upon request of the Chairperson of the Goals Panel, the head of a department or agency shall furnish such information to the Goals Panel to the extent permitted by law.

[(c) POSTAL SERVICES.—The Goals Panel may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

[(d) USE OF FACILITIES.—The Goals Panel may, with consent of any agency or instrumentality of the United States, or of any State or political subdivision thereof, use the research, equipment, services, and facilities of such agency, instrumentality, State, or subdivision, respectively.

[(e) ADMINISTRATIVE ARRANGEMENTS AND SUPPORT.—

[(1) IN GENERAL.—The Secretary shall provide to the Goals Panel, on a reimbursable basis, such administrative support services as the Goals Panel may request.

[(2) CONTRACTS AND OTHER ARRANGEMENTS.—The Secretary, to the extent appropriate, and on a reimbursable basis, shall make contracts and other arrangements that are requested by the Goals Panel to help the Goals Panel compile and analyze data or carry out other functions necessary to the performance of such responsibilities.

[(f) GIFTS.—The Goals Panel may accept, administer, and utilize gifts or donations of services, money, or property, whether real or personal, tangible or intangible.

[SEC. 205. ADMINISTRATIVE PROVISIONS.

[(a) MEETINGS.—The Goals Panel shall meet on a regular basis, as necessary, at the call of the Chairperson of the Goals Panel or a majority of its members.

[(b) QUORUM.—A majority of the members shall constitute a quorum for the transaction of business.

[(c) VOTING AND FINAL DECISION.—

[(1) VOTING.—No individual may vote, or exercise any of the powers of a member, by proxy.

[(2) FINAL DECISIONS.—

[(A) In making final decisions of the Goals Panel with respect to the exercise of its duties and powers the Goals Panel shall operate on the principle of consensus among the members of the Goals Panel.

[(B) Except as otherwise provided in this part, if a vote of the membership of the Goals Panel is required to reach a final decision with respect to the exercise of its duties and powers, then such final decision shall be made by a three-fourths vote of the members of the Goals Panel who are present and voting.

[(d) PUBLIC ACCESS.—The Goals Panel shall ensure public access to its proceedings (other than proceedings, or portions of proceedings, relating to internal personnel and management matters) and make available to the public, at reasonable cost, transcripts of such proceedings.

[SEC. 206. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

[(a) DIRECTOR.—The Chairperson of the Goals Panel, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, shall appoint a Director to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

[(b) APPOINTMENT AND PAY OF EMPLOYEES.—

[(1) IN GENERAL.—(A) The Director may appoint not more than 4 additional employees to serve as staff to the Goals

Panel without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

[(B) The employees appointed under subparagraph (A) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, but shall not be paid a rate that exceeds the maximum rate of basic pay payable for GS–15 of the General Schedule.

[(2) ADDITIONAL EMPLOYEES.—The Director may appoint additional employees to serve as staff to the Goals Panel in accordance with title 5, United States Code.

[(c) EXPERTS AND CONSULTANTS.—The Goals Panel may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

[(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Goals Panel, the head of any department or agency of the United States may detail any of the personnel of such agency to the Goals Panel to assist the Goals Panel in its duties under this part.

[SEC. 207. EARLY CHILDHOOD ASSESSMENT.

[(a) IN GENERAL.—The Goals Panel shall support the work of its Resource and Technical Planning Groups on School Readiness (hereafter in this section referred to as the "Groups") to improve the methods of assessing the readiness of children for school that would lead to alternatives to currently used early childhood assessments.

[(b) ACTIVITIES.—The Groups shall—

[(1) develop a model of elements of school readiness that address a broad range of early childhood developmental needs, including the needs of children with disabilities;

[(2) create clear guidelines regarding the nature, functions, and uses of early childhood assessments, including assessment formats that are appropriate for use in culturally and linguistically diverse communities, based on model elements of school readiness;

[(3) monitor and evaluate early childhood assessments, including the ability of existing assessments to provide valid information on the readiness of children for school; and

[(4) monitor and report on the long-term collection of data on the status of young children to improve policy and practice, including the need for new sources of data necessary to assess the broad range of early childhood developmental needs.

[(c) ADVICE.—The Groups shall advise and assist the Congress, the Secretary, the Goals Panel, and others regarding how to improve the assessment of young children and how such assessments can improve services to children.

[(d) REPORT.—The Goals Panel shall provide reports on the work of the Groups to the appropriate committees of the Congress, the Secretary, and the public.]

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[PART C—AUTHORIZATION OF APPROPRIATIONS

[SEC. 241. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated $3,000,000 for fiscal year 1994, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out part A of this title.]

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[TITLE VI—INTERNATIONAL EDUCATION PROGRAM

[SEC. 601. INTERNATIONAL EDUCATION PROGRAM.

[(a) PROGRAM ESTABLISHED.—The Secretary, with the concurrence of the Director of the United States Information Agency and with the foreign policy guidance of the Secretary of State, shall carry out an International Education Program in accordance with this section that shall provide for—

[(1) the study of international education programs and delivery systems; and

[(2) an international education exchange program.

[(c) INTERNATIONAL EDUCATION EXCHANGE.—

[(1) REQUIREMENT.—

[(A) IN GENERAL.—The Secretary, in consultation with the Director of the United States Information Agency, shall carry out a program to be known as the International Education Exchange Program. Under such program the Secretary shall award grants to or enter into contracts with organizations with demonstrated effectiveness or expertise in international achievement comparisons, in order to—

[(i) make available to educators from eligible countries exemplary curriculum and teacher training programs in civics and government education and economic education developed in the United States;

[(ii) assist eligible countries in the adaptation and implementation of such programs or joint research concerning such programs;

[(iii) create and implement educational programs for United States students which draw upon the experiences of emerging constitutional democracies;

[(iv) provide a means for the exchange of ideas and experiences in civics and government education and economic education among political, educational, and private sector leaders of participating eligible countries; and

[(v) provide support for—

[(I) research and evaluation to determine the effects of educational programs 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 the preservation and improvement of an efficient market economy.

[(B) PROGRAM ADMINISTRATION.—The Secretary and the Director of the United States Information Agency, or their designees, shall be jointly responsible for the design of the program described in subparagraph (A). The Secretary and the Director of the United States Information Agency shall name to an oversight committee an equal number of representatives. Such committee shall determine the specifications for requests for proposals, the eligibility and review criteria for proposals, and the review process for proposals, for grants or contracts under this section. The Director of the United States Information Agency shall have particular responsibility for ensuring that programs assisted under this section are not duplicative of other efforts in the target countries and that foreign partner institutions are creditable.

[(C) RESERVATIONS.—In carrying out the program described in subparagraph (A), there shall be reserved in each fiscal year—

[(i) 50 percent of the amount available to carry out this subsection for civics and government education activities; and

[(ii) 50 percent of such amount available to carry out this subsection for economic education activities.

[(2) CONTRACT AUTHORIZED.—

[(A) IN GENERAL.—The Secretary, in consultation with the Director of the United States Information Agency, is authorized to contract with independent nonprofit educational organizations to carry out the provisions of this subsection.

[(B) NUMBER.—The Secretary, in consultation with the Director of the United States Information Agency, shall award at least 1 but not more than 3 contracts described in subparagraph (A) in each of the areas described in clauses (i) and (ii) of paragraph (1)(B).

[(C) AVOIDANCE OF DUPLICATION.—The Secretary, in consultation with the Director of the United States Information Agency, shall award contracts described in subparagraph (A) so as to avoid duplication of activities in such contracts.

[(D) REQUIREMENTS.—Each organization with which the Secretary enters into a contract pursuant to subparagraph (A) shall—

[(i) be experienced in—

[(I) the development and national implementation of curricular programs in civics and government education and economic education for students from grades kindergarten through 12 in local, intermediate, and State educational agencies, in schools funded by the Bureau, and in private schools throughout the Nation with the cooperation and assistance of national professional

educational organizations, colleges and universities, and private sector organizations;

[(II) the development and implementation of cooperative university and school-based inservice training programs for teachers of grades kindergarten through grade 12 using scholars from such relevant disciplines as political science, political philosophy, history, law and economics;

[(III) the development of model curricular frameworks in civics and government education and economic education;

[(IV) the administration of international seminars on the goals and objectives of civics and government education or economic education in constitutional democracies (including the sharing of curricular materials) for educational leaders, teacher trainers, scholars in related disciplines, and educational policymakers; and

[(V) the evaluation of civics and government education or economic education programs; and

[(ii) have the authority to subcontract with other organizations to carry out the provisions of this subsection.

[(3) ACTIVITIES.—The international education program described in this subsection shall—

[(A) provide eligible countries with—

[(i) seminars on the basic principles of United States constitutional democracy and economics, including seminars on the major governmental and economic institutions and systems in the United States, and visits to such institutions;

[(ii) visits to school systems, institutions of higher learning, and nonprofit organizations conducting exemplary programs in civics and government education and economic education in the United States;

[(iii) home stays in United States communities;

[(iv) translations and adaptations regarding 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;

[(v) translation of basic documents of United States constitutional government for use in eligible countries, such as The Federalist Papers, selected writings of Presidents Adams and Jefferson and the Anti-Federalists, and more recent works on political theory, constitutional law and economics; and

[(vi) research and evaluation assistance to determine—

[(I) the effects of educational programs 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 the preservation and improvement of an efficient market economy;

[(B) provide United States participants with—

[(i) seminars on the histories, economics, and governments of eligible countries;

[(ii) visits to school systems, institutions of higher learning, and organizations conducting exemplary programs in civics and government education and economic education located in eligible countries;

[(iii) home stays in eligible countries;

[(iv) assistance from educators and scholars in eligible countries in the development of curricular materials on the history, government and economics of such countries that are useful in United States classrooms;

[(v) opportunities to provide on-site demonstrations of United States curricula and pedagogy for educational leaders in eligible countries; and

[(vi) research and evaluation assistance to determine—

[(I) the effects of educational programs 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

[(C) assist participants from eligible countries and the United States in participating in international conferences on civics and government education and economic education for educational leaders, teacher trainers, scholars in related disciplines, and educational policymakers.

[(4) PARTICIPANTS.—The primary participants in the international education program assisted under this subsection shall be leading educators in the areas of civics and government education and economic education, including curriculum and teacher training specialists, scholars in relevant disciplines, and educational policymakers, from the United States and eligible countries.

[(5) PERSONNEL AND TECHNICAL EXPERTS.—The Secretary is authorized to provide Department of Education personnel and technical experts to assist eligible countries to establish and implement a database or other effective methods to improve educational delivery systems, structure and organization.

[(6) DEFINITIONS.—For the purpose of this subsection the term "eligible country" means a Central European country, an Eastern European country, Lithuania, Latvia, Estonia, Georgia, the Commonwealth of Independent States, and any country that formerly was a republic of the Soviet Union whose political independence is recognized in the United States.

[(d) AUTHORIZATION OF APPROPRIATIONS.—

[(1) Repealed by section 301(e) of Public Law 105–277 (112 Stat. 2681–410).]

[(2) INTERNATIONAL EDUCATION EXCHANGE.—There are authorized to be appropriated $10,000,000 for fiscal year 1995,

and such sums as may be necessary for each of the fiscal years 1996 through 1999, to carry out subsection (c).]

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TROOPS-TO-TEACHERS PROGRAM ACT OF 1999

[TITLE XVII—TROOPS-TO-TEACHERS PROGRAM

[Sec. 1701. Short title; definitions.
[Sec. 1702. Authorization of Troops-to-Teachers Program.
[Sec. 1703. Eligible members of the Armed Forces.
[Sec. 1704. Selection of participants.
[Sec. 1705. Stipend and bonus for participants.
[Sec. 1706. Participation by States.
[Sec. 1707. Termination of original program; transfer of functions.
[Sec. 1708. Reporting requirements.
[Sec. 1709. Funds for fiscal year 2000.

[SEC. 1701. SHORT TITLE; DEFINITIONS.

[(a) SHORT TITLE.—This title may be cited as the "Troops-to-Teachers Program Act of 1999".

[(b) DEFINITIONS.—In this title:

[(1) The term "administering Secretary", with respect to the Troops-to-Teachers Program, means the following:

[(A) The Secretary of Defense with respect to the Armed Forces (other than the Coast Guard) for the period beginning on the date of the enactment of this Act, and ending on the date of the completion of the transfer of responsibility for the Troops-to-Teachers Program to the Secretary of Education under section 1707.

[(B) The Secretary of Transportation with respect to the Coast Guard for the period referred to in subparagraph (A).

[(C) The Secretary of Education for any period after the period referred to in subparagraph (A).

[(2) The term "alternative certification or licensure requirements" means State or local teacher certification or licensure requirements that permit a demonstrated competence in appropriate subject areas gained in careers outside of education to be substituted for traditional teacher training course work.

[(3) The term "member of the Armed Forces" includes a former member of the Armed Forces.

[(4) The term "State" includes the District of Columbia, American Samoa, the Federated States of Micronesia, Guam, the Republic of the Marshall Islands, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the Republic of Palau, and the United States Virgin Islands.

[SEC. 1702. AUTHORIZATION OF TROOPS-TO-TEACHERS PROGRAM.

[(a) PROGRAM AUTHORIZED.—The administering Secretary may carry out a program (to be known as the "Troops-to-Teachers Program")—

[(1) to assist eligible members of the Armed Forces after their discharge or release, or retirement, from active duty to

obtain certification or licensure as elementary or secondary school teachers or as vocational or technical teachers; and

[(2) to facilitate the employment of such members by local educational agencies identified under subsection (b)(1).

[(b) IDENTIFICATION OF LOCAL EDUCATIONAL AGENCIES WITH TEACHER SHORTAGES.—(1) In carrying out the Troops-to-Teachers Program, the administering Secretary shall periodically identify local educational agencies that—

[(A) are receiving grants under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) as a result of having within their jurisdictions concentrations of children from low-income families; or

[(B) are experiencing a shortage of qualified teachers, in particular a shortage of science, mathematics, special education, or vocational or technical teachers.

[(2) The administering Secretary may identify local educational agencies under paragraph (1) through surveys conducted for that purpose or by using information on local educational agencies that is available to the administering Secretary from other sources.

[(c) IDENTIFICATION OF STATES WITH ALTERNATIVE CERTIFICATION REQUIREMENTS.—In carrying out the Troops-to-Teachers Program, the administering Secretary shall also conduct a survey of States to identify those States that have alternative certification or licensure requirements for teachers, including those States that grant credit for service in the Armed Forces toward satisfying certification or licensure requirements for teachers.

[(d) LIMITATION ON USE OF FUNDS FOR MANAGEMENT INFRASTRUCTURE.—The administering Secretary may utilize not more than five percent of the funds available to carry out the Troops-to-Teachers Program for a fiscal year for purposes of establishing and maintaining the management infrastructure necessary to support the program.

[SEC. 1703. ELIGIBLE MEMBERS OF THE ARMED FORCES.

[(a) ELIGIBLE MEMBERS.—Subject to subsection (c), the following members of the Armed Forces shall be eligible for selection to participate in the Troops-to-Teachers Program:

[(1) 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; and

[(B) satisfies such other criteria for selection as the administering Secretary may prescribe.

[(2) Any member who applied for the teacher placement program administered under section 1151 of title 10, United States Code, as in effect before its repeal by section 1707, and who satisfies the eligibility criteria specified in subsection (c) of such section 1151.

[(3) 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;

[(B) has the educational background required by subsection (b); and

[(C) satisfies the criteria prescribed under paragraph (1)(B).

[(b) EDUCATIONAL BACKGROUND.—(1) In the case of a member of the Armed Forces described in subsection (a)(3) who is applying for assistance for placement as an elementary or secondary school teacher, the administering Secretary shall require the member to have received a baccalaureate or advanced degree from an accredited institution of higher education.

[(2) In the case of a member described in subsection (a)(3) who is applying for assistance for placement as a vocational or technical teacher, the administering 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 10 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.

[(c) INELIGIBLE MEMBERS.—A member of the Armed Forces described in subsection (a) 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.

[(d) INFORMATION REGARDING PROGRAM.—(1) The administering Secretary shall provide information regarding the Troops-to-Teachers Program, and make applications for the program available, to members of the Armed Forces as part of preseparation counseling provided under section 1142 of title 10, United States Code.

[(2) The information provided to members shall—

[(A) indicate the local educational agencies identified under section 1702(b); and

[(B) identify those States surveyed under section 1702(c) that have alternative certification or licensure requirements for teachers, including those States that grant credit for service in the Armed Forces toward satisfying such requirements.

[SEC. 1704. SELECTION OF PARTICIPANTS.

[(a) SUBMISSION OF APPLICATIONS.—Selection of eligible members of the Armed Forces to participate in the Troops-to-Teachers Program shall be made on the basis of applications submitted to the administering Secretary on a timely basis. An application shall be in such form and contain such information as the administering Secretary may require.

[(b) TIMELY APPLICATIONS.—An application shall be considered to be submitted on a timely basis if the application is submitted as follows:

[(1) In the case of a member of the Armed Forces who is eligible under section 1703(a)(1) or 1703(a)(2), not later than September 30, 2003.

[(2) In the case of a member who is eligible under section 1703(a)(3), not later than four years after the date on which the member first receives retired or retainer pay under title 10 or title 14, United States Code.

[(c) SELECTION PRIORITIES.—In selecting eligible members of the Armed Forces to receive assistance for placement as elementary or

secondary school teachers or vocational or technical teachers, the administering Secretary shall give priority to members who—

[(1) 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; or

[(2) have educational or military experience in another subject area identified by the administering Secretary, in consultation with the National Governors Association, as important for national educational objectives and agree to seek employment in that subject area in elementary or secondary schools.

[(d) SELECTION SUBJECT TO FUNDING.—The administering Secretary may not select a member of the Armed Forces to participate in the Troops-to-Teachers Program unless the administering 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 1705 with respect to that member.

[(e) PARTICIPATION AGREEMENT.—A member of the Armed Forces selected to participate in the Troops-to-Teachers Program shall be required to enter into an agreement with the administering Secretary in which the member agrees—

[(1) to obtain, within such time as the administering Secretary may require, certification or licensure as an elementary or secondary school teacher or vocational or technical teacher; and

[(2) to accept an offer of full-time employment as an elementary or secondary school teacher or vocational or technical teacher for not less than four school years with a local educational agency identified under section 1702, to begin the school year after obtaining that certification or licensure.

[(f) EXCEPTIONS TO VIOLATION DETERMINATION.—A participant in the Troops-to-Teachers Program shall not be considered to be in violation of an agreement entered into under subsection (e) during any period in which the participant—

[(1) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

[(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 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 administering Secretary.

[SEC. 1705. STIPEND AND BONUS FOR PARTICIPANTS.

[(a) STIPEND AUTHORIZED.—(1) Subject to paragraph (2), the administering Secretary shall pay to each participant in the Troops-to-Teachers Program a stipend in an amount equal to $5,000.

[(2) The total number of stipends that may be paid under paragraph (1) in any fiscal year may not exceed 3,000.

[(b) BONUS AUTHORIZED.—(1) Subject to paragraph (2), the administering Secretary may, in lieu of paying a stipend under subsection (a), pay a bonus of $10,000 to each participant in the Troops-to-Teachers Program who agrees under section 1704(e) to accept full-time employment as an elementary or secondary school teacher or vocational or technical teacher for not less than four years in a high need school.

[(2) The total number of bonuses that may be paid under paragraph (1) in any fiscal year may not exceed 1,000.

[(3) In this subsection, the term "high need school" means an elementary school or secondary school that meets one or more of the following criteria:

[(A) The school has a drop out rate that exceeds the national average school drop out rate.

[(B) The school has a large percentage of students (as determined by the Secretary of Education in consultation with the National Assessment Governing Board) who speak English as a second language.

[(C) The school has a large percentage of students (as so determined) who are at risk of educational failure by reason of limited proficiency in English, poverty, race, geographic location, or economic circumstances.

[(D) At least one-half of the students of the school are from families with an income below the poverty line (as that term is 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.

[(E) The school has a large percentage of students (as so determined) who qualify for assistance under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

[(F) The school meets any other criteria established by the administering Secretary in consultation with the National Assessment Governing Board.

[(c) TREATMENT OF STIPEND AND BONUS.—Stipends and bonuses paid under this section shall be taken into account in determining the eligibility of the participant concerned for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

[(d) REIMBURSEMENT UNDER CERTAIN CIRCUMSTANCES.—(1) If a participant in the Troops-to-Teachers Program fails to obtain teacher certification or licensure or employment as an elementary or secondary school teacher or vocational or technical teacher as required by the agreement under section 1704(e) or voluntarily leaves, or is terminated for cause, from the employment during the four years of required service in violation of the agreement, the participant shall be required to reimburse the administering Secretary for any stipend paid to the participant under subsection (a) in an amount

that bears the same ratio to the amount of the stipend as the unserved portion of required service bears to the four years of required service.

[(2) If a participant in the Troops-to-Teachers Program who is paid a bonus under subsection (b) fails to obtain employment for which the bonus was paid as required by the agreement under section 1704(e), or voluntarily leaves or is terminated for cause from the employment during the four years of required service in violation of the agreement, the participant shall be required to reimburse the administering Secretary for any bonus paid to the participant under that subsection in an amount that bears the same ratio to the amount of the bonus as the unserved portion of required service bears to the four years of required service.

[(3) The obligation to reimburse the administering 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 administering Secretary.

[(4) Any amount owed by a participant under this subsection 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.

[(e) EXCEPTIONS TO REIMBURSEMENT REQUIREMENT.—A participant in the Troops-to-Teachers Program shall be excused from reimbursement under subsection (d) if the participant becomes permanently totally disabled as established by sworn affidavit of a qualified physician. The administering Secretary may also waive reimbursement in cases of extreme hardship to the participant, as determined by the administering Secretary.

[(f) RELATIONSHIP TO EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.—The receipt by a participant in the Troops-to-Teachers Program of any assistance under the program 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. 1706. PARTICIPATION BY STATES.

[(a) DISCHARGE OF STATE ACTIVITIES THROUGH CONSORTIA OF STATES.—The administering 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) Subject to paragraph (2), the administering 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 of the Armed Forces for participation in the program and facilitating the employment of participants in the program in schools in such States or consortia of States.

[(2) The total amount of grants under paragraph (1) in any fiscal year may not exceed $4,000,000.

[SEC. 1707. TERMINATION OF ORIGINAL PROGRAM; TRANSFER OF FUNCTIONS.

[(a) TERMINATION.—(1) Section 1151 of title 10, United States Code, is repealed.

[(2) The table of sections at the beginning of chapter 58 of such title is amended by striking the item relating to section 1151.

[(3) The repeal of such section shall not affect the validity or terms of any agreement entered into before the date of the enactment of this Act under subsection (f) of such section, or to pay assistance, make grants, or obtain reimbursement in connection with such an agreement under subsections (g), (h), and (i) of such section, as in effect before its repeal.

[(b) TRANSFER OF FUNCTIONS.—(1) The Secretary of Defense, the Secretary of Transportation, and the Secretary of Education shall provide for the transfer to the Secretary of Education of any ongoing functions and responsibilities of the Secretary of Defense and the Secretary of Transportation with respect to—

[(A) the program authorized by section 1151 of title 10, United States Code, before its repeal by subsection (a)(1); and

[(B) the Troops-to-Teachers Program for the period beginning on the date of the enactment of this Act and ending on September 30, 2000.

[(2) The Secretaries referred to in paragraph (1) shall complete the transfer under such paragraph not later than October 1, 2000.

[(3) After completion of the transfer, the Secretary of Education shall discharge that Secretary's functions and responsibilities with respect to the program in consultation with the Secretary of Defense and the Secretary of Transportation with respect to the Coast Guard.

[SEC. 1708. REPORTING REQUIREMENTS.

[(a) REPORT REQUIRED.—Not later than March 31, 2001, the Secretary of Education (in consultation with the Secretary of Defense and the Secretary of Transportation) and the Comptroller General shall each submit to Congress a report on the effectiveness of the Troops-to-Teachers Program in the recruitment and retention of qualified personnel by local educational agencies identified under section 1702(b).

[(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 such participants are employed.

[(3) The grade levels at which such participants teach.

[(4) The subject matters taught by such participants.

[(5) The effectiveness of the teaching of such participants, as indicated by any relevant test scores of the students of such participants.

[(6) The extent of any academic improvement in the schools in which such participants teach by reason of their teaching.

[(7) The rates of retention of such participants by the local educational agencies employing such participants.

[(8) The effect of any stipends or bonuses under section 1705 in enhancing participation in the program or in enhancing recruitment or retention of participants in the program by the local educational agencies employing such participants.

[(9) Such other matters as the Secretary of Education 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 as to means of improving the Troops-to-Teachers Program, including means of enhancing the recruitment and retention of participants in the program.

[SEC. 1709. FUNDS FOR FISCAL YEAR 2000.

[Of the amount authorized to be appropriated by section 301 for operation and maintenance for fiscal year 2000, $3,000,000 shall be available for purposes of carrying out the Troops-to-Teachers Program.]

ADDITIONAL VIEWS TO H.R. 1

We commend the Committee on Education and the Workforce for reporting a bill to reauthorize the Elementary and Secondary Education Act that will reach the House floor with broad bipartisan support. With its focus on high standards for all children and results-based accountability, the bill seeks to build upon lessons learned since the previous reauthorization in 1994. Moreover, H.R. 1 provides better targeting to reach these goals and authorizes additional resources for these purposes.

Notwithstanding the many virtues of H.R. 1, we remain concerned that the bill goes too far in its reliance on standardized testing. Recent years have seen a growing trend in education policy toward more standardized testing of students at all levels of their education despite uncertain scientific evidence that the tests currently in use are fair and accurate. In fact, studies have consistently shown that many popular standardized tests are poorly designed, may be discriminatory toward poor and minority students, and are not sufficiently aligned to the content taught in schools. Furthermore, we have not to date had an appropriate national evaluation of the trade-offs increased testing requires in other aspects of the curriculum. With more and more time being devoted to preparation for standardized tests, many schools have been forced to sharply curtail their offerings in civics, social studies, and the arts. We would argue that reductions in these subjects deprive students of vital components in a balanced education.

Given these realities, the testing provisions in H.R. 1 raise questions. With its requirement of annual testing in grades 3 through 8, the bill significantly expands the number and scope of standardized tests in our schools. It does so without fully addressing the cost these tests exact in dollars at the local level, in their impact on the quality of education in our schools, or in the psychological effects of yearly testing on our students. Further, H.R. 1 does not provide adequate assurances that the tests being given will be fair and accurate. By allowing states to substitute their own assessments for the National Assessment of Educational Progress as a benchmark against which to judge their annual tests in reading and mathematics, H.R. 1, offers no student performance. A bill of such scope, with such profound importance in the lives of our nation's children should confront these issues more directly and realistically than H.R. 1, as reported, does. We will continue to work to address these concerns as the legislation moves forward.

JOHN F. TIERNEY.
BETTY MCCOLLUM.
ROBERT C. SCOTT.

ADDITIONAL VIEWS TO H.R. 1

INTRODUCTION

We are pleased that H.R. 1 has been reported with a strong bipartisan vote, and has the enthusiastic support of the Bush Administration. It provides real accountability for results, ensures that all children are taught by qualified teaches, and targets critical resources to the schools that need them the most. H.R. 1 as reported also avoids divisive issues such as a federal funding of private school vouchers, and block grants to states which would undermine strong, new accountability requirements, and sabotage local control over education.

In order to get the job of school reform done right, H.R. 1 authorizes substantial new resources to schools—over $5 billion more than last years's appropriation levels for elementary and secondary schools. Additional investments promised in H.R. 1 are critical to the success of education reform.

Given this bipartisan support for greater investment in education reform, it is disappointing to us that the recently passed budget resolution fails to make any new investments in education. This is in direct contradiction to the commitments provided in H.R. 1. We implore the Republican leadership to make good on this bipartisan promise. We intend to continue the fight to ensure that the Congress makes good on H.R. 1's promise for new investments in education.

REAL ACCOUNTABILITY FOR RESULTS

H.R. 1 strengthens accountability for results, increases the amount of resources and targeting to disadvantaged areas, supports America's teachers through quality training, provides parents with meaningful information and involvement, and ensures we maintain critical national education priorities.

H.R. 1 provides an important new focus by adding State, school district and school report cards on student academic performance. It significantly increases the amount of resources for teacher training—and makes clear that all States require their teachers to become fully qualified by the year 2005. H.R. 1 also preserves Title I's targeting of resources to high poverty school districts and schools.

H.R. 1 preserves and builds upon many of the core advances that the last reauthorization of ESEA in 1994 instituted. It maintains the requirements for State systemic reform, based on challenging standards and aligned assessments. Further building on 1994's assessment requirement, the bill includes annual testing for children in grades 3 through 8 and requires States to check their performance against the National Assessment of Education Progress (NAEP) or an alternative assessment.

H.R. 1 enhances accountability and resources to Title I—both of which are critical to education reform. It requires all children to perform well in school; it helps close the achievement gap between disadvantaged groups and their more advantaged peers; it requires the reporting of data in a way that allows schools and parents to gauge the success of at-risk populations; it increases teacher and paraprofessional quality requirements; and it provides a strong focus on turning around and struggling schools through the investment of additional help and resources.

We can no longer tolerate low-performing schools that place the education of our children at risk. This means that States and school districts will need to provide substantive intervention to help the students of low-performing schools reach high standards. If schools are still failing after they are given the resources and opportunity to succeed—then consequences must exist. This bill will accomplish these important reforms.

MAKING CRITICAL NEW INVESTMENTS FOR EDUCATION REFORM

H.R. 1 also adds significant resources to ESEA, while increasing targeting to the most disadvantaged areas. In the past six appropriations cycles, funding for the Department of Education has increased by an average of 13 percent. H.R. 1 would increase funding for ESEA programs by $5.5 to $24 billion in FY 2002, a 32 percent increase. H.R. 1. also includes a doubling of the Title I authorization by FY 2006 to $17.2 billion. Coupled with these increases in overall funding are significantly more targeted formulas. Funding for teacher quality will be distributed on a 80% poverty, 20% population formula, rather than the 50% poverty, 50% population formula under current law. Technology funding is more targeted in H.R. 1, by moving to a combination of formula and competitive grants targeted on Title I and the highest poverty school districts in a State. Lastly, targeting of Safe and Drug Free Schools funding is more focused on areas of need.

NATIONAL EDUCATION PRIORITIES

The bill also expands parent information and involvement. The bill preserves the requirement that 1% of a school district's Title I allocation be used to encourage parental involvement. Added are provisions to ensure that parents receive information in a form and language they can understand. Lastly, parents are empowered with "right-to-know" provisions that entitle them to information on the professional qualifications of their children's teachers.

We are pleased the reported version of H.R. 1 maintains critical national priorities for after-school programs, such as the 21st Century Community Learning Centers, the National Writing Project, Civic and International Education and Women's Educational Equity Act.

PRESERVING BIPARTISAN SUPPORT FOR H.R. 1

While the bill as introduced included numerous provisions allowing private school vouchers, including the voucherizing of Title I, a bipartisan majority of the Committee voted to strike the voucher provisions. This vote, in addition to the absence of Straight A's

from the legislation, made it possible for us to support H.R. 1 on final passage. Inclusion of either of these items as proceed with floor consideration will jeopardize bipartisan support for this legislation.

ADDITIONAL DEMOCRATIC PRIORITIES

Also, we believe several amendments offered by Democratic Members during Committee consideration deserve further deliberation and consideration when this bill is considered on the House Floor. These amendments include: Funding for School Renovation and Construction; Class-Size Reduction; Universal and Expanded Preschool programs; and Go-Girls program (training, mentoring and educational opportunities for girls to enter the mathematics, science, engineering and science); safeguards against inappropriate high stakes testing, maintaining the school wide percentage at 50%; Smaller Learning Communities (separate funding for smaller schools and schools within schools); reinstating the Coordinated Services program, and providing training for school library media specialists.

ADDITIONAL ISSUES

We are pleased by commitments from the majority to continue to work on some of these concerns between Committee action and Floor consideration. Chief among these concerns are provisions remaining in the bill regarding segregation of homeless students and teacher liability provisions. Presently, the bill allows State receiving funds under the McKinney-Vento Homeless Assistance Act to segregate homeless students from their housed peers and use Federal McKinney Funds to support segregated schools that presently exist. We object to this provision because it denies homeless children equal educational opportunities and rewards noncompliance with the original intent of the McKinney-Vento statute. We have ended the practice of segregating various segments of our population through actions by the Court and Congress. We should not go back on these historic advances through the adoption of this provision.

In addition, we continue to have concerns over the inclusion of a provision providing teachers immunity from Federal liability claims. This immunity exempts a teacher from monetary damages when an action was taken by the teacher to maintain disciple. We are concerned that the immunity allowed under this provision will permit, or even encourage inappropriate actions such as corporal punishment in our schools. The fact that this provision will have the affect of preventing causes of action against teachers for the violations of a child's civil rights troubles us greatly. The Majority has committed to further discussions on this matter and we look forward to resolving it in a mutually agreeable fashion prior consideration.

Also, we have continually voiced concern during this process over the inclusion of an alternative assessment, rather than simply utilizing the National Assessment of Education Progress (NAEP), to ensure State assessment results are valid. Allowing States to use an alternative assessment as a "check" on the results of their own

State assessment will not produce the accountability the President and Congress is seeking.

Lastly, we continue to be concerned about the impact of parental consent provisions included in the legislation for limited English proficient children to receive bilingual education services and the lack of a sufficient authorization level for the Title III, Part A Bilingual Education program. As we proceed with Floor consideration and Conference Committee Action we hope both of these concerns will be further addressed.

GEORGE MILLER.
MAJOR OWENS.
LYNN WOOLSEY.
RUBEN HINOJOSA.
JOHN TIERNEY.
LORETTA SANCHEZ.
DENNIS KUCINICH.
RUSH HOLT.
DALE KILDEE.
ROBERT ANDREWS.
ROBERT C. SCOTT.
CAROLYN MCCARTHY.
RON KIND.
HAROLD E. FORD, JR.
HILDA SOLIS.
BETTY MCCOLLUM.

DISSENTING VIEWS ON H.R. 1

I. INTRODUCTION

In 1998, the House Education and the Workforce Oversight Subcommittee began a comprehensive investigation into the federal government's role in the education of America's children. After an exhaustive study and numerous field hearings across the country with parents, students and administrators, Education at a Crossroads was released detailing the hundreds of education related programs across 39 agencies that cost taxpayers $120 billion a year. Despite the enormous increase in federal spending over the past decade alone, it found that academic achievement has still not improved. In addition, the achievement gaps between poor students and their more affluent peers and between minority students and non-minorities remain unchanged or have grown. It further highlighted the solution to the problem of education stagnation—that of empowering parents, returning control back to the local level, encouraging basic academic achievements and returning dollars to the classroom.

With the results in hand, last Congress, Republican members on the Committee labored to draft legislation to reauthorize the Elementary and Secondary Education Act (ESEA). While Congress and the President were unable to reach final agreement on reauthorizing the bill, progress was significant, including passage by the full House of Representatives of H.R. 2300, the Academic Achievement for All Students Act, or Straight A's as it is most often called. The Straight A's approach demanded higher achievement—which current law does not—and eliminated the red tape and bureaucracy that gets in the way of education reform and innovation. In exchange for this flexibility, states would be required to provide academic results disaggregated by socioeconomic status and to meet state goals for each of these groups.

II. A VISION FOR TRUE EDUCATION REFORM—EMPOWERING PARENTS, NOT GOVERNMENT BUREAUCRACY

During his campaign for the presidency, candidate George W. Bush forcefully articulated his bold new initiative to improve academic opportunities for all children and to "leave no child behind." Faced with undeniable facts that the nation's government-owned education monopoly has betrayed too many of America's children, Bush promised that things would be different if he won the presidency.

True to his word, one of Bush's first presidential acts was the unveiling of an impressive and ambitious education proposal that elevated the hopes and expectations of us all. Bush proposed to redefine the federal role in education by predicating his reform agenda upon three key pillars—parental empowerment, state flexibility

and accountability. Initially, conservatives and liberals alike seemed to rally behind Bush's innovative ideas.

Bush also proposed significant consolidation of federal programs and sizable increases in discretionary authority for state and local officials. This combination would allow local education leaders—the ones who actually know the names of our children—to target scarce resources more effectively.

On March 22nd, H.R. 1, the No Child left Behind Act, encompassing most of the President's plan, was introduced taking a comprehensive approach to closing the achievement gap between disadvantaged students and their peers. The bill aimed to give states and local school districts flexibility in spending federal education dollars by advocating a new Charter states option (similar to Straight A's) and consolidating a number of questionable education programs while empowering parents by advancing a number of school choice provisions. The bill would also hold states and localities strictly accountable for increasing student achievement by requiring states to implement annual reading and math tests for students in grades three through eight.

While some Republicans had concerns about the testing provisions encompassed in the proposal, the President's plan was widely hailed as embracing the belief that federal education policy should allow states and local school districts to use federal education dollars to advance their own priorities, not those of a distant bureaucracy. State and local education leaders know better how to tailor their education programs to meet the unique needs of their students than bureaucrats in Washington who have never visited their school or even their state. The President's plan wisely also stressed the importance of parental involvement. Involved parents, after all, can hold our schools accountable, ensuring that our kids come first.

III. REVIVING THE STATUS QUO—LEAVING TOO MANY CHILDREN BEHIND

Because of our excitement over the President's belief in education reform, we were dismayed and disappointed that the bill recently reported by the Committee on Education and Workforce largely rejects this philosophy and contains very few provisions of the president's original proposal. While the reported bill includes the testing aspects of the President's plan and new reading, math and science programs, it does not include the Straight A's provision, does not include massive consolidation of education programs, nor does it include any provisions dealing with private school choice and substantially increases federal education funding.

Specifically torn from the bill is the President's initiative that calls for empowering parents through school choice. As proposed, this provision would have enabled parents of disadvantaged students to move their children to better schools, including private schools, if it had been determined that their child had languished in a failing school or at least three years.

This notable feature was the centerpiece of the original Bush plan.

It was designed to begin the process of holding schools accountable for performance by treating parents like real customers and making schools competitive. Sadly, five Republicans on the House

Education and the Workforce Committee defied the President and voted for a Democrat-sponsored amendment to remove this crucial part of Bush's plan. This anti-choice amendment was the very first to be considered by the committee before other harmful amendments were adopted.

The only remaining element of the Bush plan in H.R. 1 is the implementation of massive new federal testing mandates. Holding schools accountable for results in exchange for flexibility and choice was the tradeoff upon which Bush based his education proposal. But with flexibility and choice now effectively stripped from the bill, accountability—to the federal government and not to parents—is all that remains.

The concept of the Bush plan was simple: the federal government would free states and school districts from process controls and only measure a state's ability to increase student achievement. This model closely mirrored the successful strategy Bush used while governor of Texas and the one Illinois used to reverse the education crisis in Chicago public schools. In both of these cases, process mandates were removed and results were measured.

This balanced approach has also worked elsewhere and we, like the President, are convinced it can work for the whole country. But now that President Bush's school choice and flexibility provisions have been eliminated from the bill, the ingenious balance Bush sought to achieve is all but impossible. In fact, subsequent amendments in the Education Committee creating new federal programs and inflating spending levels have been adopted in place of the conservative reform platform upon which candidate Bush campaigned.

IV. SUPPORTING OUR PRESIDENT'S ORIGINAL EDUCATION PLAN

As members of the House Education and Workforce Committee, we are no doubt passionate about the issue of education are committed to improving our schools. We wholeheartedly support the President's effort to ensure that no child is left behind and support the concepts embodied in this original plan.

Unfortunately, the reported version of H.R. 1 does very little to improve the current education system and merely maintains the status quo which shows that despite the increase in federal education spending over the last several decades, students are clearly not learning at their greatest potential. As such, as much as it pained us to do so, we had no choice but to oppose H.R. 1. The fact is the bill contains very little education reform, as illustrated by the nearly unanimous Democratic support for the reported bill.

On May 4th, the Wall Street Journal ran a story entitled, "Teddy Takes George to School: Bush's education plan is Potemkin reform," stating "Mr. [Checker] Finn is the conservative who helped Candidate Bush write his education plan. But after inspecting the Senate-House fine print, he now says, 'I'm fairly depressed. It's Potemkin reform, a façade underwritten by billions in new spending. Jeanne Allen of the Center for Education Reform, another Bush ally, calls the emerging product at best a '15% to 20% improvement.' And given all the new spending . . . they ought to be getting a lot more reform than that."

On that same day, the New York Times ran the story "On the Way to Passage, Bush's Education Plan Gets a Makeover," stating

that, "Bill Bennett, an education secretary in the first Bush Administration, urged the new president today to stand strong. The proposals he sent up to the Hill are good proposals . . . But right now they are in the process of being eviscerated. I would plead with the president to fight for these proposals . . . I know he wants to get a bill signed. But it's critical to get a good bill signed."

These two articles speak more clearly than we can as to what has happened to H.R. 1 in the House Education and Workforce Committee.

Presently, what Republicans are preparing for their President is a humiliating defeat on the most important issue facing the nation. The inability of Congress to give America's schools the opportunity to transform themselves and the reluctance of White House lobbyists to fight harder for the President's agenda conveys the wrong message to the country.

Republicans cannot afford to abandon their passion for children and free-market education so easily to the teacher unions and the education bureaucracy. Unless Congressional Republicans can be persuaded to redeem their virtues, put students first and salvage the President's agenda, Bush eventually may be forced to consider vetoing H.R. 1 and demand a bill Republicans can wholeheartedly support.

The current legislation making its way through Congress is no longer the President's education bill. It has been radically amended into something else, something more likely to be produced by the last Administration. For President Bush to sign it into law would be a perilous mistake—one that would leave too many children behind.

V. CONCLUSION

We believe that now is the time to implement creative, innovative ideas for improving education.

Rather than relying solely on increased federal funding and efforts to maintain the status quo, we must return control, decision-making authority and money back to the local level—back to the teachers, parents and school boards to whom we entrust our children.

Congress can best do this by passing legislation consolidating the numerous existing education programs, empowering parents through school choice and giving states and localities increased flexibility through the Straight A's proposal.

While it is unfortunate that H.R. 1 as currently drafted does not embody these principals, we will continue to fight for these initiatives on the floor and in conference as we know that this is the only way that no child is left behind.

TOM TANCREDO.
BOB SCHAFFER.
PETE HOEKSTRA.

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