

112TH CONGRESS
2D SESSION

H. R. 3989

To support State and local accountability for public education, inform parents of their schools' performance, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 2012

Mr. KLINE (for himself, Mr. HUNTER, Mr. ROE of Tennessee, Mr. PETRI, Mr. WILSON of South Carolina, Mr. THOMPSON of Pennsylvania, Mr. DESJARLAIS, Mrs. NOEM, Mrs. ROBY, and Mr. HECK) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To support State and local accountability for public education, inform parents of their schools' performance, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

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

5 **SEC. 2. TABLE OF CONTENTS.**

6 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. References.
- Sec. 4. Transition.

- Sec. 5. Effective dates.
- Sec. 6. Authorization of appropriations.

TITLE I—AID TO LOCAL EDUCATIONAL AGENCIES

Subtitle A—In General

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

Subtitle B—Improving the Academic Achievement of the Disadvantaged

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

Subtitle C—Additional Aid to States and School Districts

- Sec. 131. Additional aid.

Subtitle D—National Assessment

- Sec. 141. National assessment of title I.

Subtitle E—Title I General Provisions

- Sec. 151. General provisions for title I.

TITLE II—GENERAL PROVISIONS FOR THE ACT

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

1 **SEC. 3. REFERENCES.**

2 Except as otherwise expressly provided, whenever in
3 this Act an amendment or repeal is expressed in terms
4 of an amendment to, or repeal of, a section or other provi-
5 sion, the reference shall be considered to be made to a
6 section or other provision of the Elementary and Sec-
7 ondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

8 **SEC. 4. TRANSITION.**

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

17 **SEC. 5. EFFECTIVE DATES.**

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

21 (b) NONCOMPETITIVE PROGRAMS.—With respect to
22 noncompetitive programs under which any funds are allot-
23 ted by the Secretary of Education to recipients on the
24 basis of a formula, this Act, and the amendments made
25 by this Act, shall take effect on July 1, 2012.

1 (c) **COMPETITIVE PROGRAMS.**—With respect to pro-
2 grams that are conducted by the Secretary on a competi-
3 tive basis, this Act, and the amendments made by this Act,
4 shall take effect with respect to appropriations for use
5 under those programs for fiscal year 2013.

6 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

7 The Act (20 U.S.C. 6301 et seq.) is amended by in-
8 serting after section 2 the following:

9 **“SEC. 3. AUTHORIZATIONS OF APPROPRIATIONS.**

10 “(a) **TITLE I.**—

11 “(1) **PART A.**—There are authorized to be ap-
12 propriated to carry out part A of title I
13 \$16,651,768,000 for fiscal year 2013.

14 “(2) **PART B.**—There are authorized to be ap-
15 propriated to carry out part B of title I \$3,194,000
16 for fiscal year 2013.

17 “(b) **OUT YEARS.**—The amounts authorized by sub-
18 section (a) shall be increased for each of fiscal years 2014
19 through 2018 by a percentage equal to the percentage of
20 inflation according to the Consumer Price Index, for the
21 calendar year ending prior to the beginning of that fiscal
22 year.”.

1 **TITLE I—AID TO LOCAL**
2 **EDUCATIONAL AGENCIES**
3 **Subtitle A—In General**

4 **SEC. 101. TITLE HEADING.**

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

7 **“TITLE I—AID TO LOCAL**
8 **EDUCATIONAL AGENCIES”.**

9 **SEC. 102. STATEMENT OF PURPOSE.**

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

12 **“SEC. 1001. STATEMENT OF PURPOSE.**

13 “The purpose of this title is to provide all children
14 the opportunity to graduate high school prepared for post-
15 secondary education or the workforce. This purpose can
16 be accomplished by—

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

22 “(2) closing the achievement gap between high-
23 and low-performing children, especially the achieve-
24 ment gaps between minority and nonminority stu-

1 dents, and between disadvantaged children and their
2 more advantaged peers;

3 “(3) affording parents substantial and mean-
4 ingful opportunities to participate in the education
5 of their children; and

6 “(4) challenging States and local educational
7 agencies to embrace meaningful, evidence-based edu-
8 cation reform, while encouraging state and local in-
9 novation.”.

10 **SEC. 103. FLEXIBILITY TO USE FEDERAL FUNDS.**

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

13 **“SEC. 1002. FLEXIBILITY TO USE FEDERAL FUNDS.**

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

16 “(1) IN GENERAL.—Subject to subsections (c)
17 and (d) and notwithstanding any other provision of
18 law, a State educational agency may use the applica-
19 ble funding that the agency receives for a fiscal year
20 to carry out any State activity authorized or re-
21 quired under one or more of the following provisions:

22 “(A) Section 1003.

23 “(B) Section 1004.

24 “(C) Subpart 2 of part A of title I.

25 “(D) Subpart 3 of part A of title I.

1 “(E) Subpart 4 of part A of title I.

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

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

9 “(3) APPLICABLE FUNDING DEFINED.—

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

15 “(i) Section 1003.

16 “(ii) Section 1004.

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

18 “(iv) Subpart 3 of part A of title I.

19 “(v) Subpart 4 of part A of title I.

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

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

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

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

8 “(4) DISBURSEMENT.—The Secretary shall dis-
9 burse the applicable funding to State educational
10 agencies for alternative uses under paragraph (1) for
11 a fiscal year at the same time as the Secretary dis-
12 burse the applicable funding to State educational
13 agencies that do not intend to use the applicable
14 funding for such alternative uses for the fiscal year.

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

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

23 “(A) Section 1003.

24 “(B) Subpart 1 of part A of title I.

25 “(C) Subpart 2 of part A of title I.

1 “(D) Subpart 3 of part A of title I.

2 “(E) Subpart 4 of part A of title I.

3 “(F) Subpart 6 of part A of title I.

4 “(2) NOTIFICATION.—A local educational agen-
5 cy shall notify the State educational agency of the
6 local educational agency’s intention to use the appli-
7 cable funding for any of the alternative uses under
8 paragraph (1) by a date that is established by the
9 State educational agency for the notification.

10 “(3) APPLICABLE FUNDING DEFINED.—

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

16 “(i) Subpart 2 of part A of title I.

17 “(ii) Subpart 3 of part A of title I.

18 “(iii) Subpart 4 of part A of title I.

19 “(iv) Chapter A of subpart 6 of part
20 A of title I.

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

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

3 “(ii) to allocate, allot, or award to en-
4 tities eligible to receive such funds; or

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

7 “(4) DISBURSEMENT.—Each State educational
8 agency that receives applicable funding for a fiscal
9 year shall disburse the applicable funding to local
10 educational agencies for alternative uses under para-
11 graph (1) for the fiscal year at the same time as the
12 State educational agency disburses the applicable
13 funding to local educational agencies that do not in-
14 tend to use the applicable funding for such alter-
15 native uses for the fiscal year.

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

1 “(d) RULE OF CONSTRUCTION.—Nothing in this sec-
2 tion shall be construed to relieve a State educational agen-
3 cy or local educational agency of any requirements relating
4 to—

5 “(1) use of Federal funds to supplement, not
6 supplant, non-Federal funds;

7 “(2) comparability of services;

8 “(3) equitable participation of private school
9 students and teachers;

10 “(4) applicable civil rights requirements;

11 “(5) subsections (a), (b), and (c) of section
12 1113; or

13 “(6) section 1111.”.

14 **SEC. 104. SCHOOL IMPROVEMENT.**

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

16 (1) in subsection (a)—

17 (A) by striking “2 percent” and inserting
18 “10 percent”; and

19 (B) by striking “subpart 2 of part A” and
20 all that follows through “sections 1116 and
21 1117,” and inserting “chapter B of subpart 1
22 of part A for each fiscal year to carry out sub-
23 section (b),”;

24 (2) in subsection (b)(1), by striking “for schools
25 identified for school improvement, corrective action,

1 and restructuring, for activities under section
2 1116(b)” and inserting “to carry out the State’s
3 system of school improvement under section
4 1111(b)(3)(B)(iii)”;

5 (3) in subsection (c)—

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

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

11 (C) by striking paragraph (3);

12 (4) in subsection (d)(1), by striking “subpart 2
13 of part A;” and inserting “chapter B of subpart 1
14 of part A;”;

15 (5) in subsection (e)—

16 (A) by striking “in any fiscal year” and in-
17 serting “in fiscal year 2014 and each subse-
18 quent fiscal year”;

19 (B) by striking “subpart 2” and inserting
20 “chapter B of subpart 1 of part A”; and

21 (C) by striking “such subpart” and insert-
22 ing “such chapter”;

23 (6) in subsection (f), by striking “and the per-
24 centage of students from each school from families
25 with incomes below the poverty line”; and

1 (7) by striking subsection (g).

2 **SEC. 105. STATE ADMINISTRATION.**

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

5 **“SEC. 1004. STATE ADMINISTRATION.**

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

10 “(1) 1 percent of the amounts received under
11 such subparts; or

12 “(2) \$400,000 (\$50,000 in the case of each
13 outlying area).

14 “(b) EXCEPTION.—If the sum of the amounts re-
15 served under subparts 1, 2, and 3 of part A of this title
16 is equal to or greater than \$14,000,000,000, then the res-
17 ervation described in subsection (a)(1) shall not exceed 1
18 percent of the amount the State would receive if
19 \$14,000,000,000 were allocated among the States for sub-
20 parts 1, 2, and 3 of part A of this title.”.

1 **Subtitle B—Improving the Aca-**
2 **ademic Achievement of the Dis-**
3 **advantaged**

4 **SEC. 111. PART A HEADINGS.**

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

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

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

13 **“Subpart 1—Improving Basic Programs Operated by**
14 **Local Educational Agencies**
15 **“CHAPTER A—BASIC PROGRAM**
16 **REQUIREMENTS”.**

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

20 **“CHAPTER B—ALLOCATIONS”.**

21 **SEC. 112. STATE PLANS.**

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

24 **“SEC. 1111. STATE PLANS.**

25 **“(a) PLANS REQUIRED.—**

1 “(1) IN GENERAL.—For any State desiring to
2 receive a grant under this subpart, the State edu-
3 cational agency shall submit to the Secretary a plan,
4 developed by the State educational agency, in con-
5 sultation with local educational agencies, teachers,
6 school leaders, specialized instructional support per-
7 sonnel, other appropriate school personnel, and par-
8 ents, that satisfies the requirements of this section
9 and that is coordinated with other programs under
10 this Act, the Individuals with Disabilities Education
11 Act, the Carl D. Perkins Career and Technical Edu-
12 cation Act of 2006, the Head Start Act, the Adult
13 Education and Family Literacy Act, and the McKin-
14 ney-Vento Homeless Assistance Act.

15 “(2) CONSOLIDATED PLAN.—A State plan sub-
16 mitted under paragraph (1) may be submitted as
17 part of a consolidated plan under section 5302.

18 “(b) ACADEMIC STANDARDS, ACADEMIC ASSESS-
19 MENTS, AND STATE ACCOUNTABILITY.—

20 “(1) ACADEMIC STANDARDS.—

21 “(A) IN GENERAL.—Each State plan shall
22 demonstrate that the State has adopted aca-
23 demic content standards and academic achieve-
24 ment standards aligned with such content

1 standards that comply with the requirements of
2 this paragraph.

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

7 “(C) REQUIREMENTS.—The standards de-
8 scribed in subparagraph (A) shall—

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

11 “(ii) with respect to academic achieve-
12 ment standards, include the same knowl-
13 edge, skills, and levels of achievement ex-
14 pected of all public school students in the
15 State.

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

23 “(i) the determination about whether
24 the achievement of an individual student

1 should be measured against such standards
2 is made separately for each student; and

3 “(ii) such standards—

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

7 “(II) promote access to the gen-
8 eral curriculum; and

9 “(III) reflect professional judg-
10 ment as to the highest possible stand-
11 ards achievable by such students.

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

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

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

23 “(2) ACADEMIC ASSESSMENTS.—

24 “(A) IN GENERAL.—Each State plan shall
25 demonstrate that the State educational agency,

1 in consultation with local educational agencies,
2 has implemented a set of high-quality student
3 academic assessments in mathematics and read-
4 ing or language arts, and may have any other
5 subject chosen by the State.

6 “(B) REQUIREMENTS.—Such assessments
7 shall—

8 “(i) be used in determining the per-
9 formance of each local educational agency
10 and public school in the State in accord-
11 ance with the State’s accountability system
12 under paragraph (3);

13 “(ii) be the same academic assess-
14 ments used to measure the academic
15 achievement of all public school students in
16 the State;

17 “(iii) be aligned with the State’s aca-
18 demic standards and provide coherent and
19 timely information about student attain-
20 ment of such standards;

21 “(iv) be used for purposes for which
22 such assessments are valid and reliable, be
23 of adequate technical quality for each pur-
24 pose required under this Act, and be con-

1 sistent with relevant, nationally recognized
2 professional and technical standards;

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

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

10 “(vi) measure individual student aca-
11 demic proficiency and growth;

12 “(vii) at the State’s discretion—

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

16 “(II) be administered through
17 multiple assessments during the
18 course of the academic year that re-
19 sult in a single summative score that
20 provides valid, reliable, and trans-
21 parent information on student
22 achievement;

23 “(viii) include measures that assess
24 higher-order thinking skills and under-
25 standing;

1 “(ix) provide for—

2 “(I) the participation in such as-
3 sements of all students;

4 “(II) the reasonable adaptations
5 and accommodations for students with
6 disabilities necessary to measure the
7 academic achievement of such stu-
8 dents relative to the State’s academic
9 standards; and

10 “(III) the inclusion of English
11 learners, who shall be assessed in a
12 valid and reliable manner and pro-
13 vided reasonable accommodations, in-
14 cluding, to the extent practicable, as-
15 sements in the language and form
16 most likely to yield accurate and reli-
17 able information on what such stu-
18 dents know and can do in academic
19 content areas, until such students
20 have achieved English language pro-
21 ficiency, as assessed by the State
22 under subparagraph (D);

23 “(x) notwithstanding clause (ix)(III),
24 provide for the assessment of reading or
25 language arts in English for English learn-

1 ers who have attended school in the United
2 States (not including Puerto Rico) for 3 or
3 more consecutive school years, except that
4 a local educational agency may, on a case-
5 by-case basis, provide for the assessment of
6 reading or language arts for each such stu-
7 dent in a language other than English for
8 a period not to exceed 2 additional con-
9 secutive years if the assessment would be
10 more likely to yield accurate and reliable
11 information on what such student knows
12 and can do, provided that such student has
13 not yet reached a level of English language
14 proficiency sufficient to yield valid and reli-
15 able information on what such student
16 knows and can do on reading or language
17 arts assessments written in English;

18 “(xi) produce individual student inter-
19 pretive, descriptive, and diagnostic reports
20 that allow parents, teachers, and school
21 leaders to understand and address the spe-
22 cific academic needs of students, and in-
23 clude information regarding achievement
24 on academic assessments, and that are
25 provided to parents, teachers, and school

1 leaders, as soon as is practicable after the
2 assessment is given, in an understandable
3 and uniform format, and to the extent
4 practicable, in a language that parents can
5 understand;

6 “(xii) enable results to be
7 disaggregated within each State, local edu-
8 cational agency, and school by gender, by
9 each major racial and ethnic group, by
10 English language proficiency status, by mi-
11 grant status, by status as a student with
12 a disability, and by economically disadvan-
13 taged status, except that, in the case of a
14 local educational agency or a school, such
15 disaggregation shall not be required in a
16 case in which the number of students in a
17 category is insufficient to yield statistically
18 reliable information or the results would
19 reveal personally identifiable information
20 about an individual student; and

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

1 “(C) ALTERNATE ASSESSMENTS.—A State
2 may provide for alternate assessments aligned
3 with the alternate academic standards adopted
4 in accordance with paragraph (1)(D), for stu-
5 dents with the most significant cognitive dis-
6 abilities, if the State—

7 “(i) establishes and monitors imple-
8 mentation of clear and appropriate guide-
9 lines for individualized education program
10 teams (as defined in section 614(d)(1)(B)
11 of the Individuals with Disabilities Edu-
12 cation Act) to apply when determining
13 when a child’s significant cognitive dis-
14 ability justifies assessment based on alter-
15 nate achievement standards;

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

18 “(I) their child’s academic
19 achievement will be measured against
20 such alternate standards; and

21 “(II) whether participation in
22 such assessments precludes the stu-
23 dent from completing the require-
24 ments for a regular high school di-
25 ploma, as determined by the State;

1 “(iii) demonstrates that such students
2 are, to the extent practicable, included in
3 the general curriculum and that such alter-
4 nate assessments are aligned with such
5 curriculum;

6 “(iv) develops, disseminates informa-
7 tion about, and promotes the use of appro-
8 priate accommodations to increase the
9 number of students with disabilities who
10 are tested against academic achievement
11 standards for the grade in which a student
12 is enrolled; and

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

19 “(D) ASSESSMENTS OF ENGLISH LAN-
20 GUAGE PROFICIENCY.—

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

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

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

7 “(E) LANGUAGE ASSESSMENTS.—Each
8 State plan shall identify the languages other
9 than English that are present in the partici-
10 pating student population and indicate the lan-
11 guages for which yearly student academic as-
12 sessments are not available and are needed.
13 The State shall make every effort to develop
14 such assessments and may request assistance
15 from the Secretary if linguistically accessible
16 academic assessment measures are needed.
17 Upon request, the Secretary shall assist with
18 the identification of appropriate academic as-
19 sessment measures in the needed languages, but
20 shall not mandate a specific academic assess-
21 ment or mode of instruction.

22 “(F) ADAPTIVE ASSESSMENTS.—A State
23 may develop and administer computer adaptive
24 assessments as the assessments required under
25 subparagraph (A). If a State develops and ad-

1 ministers a computer adaptive assessment for
2 such purposes, the assessment shall meet the
3 requirements of this paragraph, except as fol-
4 lows:

5 “(i) Notwithstanding subparagraph
6 (B)(iii), the assessment shall measure, at a
7 minimum, each student’s academic pro-
8 ficiency against the State’s academic
9 standards for the student’s grade level and
10 growth toward such standards, and, if the
11 State chooses, may be used to measure the
12 student’s level of performance using as-
13 sessment items above or below the stu-
14 dent’s grade level.

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

20 “(3) STATE ACCOUNTABILITY SYSTEMS.—

21 “(A) IN GENERAL.—Each State plan shall
22 demonstrate that the State has developed and is
23 implementing a single, statewide accountability
24 system to ensure that all public school students
25 graduate from high school prepared for postsec-

1 ondary education or the workforce without the
2 need for remediation.

3 “(B) ELEMENTS.—Each State account-
4 ability system described in subparagraph (A)
5 shall at a minimum—

6 “(i) annually measure the academic
7 achievement of all public school students in
8 the State against the State’s academic
9 standards adopted under paragraph (1),
10 which may include measures of student
11 growth toward such standards, using the
12 assessments described in paragraph (2)
13 and other valid and reliable academic indi-
14 cators related to student achievement as
15 identified by the State;

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

19 “(I) student academic achieve-
20 ment as measured in accordance with
21 clause (i); and

22 “(II) the overall performance,
23 and achievement gaps as compared to
24 all students in the school, for eco-
25 nomically disadvantaged students, stu-

1 dents from major racial and ethnic
2 groups, students with disabilities, and
3 English learners, except that
4 disaggregation of data under this sub-
5 clause shall not be required in a case
6 in which the number of students in a
7 category is insufficient to yield statis-
8 tically reliable information or the re-
9 sults would reveal personally identifi-
10 able information about an individual
11 student; and

12 “(iii) include a system for school im-
13 provement for low-performing public
14 schools receiving funds under this subpart
15 that—

16 “(I) implements interventions in
17 such schools that are designed to ad-
18 dress such schools’ weaknesses; and

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

22 “(C) PROHIBITION.—Nothing in this sec-
23 tion shall be construed to permit the Secretary
24 to establish any criteria that specifies, defines,
25 or prescribes any aspect of a State’s account-

1 ability system developed and implemented in ac-
2 cordance with this paragraph.

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

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

9 “(A) how the State educational agency will
10 assist each local educational agency and each
11 public school affected by the State plan to com-
12 ply with the requirements of this subpart; and

13 “(B) how the State educational agency will
14 ensure that the results of the State assessments
15 described in paragraph (2), the other indicators
16 selected by the State under paragraph
17 (3)(B)(i), and the school evaluations described
18 in paragraph (3)(B)(ii), will be promptly pro-
19 vided to local educational agencies, schools,
20 teachers, and parents in a manner that is clear
21 and easy to understand, but not later than be-
22 fore the beginning of the school year following
23 the school year in which such assessments,
24 other indicators, or evaluations are taken or
25 completed.

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

7 “(6) EXISTING STANDARDS.—Nothing in this
8 subpart shall prohibit a State from revising, con-
9 sistent with this section, any standard adopted
10 under this section before or after the date of enact-
11 ment of the Student Success Act.

12 “(c) OTHER PROVISIONS TO SUPPORT TEACHING
13 AND LEARNING.—Each State plan shall contain assur-
14 ances that—

15 “(1) the State will notify local educational
16 agencies, schools, teachers, parents, and the public
17 of the academic standards, academic assessments,
18 and State accountability system developed and im-
19 plemented under this section;

20 “(2) the State will participate in biennial State
21 academic assessments of 4th and 8th grade reading
22 and mathematics under the National Assessment of
23 Educational Progress carried out under section
24 303(b)(2) of the National Assessment of Edu-

1 cational Progress Authorization Act if the Secretary
2 pays the costs of administering such assessments;

3 “(3) the State educational agency will notify
4 local educational agencies and the public of the au-
5 thority to operate schoolwide programs;

6 “(4) the State educational agency will provide
7 the least restrictive and burdensome regulations for
8 local educational agencies and individual schools par-
9 ticipating in a program assisted under this subpart;

10 “(5) the State educational agency will encour-
11 age schools to consolidate funds from other Federal,
12 State, and local sources for schoolwide reform in
13 schoolwide programs under section 1114;

14 “(6) the State educational agency will modify or
15 eliminate State fiscal and accounting barriers so
16 that schools can easily consolidate funds from other
17 Federal, State, and local sources for schoolwide pro-
18 grams under section 1114; and

19 “(7) the State educational agency will inform
20 local educational agencies in the State of the local
21 educational agency’s authority to transfer funds
22 under section 1002 and to obtain waivers under sec-
23 tion 5401;

24 “(d) PARENTAL INVOLVEMENT.—Each State plan
25 shall describe how the State educational agency will sup-

1 port the collection and dissemination to local educational
2 agencies and schools of effective parental involvement
3 practices. Such practices shall—

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

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

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

13 “(e) PEER REVIEW AND SECRETARIAL APPROVAL.—

14 “(1) ESTABLISHMENT.—Notwithstanding sec-
15 tion 5534, the Secretary shall—

16 “(A) establish a peer-review process to as-
17 sist in the review of State plans; and

18 “(B) appoint individuals to the peer-review
19 process who are representative of parents,
20 teachers, State educational agencies, and local
21 educational agencies, and who are familiar with
22 educational standards, assessments, account-
23 ability, the needs of low-performing schools, and
24 other educational needs of students.

25 “(2) APPROVAL.—The Secretary shall—

1 “(A) approve a State plan within 120 days
2 of its submission;

3 “(B) disapprove of the State plan only if
4 the Secretary demonstrates how the State plan
5 fails to meet the requirements of this section
6 and immediately notifies the State of such de-
7 termination and the reasons for such deter-
8 mination;

9 “(C) not decline to approve a State’s plan
10 before—

11 “(i) offering the State an opportunity
12 to revise its plan;

13 “(ii) providing technical assistance in
14 order to assist the State to meet the re-
15 quirements of this section; and

16 “(iii) providing a hearing; and

17 “(D) have the authority to disapprove a
18 State plan for not meeting the requirements of
19 this subpart, but shall not have the authority to
20 require a State, as a condition of approval of
21 the State plan, to include in, or delete from,
22 such plan one or more specific elements of the
23 State’s academic standards or State account-
24 ability system, or to use specific academic as-
25 sessments or other indicators.

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

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

9 “(A) State plans submitted or resubmitted
10 by a State, including the current approved
11 plans;

12 “(B) peer review comments;

13 “(C) State plan determinations by the Sec-
14 retary, including approvals or disapprovals; and

15 “(D) hearings.

16 “(f) DURATION OF THE PLAN.—

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

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

21 “(B) be periodically reviewed and revised
22 as necessary by the State educational agency to
23 reflect changes in the State’s strategies and
24 programs under this subpart.

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

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

13 “(h) REPORTS.—

14 “(1) ANNUAL STATE REPORT CARD.—

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

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

23 “(i) concise; and

24 “(ii) presented in an understandable
25 and uniform format that is developed in

1 consultation with parents and, to the ex-
2 tent practicable, provided in a language
3 that parents can understand.

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

7 “(i) the performance of students, in
8 the aggregate and disaggregated by the
9 categories of students described in sub-
10 section (b)(2)(B)(xii) (except that such
11 disaggregation shall not be required in a
12 case in which the number of students in a
13 category is insufficient to yield statistically
14 reliable information or the results would
15 reveal personally identifiable information
16 about an individual student), on the State
17 academic assessments described in sub-
18 section (b)(2);

19 “(ii) the participation rate on such as-
20 sessments, in the aggregate and
21 disaggregated in accordance with clause
22 (i));

23 “(iii) the performance of students, in
24 the aggregate and disaggregated in accord-
25 ance with clause (i), on other academic in-

1 dicators described in subsection
2 (b)(3)(B)(i);

3 “ (iv) for each public high school in
4 the State, the four-year adjusted cohort
5 graduation rate, and, at the State’s discre-
6 tion, the extended-year adjusted cohort
7 graduation rate, calculated—

8 “(I) for students graduating in 5
9 years or less and 6 years or less (re-
10 ported separately); and

11 “(II) in the aggregate and
12 disaggregated in accordance with
13 clause (i);

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

17 “(vi) the acquisition of English pro-
18 ficiency by English learners;

19 “(vii) information on the results of
20 teacher evaluations conducted in accord-
21 ance with section 2123(1); and

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

24 “(D) OPTIONAL INFORMATION.—The State
25 may include in its annual State report card

1 such other information as the State believes will
2 best provide parents, students, and other mem-
3 bers of the public with information regarding
4 the progress of each of the State’s public ele-
5 mentary schools and public secondary schools.

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

8 “(A) IN GENERAL.—A local educational
9 agency that receives assistance under this sub-
10 part shall prepare and disseminate an annual
11 local educational agency report card.

12 “(B) MINIMUM REQUIREMENTS.—The
13 State educational agency shall ensure that each
14 local educational agency collects appropriate
15 data and includes in the local educational agen-
16 cy’s annual report the information described in
17 paragraph (1)(C) as applied to the local edu-
18 cational agency and each school served by the
19 local educational agency, and—

20 “(i) in the case of a local educational
21 agency, information that shows how stu-
22 dents served by the local educational agen-
23 cy achieved on the statewide academic as-
24 sessment and other academic indicators
25 adopted in accordance with subsection

1 (b)(3)(B)(i) compared to students in the
2 State as a whole; and

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

6 “(C) OTHER INFORMATION.—A local edu-
7 cational agency may include in its annual local
8 educational agency report card any other appro-
9 priate information, whether or not such infor-
10 mation is included in the annual State report
11 card.

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

19 “(E) PUBLIC DISSEMINATION.—The local
20 educational agency shall publicly disseminate
21 the information described in this paragraph to
22 all schools served by the local educational agen-
23 cy and to all parents of students attending
24 those schools in an understandable and uniform
25 format, and, to the extent practicable, in a lan-

1 guage that parents can understand, and make
2 the information widely available through public
3 means, such as posting on the Internet, dis-
4 tribution to the media, and distribution through
5 public agencies, except that if a local edu-
6 cational agency issues a report card for all stu-
7 dents, the local educational agency may include
8 the information under this section as part of
9 such report.

10 “(3) PREEXISTING REPORT CARDS.—A State
11 educational agency or local educational agency may
12 use public report cards on the performance of stu-
13 dents, schools, local educational agencies, or the
14 State, that were in effect prior to the enactment of
15 the Student Success Act for the purpose of this sub-
16 section, so long as any such report card is modified,
17 as may be needed, to contain the information re-
18 quired by this subsection.

19 “(4) PARENTS RIGHT-TO-KNOW.—

20 “(A) ACHIEVEMENT INFORMATION.—At
21 the beginning of each school year, a school that
22 receives funds under this subpart shall provide
23 to each individual parent information on the
24 level of achievement of the parent’s child in
25 each of the State academic assessments and

1 other academic indicators adopted in accord-
2 ance with this subpart.

3 “(B) FORMAT.—The notice and informa-
4 tion provided to parents under this paragraph
5 shall be in an understandable and uniform for-
6 mat and, to the extent practicable, provided in
7 a language that the parents can understand.

8 “(i) PRIVACY.—Information collected under this sec-
9 tion shall be collected and disseminated in a manner that
10 protects the privacy of individuals consistent with section
11 444 of the General Education Provisions Act.

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

18 “(k) CONSTRUCTION.—Nothing in this part shall be
19 construed to prescribe the use of the academic assess-
20 ments described in this part for student promotion or
21 graduation purposes.

22 “(l) SPECIAL RULE WITH RESPECT TO BUREAU-
23 FUNDED SCHOOLS.—In determining the assessments to be
24 used by each school operated or funded by the Bureau

1 of Indian Education receiving funds under this subpart,
2 the following shall apply:

3 “(1) Each such school that is accredited by the
4 State in which it is operating shall use the assess-
5 ments and other academic indicators the State has
6 developed and implemented to meet the require-
7 ments of this section, or such other appropriate as-
8 sessment and academic indicators as approved by
9 the Secretary of the Interior.

10 “(2) Each such school that is accredited by a
11 regional accrediting organization shall adopt an ap-
12 propriate assessment and other academic indicators,
13 in consultation with and with the approval of, the
14 Secretary of the Interior and consistent with assess-
15 ments and academic indicators adopted by other
16 schools in the same State or region, that meet the
17 requirements of this section.

18 “(3) Each such school that is accredited by a
19 tribal accrediting agency or tribal division of edu-
20 cation shall use an assessment and other academic
21 indicators developed by such agency or division, ex-
22 cept that the Secretary of the Interior shall ensure
23 that such assessment and academic indicators meet
24 the requirements of this section.”.

1 **SEC. 113. LOCAL EDUCATIONAL AGENCY PLANS.**

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

4 **“SEC. 1112. LOCAL EDUCATIONAL AGENCY PLANS.**

5 “(a) PLANS REQUIRED.—

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

16 “(2) CONSOLIDATED APPLICATION.—The plan
17 may be submitted as part of a consolidated applica-
18 tion under section 5302.

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

21 “(1) how the local educational agency will mon-
22 itor, in addition to the State assessments described
23 in section 1111(b)(2), students’ progress in meeting
24 the State’s academic standards;

25 “(2) how the local educational agency will iden-
26 tify quickly and effectively those students who may

1 be at risk of failing to meet the State’s academic
2 standards;

3 “(3) how the local educational agency will pro-
4 vide the additional educational assistance to indi-
5 vidual students in need of additional help in meeting
6 the State’s academic standards;

7 “(4) how the local educational agency will im-
8 plement the school improvement system described in
9 section 1111(b)(3)(B)(iii) for any of the agency’s
10 schools identified under such section;

11 “(5) how the local educational agency will co-
12 ordinate programs under this subpart with other
13 programs under this Act and other Acts, as appro-
14 priate;

15 “(6) the poverty criteria that will be used to se-
16 lect school attendance areas under section 1113;

17 “(7) how teachers, in consultation with parents,
18 administrators, and specialized instructional support
19 personnel, in targeted assistance schools under sec-
20 tion 1115, will identify the eligible children most in
21 need of services under this subpart;

22 “(8) in general, the nature of the programs to
23 be conducted by the local educational agency’s
24 schools under sections 1114 and 1115, and, where
25 appropriate, educational services outside such

1 schools for children living in local institutions for ne-
2 glected and delinquent children, and for neglected
3 and delinquent children in community day school
4 programs;

5 “(9) how the local educational agency will en-
6 sure that migratory children who are eligible to re-
7 ceive services under this subpart are selected to re-
8 ceive such services on the same basis as other chil-
9 dren who are selected to receive services under this
10 subpart;

11 “(10) the services the local educational agency
12 will provide homeless children, including services
13 provided with funds reserved under section
14 1113(e)(3)(A);

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

18 “(12) if appropriate, how the local educational
19 agency will use funds under this subpart to support
20 preschool programs for children, particularly chil-
21 dren participating in a Head Start program, which
22 services may be provided directly by the local edu-
23 cational agency or through a subcontract with the
24 local Head Start agency designated by the Secretary
25 of Health and Human Services under section 641 of

1 the Head Start Act, or another comparable early
2 childhood development program;

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

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

13 “(A) career and technical education
14 aligned with State technical standards that pro-
15 mote skills attainment important to in-demand
16 occupations or industries in the State and the
17 State’s academic standards under section
18 1111(b)(1); and

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

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

1 “(1) participate, if selected, in biennial State
2 academic assessments of 4th and 8th grade reading
3 and mathematics under the National Assessment of
4 Educational Progress carried out under section
5 303(b)(2) of the National Assessment of Edu-
6 cational Progress Authorization Act;

7 “(2) inform schools of schoolwide program au-
8 thority and the ability to consolidate funds from
9 Federal, State, and local sources;

10 “(3) provide technical assistance to schoolwide
11 programs;

12 “(4) provide services to eligible children attend-
13 ing private elementary and secondary schools in ac-
14 cordance with section 1120, and timely and mean-
15 ingful consultation with private school officials or
16 representatives regarding such services;

17 “(5) in the case of a local educational agency
18 that chooses to use funds under this subpart to pro-
19 vide early childhood development services to low-in-
20 come children below the age of compulsory school at-
21 tendance, ensure that such services comply with the
22 performance standards established under section
23 641A(a) of the Head Start Act;

1 “(6) inform eligible schools of the local edu-
2 cational agency’s authority to request waivers on the
3 school’s behalf under Title V; and

4 “(7) ensure that the results of the academic as-
5 sessments required under section 1111(b)(2) will be
6 provided to parents and teachers as soon as is prac-
7 tically possible after the test is taken, in an under-
8 standable and uniform format and, to the extent
9 practicable, provided in a language that the parents
10 can understand.

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

13 “(1) consult with the Secretary of Health and
14 Human Services and shall establish procedures (tak-
15 ing into consideration existing State and local laws,
16 and local teacher contracts) to assist local edu-
17 cational agencies to comply with such subparagraph;
18 and

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

1 “(e) PLAN DEVELOPMENT AND DURATION.—

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

7 “(2) DURATION.—Each such plan shall be sub-
8 mitted for the first year for which this part is in ef-
9 fect following the date of enactment of this Act and
10 shall remain in effect for the duration of the agen-
11 cy’s participation under this subpart.

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

15 “(f) STATE APPROVAL.—

16 “(1) IN GENERAL.—Each local educational
17 agency plan shall be filed according to a schedule es-
18 tablished by the State educational agency.

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

23 “(A) enables schools served under this sub-
24 part to substantially help children served under

1 this subpart to meet the State’s academic
2 standards described in section 1111(b)(1); and

3 “(B) meets the requirements of this sec-
4 tion.

5 “(3) REVIEW.—The State educational agency
6 shall review the local educational agency’s plan to
7 determine if such agency’s activities are in accord-
8 ance with section 1118.

9 “(g) PARENTAL NOTIFICATION.—

10 “(1) IN GENERAL.—

11 “(A) NOTICE.—Each local educational
12 agency using funds under this subpart and sub-
13 part 4 to provide a language instruction edu-
14 cational program shall, not later than 30 days
15 after the beginning of the school year, inform
16 parents of an English learner identified for par-
17 ticipation, or participating in, such a program
18 of—

19 “(i) the reasons for the identification
20 of their child as an English learner and in
21 need of placement in a language instruc-
22 tion educational program;

23 “(ii) the child’s level of English pro-
24 ficiency, how such level was assessed, and

1 the status of the child’s academic achieve-
2 ment;

3 “(iii) the methods of instruction used
4 in the program in which their child is, or
5 will be participating, and the methods of
6 instruction used in other available pro-
7 grams, including how such programs differ
8 in content, instructional goals, and the use
9 of English and a native language in in-
10 struction;

11 “(iv) how the program in which their
12 child is, or will be participating, will meet
13 the educational strengths and needs of
14 their child;

15 “(v) how such program will specifi-
16 cally help their child learn English, and
17 meet age-appropriate academic achieve-
18 ment standards for grade promotion and
19 graduation;

20 “(vi) the specific exit requirements for
21 the program, including the expected rate of
22 transition from such program into class-
23 rooms that are not tailored for English
24 learners, and the expected rate of gradua-
25 tion from high school for such program if

1 funds under this subpart are used for chil-
2 dren in secondary schools;

3 “(vii) in the case of a child with a dis-
4 ability, how such program meets the objec-
5 tives of the individualized education pro-
6 gram of the child;

7 “(viii) information pertaining to pa-
8 rental rights that includes written guid-
9 ance—

10 “(I) detailing—

11 “(aa) the right that parents
12 have to have their child imme-
13 diately removed from such pro-
14 gram upon their request; and

15 “(bb) the options that par-
16 ents have to decline to enroll
17 their child in such program or to
18 choose another program or meth-
19 od of instruction, if available; and

20 “(II) assisting parents in select-
21 ing among various programs and
22 methods of instruction, if more than
23 one program or method is offered by
24 the eligible entity.

1 “(2) NOTICE.—The notice and information pro-
2 vided in paragraph (1) to parents of a child identi-
3 fied for participation in a language instruction edu-
4 cational program for English learners shall be in an
5 understandable and uniform format and, to the ex-
6 tent practicable, provided in a language that the
7 parents can understand.

8 “(3) SPECIAL RULE APPLICABLE DURING THE
9 SCHOOL YEAR.—For those children who have not
10 been identified as English learners prior to the be-
11 ginning of the school year the local educational
12 agency shall notify parents within the first 2 weeks
13 of the child being placed in a language instruction
14 educational program consistent with paragraphs (1)
15 and (2).

16 “(4) PARENTAL PARTICIPATION.—Each local
17 educational agency receiving funds under this sub-
18 part shall implement an effective means of outreach
19 to parents of English learners to inform the parents
20 regarding how the parents can be involved in the
21 education of their children, and be active partici-
22 pants in assisting their children to attain English
23 proficiency, achieve at high levels in core academic
24 subjects, and meet the State’s academic standards
25 expected of all students, including holding, and send-

1 ing notice of opportunities for, regular meetings for
2 the purpose of formulating and responding to rec-
3 ommendations from parents of students assisted
4 under this subpart.

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

9 **SEC. 114. ELIGIBLE SCHOOL ATTENDANCE AREAS.**

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

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

13 (2) in subsection (c)(4)—

14 (A) by striking “subpart 2” and inserting
15 “Chapter B”; and

16 (B) by striking “school improvement, cor-
17 rective action, and restructuring under section
18 1116(b)” and inserting “school improvement
19 under section 1111(b)(3)(B)(iii)”.

20 **SEC. 115. SCHOOLWIDE PROGRAMS.**

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

22 (1) in subsection (a)—

23 (A) in paragraph (1)—

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

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

3 (B) in paragraph (2)—

4 (i) in subparagraph (A), by striking
5 “part” and inserting “subpart”; and

6 (ii) in subparagraph (B)—

7 (I) by striking “children with
8 limited English proficiency” and in-
9 serting “English learners”; and

10 (II) by striking “part” and in-
11 serting “subpart”;

12 (C) in paragraph (3)(B), by striking
13 “maintenance of effort,” after “private school
14 children”; and

15 (D) by striking paragraph (4); and

16 (2) in subsection (b)—

17 (A) in paragraph (1)—

18 (i) in subparagraph (A)—

19 (I) by striking “(including” and
20 all that follows through
21 “1309(2))”; and

22 (II) by striking “content stand-
23 ards and the State student academic
24 achievement standards” and inserting
25 “standards”;

1 (ii) in subparagraph (B)—

2 (I) in clause (i), by striking “pro-
3 ficient” and all that follows through
4 “section 1111(b)(1)(D)” and inserting
5 “academic standards described in sec-
6 tion 1111(b)(1)”;

7 (II) in clause (ii), in the matter
8 preceding subclause (I), by striking
9 “based on scientifically based re-
10 search” and inserting “evidence-
11 based”;

12 (III) in clause (iii)—

13 (aa) by striking “student
14 academic achievement standards”
15 and inserting “academic stand-
16 ards”; and

17 (bb) by striking “schoolwide
18 program,” and all that follows
19 through “technical education pro-
20 grams; and” and inserting
21 “schoolwide programs; and”;

22 (IV) in clause (iv), by striking
23 “the State and local improvement
24 plans” and inserting “school improve-
25 ment strategies”;

- 1 (iii) in subparagraph (C), by striking
2 “highly qualified” and inserting “effec-
3 tive”;
- 4 (iv) in subparagraph (D)—
- 5 (I) by striking “In accordance
6 with section 1119 and subsection
7 (a)(4), high-quality” and inserting
8 “High-quality”;
- 9 (II) by striking “pupil services”
10 and inserting “specialized instruc-
11 tional support services”; and
- 12 (III) by striking “student aca-
13 demic achievement” and inserting
14 “academic”;
- 15 (v) in subparagraph (E), by striking
16 “high-quality highly qualified” and insert-
17 ing “effective”;
- 18 (vi) in subparagraph (G), by striking
19 “, such as Head Start, Even Start, Early
20 Reading First, or a State-run preschool
21 program,”;
- 22 (vii) in subparagraph (H), by striking
23 “section 1111(b)(3)” and inserting “sec-
24 tion 1111(b)(2)”;

- 1 (viii) in subparagraph (I), by striking
2 “proficient or advanced levels of academic
3 achievement standards” and inserting
4 “State academic standards”; and
- 5 (ix) in subparagraph (J), by striking
6 “vocational” and inserting “career”; and
- 7 (B) in paragraph (2)—
- 8 (i) in subparagraph (A)—
- 9 (I) in the matter preceding clause
10 (i)—
- 11 (aa) by striking “first de-
12 velop” and all that follows
13 through “2001)” and inserting
14 “have in place”; and
- 15 (bb) by striking “and its
16 school support team or other
17 technical assistance provider
18 under section 1117”;
- 19 (II) in clause (ii), by striking
20 “part” and inserting “subpart”; and
- 21 (III) in clause (iv), by striking
22 “section 1111(b)(3)” and inserting
23 “section 1111(b)(2)”; and
- 24 (ii) in subparagraph (B)—
- 25 (I) in clause (i)—

1 (aa) by striking “, after con-
2 sidering the recommendation of
3 the technical assistance providers
4 under section 1117,”; and

5 (bb) by striking “the No
6 Child Left Behind Act of 2001”
7 and inserting “Student Success
8 Act” ;

9 (II) in clause (ii)—

10 (aa) by striking “(including
11 administrators of programs de-
12 scribed in other parts of this
13 title)” ; and

14 (bb) by striking “pupil serv-
15 ices” and inserting “specialized
16 instructional support services” ;

17 (III) in clause (iii), by striking
18 “part” and inserting “subpart” ; and

19 (IV) in clause (v), by striking
20 “Reading First, Early Reading First,
21 Even Start,” ; and

22 (3) in subsection (c)—

23 (A) by striking “part” and inserting “sub-
24 part” ; and

1 (B) by striking “, such as Even Start” and
2 all that follows through the period at the end.

3 **SEC. 116. TARGETED ASSISTANCE SCHOOLS.**

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

5 (1) in subsection (a)—

6 (A) by striking “are ineligible for a
7 schoolwide program under section 1114, or
8 that”;

9 (B) by striking “operate such” and insert-
10 ing “operate”; and

11 (C) by striking “part” and inserting “sub-
12 part”;

13 (2) in subsection (b)—

14 (A) in paragraph (1)(B), by striking “chal-
15 lenging student academic achievement” and in-
16 serting “academic”;

17 (B) in paragraph (2)—

18 (i) in subparagraph (A)—

19 (I) by striking “limited English
20 proficient children” and inserting
21 “English learners”; and

22 (II) by striking “part” each place
23 it appears and inserting “subpart”;

24 (ii) in subparagraph (B)—

1 (I) in the heading, by striking “,
2 EVEN START, OR EARLY READING
3 FIRST”; and

4 (II) by striking “, Even Start, or
5 Early Reading First”;

6 (iii) in subparagraph (C)—

7 (I) by amending the heading to
8 read as follows: “SUBPART 3— CHIL-
9 DREN”;

10 (II) by striking “part C” and in-
11 sserting “subpart 3”; and

12 (III) by striking “part” and in-
13 sserting “subpart”;

14 (iv) in subparagraphs (D) and (E), by
15 striking “part” each place it appears and
16 inserting “subpart”;

17 (C) in paragraph (3), by striking “part”
18 and inserting “subpart”;

19 (3) in subsection (c)—

20 (A) in paragraph (1)—

21 (i) in the matter preceding subpara-
22 graph (A)—

23 (I) by striking “part” and insert-
24 ing “subpart”; and

1 (II) by striking “challenging stu-
2 dent academic achievement” and in-
3 sserting “academic”;

4 (ii) in subparagraph (A)—

5 (I) by striking “part” and insert-
6 ing “subpart”; and

7 (II) by striking “challenging stu-
8 dent academic achievement” and in-
9 sserting “academic”;

10 (iii) in subparagraph (B), by striking
11 “part” and inserting “subpart”;

12 (iv) in subparagraph (C)—

13 (I) by striking “based on scientif-
14 ically based research” and inserting
15 “evidence-based”; and

16 (II) by striking “part” and in-
17 sserting “subpart”;

18 (v) in subparagraph (D), by striking
19 “such as Head Start, Even Start, Early
20 Reading First or State-run preschool pro-
21 grams”;

22 (vi) in subparagraph (E), by striking
23 “highly qualified” and inserting “effec-
24 tive”;

25 (vii) in subparagraph (F)—

1 (I) by striking “in accordance
2 with subsection (e)(3) and section
3 1119,”;

4 (II) by striking “part” and in-
5 serting “subpart”; and

6 (III) by striking “pupil services
7 personnel” and inserting “specialized
8 instructional support personnel”;

9 (viii) in subparagraph (H), by striking
10 “vocational” and inserting “career”; and

11 (B) in paragraph (2)—

12 (i) in the matter preceding subpara-
13 graph (A), by striking “proficient and ad-
14 vanced levels of achievement” and insert-
15 ing “academic standards”;

16 (ii) in subparagraph (A), by striking
17 “part” and inserting “subpart”; and

18 (iii) in subparagraph (B), by striking
19 “challenging student academic achieve-
20 ment” and inserting “academic”;

21 (4) in subsection (d), in the matter preceding
22 paragraph (1), by striking “part” each place it ap-
23 pears and inserting “subpart”; and

24 (5) in subsection (e)—

25 (A) in paragraph (2)(B)—

1 (i) in the matter preceding clause (i),
2 by striking “part” and inserting “sub-
3 part”; and

4 (ii) by striking “pupil services” and
5 inserting “specialized instructional support
6 services”; and

7 (B) by striking paragraph (3).

8 **SEC. 117. ACADEMIC ASSESSMENT AND LOCAL EDU-**
9 **CATIONAL AGENCY AND SCHOOL IMPROVE-**
10 **MENT; SCHOOL SUPPORT AND RECOGNITION.**

11 The Act is amended by repealing sections 1116 and
12 1117 (20 U.S.C. 6316; 6317).

13 **SEC. 118. PARENTAL INVOLVEMENT.**

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

15 (1) by striking “part” each place such term ap-
16 pears and inserting “subpart”;

17 (2) in subsection (a)—

18 (A) in paragraph (2)—

19 (i) in subparagraph (A), by striking “,
20 and” and all that follows through “1116”;
21 and

22 (ii) in subparagraph (D), by striking
23 “, such as” and all that follows through
24 “preschool programs”; and

1 (B) in paragraph (3), by striking “subpart
2 of this part” each place it appears and insert-
3 ing “chapter B of this subpart”;

4 (3) by amending subsection (c)(4)(B) to read as
5 follows:

6 “(B) a description and explanation of the
7 curriculum in use at the school and the forms
8 of academic assessment used to measure stu-
9 dent progress; and”;

10 (4) in subsection (d)(1), by striking “student
11 academic achievement” and inserting “academic”;

12 (5) in subsection (e)—

13 (A) in paragraph (1), by striking “State’s
14 academic content standards and State student
15 academic achievement standards” and inserting
16 “State’s academic standards”;

17 (B) in paragraph (3)—

18 (i) by striking “pupil services per-
19 sonnel,” and inserting “specialized instruc-
20 tional support personnel,”; and

21 (ii) by striking “principals,” and in-
22 serting “school leaders,”; and

23 (C) in paragraph (4), by striking “Head
24 Start, Reading First, Early Reading First,
25 Even Start, the Home Instruction Programs for

1 Preschool Youngsters, the Parents as Teachers
2 Program, and public preschool and other” and
3 inserting “other Federal, State, and local”; and
4 (6) by amending subsection (g) to read as fol-
5 lows:

6 “(g) FAMILY ENGAGEMENT IN EDUCATION PRO-
7 GRAMS.—In a State operating a program under subpart
8 3 of part A of title III, each local educational agency or
9 school that receives assistance under this subpart shall in-
10 form such parents and organizations of the existence of
11 such programs.”.

12 **SEC. 119. QUALIFICATIONS FOR TEACHERS AND PARA-**
13 **PROFESSIONALS.**

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

16 **SEC. 120. PARTICIPATION OF CHILDREN ENROLLED IN PRI-**
17 **VATE SCHOOLS.**

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

20 **“SEC. 1120. PARTICIPATION OF CHILDREN ENROLLED IN**
21 **PRIVATE SCHOOLS.**

22 “(a) GENERAL REQUIREMENT.—

23 “(1) IN GENERAL.—To the extent consistent
24 with the number of eligible children identified under
25 section 1115(b) in the school district served by a

1 local educational agency who are enrolled in private
2 elementary schools and secondary schools, a local
3 educational agency shall—

4 “(A) after timely and meaningful consulta-
5 tion with appropriate private school officials or
6 representatives, provide such service, on an eq-
7 uitable basis and individually or in combination,
8 as requested by the officials or representatives
9 to best meet the needs of such children, special
10 educational services, instructional services,
11 counseling, mentoring, one-on-one tutoring, or
12 other benefits under this subpart (such as dual
13 enrollment, educational radio and television,
14 computer equipment and materials, other tech-
15 nology, and mobile educational services and
16 equipment) that address their needs; and

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

21 “(2) SECULAR, NEUTRAL, NONIDEOLOGICAL.—

22 Such educational services or other benefits, including
23 materials and equipment, shall be secular, neutral,
24 and nonideological.

25 “(3) EQUITY.—

1 “(A) IN GENERAL.—Educational services
2 and other benefits for such private school chil-
3 dren shall be equitable in comparison to serv-
4 ices and other benefits for public school chil-
5 dren participating under this subpart, and shall
6 be provided in a timely manner.

7 “(B) OMBUDSMAN.—To help ensure such
8 equity for such private school children, teach-
9 ers, and other educational personnel, the State
10 educational agency involved shall designate an
11 ombudsman to monitor and enforce the require-
12 ments of this subpart.

13 “(4) EXPENDITURES.—

14 “(A) IN GENERAL.—Expenditures for edu-
15 cational services and other benefits to eligible
16 private school children shall be equal to the ex-
17 penditures for participating public school chil-
18 dren, taking into account the number, and edu-
19 cational needs, of the children to be served.

20 “(B) OBLIGATION OF FUNDS.—Funds allo-
21 cated to a local educational agency for edu-
22 cational services and other benefits to eligible
23 private school children shall—

1 “(i) be obligated in the fiscal year for
2 which the funds are received by the agen-
3 cy; and

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

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

14 “(b) CONSULTATION.—

15 “(1) IN GENERAL.—To ensure timely and
16 meaningful consultation, a local educational agency
17 shall consult with appropriate private school officials
18 or representatives during the design and develop-
19 ment of such agency’s programs under this subpart
20 in order to reach an agreement between the agency
21 and the officials or representatives about equitable
22 and effective programs for eligible private school
23 children, the results of which shall be transmitted to
24 the designated ombudsmen under section

1 1120(a)(3)(B). Such process shall include consulta-
2 tion on issues such as—

3 “(A) how the children’s needs will be iden-
4 tified;

5 “(B) what services will be offered;

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

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

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

19 “(F) the method or sources of data that
20 are used under subsection (e) and section
21 1113(c)(1) to determine the number of children
22 from low-income families in participating school
23 attendance areas who attend private schools;

24 “(G) how and when the agency will make
25 decisions about the delivery of services to such

1 children, including a thorough consideration
2 and analysis of the views of the private school
3 officials or representatives on the provision of
4 services through a contract with potential third-
5 party providers;

6 “(H) how, if the agency disagrees with the
7 views of the private school officials or represent-
8 atives on the provision of services through a
9 contract, the local educational agency will pro-
10 vide in writing to such private school officials
11 an analysis of the reasons why the local edu-
12 cational agency has chosen not to use a con-
13 tractor;

14 “(I) whether the agency will provide serv-
15 ices under this section directly or through con-
16 tracts with public and private agencies, organi-
17 zations, and institutions;

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

20 “(i) by creating a pool or pools of
21 funds with all of the funds allocated under
22 paragraph (4) based on all the children
23 from low-income families who attend pri-
24 vate schools in a participating school at-
25 tendance area of the agency from which

1 the local educational agency will provide
2 such services to all such children; or

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

10 “(K) whether to consolidate and use funds
11 under this subpart to provide schoolwide pro-
12 grams for a private school.

13 “(2) DISAGREEMENT.—If a local educational
14 agency disagrees with the views of private school of-
15 ficials or representatives with respect to an issue de-
16 scribed in paragraph (1), the local educational agen-
17 cy shall provide in writing to such private school of-
18 ficials an analysis of the reasons why the local edu-
19 cational agency has chosen not to adopt the course
20 of action requested by such officials.

21 “(3) TIMING.—Such consultation shall include
22 meetings of agency and private school officials or
23 representatives and shall occur before the local edu-
24 cational agency makes any decision that affects the
25 opportunities of eligible private school children to

1 participate in programs under this subpart. Such
2 meetings shall continue throughout implementation
3 and assessment of services provided under this sec-
4 tion.

5 “(4) DISCUSSION.—Such consultation shall in-
6 clude a discussion of service delivery mechanisms a
7 local educational agency can use to provide equitable
8 services to eligible private school children.

9 “(5) DOCUMENTATION.—Each local educational
10 agency shall maintain in the agency’s records and
11 provide to the State educational agency involved a
12 written affirmation signed by officials or representa-
13 tives of each participating private school that the
14 meaningful consultation required by this section has
15 occurred. The written affirmation shall provide the
16 option for private school officials or representatives
17 to indicate that timely and meaningful consultation
18 has not occurred or that the program design is not
19 equitable with respect to eligible private school chil-
20 dren. If such officials or representatives do not pro-
21 vide such affirmation within a reasonable period of
22 time, the local educational agency shall forward the
23 documentation that such consultation has, or at-
24 tempts at such consultation have, taken place to the
25 State educational agency.

1 “(6) COMPLIANCE.—

2 “(A) IN GENERAL.—A private school offi-
3 cial shall have the right to file a complaint with
4 the State educational agency that the local edu-
5 cational agency did not engage in consultation
6 that was meaningful and timely, did not give
7 due consideration to the views of the private
8 school official, or did not treat the private
9 school or its students equitably as required by
10 this section.

11 “(B) PROCEDURE.—If the private school
12 official wishes to file a complaint, the official
13 shall provide the basis of the noncompliance
14 with this section by the local educational agency
15 to the State educational agency, and the local
16 educational agency shall forward the appro-
17 priate documentation to the State educational
18 agency.

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

24 “(i) the appropriate private school of-
25 ficials or their representatives have—

1 “(I) requested that the State
2 educational agency provide such serv-
3 ices directly; and

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

8 “(ii) in a case in which—

9 “(I) a local educational agency
10 has more than 10,000 children from
11 low-income families who attend pri-
12 vate elementary schools or secondary
13 schools in a participating school at-
14 tendance area of the agency that are
15 not being served by the agency’s pro-
16 gram under this section; or

17 “(II) 90 percent of the eligible
18 private school students in a partici-
19 pating school attendance area of the
20 agency are not being served by the
21 agency’s program under this section.

22 “(c) ALLOCATION FOR EQUITABLE SERVICE TO PRI-
23 VATE SCHOOL STUDENTS.—

24 “(1) CALCULATION.—A local educational agen-
25 cy shall have the final authority, consistent with this

1 section, to calculate the number of children, ages 5
2 through 17, who are from low-income families and
3 attend private schools by—

4 “(A) using the same measure of low in-
5 come used to count public school children;

6 “(B) using the results of a survey that, to
7 the extent possible, protects the identity of fam-
8 ilies of private school students, and allowing
9 such survey results to be extrapolated if com-
10 plete actual data are unavailable;

11 “(C) applying the low-income percentage of
12 each participating public school attendance
13 area, determined pursuant to this section, to
14 the number of private school children who re-
15 side in that school attendance area; or

16 “(D) using an equated measure of low in-
17 come correlated with the measure of low income
18 used to count public school children.

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

23 “(d) PUBLIC CONTROL OF FUNDS.—

24 “(1) IN GENERAL.—The control of funds pro-
25 vided under this subpart, and title to materials,

1 equipment, and property purchased with such funds,
2 shall be in a public agency, and a public agency shall
3 administer such funds, materials, equipment, and
4 property.

5 “(2) PROVISION OF SERVICES.—

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

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

9 or

10 “(ii) through a contract by such pub-
11 lic agency with an individual, association,
12 agency, or organization.

13 “(B) REQUIREMENT.—In the provision of
14 such services, such employee, individual, asso-
15 ciation, agency, or organization shall be inde-
16 pendent of such private school and of any reli-
17 gious organization, and such employment or
18 contract shall be under the control and super-
19 vision of such public agency.

20 “(e) STANDARDS FOR A BYPASS.—If a local edu-
21 cational agency is prohibited by law from providing for
22 the participation in programs on an equitable basis of eli-
23 gible children enrolled in private elementary schools and
24 secondary schools, or if the Secretary determines that a
25 local educational agency has substantially failed or is un-

1 willing to provide for such participation, as required by
2 this section, the Secretary shall—

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

5 “(2) arrange for the provision of services to
6 such children through arrangements that shall be
7 subject to the requirements of this section and sec-
8 tions 5503 and 5504; and

9 “(3) in making the determination under this
10 subsection, consider one or more factors, including
11 the quality, size, scope, and location of the program
12 and the opportunity of eligible children to partici-
13 pate.”.

14 **SEC. 121. FISCAL REQUIREMENTS.**

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

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

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

21 **SEC. 122. COORDINATION REQUIREMENTS.**

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

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

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

3 (3) in subsection (b)—

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

7 (B) in paragraphs (1) through (3), by
8 striking “such as the Early Reading First pro-
9 gram” each place it appears;

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

12 (D) in paragraph (5), by striking “and en-
13 tities carrying out Early Reading First pro-
14 grams”.

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

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

18 (1) in subsection (a), by striking “appropriated
19 for payments to States for any fiscal year under sec-
20 tion 1002(a) and 1125A(f)” and inserting “reserved
21 for this subpart under section 1122(a) and
22 1125A(f)”;

23 (2) in subsection (b)—

1 (A) in paragraph (2), by striking “the No
2 Child Left Behind Act of 2001” and inserting
3 “the Student Success Act”;

4 (B) in paragraph (3)—

5 (i) in subparagraph (B), by striking
6 “basis,” and all that follows through the
7 period at the end and inserting “basis.”;

8 (ii) in subparagraph (C)(ii), by strik-
9 ing “challenging State academic content
10 standards” and inserting “State academic
11 standards”; and

12 (iii) by striking subparagraph (D);

13 and

14 (C) in subsection (d)(2), by striking “part”
15 and inserting “subpart”.

16 **SEC. 124. ALLOCATIONS TO STATES.**

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

18 (1) by amending subsection (a) to read as fol-
19 lows:

20 “(a) RESERVATION.—

21 “(1) IN GENERAL.—From the amounts appro-
22 priated under section 3(a)(1), the Secretary shall re-
23 serve 91 percent of such amounts to carry out this
24 chapter.

1 “(2) ALLOCATION FORMULA.—Of the amount
2 reserved under paragraph (1) for each of fiscal years
3 2013 to 2018 (referred to in this subsection as the
4 current fiscal year)—

5 “(A) an amount equal to the amount made
6 available to carry out section 1124 for fiscal
7 year 2001 shall be used to carry out section
8 1124;

9 “(B) an amount equal to the amount made
10 available to carry out section 1124A for fiscal
11 year 2001 shall be used to carry out section
12 1124A; and

13 “(C) an amount equal to 100 percent of
14 the amount, if any, by which the total amount
15 made available to carry out this chapter for the
16 fiscal year for which the determination is made
17 exceeds the total amount available to carry out
18 sections 1124 and 1124A for fiscal year 2001
19 shall be used to carry out section 1125 and
20 1125A and such amount shall be divided equal-
21 ly between section 1125 and section 1125A.”;

22 (2) in subsection (b)(1), by striking “subpart”
23 and inserting “chapter”;

24 (3) in subsection (c)(3), by striking “part” and
25 inserting “subpart”; and

1 (4) in subsection (d)(1), by striking “subpart”
2 and inserting “chapter”.

3 **SEC. 125. BASIC GRANTS TO LOCAL EDUCATIONAL AGEN-**
4 **CIES.**

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

6 (1) in subsection (a)—

7 (A) in paragraph (3)—

8 (i) in subparagraph (B), by striking
9 “subpart” and inserting “chapter”; and

10 (ii) in subparagraph (C)(i), by strik-
11 ing “subpart” and inserting “chapter”;
12 and

13 (B) in paragraph (4)(C), by striking “sub-
14 part” each place it appears and inserting
15 “chapter”; and

16 (2) in subsection (c)—

17 (A) in paragraph (1)(B), by striking “sub-
18 part 1 of part D” and inserting “chapter A of
19 subpart 3”; and

20 (B) in paragraph (2), by striking “part”
21 and inserting “subpart”.

1 **SEC. 126. ADEQUACY OF FUNDING OF TARGETED GRANTS**
2 **TO LOCAL EDUCATIONAL AGENCIES IN FIS-**
3 **CAL YEARS AFTER FISCAL YEAR 2001.**

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

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

9 “Pursuant to section 1122, the total amount allo-
10 cated in any fiscal year after fiscal year 2001 for programs
11 and activities under this subpart shall not exceed the
12 amount allocated in fiscal year 2001 for such programs
13 and activities unless the amount available for targeted
14 grants to local educational agencies under section 1125
15 in the applicable fiscal year meets the requirements of sec-
16 tion 1122(a).”.

17 **SEC. 127. EDUCATION FINANCE INCENTIVE GRANT PRO-**
18 **GRAM.**

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

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

22 (2) in subsection (b)(1)—

23 (A) in subparagraph (A), by striking “ap-
24 propriated pursuant to subsection (f)” and in-
25 serting “made available for any fiscal year to
26 carry out this section”; and

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

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

8 **SEC. 128. CARRYOVER AND WAIVER.**

9 Section 1127 (20 U.S.C. 6339) is amended by strik-
10 ing “subpart” each place it appears and inserting “chap-
11 ter”.

12 **Subtitle C—Additional Aid to**
13 **States and School Districts**

14 **SEC. 131. ADDITIONAL AID.**

15 (a) IN GENERAL.—Title I (20 U.S.C. 6301 et seq.)
16 is amended—

17 (1) by striking parts B through D and F
18 through H; and

19 (2) by inserting after subpart 1 of part A the
20 following:

21 “SUBPART 2—EDUCATION OF MIGRATORY CHILDREN

22 **“SEC. 1131. PROGRAM PURPOSES.**

23 “The purposes of this subpart are as follows:

24 “(1) To assist States in supporting high-quality
25 and comprehensive educational programs and serv-

1 ices during the school year, and as applicable, during
2 summer or intercession periods, that address the
3 unique educational needs of migratory children.

4 “(2) To ensure that migratory children who
5 move among the States, not be penalized in any
6 manner by disparities among the States in cur-
7 riculum, graduation requirements, and State aca-
8 demic standards.

9 “(3) To help such children succeed in school,
10 meet the State academic standards that all children
11 are expected to meet, and graduate from high school
12 prepared for postsecondary education and the work-
13 force without the need for remediation.

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

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

21 **“SEC. 1132. PROGRAM AUTHORIZED.**

22 “(a) IN GENERAL.—From the amounts appropriated
23 under section 3(a)(1), the Secretary shall reserve 2.4 per-
24 cent to carry out this subpart.

1 “(b) GRANTS AWARDED.—From the amounts re-
2 served under subsection (a) and not reserved under section
3 1138(c), the Secretary shall make allotments for the fiscal
4 year to State educational agencies, or consortia of such
5 agencies, to establish or improve, directly or through local
6 operating agencies, programs of education for migratory
7 children in accordance with this subpart.

8 **“SEC. 1133. STATE ALLOCATIONS.**

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

13 “(1) the sum of—

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

18 “(B) the number of identified eligible mi-
19 gratory children, aged 3 through 21, who re-
20 ceived services under this subpart in summer or
21 intersession programs provided by the State
22 during the previous year; multiplied by

23 “(2) 40 percent of the average per-pupil ex-
24 penditure in the State, except that the amount de-
25 termined under this paragraph shall not be less than

1 32 percent, nor more than 48 percent, of the aver-
2 age per-pupil expenditure in the United States.

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

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

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

20 “(2) 32 percent of the average per-pupil ex-
21 penditure in the United States.

22 “(d) RATABLE REDUCTIONS; REALLOCATIONS.—

23 “(1) IN GENERAL.—

24 “(A) RATABLE REDUCTIONS.—If, after the
25 Secretary reserves funds under section 1138(c),

1 the amount appropriated to carry out this sub-
2 part for any fiscal year is insufficient to pay in
3 full the amounts for which all States are eligi-
4 ble, the Secretary shall ratably reduce each
5 such amount.

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

12 “(2) SPECIAL RULE.—

13 “(A) FURTHER REDUCTIONS.—The Sec-
14 retary shall further reduce the amount of any
15 grant to a State under this subpart for any fis-
16 cal year if the Secretary determines, based on
17 available information on the numbers and needs
18 of migratory children in the State and the pro-
19 gram proposed by the State to address such
20 needs, that such amount exceeds the amount
21 required under section 1134.

22 “(B) REALLOCATION.—The Secretary shall
23 reallocate such excess funds to other States
24 whose grants under this subpart would other-
25 wise be insufficient to provide an appropriate

1 level of services to migratory children, in such
2 amounts as the Secretary determines are appro-
3 priate.

4 “(e) CONSORTIUM ARRANGEMENTS.—

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

12 “(2) PROPOSALS.—Any State, regardless of the
13 amount of such State’s allocation, may submit a
14 consortium arrangement to the Secretary for ap-
15 proval.

16 “(3) APPROVAL.—The Secretary shall approve
17 a consortium arrangement under paragraph (1) or
18 (2) if the proposal demonstrates that the arrange-
19 ment will—

20 “(A) reduce administrative costs or pro-
21 gram function costs for State programs; and

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

1 “(f) DETERMINING NUMBERS OF ELIGIBLE CHIL-
2 DREN.—In order to determine the identified number of
3 migratory children residing in each State for purposes of
4 this section, the Secretary shall—

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

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

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

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

16 “(A) the unique needs of those children
17 participating in evidence-based or other effec-
18 tive special programs provided under this sub-
19 part that operate during the summer and inter-
20 session periods; and

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

23 “(5) conduct an analysis of the options for ad-
24 justing the formula so as to better direct services to

1 migratory children, including the most at-risk migra-
2 tory children.

3 “(g) NONPARTICIPATING STATES.—In the case of a
4 State desiring to receive an allocation under this subpart
5 for a fiscal year that did not receive an allocation for the
6 previous fiscal year or that has been participating for less
7 than 3 consecutive years, the Secretary shall calculate the
8 State’s number of identified migratory children aged 3
9 through 21 for purposes of subsection (a)(1)(A) by using
10 the most recent data available that identifies the migra-
11 tory children residing in the State until data is available
12 to calculate the 3-year average number of such children
13 in accordance with such subsection.

14 **“SEC. 1134. STATE APPLICATIONS; SERVICES.**

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

19 “(b) PROGRAM INFORMATION.—Each such applica-
20 tion shall include—

21 “(1) a description of how, in planning, imple-
22 menting, and evaluating programs and projects as-
23 sisted under this subpart, the State and its local op-
24 erating agencies will ensure that the unique edu-
25 cational needs of migratory children, including pre-

1 school migratory children, are identified and ad-
2 dressed through—

3 “(A) the full range of services that are
4 available for migratory children from appro-
5 priate local, State, and Federal educational pro-
6 grams;

7 “(B) joint planning among local, State,
8 and Federal educational programs serving mi-
9 gratory children, including language instruction
10 educational programs under chapter A of sub-
11 part 4; and

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

15 “(2) a description of the steps the State is tak-
16 ing to provide all migratory students with the oppor-
17 tunity to meet the same State academic standards
18 that all children are expected to meet;

19 “(3) a description of how the State will use
20 funds received under this subpart to promote inter-
21 state and intrastate coordination of services for mi-
22 gratory children, including how the State will pro-
23 vide for educational continuity through the timely
24 transfer of pertinent school records, including infor-
25 mation on health, when children move from one

1 school to another, whether or not such a move oc-
2 curs during the regular school year;

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

7 “(5) a description of how the State will deter-
8 mine the amount of any subgrants the State will
9 award to local operating agencies, taking into ac-
10 count the numbers and needs of migratory children,
11 the requirements of subsection (d), and the avail-
12 ability of funds from other Federal, State, and local
13 programs; and

14 “(6) a description of how the State will encour-
15 age programs and projects assisted under this sub-
16 part to offer family literacy services if the programs
17 and projects serve a substantial number of migra-
18 tory children whose parents do not have a regular
19 high school diploma or its recognized equivalent or
20 who have low levels of literacy.

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

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

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

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

9 “(2) such programs and projects will be carried
10 out in a manner consistent with the objectives of
11 section 1114, subsections (b) and (d) of section
12 1115, subsections (b) and (c) of section 1120A, and
13 part C;

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

20 “(A) in a manner that provides for the
21 same parental involvement as is required for
22 programs and projects under section 1118, un-
23 less extraordinary circumstances make such
24 provision impractical; and

1 “(B) in a format and language under-
2 standable to the parents;

3 “(4) in planning and carrying out such pro-
4 grams and projects, there has been, and will be, ade-
5 quate provision for addressing the unmet education
6 needs of preschool migratory children;

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

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

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

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

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

1 “(D) the integration of information tech-
2 nology into educational and related programs;
3 and

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

8 “(7) the State will assist the Secretary in deter-
9 mining the number of migratory children under
10 paragraph (1) of section 1133(a).

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

16 “(e) CONTINUATION OF SERVICES.—Notwith-
17 standing any other provision of this subpart—

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

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

1 “(3) secondary school students who were eligi-
2 ble for services in secondary school may continue to
3 be served through credit accrual programs until
4 graduation.

5 **“SEC. 1135. SECRETARIAL APPROVAL; PEER REVIEW.**

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

9 **“SEC. 1136. COMPREHENSIVE NEEDS ASSESSMENT AND**
10 **SERVICE-DELIVERY PLAN; AUTHORIZED AC-**
11 **TIVITIES.**

12 “(a) COMPREHENSIVE PLAN.—

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

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

21 “(B) may be submitted as a part of a con-
22 solidated application under section 5302, if—

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

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

4 “(iii) the comprehensive State plan is
5 not used to supplant State efforts regard-
6 ing, or administrative funding for, this
7 subpart;

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

12 “(D) specifies measurable program goals
13 and outcomes;

14 “(E) encompasses the full range of services
15 that are available for migratory children from
16 appropriate local, State, and Federal edu-
17 cational programs;

18 “(F) is the product of joint planning
19 among such local, State, and Federal programs,
20 including programs under subpart 1, early
21 childhood programs, and language instruction
22 educational programs under chapter A of sub-
23 part 4; and

1 “(G) provides for the integration of serv-
2 ices available under this subpart with services
3 provided by such other programs.

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

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

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

13 “(b) AUTHORIZED ACTIVITIES.—

14 “(1) FLEXIBILITY.—In implementing the com-
15 prehensive plan described in subsection (a), each
16 State educational agency, where applicable through
17 its local educational agencies, shall have the flexi-
18 bility to determine the activities to be provided with
19 funds made available under this subpart, except that
20 such funds first shall be used to meet the identified
21 needs of migratory children that result from their
22 migratory lifestyle, and to permit these children to
23 participate effectively in school.

24 “(2) UNADDRESSED NEEDS.—Funds provided
25 under this subpart shall be used to address the

1 needs of migratory children that are not addressed
2 by services available from other Federal or non-Fed-
3 eral programs, except that migratory children who
4 are eligible to receive services under subpart 1 may
5 receive those services through funds provided under
6 that subpart, or through funds under this subpart
7 that remain after the agency addresses the needs de-
8 scribed in paragraph (1).

9 “(3) CONSTRUCTION.—Nothing in this subpart
10 shall be construed to prohibit a local educational
11 agency from serving migratory children simulta-
12 neously with students with similar educational needs
13 in the same educational settings, where appropriate.

14 **“SEC. 1137. BYPASS.**

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

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

22 “(2) such arrangements would result in more
23 efficient and economic administration of such pro-
24 grams; or

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

3 **“SEC. 1138. COORDINATION OF MIGRATORY EDUCATION**
4 **ACTIVITIES.**

5 “(a) IMPROVEMENT OF COORDINATION.—

6 “(1) IN GENERAL.—The Secretary, in consulta-
7 tion with the States, may make grants to, or enter
8 into contracts with, State educational agencies, local
9 educational agencies, institutions of higher edu-
10 cation, and other public and private entities to im-
11 prove the interstate and intrastate coordination
12 among such agencies’ educational programs, includ-
13 ing through the establishment or improvement of
14 programs for credit accrual and exchange, available
15 to migratory students.

16 “(2) DURATION.—Grants or contracts under
17 this subsection may be awarded for not more than
18 5 years.

19 “(b) STUDENT RECORDS.—

20 “(1) ASSISTANCE.—The Secretary shall assist
21 States in developing and maintaining an effective
22 system for the electronic transfer of student records
23 and in determining the number of migratory chil-
24 dren in each State.

25 “(2) INFORMATION SYSTEM.—

1 “(A) IN GENERAL.—The Secretary, in con-
2 sultation with the States, shall ensure the link-
3 age of migratory student record systems for the
4 purpose of electronically exchanging, among the
5 States, health and educational information re-
6 garding all migratory students. The Secretary
7 shall ensure such linkage occurs in a cost-effec-
8 tive manner, utilizing systems used by the
9 States prior to, or developed after, the date of
10 enactment of this Act. The Secretary shall de-
11 termine the minimum data elements that each
12 State receiving funds under this subpart shall
13 collect and maintain. Such minimum data ele-
14 ments may include—

15 “(i) immunization records and other
16 health information;

17 “(ii) elementary and secondary aca-
18 demic history (including partial credit),
19 credit accrual, and results from State as-
20 sessments required under section
21 1111(b)(2);

22 “(iii) other academic information es-
23 sential to ensuring that migratory children
24 achieve to the States’s academic standards;
25 and

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

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

11 “(3) NO COST FOR CERTAIN TRANSFERS.—A
12 State educational agency or local educational agency
13 receiving assistance under this subpart shall make
14 student records available to another State edu-
15 cational agency or local educational agency that re-
16 quests the records at no cost to the requesting agen-
17 cy, if the request is made in order to meet the needs
18 of a migratory child.

19 “(4) REPORT TO CONGRESS.—

20 “(A) IN GENERAL.—Not later than April
21 30, 2013, the Secretary shall report to the
22 Committee on Health, Education, Labor, and
23 Pensions of the Senate and the Committee on
24 Education and the Workforce of the House of
25 Representatives the Secretary’s findings and

1 recommendations regarding the maintenance
2 and transfer of health and educational informa-
3 tion for migratory students by the States.

4 “(B) REQUIRED CONTENTS.—The Sec-
5 retary shall include in such report—

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

9 “(ii) recommendations for maintaining
10 such systems; and

11 “(iii) recommendations for improving
12 the continuity of services provided for mi-
13 gratory students.

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

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

21 **“SEC. 1139. DEFINITIONS.**

22 “As used in this subpart:

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

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

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

8 “(C) a State educational agency, if the
9 State educational agency operates the State’s
10 migratory education program or projects di-
11 rectly.

12 “(2) MIGRATORY CHILD.—The term ‘migratory
13 child’ means a child who is, or whose parent or
14 spouse is, a migratory agricultural worker, including
15 a migratory dairy worker, or a migratory fisher, and
16 who, in the preceding 36 months, in order to obtain,
17 or accompany such parent or spouse, in order to ob-
18 tain, temporary or seasonal employment in agricul-
19 tural or fishing work—

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

22 “(B) in a State that is comprised of a sin-
23 gle school district, has moved from one adminis-
24 trative area to another within such district; or

1 “(C) resides in a school district of more
2 than 15,000 square miles, and migrates a dis-
3 tance of 20 miles or more to a temporary resi-
4 dence to engage in a fishing activity.

5 “SUBPART 3—PREVENTION AND INTERVENTION PRO-
6 GRAMS FOR CHILDREN AND YOUTH WHO ARE NE-
7 GLECTED, DELINQUENT, OR AT-RISK

8 **“SEC. 1141. PURPOSE AND PROGRAM AUTHORIZATION.**

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

10 “(1) to improve educational services for chil-
11 dren and youth in local and State institutions for
12 neglected or delinquent children and youth so that
13 such children and youth have the opportunity to
14 meet the same State academic standards that all
15 children in the State are expected to meet;

16 “(2) to provide such children and youth with
17 the services needed to make a successful transition
18 from institutionalization to further schooling or em-
19 ployment; and

20 “(3) to prevent at-risk youth from dropping out
21 of school, and to provide dropouts, and children and
22 youth returning from correctional facilities or insti-
23 tutions for neglected or delinquent children and
24 youth, with a support system to ensure their contin-
25 ued education.

1 “(b) PROGRAM AUTHORIZED.—From amounts ap-
2 propriated under section 3(a)(1), the Secretary shall re-
3 serve 0.3 of one percent to carry out this subpart.

4 “(c) GRANTS AWARDED.—From the amounts re-
5 served under subsection (b) and not reserved under section
6 1004 and section 1159, the Secretary shall make grants
7 to State educational agencies that have plans submitted
8 under section 1154 approved to enable such agencies to
9 award subgrants to State agencies and local educational
10 agencies to establish or improve programs of education for
11 neglected, delinquent, or at-risk children and youth.

12 **“SEC. 1142. PAYMENTS FOR PROGRAMS UNDER THIS SUB-**
13 **PART.**

14 “(a) AGENCY SUBGRANTS.—Based on the allocation
15 amount computed under section 1152, the Secretary shall
16 allocate to each State educational agency an amount nec-
17 essary to make subgrants to State agencies under chapter
18 A.

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

1 **“CHAPTER A—STATE AGENCY PROGRAMS**

2 **“SEC. 1151. ELIGIBILITY.**

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

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

8 “(2) attending community day programs for ne-
9 glected or delinquent children and youth; or

10 “(3) in adult correctional institutions.

11 **“SEC. 1152. ALLOCATION OF FUNDS.**

12 “(a) SUBGRANTS TO STATE AGENCIES.—

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

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

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

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

1 “(I) in education programs in in-
2 stitutions for neglected or delinquent
3 children and youth; or

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

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

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

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

21 “(B) be adjusted, as the Secretary deter-
22 mines is appropriate, to reflect the relative
23 length of such agency’s annual programs.

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

1 “(1) IN GENERAL.—For each fiscal year, the
2 amount of the subgrant which a State agency in the
3 Commonwealth of Puerto Rico shall be eligible to re-
4 ceive under this chapter shall be the amount deter-
5 mined by multiplying the number of children count-
6 ed under subsection (a)(1)(A) for the Common-
7 wealth of Puerto Rico by the product of—

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

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

14 “(2) MINIMUM PERCENTAGE.—The percentage
15 in paragraph (1)(A) shall not be less than 85 per-
16 cent.

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

23 **“SEC. 1153. STATE REALLOCATION OF FUNDS.**

24 “‘If a State educational agency determines that a
25 State agency does not need the full amount of the

1 subgrant for which such State agency is eligible under this
2 chapter for any fiscal year, the State educational agency
3 may reallocate the amount that will not be needed to other
4 eligible State agencies that need additional funds to carry
5 out the purpose of this chapter, in such amounts as the
6 State educational agency shall determine.

7 **“SEC. 1154. STATE PLAN AND STATE AGENCY APPLICA-**
8 **TIONS.**

9 “(a) STATE PLAN.—

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

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

17 “(B) for assisting in the transition of chil-
18 dren and youth from correctional facilities to lo-
19 cally operated programs; and

20 “(C) that is integrated with other pro-
21 grams under this Act or other Acts, as appro-
22 priate.

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

24 “(A) describe how the State will assess the
25 effectiveness of the program in improving the

1 academic, career, and technical skills of chil-
2 dren in the program;

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

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

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

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

17 “(ii) carry out the evaluation require-
18 ments of section 1171; and

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

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

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

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

8 “(b) SECRETARIAL APPROVAL AND PEER REVIEW.—

9 “(1) SECRETARIAL APPROVAL.—The Secretary
10 shall approve each State plan that meets the re-
11 quirements of this chapter.

12 “(2) PEER REVIEW.—The Secretary may review
13 any State plan with the assistance and advice of in-
14 dividuals with relevant expertise.

15 “(c) STATE AGENCY APPLICATIONS.—Any State
16 agency that desires to receive funds to carry out a pro-
17 gram under this chapter shall submit an application to
18 the State educational agency that—

19 “(1) describes the procedures to be used, con-
20 sistent with the State plan under section 1111, to
21 assess the educational needs of the children to be
22 served under this chapter;

23 “(2) provide an assurance that in making serv-
24 ices available to children and youth in adult correc-
25 tional institutions, priority will be given to such chil-

1 dren and youth who are likely to complete incarceration-
2 ation within a 2-year period;

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

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

8 “(5) describes how the State agency will consult
9 with experts and provide the necessary training for
10 appropriate staff, to ensure that the planning and
11 operation of institution-wide projects under section
12 1156 are of high quality;

13 “(6) describes how the programs will be coordi-
14 nated with other appropriate State and Federal pro-
15 grams, such as programs under title I of Public Law
16 105–220, career and technical education programs,
17 State and local dropout prevention programs, and
18 special education programs;

19 “(7) describes how the State agency will en-
20 courage correctional facilities receiving funds under
21 this chapter to coordinate with local educational
22 agencies or alternative education programs attended
23 by incarcerated children and youth prior to and after
24 their incarceration to ensure that student assess-
25 ments and appropriate academic records are shared

1 jointly between the correctional facility and the local
2 educational agency or alternative education program;

3 “(8) describes how appropriate professional de-
4 velopment will be provided to teachers and other
5 staff;

6 “(9) designates an individual in each affected
7 correctional facility or institution for neglected or
8 delinquent children and youth to be responsible for
9 issues relating to the transition of such children and
10 youth from such facility or institution to locally op-
11 erated programs;

12 “(10) describes how the State agency will en-
13 deavor to coordinate with businesses for training and
14 mentoring for participating children and youth;

15 “(11) provides an assurance that the State
16 agency will assist in locating alternative programs
17 through which students can continue their education
18 if the students are not returning to school after leav-
19 ing the correctional facility or institution for ne-
20 glected or delinquent children and youth;

21 “(12) provides assurances that the State agency
22 will work with parents to secure parents’ assistance
23 in improving the educational achievement of their
24 children and youth, and preventing their children’s

1 and youth's further involvement in delinquent activi-
2 ties;

3 “(13) provides an assurance that the State
4 agency will work with children and youth with dis-
5 abilities in order to meet an existing individualized
6 education program and an assurance that the agen-
7 cy will notify the child's or youth's local school if the
8 child or youth—

9 “(A) is identified as in need of special edu-
10 cation services while the child or youth is in the
11 correctional facility or institution for neglected
12 or delinquent children and youth; and

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

14 “(14) provides an assurance that the State
15 agency will work with children and youth who
16 dropped out of school before entering the correc-
17 tional facility or institution for neglected or delin-
18 quent children and youth to encourage the children
19 and youth to reenter school and obtain a regular
20 high school diploma once the term of the incarcer-
21 ation is completed, or provide the child or youth with
22 the skills necessary to gain employment, continue
23 the education of the child or youth, or obtain a reg-
24 ular high school diploma or its recognized equivalent

1 if the child or youth does not intend to return to
2 school;

3 “(15) provides an assurance that effective
4 teachers and other qualified staff are trained to
5 work with children and youth with disabilities and
6 other students with special needs taking into consid-
7 eration the unique needs of such students;

8 “(16) describes any additional services to be
9 provided to children and youth, such as career coun-
10 seling, distance education, and assistance in securing
11 student loans and grants; and

12 “(17) provides an assurance that the program
13 under this chapter will be coordinated with any pro-
14 grams operated under the Juvenile Justice and De-
15 linquency Prevention Act of 1974 (42 U.S.C. 5601
16 et seq.) or other comparable programs, if applicable.

17 **“SEC. 1155. USE OF FUNDS.**

18 “(a) USES.—

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

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

24 “(B) concentrate on providing participants
25 with the knowledge and skills needed to make

1 a successful transition to secondary school com-
2 pletion, career or technical training, further
3 education, or employment without the need for
4 remediation.

5 “(2) PROGRAMS AND PROJECTS.—Such pro-
6 grams and projects—

7 “(A) may include the acquisition of equip-
8 ment;

9 “(B) shall be designed to support edu-
10 cational services that—

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

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

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

24 “(C) shall be carried out in a manner con-
25 sistent with section 1120A and part C (as ap-

1 plied to programs and projects under this chap-
2 ter).

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

10 **“SEC. 1156. INSTITUTION-WIDE PROJECTS.**

11 “A State agency that provides free public education
12 for children and youth in an institution for neglected or
13 delinquent children and youth (other than an adult correc-
14 tional institution) or attending a community day program
15 for such children and youth may use funds received under
16 this chapter to serve all children in, and upgrade the entire
17 educational effort of, that institution or program if the
18 State agency has developed, and the State educational
19 agency has approved, a comprehensive plan for that insti-
20 tution or program that—

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

24 “(2) provides for a comprehensive assessment
25 of the educational needs of youth aged 20 and

1 younger in adult facilities who are expected to com-
2 plete incarceration within a 2-year period;

3 “(3) describes the steps the State agency has
4 taken, or will take, to provide all children and youth
5 under age 21 with the opportunity to meet State
6 academic standards in order to improve the likeli-
7 hood that the children and youth will complete sec-
8 ondary school, obtain a regular high school diploma
9 or its recognized equivalent, or find employment
10 after leaving the institution;

11 “(4) describes the instructional program, spe-
12 cialized instructional support services, and proce-
13 dures that will be used to meet the needs described
14 in paragraph (1), including, to the extent feasible,
15 the provision of mentors for the children and youth
16 described in paragraph (1);

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

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

22 “(7) describes how the agency has planned, and
23 will implement and evaluate, the institution-wide or
24 program-wide project in consultation with personnel
25 providing direct instructional services and support

1 services in institutions or community day programs
2 for neglected or delinquent children and youth, and
3 with personnel from the State educational agency;
4 and

5 “(8) includes an assurance that the State agen-
6 cy has provided for appropriate training for teachers
7 and other instructional and administrative personnel
8 to enable such teachers and personnel to carry out
9 the project effectively.

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

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

17 **“SEC. 1158. TRANSITION SERVICES.**

18 “(a) TRANSITION SERVICES.—Each State agency
19 shall reserve not less than 15 percent and not more than
20 30 percent of the amount such agency receives under this
21 chapter for any fiscal year to support—

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

1 “(2) the successful re-entry of youth offenders,
2 who are age 20 or younger and have received a reg-
3 ular high school diploma or its recognized equiva-
4 lent, into postsecondary education, or career and
5 technical training programs, through strategies de-
6 signed to expose the youth to, and prepare the youth
7 for, postsecondary education, or career and technical
8 training programs, such as—

9 “(A) preplacement programs that allow ad-
10 judicated or incarcerated youth to audit or at-
11 tend courses on college, university, or commu-
12 nity college campuses, or through programs
13 provided in institutional settings;

14 “(B) worksite schools, in which institutions
15 of higher education and private or public em-
16 ployers partner to create programs to help stu-
17 dents make a successful transition to postsec-
18 ondary education and employment; and

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

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

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

1 “(iii) information concerning, and as-
2 sistance in obtaining, available student fi-
3 nancial aid;

4 “(iv) counseling services; and

5 “(v) job placement services.

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

11 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
12 tion shall be construed to prohibit a school that receives
13 funds under subsection (a) from serving neglected and de-
14 linquent children and youth simultaneously with students
15 with similar educational needs, in the same educational
16 settings where appropriate.

17 **“SEC. 1159. TECHNICAL ASSISTANCE.**

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

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

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

15 “(d) TRANSITIONAL AND ACADEMIC SERVICES.—
16 Transitional and supportive programs operated in local
17 educational agencies under this chapter shall be designed
18 primarily to meet the transitional and academic needs of
19 students returning to local educational agencies or alter-
20 native education programs from correctional facilities.
21 Services to students at-risk of dropping out of school shall
22 not have a negative impact on meeting the transitional and
23 academic needs of the students returning from correc-
24 tional facilities.

1 **“SEC. 1163. LOCAL EDUCATIONAL AGENCY APPLICATIONS.**

2 “Each local educational agency desiring assistance
3 under this chapter shall submit an application to the State
4 educational agency that contains such information as the
5 State educational agency may require. Each such applica-
6 tion shall include—

7 “(1) a description of the program to be as-
8 sisted;

9 “(2) a description of formal agreements, re-
10 garding the program to be assisted, between—

11 “(A) the local educational agency; and

12 “(B) correctional facilities and alternative
13 school programs serving children and youth in-
14 volved with the juvenile justice system;

15 “(3) as appropriate, a description of how par-
16 ticipating schools will coordinate with facilities work-
17 ing with delinquent children and youth to ensure
18 that such children and youth are participating in an
19 education program comparable to one operating in
20 the local school such youth would attend;

21 “(4) a description of the program operated by
22 participating schools for children and youth return-
23 ing from correctional facilities and, as appropriate,
24 the types of services that such schools will provide
25 such children and youth and other at-risk children
26 and youth;

1 “(5) a description of the characteristics (includ-
2 ing learning difficulties, substance abuse problems,
3 and other needs) of the children and youth who will
4 be returning from correctional facilities and, as ap-
5 propriate, other at-risk children and youth expected
6 to be served by the program, and a description of
7 how the school will coordinate existing educational
8 programs to meet the unique educational needs of
9 such children and youth;

10 “(6) as appropriate, a description of how
11 schools will coordinate with existing social, health,
12 and other services to meet the needs of students re-
13 turning from correctional facilities and at-risk chil-
14 dren or youth, including prenatal health care and
15 nutrition services related to the health of the parent
16 and the child or youth, parenting and child develop-
17 ment classes, child care, targeted reentry and out-
18 reach programs, referrals to community resources,
19 and scheduling flexibility;

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

24 “(8) as appropriate, a description of how the
25 program will involve parents in efforts to improve

1 the educational achievement of their children, assist
2 in dropout prevention activities, and prevent the in-
3 volvement of their children in delinquent activities;

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

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

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

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

23 “(13) as appropriate, a description of the steps
24 participating schools will take to find alternative
25 placements for children and youth interested in con-

1 continuing their education but unable to participate in
2 a traditional public school program.

3 **“SEC. 1164. USES OF FUNDS.**

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

6 “(1) programs that serve children and youth re-
7 turning to local schools from correctional facilities,
8 to assist in the transition of such children and youth
9 to the school environment and help them remain in
10 school in order to complete their education;

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

13 “(3) the coordination of health and social serv-
14 ices for such individuals if there is a likelihood that
15 the provision of such services, including day care,
16 drug and alcohol counseling, and mental health serv-
17 ices, will improve the likelihood such individuals will
18 complete their education;

19 “(4) special programs to meet the unique aca-
20 demic needs of participating children and youth, in-
21 cluding career and technical education, special edu-
22 cation, career counseling, curriculum-based youth
23 entrepreneurship education, and assistance in secur-
24 ing student loans or grants for postsecondary edu-
25 cation; and

1 “(5) programs providing mentoring and peer
2 mediation.

3 **“SEC. 1165. PROGRAM REQUIREMENTS FOR CORREC-**
4 **TIONAL FACILITIES RECEIVING FUNDS**
5 **UNDER THIS SECTION.**

6 “Each correctional facility entering into an agree-
7 ment with a local educational agency under section
8 1163(2) to provide services to children and youth under
9 this chapter shall—

10 “(1) where feasible, ensure that educational
11 programs in the correctional facility are coordinated
12 with the student’s home school, particularly with re-
13 spect to a student with an individualized education
14 program under part B of the Individuals with Dis-
15 abilities Education Act;

16 “(2) if the child or youth is identified as in
17 need of special education services while in the cor-
18 rectional facility, notify the local school of the child
19 or youth of such need;

20 “(3) where feasible, provide transition assist-
21 ance to help the child or youth stay in school, in-
22 cluding coordination of services for the family, coun-
23 seling, assistance in accessing drug and alcohol
24 abuse prevention programs, tutoring, and family
25 counseling;

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

9 “(5) work to ensure that the correctional facil-
10 ity is staffed with effective teachers and other quali-
11 fied staff who are trained to work with children and
12 youth with disabilities taking into consideration the
13 unique needs of such children and youth;

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

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

20 “(8) where feasible, involve parents in efforts to
21 improve the educational achievement of their chil-
22 dren and prevent the further involvement of such
23 children in delinquent activities;

24 “(9) coordinate funds received under this chap-
25 ter with other local, State, and Federal funds avail-

1 able to provide services to participating children and
2 youth, such as funds made available under title I of
3 Public Law 105–220, and career and technical edu-
4 cation funds;

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

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

13 “(12) consult with the local educational agency
14 for a period jointly determined necessary by the cor-
15 rectional facility and local educational agency upon
16 discharge from that facility to coordinate educational
17 services so as to minimize disruption to the child’s
18 or youth’s achievement.

19 **“SEC. 1166. ACCOUNTABILITY.**

20 “The State educational agency—

21 “(1) may require correctional facilities or insti-
22 tutions for neglected or delinquent children and
23 youth to demonstrate, after receiving assistance
24 under this chapter for 3 years, that there has been
25 an increase in the number of children and youth re-

1 turning to school, obtaining a regular high school di-
2 ploma or its recognized equivalent, or obtaining em-
3 ployment after such children and youth are released;
4 and

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

10 **“CHAPTER C—GENERAL PROVISIONS**

11 **“SEC. 1171. PROGRAM EVALUATIONS.**

12 “(a) SCOPE OF EVALUATION.—Each State agency or
13 local educational agency that conducts a program under
14 chapters A or B shall evaluate the program,
15 disaggregating data on participation by gender, race, eth-
16 nicity, and age, not less than once every 3 years, to deter-
17 mine the program’s impact on the ability of participants—

18 “(1) to maintain and improve educational
19 achievement;

20 “(2) to accrue school credits that meet State re-
21 quirements for grade promotion and high school
22 graduation;

23 “(3) to make the transition to a regular pro-
24 gram or other education program operated by a local
25 educational agency;

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

5 “(5) as appropriate, to participate in postsec-
6 ondary education and job training programs.

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

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

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

19 “(1) submit evaluation results to the State edu-
20 cational agency and the Secretary; and

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

24 **“SEC. 1172. DEFINITIONS.**

25 “‘In this subpart:

1 “(1) ADULT CORRECTIONAL INSTITUTION.—

2 The term ‘adult correctional institution’ means a fa-
3 cility in which persons (including persons under 21
4 years of age) are confined as a result of a conviction
5 for a criminal offense.

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

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

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

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

23 “(4) INSTITUTION FOR NEGLECTED OR DELIN-
24 QUENT CHILDREN AND YOUTH.—The term ‘institu-

1 tion for neglected or delinquent children and youth’
2 means—

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

10 “(B) a public or private residential facility
11 for the care of children who have been adju-
12 dicated to be delinquent or in need of super-
13 vision.

14 “SUBPART 4—ENGLISH LANGUAGE ACQUISITION, LAN-
15 GUAGE ENHANCEMENT, AND ACADEMIC ACHIEVE-
16 MENT

17 **“SEC. 1181. PURPOSES.**

18 “The purposes of this subpart are—

19 “(1) to help ensure that English learners, in-
20 cluding immigrant children and youth, attain
21 English proficiency and develop high levels of aca-
22 demic achievement in English;

23 “(2) to assist all English learners, including im-
24 migrant children and youth, to achieve at high levels
25 in the core academic subjects so that those children

1 can meet the same State academic standards that all
2 children are expected to meet, consistent with sec-
3 tion 1111(b)(1);

4 “(3) to assist State educational agencies, local
5 educational agencies, and schools in establishing, im-
6 plementing, and sustaining high-quality, flexible, evi-
7 dence-based language instruction educational pro-
8 grams designed to assist in teaching English learn-
9 ers, including immigrant children and youth;

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

16 “(5) to promote parental and community par-
17 ticipation in language instruction educational pro-
18 grams for the parents and communities of English
19 learners.

20 **“CHAPTER A—GRANTS AND SUBGRANTS FOR**
21 **ENGLISH LANGUAGE ACQUISITION AND LAN-**
22 **GUAGE ENHANCEMENT**

23 **“SEC. 1191. FORMULA GRANTS TO STATES.**

24 “(a) IN GENERAL.—In the case of each State edu-
25 cational agency having a plan approved by the Secretary

1 for a fiscal year under section 1192, the Secretary shall
2 reserve 4.4 percent of funds appropriated under section
3 3(a)(1) to make a grant for the year to the agency for
4 the purposes specified in subsection (b). The grant shall
5 consist of the allotment determined for the State edu-
6 cational agency under subsection (c).

7 “(b) USE OF FUNDS.—

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

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

18 “(B) to award subgrants under section
19 1193(d)(1) to eligible entities that are described
20 in that section to carry out the activities de-
21 scribed in section 1194(e).

22 “(2) STATE ACTIVITIES.—Subject to paragraph
23 (3), each State educational agency receiving a grant
24 under subsection (a) may reserve not more than 5

1 percent of the agency’s allotment under subsection
2 (c) to carry out the following activities:

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

6 “(i) meeting State and local certifi-
7 cation and licensing requirements for
8 teaching English learners; and

9 “(ii) improving teacher skills in meet-
10 ing the diverse needs of English learners,
11 including in how to implement evidence-
12 based programs and curricula on teaching
13 English learners.

14 “(B) Planning, evaluation, administration,
15 and interagency coordination related to the sub-
16 grants referred to in paragraph (1).

17 “(C) Providing technical assistance and
18 other forms of assistance to eligible entities that
19 are receiving subgrants from a State edu-
20 cational agency under this chapter, including
21 assistance in—

22 “(i) identifying and implementing evi-
23 dence-based language instruction edu-
24 cational programs and curricula for teach-
25 ing English learners;

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

4 “(iii) identifying or developing, and
5 implementing, measures of English pro-
6 ficiency; and

7 “(iv) strengthening and increasing
8 parent, family, and community engage-
9 ment.

10 “(D) Providing recognition, which may in-
11 clude providing financial awards, to subgrantees
12 that have significantly improved the achieve-
13 ment and progress of English learners in—

14 “(i) reaching English language pro-
15 ficiency, based on the State’s English lan-
16 guage proficiency assessment under section
17 1111(b)(2)(D); and

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

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

1 “(c) RESERVATIONS AND ALLOTMENTS.—

2 “(1) RESERVATIONS.—From the amount re-
3 served under section 1191(a) for each fiscal year,
4 the Secretary shall reserve—

5 “(A) 0.5 percent of such amount for pay-
6 ments to outlying areas, to be allotted in ac-
7 cordance with their respective needs for assist-
8 ance under this chapter, as determined by the
9 Secretary, for activities, approved by the Sec-
10 retary, consistent with this chapter; and

11 “(B) 6.5 percent of such amount for na-
12 tional activities under sections 1211 and 1222,
13 except that not more than \$2,000,000 of such
14 amount may be reserved for the National Clear-
15 ouse for English Language Acquisition and
16 Language Instruction Educational Programs
17 described in section 1222.

18 “(2) STATE ALLOTMENTS.—

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

1 “(i) an amount that bears the same
2 relationship to 80 percent of the remainder
3 as the number of English learners in the
4 State bears to the number of such children
5 in all States, as determined by data avail-
6 able from the American Community Survey
7 conducted by the Department of Commerce
8 or State-reported data; and

9 “(ii) an amount that bears the same
10 relationship to 20 percent of the remainder
11 as the number of immigrant children and
12 youth in the State bears to the number of
13 such children and youth in all States, as
14 determined based only on data available
15 from the American Community Survey
16 conducted by the Department of Com-
17 merce.

18 “(B) MINIMUM ALLOTMENTS.—No State
19 educational agency shall receive an allotment
20 under this paragraph that is less than
21 \$500,000.

22 “(C) REALLOTMENT.—If any State edu-
23 cational agency described in subparagraph (A)
24 does not submit a plan to the Secretary for a
25 fiscal year, or submits a plan (or any amend-

1 ment to a plan) that the Secretary, after rea-
2 sonable notice and opportunity for a hearing,
3 determines does not satisfy the requirements of
4 this chapter, the Secretary shall reallocate any por-
5 tion of such allotment to the remaining State
6 educational agencies in accordance with sub-
7 paragraph (A).

8 “(D) SPECIAL RULE FOR PUERTO RICO.—

9 The total amount allotted to Puerto Rico for
10 any fiscal year under subparagraph (A) shall
11 not exceed 0.5 percent of the total amount al-
12 lotted to all States for that fiscal year.

13 “(3) USE OF DATA FOR DETERMINATIONS.—In

14 making State allotments under paragraph (2) for
15 each fiscal year, the Secretary shall determine the
16 number of English learners in a State and in all
17 States, using the most accurate, up-to-date data,
18 which shall be—

19 “(A) data from the American Community
20 Survey conducted by the Department of Com-
21 merce, which may be multiyear estimates;

22 “(B) the number of students being as-
23 sessed for English language proficiency, based
24 on the State’s English language proficiency as-

1 assessment under section 1111(b)(2)(D), which
2 may be multiyear estimates; or

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

5 **“SEC. 1192. STATE EDUCATIONAL AGENCY PLANS.**

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

10 “(b) **CONTENTS.**—Each plan submitted under sub-
11 section (a) shall—

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

15 “(2) provide an assurance that—

16 “(A) the agency will ensure that eligible
17 entities receiving a subgrant under this chapter
18 comply with the requirement in section
19 1111(b)(2)(B)(x) to annually assess in English
20 learners who have been in the United States for
21 3 or more consecutive years;

22 “(B) the agency will ensure that eligible
23 entities receiving a subgrant under this chapter
24 annually assess the English proficiency of all
25 English learners participating in a program

1 funded under this chapter, consistent with sec-
2 tion 1111(b)(2)(D);

3 “(C) in awarding subgrants under section
4 1193, the agency will address the needs of
5 school systems of all sizes and in all geographic
6 areas, including school systems with rural and
7 urban schools;

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

13 “(E) the agency will require an eligible en-
14 tity receiving a subgrant under this chapter to
15 use the subgrant in ways that will build such
16 recipient’s capacity to continue to offer high-
17 quality evidence-based language instruction edu-
18 cational programs that assist English learners
19 in meeting State academic standards;

20 “(F) the agency will monitor the eligible
21 entity receiving a subgrant under this chapter
22 for compliance with applicable Federal fiscal re-
23 quirements; and

24 “(G) the plan has been developed in con-
25 sultation with local educational agencies, teach-

1 ers, administrators of programs implemented
2 under this chapter, parents, and other relevant
3 stakeholders;

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

8 “(4) describe how eligible entities in the State
9 will be given the flexibility to teach English learn-
10 ers—

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

14 “(B) in the manner the eligible entities de-
15 termine to be the most effective; and

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

19 “(c) APPROVAL.—The Secretary, after using a peer
20 review process, shall approve a plan submitted under sub-
21 section (a) if the plan meets the requirements of this sec-
22 tion.

23 “(d) DURATION OF PLAN.—

1 “(1) IN GENERAL.—Each plan submitted by a
2 State educational agency and approved under sub-
3 section (c) shall—

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

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

11 “(2) ADDITIONAL INFORMATION.—

12 “(A) AMENDMENTS.—If the State edu-
13 cational agency amends the plan, the agency
14 shall submit such amendment to the Secretary.

15 “(B) APPROVAL.—The Secretary shall ap-
16 prove such amendment to an approved plan,
17 unless the Secretary determines that the
18 amendment will result in the agency not meet-
19 ing the requirements, or fulfilling the purposes,
20 of this subpart.

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

1 “(f) SECRETARY ASSISTANCE.—The Secretary shall
2 provide technical assistance, if requested, in the develop-
3 ment of English proficiency standards and assessments.

4 **“SEC. 1193. WITHIN-STATE ALLOCATIONS.**

5 “(a) IN GENERAL.—After making the reservation re-
6 quired under subsection (d)(1), each State educational
7 agency receiving a grant under section 1191(c)(2) shall
8 award subgrants for a fiscal year by allocating in a timely
9 manner to each eligible entity in the State having a plan
10 approved under section 1195 an amount that bears the
11 same relationship to the amount received under the grant
12 and remaining after making such reservation as the popu-
13 lation of English learners in schools served by the eligible
14 entity bears to the population of English learners in
15 schools served by all eligible entities in the State.

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

20 “(c) REALLOCATION.—Whenever a State educational
21 agency determines that an amount from an allocation
22 made to an eligible entity under subsection (a) for a fiscal
23 year will not be used by the entity for the purpose for
24 which the allocation was made, the agency shall, in accord-
25 ance with such rules as it determines to be appropriate,

1 reallocate such amount, consistent with such subsection,
2 to other eligible entities in the State that the agency deter-
3 mines will use the amount to carry out that purpose.

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

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

18 “(2) in awarding subgrants under paragraph
19 (1)—

20 “(A) shall equally consider eligible entities
21 that satisfy the requirement of such paragraph
22 but have limited or no experience in serving im-
23 migrant children and youth; and

24 “(B) shall consider the quality of each
25 local plan under section 1195 and ensure that

1 each subgrant is of sufficient size and scope to
2 meet the purposes of this subpart.

3 **“SEC. 1194. SUBGRANTS TO ELIGIBLE ENTITIES.**

4 “(a) PURPOSES OF SUBGRANTS.—A State edu-
5 cational agency may make a subgrant to an eligible entity
6 from funds received by the agency under this chapter only
7 if the entity agrees to expend the funds to improve the
8 education of English learners, by assisting the children to
9 learn English and meet State academic standards. In car-
10 rying out activities with such funds, the eligible entity
11 shall use evidence-based approaches and methodologies for
12 teaching English learners and immigrant children and
13 youth for the following purposes:

14 “(1) Developing and implementing new lan-
15 guage instruction educational programs and aca-
16 demic content instruction programs for English
17 learners and immigrant children and youth, includ-
18 ing programs of early childhood education, elemen-
19 tary school programs, and secondary school pro-
20 grams.

21 “(2) Carrying out highly focused, innovative, lo-
22 cally designed, evidence-based activities to expand or
23 enhance existing language instruction educational
24 programs and academic content instruction pro-

1 grams for English learners and immigrant children
2 and youth.

3 “(3) Implementing, within an individual school,
4 schoolwide programs for restructuring, reforming,
5 and upgrading all relevant programs, activities, and
6 operations relating to language instruction edu-
7 cational programs and academic content instruction
8 for English learners and immigrant children and
9 youth.

10 “(4) Implementing, within the entire jurisdic-
11 tion of a local educational agency, agencywide pro-
12 grams for restructuring, reforming, and upgrading
13 all relevant programs, activities, and operations re-
14 lating to language instruction educational programs
15 and academic content instruction for English learn-
16 ers and immigrant children and youth.

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

21 “(c) REQUIRED SUBGRANTEE ACTIVITIES.—An eligi-
22 ble entity receiving funds under section 1193(a) shall use
23 the funds—

24 “(1) to increase the English language pro-
25 ficiency of English learners by providing high-qual-

1 ity, evidence-based language instruction educational
2 programs that meet the needs of English learners
3 and have demonstrated success in increasing—

4 “(A) English language proficiency; and

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

7 “(2) to provide high-quality, evidence-based
8 professional development to classroom teachers (in-
9 cluding teachers in classroom settings that are not
10 the settings of language instruction educational pro-
11 grams), school leaders, administrators, and other
12 school or community-based organization personnel,
13 that is—

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

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

21 “(C) evidence-based in increasing chil-
22 dren’s English language proficiency or substan-
23 tially increasing the subject matter knowledge,
24 teaching knowledge, and teaching skills of
25 teachers; and

1 “(D) of sufficient intensity and duration
2 (which shall not include activities such as one-
3 day or short-term workshops and conferences)
4 to have a positive and lasting impact on the
5 teachers’ performance in the classroom, except
6 that this subparagraph shall not apply to an ac-
7 tivity that is one component of a long-term,
8 comprehensive professional development plan
9 established by a teacher and the teacher’s su-
10 pervisor based on an assessment of the needs of
11 the teacher, the supervisor, the students of the
12 teacher, and any local educational agency em-
13 ploying the teacher, as appropriate; and

14 “(3) to provide and implement other evidence-
15 based activities and strategies that enhance or sup-
16 plement language instruction educational programs
17 for English learners, including parental and commu-
18 nity engagement activities and strategies that serve
19 to coordinate and align related programs.

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

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

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

3 “(3) Providing to English learners—

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

5 “(B) intensified instruction.

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

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

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

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

10 “(B) to assist parents in helping their children to improve their academic achievement

1 and becoming active participants in the edu-
2 cation of their children.

3 “(7) Improving the instruction of English learn-
4 ers by providing for—

5 “(A) the acquisition or development of
6 educational technology or instructional mate-
7 rials;

8 “(B) access to, and participation in, elec-
9 tronic networks for materials, training, and
10 communication; and

11 “(C) incorporation of the resources de-
12 scribed in subparagraphs (A) and (B) into cur-
13 ricula and programs, such as those funded
14 under this chapter.

15 “(8) Carrying out other activities that are con-
16 sistent with the purposes of this section.

17 “(e) ACTIVITIES BY AGENCIES EXPERIENCING SUB-
18 STANTIAL INCREASES IN IMMIGRANT CHILDREN AND
19 YOUTH.—

20 “(1) IN GENERAL.—An eligible entity receiving
21 funds under section 1193(d)(1) shall use the funds
22 to pay for activities that provide enhanced instruc-
23 tional opportunities for immigrant children and
24 youth, which may include—

1 “(A) family literacy, parent outreach, and
2 training activities designed to assist parents to
3 become active participants in the education of
4 their children;

5 “(B) support for personnel, including para-
6 professionals who have been specifically trained,
7 or are being trained, to provide services to im-
8 migrant children and youth;

9 “(C) provision of tutorials, mentoring, and
10 academic or career counseling for immigrant
11 children and youth;

12 “(D) identification, development, and ac-
13 quisition of curricular materials, educational
14 software, and technologies to be used in the
15 program carried out with awarded funds;

16 “(E) basic instruction services that are di-
17 rectly attributable to the presence in the local
18 educational agency involved of immigrant chil-
19 dren and youth, including the payment of costs
20 of providing additional classroom supplies, costs
21 of transportation, or such other costs as are di-
22 rectly attributable to such additional basic in-
23 struction services;

24 “(F) other instruction services that are de-
25 signed to assist immigrant children and youth

1 to achieve in elementary schools and secondary
2 schools in the United States, such as programs
3 of introduction to the educational system and
4 civics education; and

5 “(G) activities, coordinated with commu-
6 nity-based organizations, institutions of higher
7 education, private sector entities, or other enti-
8 ties with expertise in working with immigrants,
9 to assist parents of immigrant children and
10 youth by offering comprehensive community
11 services.

12 “(2) DURATION OF SUBGRANTS.—The duration
13 of a subgrant made by a State educational agency
14 under section 1193(d)(1) shall be determined by the
15 agency in its discretion.

16 “(f) SELECTION OF METHOD OF INSTRUCTION.—

17 “(1) IN GENERAL.—To receive a subgrant from
18 a State educational agency under this chapter, an el-
19 igible entity shall select one or more methods or
20 forms of instruction to be used in the programs and
21 activities undertaken by the entity to assist English
22 learners to attain English language proficiency and
23 meet State academic standards.

24 “(2) CONSISTENCY.—Such selection shall be
25 consistent with sections 1204 through 1206.

1 “(g) SUPPLEMENT, NOT SUPPLANT.—Federal funds
2 made available under this chapter shall be used so as to
3 supplement the level of Federal, State, and local public
4 funds that, in the absence of such availability, would have
5 been expended for programs for English learners and im-
6 migrant children and youth and in no case to supplant
7 such Federal, State, and local public funds.

8 **“SEC. 1195. LOCAL PLANS.**

9 “(a) PLAN REQUIRED.—Each eligible entity desiring
10 a subgrant from the State educational agency under sec-
11 tion 1193 shall submit a plan to the State educational
12 agency at such time, in such manner, and containing such
13 information as the State educational agency may require.

14 “(b) CONTENTS.—Each plan submitted under sub-
15 section (a) shall—

16 “(1) describe the evidence-based programs and
17 activities proposed to be developed, implemented,
18 and administered under the subgrant that will help
19 English learners increase their English language
20 proficiency and meet the State academic standards;

21 “(2) describe how the eligible entity will hold el-
22 elementary schools and secondary schools receiving
23 funds under this chapter accountable for annually
24 assessing the English language proficiency of all

1 children participating under this subpart, consistent
2 with section 1111(b);

3 “(3) describe how the eligible entity will pro-
4 mote parent and community engagement in the edu-
5 cation of English learners;

6 “(4) contain an assurance that the eligible enti-
7 ty consulted with teachers, researchers, school ad-
8 ministrators, parents and community members, pub-
9 lic or private organizations, and institutions of high-
10 er education, in developing and implementing such
11 plan;

12 “(5) describe how language instruction edu-
13 cational programs carried out under the subgrant
14 will ensure that English learners being served by the
15 programs develop English language proficiency; and

16 “(6) contain assurances that—

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

21 “(B) the eligible entity is not in violation
22 of any State law, including State constitutional
23 law, regarding the education of English learn-
24 ers, consistent with sections 1205 and 1206.

1 “(c) **TEACHER ENGLISH FLUENCY.**—Each eligible
2 entity receiving a subgrant under section 1193 shall in-
3 clude in its plan a certification that all teachers in any
4 language instruction educational program for English
5 learners that is, or will be, funded under this subpart are
6 fluent in English and any other language used for instruc-
7 tion, including having written and oral communications
8 skills.

9 **“CHAPTER B—ADMINISTRATION**

10 **“SEC. 1201. REPORTING.**

11 “(a) **IN GENERAL.**—Each eligible entity that receives
12 a subgrant from a State educational agency under chapter
13 A shall provide such agency, at the conclusion of every
14 second fiscal year during which the subgrant is received,
15 with a report, in a form prescribed by the agency, that
16 includes—

17 “(1) a description of the programs and activi-
18 ties conducted by the entity with funds received
19 under chapter A during the two immediately pre-
20 ceding fiscal years, including how such programs
21 and activities supplemented programs funded pri-
22 marily with State or local funds;

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

1 “(3) the number and percentage of English
2 learners in the programs and activities attaining
3 English language proficiency based on the State
4 English language proficiency standards established
5 under section 1111(b)(1)(E) by the end of each
6 school year, as determined by the State’s English
7 language proficiency assessment under section
8 1111(b)(2)(D);

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

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

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

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

1 “(b) USE OF REPORT.—A report provided by an eli-
2 gible entity under subsection (a) shall be used by the enti-
3 ty and the State educational agency—

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

7 “(A) to attain English language pro-
8 ficiency; and

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

12 “(2) upon determining the effectiveness of pro-
13 grams and activities based on the criteria in para-
14 graph (1), to decide how to improve programs.

15 **“SEC. 1202. ANNUAL REPORT.**

16 “(a) STATES.—Based upon the reports provided to
17 a State educational agency under section 1201, each such
18 agency that receives a grant under this subpart shall pre-
19 pare and submit annually to the Secretary a report on pro-
20 grams and activities carried out by the State educational
21 agency under this subpart and the effectiveness of such
22 programs and activities in improving the education pro-
23 vided to English learners.

24 “(b) SECRETARY.—Annually, the Secretary shall pre-
25 pare and submit to the Committee on Education and the

1 Workforce of the House of Representatives and the Com-
2 mittee on Health, Education, Labor, and Pensions of the
3 Senate a report—

4 “(1) on programs and activities carried out to
5 serve English learners under this subpart, and the
6 effectiveness of such programs and activities in im-
7 proving the academic achievement and English lan-
8 guage proficiency of English learners;

9 “(2) on the types of language instruction edu-
10 cational programs used by local educational agencies
11 or eligible entities receiving funding under this sub-
12 part to teach English learners;

13 “(3) containing a critical synthesis of data re-
14 ported by eligible entities to States under section
15 1201(a);

16 “(4) containing a description of technical assist-
17 ance and other assistance provided by State edu-
18 cational agencies under section 1191(b)(2)(C);

19 “(5) containing an estimate of the number of
20 effective teachers working in language instruction
21 educational programs and educating English learn-
22 ers, and an estimate of the number of such teachers
23 that will be needed for the succeeding 5 fiscal years;

24 “(6) containing the number of programs or ac-
25 tivities, if any, that were terminated because the en-

1 titles carrying out the programs or activities were
2 not able to reach program goals;

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

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

12 **“SEC. 1203. COORDINATION WITH RELATED PROGRAMS.**

13 “In order to maximize Federal efforts aimed at serv-
14 ing the educational needs of English learners, the Sec-
15 retary shall coordinate and ensure close cooperation with
16 other entities carrying out programs serving language-mi-
17 nority and English learners that are administered by the
18 Department and other agencies.

19 **“SEC. 1204. RULES OF CONSTRUCTION.**

20 “Nothing in this subpart shall be construed—

21 “(1) to prohibit a local educational agency from
22 serving English learners simultaneously with chil-
23 dren with similar educational needs, in the same
24 educational settings where appropriate;

1 “(2) to require a State or a local educational
2 agency to establish, continue, or eliminate any par-
3 ticular type of instructional program for English
4 learners; or

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

7 **“SEC. 1205. LEGAL AUTHORITY UNDER STATE LAW.**

8 “Nothing in this subpart shall be construed to negate
9 or supersede State law, or the legal authority under State
10 law of any State agency, State entity, or State public offi-
11 cial, over programs that are under the jurisdiction of the
12 State agency, entity, or official.

13 **“SEC. 1206. CIVIL RIGHTS.**

14 “Nothing in this subpart shall be construed in a man-
15 ner inconsistent with any Federal law guaranteeing a civil
16 right.

17 **“SEC. 1207. PROGRAMS FOR NATIVE AMERICANS AND**
18 **PUERTO RICO.**

19 “Notwithstanding any other provision of this subpart,
20 programs authorized under this subpart that serve Native
21 American (including Native American Pacific Islander)
22 children and children in the Commonwealth of Puerto Rico
23 may include programs of instruction, teacher training,
24 curriculum development, evaluation, and assessment de-
25 signed for Native American children learning and studying

1 Native American languages and children of limited Span-
2 ish proficiency, except that an outcome of programs serv-
3 ing such children shall be increased English proficiency
4 among such children.

5 **“SEC. 1208. PROHIBITION.**

6 “In carrying out this subpart, the Secretary shall nei-
7 ther mandate nor preclude the use of a particular cur-
8 ricular or pedagogical approach to educating English
9 learners.

10 **“CHAPTER C—NATIONAL ACTIVITIES**

11 **“SEC. 1211. NATIONAL PROFESSIONAL DEVELOPMENT**
12 **PROJECT.**

13 “The Secretary shall use funds made available under
14 section 1191(e)(1)(B) to award grants on a competitive
15 basis, for a period of not more than 5 years, to institutions
16 of higher education or public or private organizations with
17 relevant experience and capacity (in consortia with State
18 educational agencies or local educational agencies) to pro-
19 vide for professional development activities that will im-
20 prove classroom instruction for English learners and assist
21 educational personnel working with such children to meet
22 high professional standards, including standards for cer-
23 tification and licensure as teachers who work in language
24 instruction educational programs or serve English learn-
25 ers. Grants awarded under this subsection may be used—

1 “(1) for preservice, evidence-based professional
2 development programs that will assist local schools
3 and institutions of higher education to upgrade the
4 qualifications and skills of educational personnel who
5 are not certified or licensed, especially educational
6 paraprofessionals;

7 “(2) for the development of curricula or other
8 instructional strategies appropriate to the needs of
9 the consortia participants involved;

10 “(3) to support strategies that strengthen and
11 increase parent and community member engagement
12 in the education of English learners; and

13 “(4) to share and disseminate evidence-based
14 practices in the instruction of English learners and
15 in increasing their student achievement.

16 **“CHAPTER D—GENERAL PROVISIONS**

17 **“SEC. 1221. DEFINITIONS.**

18 “Except as otherwise provided, in this subpart:

19 “(1) CHILD.—The term ‘child’ means any indi-
20 vidual aged 3 through 21.

21 “(2) COMMUNITY-BASED ORGANIZATION.—The
22 term ‘community-based organization’ means a pri-
23 vate nonprofit organization of demonstrated effec-
24 tiveness, Indian tribe, or tribally sanctioned edu-
25 cational authority, that is representative of a com-

1 munity or significant segments of a community and
2 that provides educational or related services to indi-
3 viduals in the community. Such term includes a Na-
4 tive Hawaiian or Native American Pacific Islander
5 native language educational organization.

6 “(3) ELIGIBLE ENTITY.—The term ‘eligible en-
7 tity’ means—

8 “(A) one or more local educational agen-
9 cies; or

10 “(B) one or more local educational agen-
11 cies, in consortia (or collaboration) with an in-
12 stitution of higher education, community-based
13 organization, or State educational agency.

14 “(4) IMMIGRANT CHILDREN AND YOUTH.—The
15 term ‘immigrant children and youth’ means individ-
16 uals who—

17 “(A) are age 3 through 21;

18 “(B) were not born in any State; and

19 “(C) have not been attending one or more
20 schools in any one or more States for more
21 than 3 full academic years.

22 “(5) INDIAN TRIBE.—The term ‘Indian tribe’
23 means any Indian tribe, band, nation, or other orga-
24 nized group or community, including any Native vil-
25 lage or Regional Corporation or Village Corporation

1 as defined in or established pursuant to the Alaska
2 Native Claims Settlement Act, that is recognized as
3 eligible for the special programs and services pro-
4 vided by the United States to Indians because of
5 their status as Indians.

6 “(6) LANGUAGE INSTRUCTION EDUCATIONAL
7 PROGRAM.—The term ‘language instruction edu-
8 cational program’ means an instruction course—

9 “(A) in which an English learner is placed
10 for the purpose of developing and attaining
11 English language proficiency, while meeting
12 State academic standards, as required by sec-
13 tion 1111(b)(1); and

14 “(B) that may make instructional use of
15 both English and a child’s native language to
16 enable the child to develop and attain English
17 language proficiency, and may include the par-
18 ticipation of English language proficient chil-
19 dren if such course is designed to enable all
20 participating children to become proficient in
21 English and a second language.

22 “(7) NATIVE AMERICAN AND NATIVE AMERICAN
23 LANGUAGE.—The terms ‘Native American’ and ‘Na-
24 tive American language’ shall have the meanings

1 given such terms in section 103 of the Native Amer-
2 ican Languages Act.

3 “(8) NATIVE LANGUAGE.—The term ‘native
4 language’, when used with reference to English
5 learner, means—

6 “(A) the language normally used by such
7 individual; or

8 “(B) in the case of a child or youth, the
9 language normally used by the parents of the
10 child or youth.

11 “(9) PARAPROFESSIONAL.—The term ‘para-
12 professional’ means an individual who is employed in
13 a preschool, elementary school, or secondary school
14 under the supervision of a certified or licensed teach-
15 er, including individuals employed in language in-
16 struction educational programs, special education,
17 and migratory education.

18 “(10) STATE.—The term ‘State’ means each of
19 the 50 States, the District of Columbia, and the
20 Commonwealth of Puerto Rico.

21 **“SEC. 1222. NATIONAL CLEARINGHOUSE.**

22 “The Secretary shall establish and support the oper-
23 ation of a National Clearinghouse for English Language
24 Acquisition and Language Instruction Educational Pro-
25 grams, which shall collect, analyze, synthesize, and dis-

1 seminate information about language instruction edu-
2 cational programs for English learners, and related pro-
3 grams. The National Clearinghouse shall—

4 “(1) be administered as an adjunct clearing-
5 house of the Educational Resources Information
6 Center Clearinghouses system supported by the In-
7 stitute of Education Sciences;

8 “(2) coordinate activities with Federal data and
9 information clearinghouses and entities operating
10 Federal dissemination networks and systems;

11 “(3) develop a system for improving the oper-
12 ation and effectiveness of federally funded language
13 instruction educational programs; and

14 “(4) collect and disseminate information on—

15 “(A) educational research and processes
16 related to the education of English learners;
17 and

18 “(B) accountability systems that monitor
19 the academic progress of English learners in
20 language instruction educational programs, in-
21 cluding information on academic content and
22 English language proficiency assessments for
23 language instruction educational programs; and

24 “(5) publish, on an annual basis, a list of grant
25 recipients under this subpart.

1 **“SEC. 1223. REGULATIONS.**

2 “In developing regulations under this subpart, the
3 Secretary shall consult with State educational agencies
4 and local educational agencies, organizations representing
5 English learners, and organizations representing teachers
6 and other personnel involved in the education of English
7 learners.

8 “SUBPART 5—RURAL EDUCATION ACHIEVEMENT
9 PROGRAM

10 **“SEC. 1230. PURPOSE.**

11 “It is the purpose of this subpart to address the
12 unique needs of rural school districts that frequently—

13 “(1) lack the personnel and resources needed to
14 compete effectively for Federal competitive grants;
15 and

16 “(2) receive formula grant allocations in
17 amounts too small to be effective in meeting their in-
18 tended purposes.

19 **“CHAPTER A—SMALL, RURAL SCHOOL**
20 **ACHIEVEMENT PROGRAM**

21 **“SEC. 1231. GRANT PROGRAM AUTHORIZED.**

22 “(a) IN GENERAL.—From amounts appropriated
23 under section 3(a)(1) for a fiscal year, the Secretary shall
24 reserve .55 of one percent to award grants to eligible local
25 educational agencies to enable the local educational agen-

1 cies to carry out activities authorized under any of the
2 following provisions:

3 “(1) Part A of title I.

4 “(2) Title II.

5 “(3) Title III.

6 “(b) ALLOCATION.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graph (3), the Secretary shall award a grant under
9 subsection (a) to a local educational agency eligible
10 under subsection (d) for a fiscal year in an amount
11 equal to the initial amount determined under para-
12 graph (2) for the fiscal year minus the total amount
13 received by the agency in subpart 2 of part A of title
14 II for the preceding fiscal year.

15 “(2) DETERMINATION OF INITIAL AMOUNT.—

16 The initial amount referred to in paragraph (1) is
17 equal to \$100 multiplied by the total number of stu-
18 dents in excess of 50 students, in average daily at-
19 tendance at the schools served by the local edu-
20 cational agency, plus \$20,000, except that the initial
21 amount may not exceed \$60,000.

22 “(3) RATABLE ADJUSTMENT.—

23 “(A) IN GENERAL.—If the amount made
24 available to carry out this section for any fiscal
25 year is not sufficient to pay in full the amounts

1 that local educational agencies are eligible to re-
2 ceive under paragraph (1) for such year, the
3 Secretary shall ratably reduce such amounts for
4 such year.

5 “(B) ADDITIONAL AMOUNTS.—If addi-
6 tional funds become available for making pay-
7 ments under paragraph (1) for such fiscal year,
8 payments that were reduced under subpara-
9 graph (A) shall be increased on the same basis
10 as such payments were reduced.

11 “(c) DISBURSEMENT.—The Secretary shall disburse
12 the funds awarded to a local educational agency under this
13 section for a fiscal year not later than July 1 of that fiscal
14 year.

15 “(d) ELIGIBILITY.—

16 “(1) IN GENERAL.—A local educational agency
17 shall be eligible to use the applicable funding in ac-
18 cordance with subsection (a) if—

19 “(A)(i)(I) the total number of students in
20 average daily attendance at all of the schools
21 served by the local educational agency is fewer
22 than 600; or

23 “(II) each county in which a school served
24 by the local educational agency is located has a

1 total population density of fewer than 10 per-
2 sons per square mile; and

3 “(ii) all of the schools served by the local
4 educational agency are designated with a school
5 locale code of 41, 42, or 43, as determined by
6 the Secretary; or

7 “(B) the agency meets the criteria estab-
8 lished in subparagraph (A)(i) and the Sec-
9 retary, in accordance with paragraph (2),
10 grants the local educational agency’s request to
11 waive the criteria described in subparagraph
12 (A)(ii).

13 “(2) CERTIFICATION.—The Secretary shall de-
14 termine whether to waive the criteria described in
15 paragraph (1)(A)(ii) based on a demonstration by
16 the local educational agency, and concurrence by the
17 State educational agency, that the local educational
18 agency is located in an area defined as rural by a
19 governmental agency of the State.

20 “(3) HOLD HARMLESS.—For a local edu-
21 cational agency that is not eligible under this chap-
22 ter but met the eligibility requirements under this
23 subsection as it was in effect prior to the date of the
24 enactment of the Student Success Act, the agency
25 shall receive—

1 State educational agencies to award grants to eligi-
2 ble local educational agencies for local authorized ac-
3 tivities described in section 1236(a).

4 “(2) ALLOTMENT.—From amounts described in
5 paragraph (1) for a fiscal year, the Secretary shall
6 allot to each State educational agency for that fiscal
7 year an amount that bears the same ratio to those
8 amounts as the number of students in average daily
9 attendance served by eligible local educational agen-
10 cies in the State for that fiscal year bears to the
11 number of all such students served by eligible local
12 educational agencies in all States for that fiscal
13 year.

14 “(3) SPECIALLY QUALIFIED AGENCIES.—

15 “(A) ELIGIBILITY AND APPLICATION.—If a
16 State educational agency elects not to partici-
17 pate in the program under this subpart or does
18 not have an application submitted under section
19 1237 approved, a specially qualified agency in
20 such State desiring a grant under this subpart
21 may submit an application under such section
22 directly to the Secretary to receive an award
23 under this subpart.

24 “(B) DIRECT AWARDS.—The Secretary
25 may award, on a competitive basis or by for-

1 mula, the amount the State educational agency
2 is eligible to receive under paragraph (2) di-
3 rectly to a specially qualified agency in the
4 State that has submitted an application in ac-
5 cordance with subparagraph (A) and obtained
6 approval of the application.

7 “(C) SPECIALLY QUALIFIED AGENCY DE-
8 FINED.—In this subpart, the term ‘specially
9 qualified agency’ means an eligible local edu-
10 cational agency served by a State educational
11 agency that does not participate in a program
12 under this subpart in a fiscal year, that may
13 apply directly to the Secretary for a grant in
14 such year under this subsection.

15 “(b) LOCAL AWARDS.—

16 “(1) ELIGIBILITY.—A local educational agency
17 shall be eligible to receive a grant under this subpart
18 if—

19 “(A) 20 percent or more of the children
20 ages 5 through 17 years served by the local
21 educational agency are from families with in-
22 comes below the poverty line; and

23 “(B) all of the schools served by the agen-
24 cy are designated with a school locale code of

1 32, 33, 41, 42, 43, as determined by the Sec-
2 retary.

3 “(2) AWARD BASIS.—A State educational agen-
4 cy shall award grants to eligible local educational
5 agencies—

6 “(A) on a competitive basis;

7 “(B) according to a formula based on the
8 number of students in average daily attendance
9 served by the eligible local educational agencies
10 or schools in the State; or

11 “(C) according to an alternative formula,
12 if, prior to awarding the grants, the State edu-
13 cational agency demonstrates, to the satisfac-
14 tion of the Secretary, that the alternative for-
15 mula enables the State educational agency to
16 allot the grant funds in a manner that serves
17 equal or greater concentrations of children from
18 families with incomes below the poverty line,
19 relative to the concentrations that would be
20 served if the State educational agency used the
21 formula described in subparagraph (B).

22 “(c) RESERVATIONS.—From amounts reserved under
23 section 1235(a)(1) for this chapter for a fiscal year, the
24 Secretary shall reserve—

1 “(1) one-half of 1 percent to make awards to el-
2 ementary schools or secondary schools operated or
3 supported by the Bureau of Indian Education, to
4 carry out the activities authorized under this chap-
5 ter; and

6 “(2) one-half of 1 percent to make awards to
7 the outlying areas in accordance with their respec-
8 tive needs, to carry out the activities authorized
9 under this chapter.

10 **“SEC. 1236. USES OF FUNDS.**

11 “(a) LOCAL AWARDS.—Grant funds awarded to local
12 educational agencies under this chapter shall be used for
13 activities authorized under any of the following:

14 “(1) Part A of title I.

15 “(2) Title II.

16 “(3) Title III.

17 “(b) ADMINISTRATIVE COSTS.—A State educational
18 agency receiving a grant under this chapter may not use
19 more than 5 percent of the amount of the grant for State
20 administrative costs and to provide technical assistance to
21 eligible local educational agencies.

22 **“SEC. 1237. APPLICATIONS.**

23 “(a) IN GENERAL.—Each State educational agency
24 or specially qualified agency desiring to receive a grant
25 under this chapter shall submit an application to the Sec-

1 retary at such time and in such manner as the Secretary
2 may require.

3 “(b) CONTENTS.—Each application submitted under
4 subsection (a) shall include—

5 “(1) a description of how the State educational
6 agency or specially qualified agency will ensure eligi-
7 ble local educational agencies receiving a grant
8 under this chapter will use such funds to help stu-
9 dents meet the State academic standards under sec-
10 tion 1111(b)(1);

11 “(2) if the State educational agency or specially
12 qualified agency will competitively award grants to
13 eligible local educational agencies, as described in
14 section 1235(b)(2)(A), the application under the sec-
15 tion shall include—

16 “(A) the methods and criteria the State
17 educational agency or specially qualified agency
18 will use for reviewing applications and awards
19 funds to local educational agencies on a com-
20 petitive basis; and

21 “(B) how the State educational agency or
22 specially qualified agency will notify eligible
23 local educational agencies of the grant competi-
24 tion.

1 “(3) A description of how the State educational
2 agency or specially qualified agency will provide
3 technical assistance to eligible local educational
4 agencies to help such agencies implement the activi-
5 ties described in section 1236(a).

6 **“SEC. 1238. ACCOUNTABILITY.**

7 “(a) STATE REPORT.—Each State educational agen-
8 cy or specially qualified agency that receives a grant under
9 this chapter shall prepare and submit an annual report
10 to the Secretary. The report shall describe—

11 “(1) the methods and criteria the State edu-
12 cational agency or specially qualified agency used to
13 award grants to eligible local educational agencies,
14 and to provide assistance to schools, under this
15 chapter;

16 “(2) how local educational agencies and schools
17 used funds provided under this chapter; and

18 “(3) the degree to which progress has been
19 made toward having all students meet the State aca-
20 demic standards under section 1111(b)(1).

21 “(b) REPORT TO CONGRESS.—The Secretary shall
22 prepare and submit to the Committee on Education and
23 the Workforce of the House of Representatives and the
24 Committee on Health, Education, Labor, and Pensions of
25 the Senate a biennial report. The report shall describe—

1 “(1) how State local educational agencies, local
2 educational agencies, and schools used funds pro-
3 vided under this chapter; and

4 “(2) the degree to which progress has been
5 made toward having all students meet the State aca-
6 demic standards under section 1111(b)(1).

7 **“SEC. 1239. CHOICE OF PARTICIPATION.**

8 “(a) IN GENERAL.—If a local educational agency is
9 eligible for funding under chapters A and B of this sub-
10 part, such local educational agency may receive funds
11 under either chapter A or chapter B for a fiscal year, but
12 may not receive funds under both chapters.

13 “(b) NOTIFICATION.—A local educational agency eli-
14 gible for both chapters A and B of this subpart shall notify
15 the Secretary and the State educational agency under
16 which of such chapters such local educational agency in-
17 tends to receive funds for a fiscal year by a date that is
18 established by the Secretary for the notification.

19 **“CHAPTER C—GENERAL PROVISIONS**

20 **“SEC. 1241. ANNUAL AVERAGE DAILY ATTENDANCE DETER-**
21 **MINATION.**

22 “(a) CENSUS DETERMINATION.—Each local edu-
23 cational agency desiring a grant under section 1231 and
24 each local educational agency or specially qualified agency
25 desiring a grant under chapter B shall—

1 “(1) not later than December 1 of each year,
2 conduct a census to determine the number of stu-
3 dents in average daily attendance in kindergarten
4 through grade 12 at the schools served by the agen-
5 cy; and

6 “(2) not later than March 1 of each year, sub-
7 mit the number described in paragraph (1) to the
8 Secretary (and to the State educational agency, in
9 the case of a local educational agency seeking a
10 grant under subpart 2).

11 “(b) PENALTY.—If the Secretary determines that a
12 local educational agency or specially qualified agency has
13 knowingly submitted false information under subsection
14 (a) for the purpose of gaining additional funds under sec-
15 tion 1231 or chapter B, then the agency shall be fined
16 an amount equal to twice the difference between the
17 amount the agency received under this section and the cor-
18 rect amount the agency would have received under section
19 1231 or chapter B if the agency had submitted accurate
20 information under subsection (a).

21 **“SEC. 1242. SUPPLEMENT, NOT SUPPLANT.**

22 “Funds made available under chapter A or chapter
23 B shall be used to supplement, and not supplant, any
24 other Federal, State, or local education funds.

1 **“SEC. 1243. RULE OF CONSTRUCTION.**

2 “Nothing in this subpart shall be construed to pro-
3 hibit a local educational agency that enters into coopera-
4 tive arrangements with other local educational agencies for
5 the provision of special, compensatory, or other education
6 services, pursuant to State law or a written agreement,
7 from entering into similar arrangements for the use, or
8 the coordination of the use, of the funds made available
9 under this subpart.

10 “SUBPART 6—INDIAN EDUCATION

11 **“SEC. 1251. STATEMENT OF POLICY.**

12 “It is the policy of the United States to fulfill the
13 Federal Government’s unique and continuing trust rela-
14 tionship with and responsibility to the Indian people for
15 the education of Indian children. The Federal Government
16 will continue to work with local educational agencies, In-
17 dian tribes and organizations, postsecondary institutions,
18 and other entities toward the goal of ensuring that pro-
19 grams that serve Indian children are of the highest quality
20 and provide for not only the basic elementary and sec-
21 ondary educational needs, but also the unique educational
22 and culturally related academic needs of these children.

23 **“SEC. 1252. PURPOSE.**

24 “(a) PURPOSE.—It is the purpose of this subpart to
25 support the efforts of local educational agencies, Indian

1 tribes and organizations, postsecondary institutions, and
2 other entities—

3 “(1) to meet the unique educational and cul-
4 turally related academic needs of American Indian
5 and Alaska Native students, so that such students
6 can meet the State academic standards that all stu-
7 dents are expected to meet; and

8 “(2) to ensure that school leaders, teachers, and
9 other staff who serve Indian and Alaska Native stu-
10 dents have the ability and training to provide appro-
11 priate instruction to meet the unique academic needs
12 of such students.

13 **“CHAPTER A—FORMULA GRANTS TO LOCAL**
14 **EDUCATIONAL AGENCIES**

15 **“SEC. 1261. PURPOSE.**

16 “‘It is the purpose of this chapter to support local
17 educational agencies in their efforts to reform elementary
18 school and secondary school programs that serve Indian
19 students in order to ensure that such programs are de-
20 signed to—

21 “(1) meet the unique educational needs of such
22 students; and

23 “(2) ensure that such students have the oppor-
24 tunity to meet the State academic standards.

1 **“SEC. 1262. GRANTS TO LOCAL EDUCATIONAL AGENCIES**
2 **AND TRIBES.**

3 “(a) IN GENERAL.—From amounts appropriated
4 under section 3(a)(1), the Secretary shall reserve .6 of one
5 percent to local educational agencies and Indian tribes in
6 accordance with this section and section 1263.

7 “(b) LOCAL EDUCATIONAL AGENCIES.—

8 “(1) ENROLLMENT REQUIREMENTS.—A local
9 educational agency shall be eligible for a grant under
10 this chapter for any fiscal year if the number of In-
11 dian children eligible under section 1267 who were
12 enrolled in the schools of the agency, and to whom
13 the agency provided free public education, during
14 the preceding fiscal year—

15 “(A) was at least 10; or

16 “(B) constituted not less than 25 percent
17 of the total number of individuals enrolled in
18 the schools of such agency.

19 “(2) EXCLUSION.—The requirement of para-
20 graph (1) shall not apply in Alaska, California, or
21 Oklahoma, or with respect to any local educational
22 agency located on, or in proximity to, an Indian res-
23 ervation.

24 “(c) INDIAN TRIBES.—

25 “(1) IN GENERAL.—If a local educational agen-
26 cy that is otherwise eligible for a grant under this

1 chapter does not establish a committee under section
2 1264(e)(4) for such grant, an Indian tribe or a con-
3 sortium of such entities that represents not less than
4 $\frac{1}{3}$ of the eligible Indian children who are served by
5 such local educational agency may apply for such
6 grant.

7 “(2) SPECIAL RULE.—The Secretary shall treat
8 each Indian tribe or consortium of such entities ap-
9 plying for a grant pursuant to paragraph (1) as if
10 such Indian tribe were a local educational agency for
11 purposes of this chapter, except that any such tribe
12 is not subject to section 1264(e)(4) or section 1269.

13 “(3) ELIGIBILITY.—If more than 1 Indian tribe
14 qualifies to apply for a grant under paragraph (1),
15 the entity that represents the most eligible Indian
16 children who are served by the local educational
17 agency shall be eligible to receive the grant or the
18 tribes may choose to apply in consortium.

19 **“SEC. 1263. AMOUNT OF GRANTS.**

20 “(a) AMOUNT OF GRANT AWARDS.—

21 “(1) IN GENERAL.—Except as provided in sub-
22 section (b) and paragraph (2), the Secretary shall
23 allocate to each local educational agency that has an
24 approved application under this chapter an amount
25 equal to the product of—

1 “(A) the number of Indian children who
2 are eligible under section 1267 and served by
3 such agency; and

4 “(B) the greater of—

5 “(i) the average per pupil expenditure
6 of the State in which such agency is lo-
7 cated; or

8 “(ii) 80 percent of the average per
9 pupil expenditure of all the States.

10 “(2) REDUCTION.—The Secretary shall reduce
11 the amount of each allocation otherwise determined
12 under this section in accordance with subsection (e).

13 “(b) MINIMUM GRANT.—

14 “(1) IN GENERAL.—Notwithstanding subsection
15 (e), an entity that is eligible for a grant under sec-
16 tion 1262, and a school that is operated or sup-
17 ported by the Bureau of Indian Education that is el-
18 igible for a grant under subsection (d), that submits
19 an application that is approved by the Secretary,
20 shall, subject to appropriations, receive a grant
21 under this chapter in an amount that is not less
22 than \$3,000.

23 “(2) CONSORTIA.—Local educational agencies
24 may form a consortium with other local educational

1 agencies or Indian tribes for the purpose of obtain-
2 ing grants under this chapter.

3 “(3) INCREASE.—The Secretary may increase
4 the minimum grant under paragraph (1) to not
5 more than \$4,000 for all grantees if the Secretary
6 determines such an increase is necessary to ensure
7 the quality of the programs provided.

8 “(c) DEFINITION.—For the purpose of this section,
9 the term ‘average per pupil expenditure’, used with respect
10 to a State, means an amount equal to—

11 “(1) the sum of the aggregate current expendi-
12 tures of all the local educational agencies in the
13 State, plus any direct current expenditures by the
14 State for the operation of such agencies, without re-
15 gard to the sources of funds from which such local
16 or State expenditures were made, during the second
17 fiscal year preceding the fiscal year for which the
18 computation is made; divided by

19 “(2) the aggregate number of children who
20 were included in average daily attendance for whom
21 such agencies provided free public education during
22 such preceding fiscal year.

23 “(d) SCHOOLS OPERATED OR SUPPORTED BY THE
24 BUREAU OF INDIAN EDUCATION.—

1 “(1) IN GENERAL.—Subject to subsection (e),
2 in addition to the grants awarded under subsection
3 (a), the Secretary shall allocate to the Secretary of
4 the Interior an amount equal to the product of—

5 “(A) the total number of Indian children
6 enrolled in schools that are operated by—

7 “(i) the Bureau of Indian Education;

8 or

9 “(ii) an Indian tribe, or an organiza-
10 tion controlled or sanctioned by an Indian
11 tribal government, for the children of that
12 tribe under a contract with, or grant from,
13 the Department of the Interior under the
14 Indian Self-Determination Act or the Trib-
15 ally Controlled Schools Act of 1988; and

16 “(B) the greater of—

17 “(i) the average per pupil expenditure
18 of the State in which the school is located;

19 or

20 “(ii) 80 percent of the average per
21 pupil expenditure of all the States.

22 “(2) SPECIAL RULE.—Any school described in
23 paragraph (1)(A) that wishes to receive an allocation
24 under this chapter shall submit an application in ac-
25 cordance with section 1264, and shall otherwise be

1 treated as a local educational agency for the purpose
2 of this chapter, except that such school shall not be
3 subject to section 1264(c)(4) or section 1269.

4 “(e) RATABLE REDUCTIONS.—If the sums reserved
5 for any fiscal year under section 1262(a) are insufficient
6 to pay in full the amounts determined for local educational
7 agencies under subsection (a)(1) and for the Secretary of
8 the Interior under subsection (d), each of those amounts
9 shall be ratably reduced.

10 **“SEC. 1264. APPLICATIONS.**

11 “(a) APPLICATION REQUIRED.—Each local edu-
12 cational agency that desires to receive a grant under this
13 chapter shall submit an application to the Secretary at
14 such time and in such manner as the Secretary may rea-
15 sonably require.

16 “(b) COMPREHENSIVE PROGRAM REQUIRED.—Each
17 application submitted under subsection (a) shall include
18 a description of a comprehensive program for meeting the
19 needs of Indian children served by the local educational
20 agency, including the language and cultural needs of the
21 children, that—

22 “(1) describes how the comprehensive program
23 will offer programs and activities to meet the cul-
24 turally related academic needs of American Indian
25 and Alaska Native students;

1 “(2)(A) is aligned with and supports the State
2 and local plans submitted under other provisions of
3 this Act; and

4 “(B) includes academic standards for such chil-
5 dren that are based on the State academic standards
6 adopted under subpart 1 for all children;

7 “(3) explains how the local educational agency
8 will use the funds made available under this chapter
9 to supplement other Federal, State, and local pro-
10 grams, especially programs carried out under sub-
11 part 1, to meet the needs of such students;

12 “(4) demonstrates how funds made available
13 under this chapter will be used for activities de-
14 scribed in section 1265;

15 “(5) describes the professional development op-
16 portunities that will be provided, as needed, to en-
17 sure that—

18 “(A) teachers, school leaders, and other
19 school professionals who are new to the Indian
20 community are prepared to work with Indian
21 children; and

22 “(B) all teachers who will be involved in
23 programs assisted under this chapter have been
24 properly trained to carry out such programs;
25 and

1 “(6) describes how the local educational agen-
2 cy—

3 “(A) will periodically assess the progress of
4 all Indian children enrolled in the schools of the
5 local educational agency, including Indian chil-
6 dren who do not participate in programs as-
7 sisted under this chapter, in meeting the stand-
8 ards described in paragraph (2);

9 “(B) will provide the results of each as-
10 sessment referred to in subparagraph (A) to—

11 “(i) the committee described in sub-
12 section (c)(4); and

13 “(ii) the community, including Indian
14 tribes, whose children are served by the
15 local educational agency; and

16 “(C) is responding to findings of any pre-
17 vious assessments that are similar to the as-
18 sessments described in subparagraph (A); and

19 “(7) describes the processes the local edu-
20 cational agency used to collaborate with Indian
21 tribes in the community in the development of the
22 comprehensive programs.

23 “(c) ASSURANCES.—Each application submitted
24 under subsection (a) shall include assurances that—

1 “(1) the local educational agency will use funds
2 received under this chapter only to supplement the
3 funds that, in the absence of the Federal funds
4 made available under this chapter, such agency
5 would make available for the education of Indian
6 children, and not to supplant such funds;

7 “(2) the local educational agency will prepare
8 and submit to the Secretary such reports in such
9 form as the Secretary may require to—

10 “(A) carry out the functions of the Sec-
11 retary under this chapter; and

12 “(B) determine the extent to which activi-
13 ties carried out with funds provided to the local
14 educational agency under this chapter are effec-
15 tive in improving the educational achievement
16 of Indian students served by such agency;

17 “(3) the program for which assistance is
18 sought—

19 “(A) is based on a comprehensive local as-
20 sessment and prioritization of the unique edu-
21 cational and culturally related academic needs
22 of the American Indian and Alaska Native stu-
23 dents for whom the local educational agency is
24 providing an education;

1 “(B) will use the best available talents and
2 resources, including individuals from the Indian
3 community; and

4 “(C) was developed by such agency in open
5 consultation with parents of Indian children
6 and teachers, and, if appropriate, Indian stu-
7 dents from secondary schools, including through
8 public hearings held by such agency to provide
9 to the individuals described in this subpara-
10 graph a full opportunity to understand the pro-
11 gram and to offer recommendations regarding
12 the program; and

13 “(4) the local educational agency developed the
14 program with the participation and written approval
15 of a committee—

16 “(A) that is composed of, and selected
17 by—

18 “(i) parents of Indian children in the
19 local educational agency’s schools;

20 “(ii) teachers in the schools; and

21 “(iii) if appropriate, Indian students
22 attending secondary schools of the agency;

23 “(B) a majority of whose members are
24 parents of Indian children;

1 “(C) that has set forth such policies and
2 procedures, including policies and procedures
3 relating to the hiring of personnel, as will en-
4 sure that the program for which assistance is
5 sought will be operated and evaluated in con-
6 sultation with, and with the involvement of,
7 parents of the children, and representatives of
8 the area, to be served;

9 “(D) with respect to an application de-
10 scribing a schoolwide program in accordance
11 with section 1265(c), that has—

12 “(i) reviewed in a timely fashion the
13 program; and

14 “(ii) determined that the program will
15 not diminish the availability of culturally
16 related activities for American Indian and
17 Alaska Native students; and

18 “(E) that has adopted reasonable bylaws
19 for the conduct of the activities of the com-
20 mittee and abides by such bylaws.

21 **“SEC. 1265. AUTHORIZED SERVICES AND ACTIVITIES.**

22 “(a) GENERAL REQUIREMENTS.—Each local edu-
23 cational agency that receives a grant under this chapter
24 shall use the grant funds, in a manner consistent with the

1 purpose specified in section 1261, for services and activi-
2 ties that—

3 “(1) are designed to carry out the comprehen-
4 sive program of the local educational agency for In-
5 dian students, and described in the application of
6 the local educational agency submitted to the Sec-
7 retary under section 1264(a);

8 “(2) are designed with special regard for the
9 language and cultural needs of the Indian students;
10 and

11 “(3) supplement and enrich the regular school
12 program of such agency.

13 “(b) PARTICULAR ACTIVITIES.—The services and ac-
14 tivities referred to in subsection (a) may include—

15 “(1) culturally related activities that support
16 the program described in the application submitted
17 by the local educational agency;

18 “(2) early childhood and family programs that
19 emphasize school readiness;

20 “(3) enrichment programs that focus on prob-
21 lem solving and cognitive skills development and di-
22 rectly support the attainment of State academic
23 standards;

1 “(4) integrated educational services in combina-
2 tion with other programs that meet the needs of In-
3 dian children and their families;

4 “(5) programs that help engage parents and
5 tribes to meet the unique educational needs of In-
6 dian children;

7 “(6) career preparation activities to enable In-
8 dian students to participate in programs such as the
9 programs supported by the Carl D. Perkins Career
10 and Technical Education Act of 2006;

11 “(7) activities to educate individuals concerning
12 the prevention of substance abuse, violence, and sui-
13 cide;

14 “(8) the acquisition of equipment, but only if
15 the acquisition of the equipment is essential to
16 achieve the purpose described in section 1261;

17 “(9) activities that promote the incorporation of
18 culturally responsive teaching and learning strategies
19 into the educational program of the local educational
20 agency;

21 “(10) activities that incorporate American In-
22 dian and Alaska Native specific curriculum content,
23 consistent with State academic standards into the
24 curriculum used by the local educational agency;

25 “(11) family literacy services; and

1 “(12) activities that recognize and support the
2 unique cultural and educational needs of Indian chil-
3 dren, and incorporate appropriately qualified tribal
4 elders and seniors.

5 “(c) SCHOOLWIDE PROGRAMS.—Notwithstanding
6 any other provision of law, a local educational agency may
7 use funds made available to such agency under this chap-
8 ter to support a schoolwide program under section 1114
9 if—

10 “(1) the committee established pursuant to sec-
11 tion 1264(c)(4) approves the use of the funds for
12 the schoolwide program; and

13 “(2) the schoolwide program is consistent with
14 the purpose described in section 1261.

15 “(d) LIMITATION ON ADMINISTRATIVE COSTS.—Not
16 more than 5 percent of the funds provided to a grantee
17 under this chapter for any fiscal year may be used for
18 administrative purposes.

19 “(e) LIMITATION ON USE OF FUNDS.—Funds pro-
20 vided to a grantee under this chapter may not be used
21 for long-distance travel expenses for training activities
22 available locally or regionally.

23 **“SEC. 1266. INTEGRATION OF SERVICES AUTHORIZED.**

24 “(a) PLAN.—An entity receiving funds under this
25 chapter may submit a plan to the Secretary for the inte-

1 gration of education and related services provided to In-
2 dian students.

3 “(b) CONSOLIDATION OF PROGRAMS.—Upon the re-
4 ceipt of an acceptable plan under subsection (a), the Sec-
5 retary, in cooperation with each Federal agency providing
6 grants for the provision of education and related services
7 to the entity, shall authorize the entity to consolidate, in
8 accordance with such plan, the federally funded education
9 and related services programs of the entity and the Fed-
10 eral programs, or portions of the programs, serving Indian
11 students in a manner that integrates the program services
12 involved into a single, coordinated, comprehensive pro-
13 gram and reduces administrative costs by consolidating
14 administrative functions.

15 “(c) PROGRAMS AFFECTED.—The funds that may be
16 consolidated in a demonstration project under any such
17 plan referred to in subsection (a) shall include funds for
18 any Federal program exclusively serving Indian children,
19 or the funds reserved under any Federal program to exclu-
20 sively serve Indian children, under which the entity is eligi-
21 ble for receipt of funds under a statutory or administrative
22 formula for the purposes of providing education and re-
23 lated services that would be used to serve Indian students.

24 “(d) PLAN REQUIREMENTS.—For a plan to be ac-
25 ceptable pursuant to subsection (b), the plan shall—

1 “(1) identify the programs or funding sources
2 to be consolidated;

3 “(2) be consistent with the objectives of this
4 section concerning authorizing the services to be in-
5 tegrated in a demonstration project;

6 “(3) describe a comprehensive strategy that
7 identifies the full range of potential educational op-
8 portunities and related services to be provided to as-
9 sist Indian students to achieve the objectives set
10 forth in this chapter;

11 “(4) describe the way in which services are to
12 be integrated and delivered and the results expected
13 from the plan;

14 “(5) identify the projected expenditures under
15 the plan in a single budget;

16 “(6) identify the State, tribal, or local agency
17 or agencies to be involved in the delivery of the serv-
18 ices integrated under the plan;

19 “(7) identify any statutory provisions, regula-
20 tions, policies, or procedures that the entity believes
21 need to be waived in order to implement the plan;

22 “(8) set forth measures for student academic
23 achievement consistent with State academic stand-
24 ards under section 1111(b)(1); and

1 “(9) be approved by a committee formed in ac-
2 cordance with section 1264(c)(4), if such a com-
3 mittee exists.

4 “(e) PLAN REVIEW.—Upon receipt of the plan from
5 an eligible entity, the Secretary shall consult with the Sec-
6 retary of each Federal department providing funds to be
7 used to implement the plan, and with the entity submit-
8 ting the plan. The parties so consulting shall identify any
9 waivers of statutory requirements or of Federal depart-
10 mental regulations, policies, or procedures necessary to en-
11 able the entity to implement the plan. Notwithstanding
12 any other provision of law, the Secretary of the affected
13 department shall have the authority to waive any regula-
14 tion, policy, or procedure promulgated by that department
15 that has been so identified by the entity or department,
16 unless the Secretary of the affected department deter-
17 mines that such a waiver is inconsistent with the objectives
18 of this chapter or those provisions of the statute from
19 which the program involved derives authority that are spe-
20 cifically applicable to Indian students.

21 “(f) PLAN APPROVAL.—Within 90 days after the re-
22 ceipt of an entity’s plan by the Secretary, the Secretary
23 shall inform the entity, in writing, of the Secretary’s ap-
24 proval or disapproval of the plan. If the plan is dis-
25 approved, the entity shall be informed, in writing, of the

1 reasons for the disapproval and shall be given an oppor-
2 tunity to amend the plan or to petition the Secretary to
3 reconsider such disapproval.

4 “(g) RESPONSIBILITIES OF DEPARTMENT OF EDU-
5 CATION.—The Secretary of Education, the Secretary of
6 the Interior, and the head of any other Federal depart-
7 ment or agency identified by the Secretary of Education,
8 shall enter into an interdepartmental memorandum of
9 agreement providing for the implementation and coordina-
10 tion of the demonstration projects authorized under this
11 section. The lead agency head for a demonstration project
12 under this section shall be—

13 “(1) the Secretary of the Interior, in the case
14 of an entity meeting the definition of a contract or
15 grant school under title XI of the Education Amend-
16 ments of 1978; or

17 “(2) the Secretary of Education, in the case of
18 any other entity.

19 “(h) RESPONSIBILITIES OF LEAD AGENCY.—The re-
20 sponsibilities of the lead agency shall include—

21 “(1) the use of a single report format related
22 to the plan for the individual project, which shall be
23 used by an eligible entity to report on the activities
24 undertaken under the project;

1 “(2) the use of a single report format related
2 to the projected expenditures for the individual
3 project which shall be used by an eligible entity to
4 report on all project expenditures;

5 “(3) the development of a single system of Fed-
6 eral oversight for the project, which shall be imple-
7 mented by the lead agency; and

8 “(4) the provision of technical assistance to an
9 eligible entity appropriate to the project, except that
10 an eligible entity shall have the authority to accept
11 or reject the plan for providing such technical assist-
12 ance and the technical assistance provider.

13 “(i) REPORT REQUIREMENTS.—A single report for-
14 mat shall be developed by the Secretary, consistent with
15 the requirements of this section. Such report format shall
16 require that reports described in subsection (h), together
17 with records maintained on the consolidated program at
18 the local level, shall contain such information as will allow
19 a determination that the eligible entity has complied with
20 the requirements incorporated in its approved plan, in-
21 cluding making a demonstration of student academic
22 achievement, and will provide assurances to each Sec-
23 retary that the eligible entity has complied with all directly
24 applicable statutory requirements and with those directly

1 applicable regulatory requirements that have not been
2 waived.

3 “(j) NO REDUCTION IN AMOUNTS.—In no case shall
4 the amount of Federal funds available to an eligible entity
5 involved in any demonstration project be reduced as a re-
6 sult of the enactment of this section.

7 “(k) INTERAGENCY FUND TRANSFERS AUTHOR-
8 IZED.—The Secretary is authorized to take such action
9 as may be necessary to provide for an interagency transfer
10 of funds otherwise available to an eligible entity in order
11 to further the objectives of this section.

12 “(l) ADMINISTRATION OF FUNDS.—

13 “(1) IN GENERAL.—Program funds for the con-
14 solidated programs shall be administered in such a
15 manner as to allow for a determination that funds
16 from a specific program are spent on allowable ac-
17 tivities authorized under such program, except that
18 the eligible entity shall determine the proportion of
19 the funds granted that shall be allocated to such
20 program.

21 “(2) SEPARATE RECORDS NOT REQUIRED.—
22 Nothing in this section shall be construed as requir-
23 ing the eligible entity to maintain separate records
24 tracing any services or activities conducted under
25 the approved plan to the individual programs under

1 which funds were authorized for the services or ac-
2 tivities, nor shall the eligible entity be required to al-
3 locate expenditures among such individual programs.

4 “(m) OVERAGE.—The eligible entity may commingle
5 all administrative funds from the consolidated programs
6 and shall be entitled to the full amount of such funds
7 (under each program’s or agency’s regulations). The over-
8 age (defined as the difference between the amount of the
9 commingled funds and the actual administrative cost of
10 the programs) shall be considered to be properly spent for
11 Federal audit purposes, if the overage is used for the pur-
12 poses provided for under this section.

13 “(n) FISCAL ACCOUNTABILITY.—Nothing in this
14 part shall be construed so as to interfere with the ability
15 of the Secretary or the lead agency to fulfill the respon-
16 sibilities for the safeguarding of Federal funds pursuant
17 to chapter 75 of title 31, United States Code.

18 “(o) REPORT ON STATUTORY OBSTACLES TO PRO-
19 GRAM INTEGRATION.—

20 “(1) IN GENERAL.—The Secretary of Education
21 shall annually submit a report to the Committee on
22 Health, Education, Labor, and Pensions and the
23 Committee on Indian Affairs of the Senate, and the
24 Committee on Education and the Workforce and the
25 Committee on Natural Resources of the House of

1 Representatives on the status of the implementation
2 of the demonstration projects authorized under this
3 section.

4 “(2) CONTENTS.—Such report shall identify—

5 “(A) statutory barriers to the ability of
6 participants to more effectively integrate their
7 education and related services to Indian stu-
8 dents in a manner consistent with the objectives
9 of this section; and

10 “(B) the effective practices for program in-
11 tegration that result in increased student
12 achievement and other relevant outcomes for
13 Indian students.

14 “(p) DEFINITIONS.—For the purposes of this section,
15 the term ‘Secretary’ means—

16 “(1) the Secretary of the Interior, in the case
17 of an entity meeting the definition of a contract or
18 grant school under title XI of the Education Amend-
19 ments of 1978; or

20 “(2) the Secretary of Education, in the case of
21 any other entity.

22 **“SEC. 1267. STUDENT ELIGIBILITY FORMS.**

23 “(a) IN GENERAL.—The Secretary shall require that,
24 as part of an application for a grant under this chapter,
25 each applicant shall maintain a file, with respect to each

1 Indian child for whom the local educational agency pro-
2 vides a free public education, that contains a form that
3 sets forth information establishing the status of the child
4 as an Indian child eligible for assistance under this chap-
5 ter, and that otherwise meets the requirements of sub-
6 section (b).

7 “(b) FORMS.—The form described in subsection (a)
8 shall include—

9 “(1) either—

10 “(A)(i) the name of the tribe or band of
11 Indians (as defined in section 1291) with re-
12 spect to which the child claims membership;

13 “(ii) the enrollment number establishing
14 the membership of the child (if readily avail-
15 able); and

16 “(iii) the name and address of the organi-
17 zation that maintains updated and accurate
18 membership data for such tribe or band of Indi-
19 ans; or

20 “(B) the name, the enrollment number (if
21 readily available), and the name and address of
22 the organization responsible for maintaining up-
23 dated and accurate membership data, of any
24 parent or grandparent of the child from whom
25 the child claims eligibility under this chapter, if

1 the child is not a member of the tribe or band
2 of Indians (as so defined);

3 “(2) a statement of whether the tribe or band
4 of Indians (as so defined), with respect to which the
5 child, or parent or grandparent of the child, claims
6 membership, is federally recognized;

7 “(3) the name and address of the parent or
8 legal guardian of the child; and

9 “(4) a signature of the parent or legal guardian
10 of the child that verifies the accuracy of the informa-
11 tion supplied.

12 “(c) STATUTORY CONSTRUCTION.—Nothing in this
13 section shall be construed to affect a definition contained
14 in section 1291.

15 “(d) FORMS AND STANDARDS OF PROOF.—The
16 forms and the standards of proof (including the standard
17 of good faith compliance) that were in use during the
18 1985–1986 academic year to establish the eligibility of a
19 child for entitlement under the Indian Elementary and
20 Secondary School Assistance Act shall be the forms and
21 standards of proof used—

22 “(1) to establish eligibility under this chapter;
23 and

24 “(2) to meet the requirements of subsection (a).

1 “(e) DOCUMENTATION.—For purposes of deter-
2 mining whether a child is eligible to be counted for the
3 purpose of computing the amount of a grant award under
4 section 1263, the membership of the child, or any parent
5 or grandparent of the child, in a tribe or band of Indians
6 (as so defined) may be established by proof other than
7 an enrollment number, notwithstanding the availability of
8 an enrollment number for a member of such tribe or band.
9 Nothing in subsection (b) shall be construed to require
10 the furnishing of an enrollment number.

11 “(f) MONITORING AND EVALUATION REVIEW.—

12 “(1) IN GENERAL.—

13 “(A) REVIEW.—For each fiscal year, in
14 order to provide such information as is nec-
15 essary to carry out the responsibility of the Sec-
16 retary to provide technical assistance under this
17 chapter, the Secretary shall conduct a moni-
18 toring and evaluation review of a sampling of
19 the recipients of grants under this chapter. The
20 sampling conducted under this subparagraph
21 shall take into account the size of and the geo-
22 graphic location of each local educational agen-
23 cy.

24 “(B) EXCEPTION.—A local educational
25 agency may not be held liable to the United

1 States or be subject to any penalty, by reason
2 of the findings of an audit that relates to the
3 date of completion, or the date of submission,
4 of any forms used to establish, before April 28,
5 1988, the eligibility of a child for an entitle-
6 ment under the Indian Elementary and Sec-
7 ondary School Assistance Act.

8 “(2) FALSE INFORMATION.—Any local edu-
9 cational agency that provides false information in an
10 application for a grant under this chapter shall—

11 “(A) be ineligible to apply for any other
12 grant under this chapter; and

13 “(B) be liable to the United States for any
14 funds from the grant that have not been ex-
15 pended.

16 “(3) EXCLUDED CHILDREN.—A student who
17 provides false information for the form required
18 under subsection (a) shall not be counted for the
19 purpose of computing the amount of a grant under
20 section 1263.

21 “(g) TRIBAL GRANT AND CONTRACT SCHOOLS.—
22 Notwithstanding any other provision of this section, in cal-
23 culating the amount of a grant under this chapter to a
24 tribal school that receives a grant or contract from the

1 Bureau of Indian Education, the Secretary shall use only
2 one of the following, as selected by the school:

3 “(1) A count of the number of students in the
4 schools certified by the Bureau.

5 “(2) A count of the number of students for
6 whom the school has eligibility forms that comply
7 with this section.

8 “(h) TIMING OF CHILD COUNTS.—For purposes of
9 determining the number of children to be counted in calcu-
10 lating the amount of a local educational agency’s grant
11 under this chapter (other than in the case described in
12 subsection (g)(1)), the local educational agency shall—

13 “(1) establish a date on, or a period not longer
14 than 31 consecutive days during, which the agency
15 counts those children, if that date or period occurs
16 before the deadline established by the Secretary for
17 submitting an application under section 1264; and

18 “(2) determine that each such child was en-
19 rolled, and receiving a free public education, in a
20 school of the agency on that date or during that pe-
21 riod, as the case may be.

22 **“SEC. 1268. PAYMENTS.**

23 “(a) IN GENERAL.—Subject to subsections (b) and
24 (c), the Secretary shall pay to each local educational agen-
25 cy that submits an application that is approved by the Sec-

1 retary under this chapter the amount determined under
2 section 1263. The Secretary shall notify the local edu-
3 cational agency of the amount of the payment not later
4 than June 1 of the year for which the Secretary makes
5 the payment.

6 “(b) PAYMENTS TAKEN INTO ACCOUNT BY THE
7 STATE.—The Secretary may not make a grant under this
8 chapter to a local educational agency for a fiscal year if,
9 for such fiscal year, the State in which the local edu-
10 cational agency is located takes into consideration pay-
11 ments made under this chapter in determining the eligi-
12 bility of the local educational agency for State aid, or the
13 amount of the State aid, with respect to the free public
14 education of children during such fiscal year or the pre-
15 ceding fiscal year.

16 “(c) REALLOCATIONS.—The Secretary may reallo-
17 cate, in a manner that the Secretary determines will best
18 carry out the purpose of this chapter, any amounts that—

19 “(1) based on estimates made by local edu-
20 cational agencies or other information, the Secretary
21 determines will not be needed by such agencies to
22 carry out approved programs under this chapter; or

23 “(2) otherwise become available for reallocation
24 under this chapter.

1 **“SEC. 1269. STATE EDUCATIONAL AGENCY REVIEW.**

2 “Before submitting an application to the Secretary
3 under section 1264, a local educational agency shall sub-
4 mit the application to the State educational agency, which
5 may comment on such application. If the State educational
6 agency comments on the application, the agency shall com-
7 ment on all applications submitted by local educational
8 agencies in the State and shall provide those comments
9 to the respective local educational agencies, with an oppor-
10 tunity to respond.

11 **“CHAPTER B—SPECIAL PROGRAMS AND**
12 **PROJECTS TO IMPROVE EDUCATIONAL OP-**
13 **PORTUNITIES FOR INDIAN CHILDREN**

14 **“SEC. 1271. IMPROVEMENT OF EDUCATIONAL OPPORTUNI-**
15 **TIES FOR INDIAN CHILDREN.**

16 “(a) PURPOSE.—

17 “(1) IN GENERAL.—It is the purpose of this
18 section to support projects to develop, test, and dem-
19 onstrate the effectiveness of services and programs
20 to improve educational opportunities and achieve-
21 ment of Indian children.

22 “(2) COORDINATION.—The Secretary shall take
23 the necessary actions to achieve the coordination of
24 activities assisted under this chapter with—

25 “(A) other programs funded under this
26 Act; and

1 “(B) other Federal programs operated for
2 the benefit of American Indian and Alaska Na-
3 tive children.

4 “(b) ELIGIBLE ENTITIES.—In this section, the term
5 ‘eligible entity’ means a State educational agency, local
6 educational agency, Indian tribe, Indian organization, fed-
7 erally supported elementary school or secondary school for
8 Indian students, Indian institution (including an Indian
9 institution of higher education), or a consortium of such
10 entities.

11 “(c) GRANTS AUTHORIZED.—

12 “(1) IN GENERAL.—From amounts appro-
13 priated under section 3(a)(1), the Secretary shall re-
14 serve 0.2 of one percent to award grants to eligible
15 entities to enable such entities to carry out activities
16 under this section and section 1272.

17 “(2) USES OF FUNDS.—An eligible entity that
18 receives a grant under this section shall use the
19 funds for one or more activities, including—

20 “(A) innovative programs related to the
21 educational needs of educationally disadvan-
22 taged children;

23 “(B) educational services that are not
24 available to such children in sufficient quantity
25 or quality, including remedial instruction, to

1 raise the achievement of Indian children in one
2 or more of the core academic subjects of
3 English, mathematics, science, foreign lan-
4 guages, art, history, and geography;

5 “(C) bilingual and bicultural programs and
6 projects;

7 “(D) special health and nutrition services,
8 and other related activities, that address the
9 special health, social, and psychological prob-
10 lems of Indian children;

11 “(E) special compensatory and other pro-
12 grams and projects designed to assist and en-
13 courage Indian children to enter, remain in, or
14 reenter school, and to increase the rate of high
15 school graduation for Indian children;

16 “(F) comprehensive guidance, counseling,
17 and testing services;

18 “(G) early childhood and kindergarten pro-
19 grams, including family-based preschool pro-
20 grams that emphasize school readiness and pa-
21 rental skills, and the provision of services to In-
22 dian children with disabilities;

23 “(H) partnership projects between local
24 educational agencies and institutions of higher
25 education that allow secondary school students

1 to enroll in courses at the postsecondary level to
2 aid such students in the transition from sec-
3 ondary to postsecondary education;

4 “(I) partnership projects between schools
5 and local businesses for career preparation pro-
6 grams designed to provide Indian youth with
7 the knowledge and skills such youth need to
8 make an effective transition from school to a
9 high-skill, high-wage career;

10 “(J) programs designed to encourage and
11 assist Indian students to work toward, and gain
12 entrance into, an institution of higher edu-
13 cation;

14 “(K) family literacy services;

15 “(L) activities that recognize and support
16 the unique cultural and educational needs of In-
17 dian children, and incorporate appropriately
18 qualified tribal elders and seniors; or

19 “(M) other services that meet the purpose
20 described in this section.

21 “(3) PROFESSIONAL DEVELOPMENT.—Evidence
22 based professional development of teaching profes-
23 sionals and paraprofessionals may be a part of any
24 program assisted under this section.

25 “(d) GRANT REQUIREMENTS AND APPLICATIONS.—

1 “(1) GRANT REQUIREMENTS.—

2 “(A) IN GENERAL.—The Secretary may
3 make multiyear grants under subsection (c) for
4 the planning, development, pilot operation, or
5 demonstration of any activity described in sub-
6 section (c) for a period not to exceed 5 years.

7 “(B) PRIORITY.—In making multiyear
8 grants described in this paragraph, the Sec-
9 retary shall give priority to entities submitting
10 applications that present a plan for combining
11 two or more of the activities described in sub-
12 section (c) over a period of more than 1 year.

13 “(C) PROGRESS.—The Secretary shall
14 make a grant payment for a grant described in
15 this paragraph to an eligible entity after the
16 initial year of the multiyear grant only if the
17 Secretary determines that the eligible entity has
18 made substantial progress in carrying out the
19 activities assisted under the grant in accordance
20 with the application submitted under paragraph
21 (3) and any subsequent modifications to such
22 application.

23 “(2) DISSEMINATION GRANTS.—

24 “(A) IN GENERAL.—In addition to award-
25 ing the multiyear grants described in paragraph

1 (1), the Secretary may award grants under sub-
2 section (c) to eligible entities for the dissemina-
3 tion of exemplary materials or programs as-
4 sisted under this section.

5 “(B) DETERMINATION.—The Secretary
6 may award a dissemination grant described in
7 this paragraph if, prior to awarding the grant,
8 the Secretary determines that the material or
9 program to be disseminated—

10 “(i) has been adequately reviewed;

11 “(ii) has demonstrated educational
12 merit; and

13 “(iii) can be replicated.

14 “(3) APPLICATION.—

15 “(A) IN GENERAL.—Any eligible entity
16 that desires to receive a grant under this sec-
17 tion shall submit an application to the Sec-
18 retary at such time and in such manner as the
19 Secretary may reasonably require.

20 “(B) CONTENTS.—Each application sub-
21 mitted to the Secretary under subparagraph
22 (A), other than an application for a dissemina-
23 tion grant under paragraph (2), shall contain—

24 “(i) a description of how parents of
25 Indian children and representatives of In-

1 “(1) to increase the number of qualified Indian
2 teachers, school leaders, or other education profes-
3 sionals serving Indian students, including through
4 recruitment strategies;

5 “(2) to provide training to qualified Indian indi-
6 viduals to enable such individuals to become effective
7 teachers, school leaders, administrators, teacher
8 aides, social workers, and ancillary educational per-
9 sonnel; and

10 “(3) to improve the skills of qualified Indian in-
11 dividuals who serve in the capacities described in
12 paragraph (2).

13 “(b) ELIGIBLE ENTITIES.—For the purpose of this
14 section, the term ‘eligible entity’ means—

15 “(1) an institution of higher education, includ-
16 ing an Indian institution of higher education;

17 “(2) a State educational agency or local edu-
18 cational agency, in consortium with an institution of
19 higher education;

20 “(3) an Indian tribe or organization, in consor-
21 tium with an institution of higher education; and

22 “(4) a Bureau-funded school (as defined in sec-
23 tion 1146 of the Education Amendments of 1978).

24 “(c) PROGRAM AUTHORIZED.—The Secretary is au-
25 thorized to award grants from funds reserved under sec-

1 tion 1271(c)(1) to eligible entities having applications ap-
2 proved under this section to enable those entities to carry
3 out the activities described in subsection (d).

4 “(d) AUTHORIZED ACTIVITIES.—

5 “(1) IN GENERAL.—Grant funds under this sec-
6 tion shall be used for activities to provide support
7 and training for Indian individuals in a manner con-
8 sistent with the purposes of this section.

9 “(2) SPECIAL RULES.—

10 “(A) TYPE OF TRAINING.—For education
11 personnel, the training received pursuant to a
12 grant under this section may be inservice or
13 preservice training.

14 “(B) PROGRAM.—For individuals who are
15 being trained to enter any education-related
16 field other than teaching, the training received
17 pursuant to a grant under this section shall be
18 in a program that results in a graduate degree.

19 “(e) APPLICATION.—Each eligible entity desiring a
20 grant under this section shall submit an application to the
21 Secretary at such time and in such manner as the Sec-
22 retary may reasonable require. An application shall in-
23 clude how the eligible entity will—

1 “(1) recruit qualified Indian individuals, such
2 as students who may not be of traditional college
3 age, to become teachers or school leaders;

4 “(2) use funds made available under the grant
5 to support the recruitment, preparation, and profes-
6 sional development of Indian teachers or school lead-
7 ers in local educational agencies that serve a high
8 proportion of Indian students; and

9 “(3) assist participants in meeting the require-
10 ments under subsection (h).

11 “(f) SPECIAL RULE.—In awarding grants under this
12 section, the Secretary—

13 “(1) shall consider the prior performance of the
14 eligible entity; and

15 “(2) may not limit eligibility to receive a grant
16 under this section on the basis of—

17 “(A) the number of previous grants the
18 Secretary has awarded such entity; or

19 “(B) the length of any period during which
20 such entity received such grants.

21 “(g) GRANT PERIOD.—Each grant under this section
22 shall be awarded for an initial period of not more than
23 three years, and may be renewed for not more than an
24 additional two years if the Secretary finds that the grantee
25 is meeting the grant objectives.

1 “(h) SERVICE OBLIGATION.—

2 “(1) IN GENERAL.—The Secretary shall re-
3 quire, by regulation, that an individual who receives
4 training pursuant to a grant made under this sec-
5 tion—

6 “(A) perform work—

7 “(i) related to the training received
8 under this section; and

9 “(ii) that benefits Indian people; or

10 “(B) repay all or a prorated part of the as-
11 sistance received.

12 “(2) REPORTING.—The Secretary shall estab-
13 lish, by regulation, a reporting procedure under
14 which a grant recipient under this section shall, not
15 later than 12 months after the date of completion of
16 the training, and periodically thereafter, provide in-
17 formation concerning compliance with the work re-
18 quirement under paragraph (1).

19 **“CHAPTER C—FEDERAL ADMINISTRATION**

20 **“SEC. 1281. NATIONAL ADVISORY COUNCIL ON INDIAN EDU-
21 CATION.**

22 “(a) MEMBERSHIP.—There is established a National
23 Advisory Council on Indian Education (hereafter in this
24 section referred to as the ‘Council’), which shall—

1 “(1) consist of 15 Indian members, who shall
2 be appointed by the President from lists of nominees
3 furnished, from time to time, by Indian tribes and
4 organizations; and

5 “(2) represent different geographic areas of the
6 United States.

7 “(b) DUTIES.—The Council shall—

8 “(1) advise the Secretary concerning the fund-
9 ing and administration (including the development of
10 regulations and administrative policies and prac-
11 tices) of any program, including any program estab-
12 lished under this subpart—

13 “(A) with respect to which the Secretary
14 has jurisdiction; and

15 “(B)(i) that includes Indian children or
16 adults as participants; or

17 “(ii) that may benefit Indian children
18 or adults;

19 “(2) make recommendations to the Secretary
20 for filling the position of Director of Indian Edu-
21 cation whenever a vacancy occurs; and

22 “(3) submit to Congress, not later than June
23 30 of each year, a report on the activities of the
24 Council, including—

1 “(A) any recommendations that the Coun-
2 cil considers appropriate for the improvement of
3 Federal education programs that include Indian
4 children or adults as participants, or that may
5 benefit Indian children or adults; and

6 “(B) recommendations concerning the
7 funding of any program described in subpara-
8 graph (A).

9 **“SEC. 1282. PEER REVIEW.**

10 “The Secretary may use a peer review process to re-
11 view applications submitted to the Secretary under chap-
12 ter B.

13 **“SEC. 1283. PREFERENCE FOR INDIAN APPLICANTS.**

14 “In making grants and entering into contracts or co-
15 operative agreements under chapter B, the Secretary shall
16 give a preference to Indian tribes, organizations, and insti-
17 tutions of higher education under any program with re-
18 spect to which Indian tribes, organizations, and institu-
19 tions are eligible to apply for grants, contracts, or coopera-
20 tive agreements.

21 **“SEC. 1284. MINIMUM GRANT CRITERIA.**

22 “The Secretary may not approve an application for
23 a grant, contract, or cooperative agreement under chapter
24 B unless the application is for a grant, contract, or cooper-
25 ative agreement that is—

1 “(1) of sufficient size, scope, and quality to
2 achieve the purpose or objectives of such grant, con-
3 tract, or cooperative agreement; and

4 “(2) based on relevant research findings.

5 **“CHAPTER D—DEFINITIONS**

6 **“SEC. 1291. DEFINITIONS.**

7 “For the purposes of this subpart:

8 “(1) ADULT.—The term ‘adult’ means an indi-
9 vidual who—

10 “(A) has attained the age of 16 years; or

11 “(B) has attained an age that is greater
12 than the age of compulsory school attendance
13 under an applicable State law.

14 “(2) ALASKA NATIVE.—The term ‘Alaska Na-
15 tive’ has the same meaning as the term ‘Native’ has
16 in section 3(b) of the Alaska Native Claims Settle-
17 ment Act.

18 “(3) FREE PUBLIC EDUCATION.—The term
19 ‘free public education’ means education that is—

20 “(A) provided at public expense, under
21 public supervision and direction, and without
22 tuition charge; and

23 “(B) provided as elementary or secondary
24 education in the applicable State or to preschool
25 children.

1 “(4) INDIAN.—The term ‘Indian’ means an in-
2 dividual who is—

3 “(A) a member of an Indian tribe or band,
4 as membership is defined by the tribe or band,
5 including—

6 “(i) any tribe or band terminated
7 since 1940; and

8 “(ii) any tribe or band recognized by
9 the State in which the tribe or band re-
10 sides;

11 “(B) a descendant, in the first or second
12 degree, of an individual described in subpara-
13 graph (A);

14 “(C) considered by the Secretary of the In-
15 terior to be an Indian for any purpose;

16 “(D) an Eskimo, Aleut, or other Alaska
17 Native; or

18 “(E) a member of an organized Indian
19 group that received a grant under the Indian
20 Education Act of 1988 as in effect the day pre-
21 ceding the date of enactment of the Improving
22 America’s Schools Act of 1994.”.

23 (b) STRIKE.—The Act is amended by striking title
24 VII (20 U.S.C. 7401 et seq.).

1 **Subtitle D—National Assessment**

2 **SEC. 141. NATIONAL ASSESSMENT OF TITLE I.**

3 (a) **IN GENERAL.**—Part E of title I (20 U.S.C. 6491
4 et seq.) is transferred and redesignated as part B of title
5 I.

6 (b) **REPEALS.**—Sections 1502 and 1504 (20 U.S.C.
7 6492; 6494) are repealed.

8 (c) **REDESIGNATIONS.**—Sections 1501 and 1503 (20
9 U.S.C. 6491; 6493) are redesignated as sections 1301 and
10 1302, respectively.

11 (d) **AMENDMENTS TO SECTION 1301.**—Section 1301
12 (20 U.S.C. 6491), as so redesignated, is amended—

13 (1) in subsection (a)—

14 (A) in paragraph (1), by inserting “, act-
15 ing through the Director of the Institute of
16 Education Sciences (in this section and section
17 1302 referred to as the ‘Director’),” after “The
18 Secretary”;

19 (B) in paragraph (2)—

20 (i) by striking “Secretary” and insert-
21 ing “Director”;

22 (ii) in subparagraph (A), by striking
23 “reaching the proficient level” and all that
24 follows and inserting “graduating high

1 school prepared for postsecondary edu-
2 cation or the workforce.”;

3 (iii) in subparagraph (B), by striking
4 “reach the proficient” and all that follows
5 and inserting “meet State academic stand-
6 ards.”;

7 (iv) by striking subparagraphs (D)
8 and (G) and redesignating subparagraphs
9 (E), (F), and (H) through (O) as subpara-
10 graphs (D) through (M), respectively;

11 (v) in subparagraph (D)(v) (as so re-
12 designated), by striking “help schools in
13 which” and all that follows and inserting
14 “address disparities in the percentages of
15 effective teachers teaching in low-income
16 schools.”

17 (vi) in subparagraph (G) (as so redesi-
18 gnated)—

19 (I) by striking “section 1116”
20 and inserting “section
21 1111(b)(3)(B)(iii)”;

22 (II) by striking “, including the
23 following” and all that follows and in-
24 serting a period;

1 (vii) in subparagraph (I) (as so rededesignated), by striking “qualifications” and
2 inserting “effectiveness”;
3

4 (viii) in subparagraph (J) (as so redesignated), by striking “, including funds
5 under section 1002,”;
6

7 (ix) in subparagraph (L) (as so redesignated), by striking “section
8 1111(b)(2)(C)(v)(II)” and inserting “section 1111(b)(2)(B)(xiii)”; and
9
10

11 (x) in subparagraph (M) (as so redesignated), by striking “Secretary” and inserting
12 “Director”;
13

14 (C) in paragraph (3), by striking “Secretary” and inserting “Director”;
15

16 (D) in paragraph (4), by striking “Secretary” and inserting “Director”;
17

18 (E) in paragraph (5), by striking “Secretary” and inserting “Director”; and
19

20 (F) in paragraph (6)—

21 (i) by striking “No Child Left Behind Act of 2001” each place it appears and inserting
22 “Student Success Act” ; and
23

24 (ii) by striking “Secretary” each place it appears and inserting “Director”;
25

1 (2) in subsection (b), by striking “Secretary”
2 each place it appears and inserting “Director”;

3 (3) in subsection (c)—

4 (A) in paragraph (1)—

5 (i) by striking “Secretary” and insert-
6 ing “Director”; and

7 (ii) by striking “part A” and inserting
8 “subpart 1 of part A”;

9 (B) in paragraph (2)—

10 (i) by striking “Secretary” and insert-
11 ing “Director”;

12 (ii) in subparagraph (B), by striking
13 “challenging academic achievement stand-
14 ards” and inserting “State academic
15 standards”;

16 (iii) in subparagraph (E), by striking
17 “effects of the availability” and all that
18 follows and inserting “extent to which ac-
19 tions authorized under section
20 1111(b)(3)(B)(iii) improve the academic
21 achievement of disadvantaged students and
22 low-performing schools.”; and

23 (iv) in subparagraph (F), by striking
24 “Secretary” and inserting “Director”; and

25 (C) in paragraph (3)—

1 (i) by striking “Secretary” and insert-
2 ing “Director”; and

3 (ii) by striking subparagraph (C) and
4 inserting the following:

5 “(C) analyzes varying models or strategies
6 for delivering school services, including
7 schoolwide and targeted services.”; and

8 (4) in subsection (d), by striking “Secretary”
9 each place it appears and inserting “Director”.

10 (e) AMENDMENTS TO SECTION 1302.—Section 1302
11 (20 U.S.C. 6493), as so redesignated, is amended—

12 (1) in subsection (a)—

13 (A) by striking “Secretary” and inserting
14 “Director”; and

15 (B) by striking “and for making decisions
16 about the promotion and graduation of stu-
17 dents”;

18 (2) in subsection (b)—

19 (A) by striking “Secretary” and inserting
20 “Director”;

21 (B) by striking “process,” and inserting
22 “process consistent with section 5534,”; and

23 (C) by striking “Assistant Secretary of
24 Educational Research and Improvement” and
25 inserting “Director”;

1 (3) in subsection (d)—

2 (A) in paragraph (1)—

3 (i) in subparagraph (A), by striking
4 “to the State-defined level of proficiency”
5 and inserting “toward meeting the State
6 academic standards”; and

7 (ii) in subparagraph (C), by striking
8 “pupil-services” and inserting “specialized
9 instructional support services”;

10 (B) in paragraph (3), by striking “limited
11 and nonlimited English proficient students”
12 and inserting “English learners”; and

13 (C) in paragraph (6), by striking “Sec-
14 retary” and inserting “Director”; and

15 (4) in subsection (f)—

16 (A) by striking “Secretary” and inserting
17 “Director”; and

18 (B) by striking “authorized to be appro-
19 priated for this part” and inserting “appro-
20 priated under section 3(A)(2)”.

21 **Subtitle E—Title I General**
22 **Provisions**

23 **SEC. 151. GENERAL PROVISIONS FOR TITLE I.**

24 Part I of title I (20 U.S.C. 6571 et seq.)—

1 (1) is transferred to and redesignated as part
2 C of title I of the Act; and

3 (2) is amended to read as follows:

4 **“PART C—GENERAL PROVISIONS**

5 **“SEC. 1401. FEDERAL REGULATIONS.**

6 “(a) IN GENERAL.—The Secretary may, in accord-
7 ance with subsections (b) through (d), issue such regula-
8 tions as are necessary to reasonably ensure there is com-
9 pliance with this title.

10 “(b) NEGOTIATED RULEMAKING PROCESS.—

11 “(1) IN GENERAL.—Before publishing in the
12 Federal Register proposed regulations to carry out
13 this title, the Secretary shall obtain the advice and
14 recommendations of representatives of Federal,
15 State, and local administrators, parents, teachers,
16 and members of local school boards and other orga-
17 nizations involved with the implementation and oper-
18 ation of programs under this title.

19 “(2) MEETINGS AND ELECTRONIC EX-
20 CHANGE.—Such advice and recommendations may
21 be obtained through such mechanisms as regional
22 meetings and electronic exchanges of information.

23 “(3) PROPOSED REGULATIONS.—After obtain-
24 ing such advice and recommendations, and before

1 publishing proposed regulations, the Secretary
2 shall—

3 “(A) establish a negotiated rulemaking
4 process;

5 “(B) select individuals to participate in
6 such process from among individuals or groups
7 that provided advice and recommendations, in-
8 cluding representation from all geographic re-
9 gions of the United States, in such numbers as
10 will provide an equitable balance between rep-
11 resentatives of parents and students and rep-
12 resentatives of educators and education offi-
13 cials; and

14 “(C) prepare a draft of proposed policy op-
15 tions that shall be provided to the individuals
16 selected by the Secretary under subparagraph
17 (B) not less than 15 days before the first meet-
18 ing under such process.

19 “(c) PROPOSED RULEMAKING.—If the Secretary de-
20 termines that a negotiated rulemaking process is unneces-
21 sary or the individuals selected to participate in the proc-
22 ess under paragraph (3)(B) fail to reach unanimous agree-
23 ment, the Secretary may propose regulations under the
24 following procedure:

1 “(1) Not less than 30 days prior to beginning
2 a rulemaking process, the Secretary shall provide to
3 Congress, including the Committee on Education
4 and the Workforce of the House of Representatives
5 and the Committee on Health, Education, Labor,
6 and Pensions of the Senate, notice that shall in-
7 clude—

8 “(A) a copy of the proposed regulations;

9 “(B) the need to issue regulations;

10 “(C) the anticipated burden the regula-
11 tions will have on State educational agencies,
12 local educational agencies, schools, and other
13 entities that may be impacted by the regula-
14 tions; and

15 “(D) any regulations that will be repealed
16 when the new regulations are issued.

17 “(2) 30 days after giving notice of the proposed
18 rule to Congress, the Secretary may proceed with
19 the rulemaking process after addressing all com-
20 ments received from the Congress and publishing
21 how such comments are addressed with the proposed
22 rule.

23 “(3) The comment and review period for any
24 proposed regulation shall be 90 days unless an emer-
25 gency requires a shorter period, in which case such

1 period shall be not less than 45 days and the Sec-
2 retary shall—

3 “(A) designate the proposed regulation as
4 an emergency with an explanation of the emer-
5 gency in the notice and report to Congress
6 under paragraph (1); and

7 “(B) publish the length of the comment
8 and review period in such notice and in the
9 Federal Register.

10 “(4) No regulation shall be made final after the
11 comment and review period until the Secretary has
12 published in the Federal Register an independent as-
13 sessment of—

14 “(A) the burden, including the cost bur-
15 den, the regulation will impose on State edu-
16 cational agencies, local educational agencies,
17 schools and other entities that may be impacted
18 by the regulation; and

19 “(B) an explanation of how the entities de-
20 scribed in subparagraph (A) may pay for imple-
21 menting the new regulation.

22 “(d) LIMITATION.—Regulations to carry out this title
23 may not require local programs to follow a particular in-
24 structional model, such as the provision of services outside
25 the regular classroom or school program.

1 **“SEC. 1402. AGREEMENTS AND RECORDS.**

2 “(a) AGREEMENTS.—In the case in which a nego-
3 tiated rule making process is established under subsection
4 (b) of section 1401, all published proposed regulations
5 shall conform to agreements that result from the rule-
6 making described in section 1401 unless the Secretary re-
7 opens the negotiated rulemaking process.

8 “(b) RECORDS.—The Secretary shall ensure that an
9 accurate and reliable record of agreements reached during
10 the negotiations process is maintained.

11 **“SEC. 1403. STATE ADMINISTRATION.**

12 “(a) RULEMAKING.—

13 “(1) IN GENERAL.—Each State that receives
14 funds under this title shall—

15 “(A) ensure that any State rules, regula-
16 tions, and policies relating to this title conform
17 to the purposes of this title and provide any
18 such proposed rules, regulations, and policies to
19 the committee of practitioners created under
20 subsection (b) for review and comment;

21 “(B) minimize such rules, regulations, and
22 policies to which the State’s local educational
23 agencies and schools are subject;

24 “(C) eliminate or modify State and local
25 fiscal accounting requirements in order to facili-

1 tate the ability of schools to consolidate funds
2 under schoolwide programs;

3 “(D) identify any such rule, regulation, or
4 policy as a State-imposed requirement; and

5 “(E)(i) identify any duplicative or con-
6 trasting requirements between the State and
7 Federal rules or regulations;

8 “(ii) eliminate the rules and regulations
9 that are duplicative of Federal requirements;
10 and

11 “(iii) report any conflicting requirements
12 to the Secretary and determine which Federal
13 or State rule or regulation shall be followed.

14 “(2) SUPPORT AND FACILITATION.—State
15 rules, regulations, and policies under this title shall
16 support and facilitate local educational agency and
17 school-level systemic reform designed to enable all
18 children to meet the State academic standards.

19 “(b) COMMITTEE OF PRACTITIONERS.—

20 “(1) IN GENERAL.—Each State educational
21 agency that receives funds under this title shall cre-
22 ate a State committee of practitioners to advise the
23 State in carrying out its responsibilities under this
24 title.

1 “(2) MEMBERSHIP.—Each such committee
2 shall include—

3 “(A) as a majority of its members, rep-
4 resentatives from local educational agencies;

5 “(B) administrators, including the admin-
6 istrators of programs described in other parts
7 of this title;

8 “(C) teachers from public charter schools,
9 traditional public schools, and career and tech-
10 nical educators;

11 “(D) parents;

12 “(E) members of local school boards;

13 “(F) representatives of private school chil-
14 dren; and

15 “(G) specialized instructional support per-
16 sonnel.

17 “(3) DUTIES.—The duties of such committee
18 shall include a review, before publication, of any pro-
19 posed or final State rule or regulation pursuant to
20 this title. In an emergency situation where such rule
21 or regulation must be issued within a very limited
22 time to assist local educational agencies with the op-
23 eration of the program under this title, the State
24 educational agency may issue a regulation without
25 prior consultation, but shall immediately thereafter

1 convene the State committee of practitioners to re-
2 view the emergency regulation before issuance in
3 final form.

4 **“SEC. 1404. PROHIBITION AGAINST FEDERAL MANDATES,**
5 **DIRECTION, OR CONTROL.**

6 “(a) IN GENERAL.—Nothing in this title shall be con-
7 strued to authorize an officer or employee of the Federal
8 Government to mandate, direct, or control a State, local
9 educational agency, or school’s specific instructional con-
10 tent, academic standards and assessments, curriculum, or
11 program of instruction.

12 “(b) FINANCIAL SUPPORT.—Nothing in this title
13 shall be construed to authorize an officer or employee of
14 the Federal Government to make financial support avail-
15 able in a manner that is conditioned upon a State, local
16 educational agency, or school’s adoption of specific in-
17 structional content, academic standards and assessments,
18 curriculum, or program of instruction. No funds author-
19 ized under this Act may be made available to support fed-
20 erally required instructional content, academic standards
21 and assessments, curriculum, or program of instruction
22 even if such requirements are specified in an Act other
23 than this Act.

1 **“SEC. 1405. RULE OF CONSTRUCTION ON EQUALIZED**
2 **SPENDING.**

3 “Nothing in this title shall be construed to mandate
4 equalized spending per pupil for a State, local educational
5 agency, or school.”.

6 **TITLE II—GENERAL PROVISIONS**
7 **FOR THE ACT**

8 **SEC. 201. GENERAL PROVISIONS FOR THE ACT.**

9 (a) AMENDING TITLE V.—Title V (20 U.S.C. 7201
10 et seq.) is amended to read as follows:

11 “TITLE V—GENERAL PROVISIONS

12 “PART A—DEFINITIONS

13 **“SEC. 5101. DEFINITIONS.**

14 “Except as otherwise provided, in this Act:

15 “(1) FOUR-YEAR ADJUSTED COHORT GRADUA-
16 TION RATE.—

17 “(A) IN GENERAL.—The term ‘four-year
18 adjusted cohort graduation rate’ means the
19 ratio where—

20 “(i) the denominator consists of the
21 number of students who form the original
22 cohort of entering first-time 9th grade stu-
23 dents enrolled in the high school no later
24 than the effective date for student mem-
25 bership data submitted annually by State
26 educational agencies to the National Cen-

1 ter for Education Statistics pursuant to
2 section 153 of the Education Sciences Re-
3 form Act, adjusted by—

4 “(I) adding the students who
5 joined that cohort, after the time of
6 the determination of the original co-
7 hort; and

8 “(II) subtracting only those stu-
9 dents who left that cohort, after the
10 time of the determination of the origi-
11 nal cohort, as described in subpara-
12 graph (B); and

13 “(ii) the numerator consists of the
14 number of students in the cohort, as ad-
15 justed under clause (i), who earned a reg-
16 ular high school diploma before, during, or
17 at the conclusion of—

18 “(I) the fourth year of high
19 school; or

20 “(II) a summer session imme-
21 diately following the fourth year of
22 high school.

23 “(B) COHORT REMOVAL.—To remove a
24 student from a cohort, a school or local edu-
25 cational agency shall require documentation to

1 confirm that the student has transferred out,
2 emigrated to another country, transferred to a
3 prison or juvenile facility, or is deceased.

4 “(C) TRANSFERRED OUT.—

5 “(i) IN GENERAL.—For purposes of
6 this paragraph, the term ‘transferred out’
7 means a student who the high school or
8 local educational agency has confirmed, ac-
9 cording to clause (ii), has transferred—

10 “(I) to another school from which
11 the student is expected to receive a
12 regular high school diploma; or

13 “(II) to another educational pro-
14 gram from which the student is ex-
15 pected to receive a regular high school
16 diploma.

17 “(ii) CONFIRMATION REQUIRE-
18 MENTS.—

19 “(I) DOCUMENTATION RE-
20 QUIRED.—The confirmation of a stu-
21 dent’s transfer to another school or
22 educational program described in
23 clause (i) requires documentation
24 from the receiving school or program

1 that the student enrolled in the receiv-
2 ing school or program.

3 “(II) LACK OF CONFIRMATION.—

4 A student who was enrolled, but for
5 whom there is no confirmation of the
6 student having transferred out, shall
7 remain in the adjusted cohort.

8 “(iii) PROGRAMS NOT PROVIDING
9 CREDIT.—A student who is retained in
10 grade or who is enrolled in a GED or other
11 alternative educational program that does
12 not issue or provide credit toward the
13 issuance of a regular high school diploma
14 shall not be considered transferred out and
15 shall remain in the adjusted cohort.

16 “(D) SPECIAL RULE.—For those high
17 schools that start after grade 9, the original co-
18 hort shall be calculated for the earliest high
19 school grade students attend no later than the
20 effective date for student membership data sub-
21 mitted annually by State educational agencies
22 to the National Center for Education Statistics
23 pursuant to section 153 of the Education
24 Sciences Reform Act.

25 “(2) AVERAGE DAILY ATTENDANCE.—

1 “(A) IN GENERAL.—Except as provided
2 otherwise by State law or this paragraph, the
3 term ‘average daily attendance’ means—

4 “(i) the aggregate number of days of
5 attendance of all students during a school
6 year; divided by

7 “(ii) the number of days school is in
8 session during that year.

9 “(B) CONVERSION.—The Secretary shall
10 permit the conversion of average daily member-
11 ship (or other similar data) to average daily at-
12 tendance for local educational agencies in
13 States that provide State aid to local edu-
14 cational agencies on the basis of average daily
15 membership (or other similar data).

16 “(C) SPECIAL RULE.—If the local edu-
17 cational agency in which a child resides makes
18 a tuition or other payment for the free public
19 education of the child in a school located in an-
20 other school district, the Secretary shall, for the
21 purpose of this Act—

22 “(i) consider the child to be in attend-
23 ance at a school of the agency making the
24 payment; and

1 “(ii) not consider the child to be in at-
2 tendance at a school of the agency receiv-
3 ing the payment.

4 “(D) CHILDREN WITH DISABILITIES.—If a
5 local educational agency makes a tuition pay-
6 ment to a private school or to a public school
7 of another local educational agency for a child
8 with a disability, as defined in section 602 of
9 the Individuals with Disabilities Education Act,
10 the Secretary shall, for the purpose of this Act,
11 consider the child to be in attendance at a
12 school of the agency making the payment.

13 “(3) AVERAGE PER-PUPIL EXPENDITURE.—The
14 term ‘average per-pupil expenditure’ means, in the
15 case of a State or of the United States—

16 “(A) without regard to the source of
17 funds—

18 “(i) the aggregate current expendi-
19 tures, during the third fiscal year pre-
20 ceding the fiscal year for which the deter-
21 mination is made (or, if satisfactory data
22 for that year are not available, during the
23 most recent preceding fiscal year for which
24 satisfactory data are available) of all local
25 educational agencies in the State or, in the

1 case of the United States, for all States
2 (which, for the purpose of this paragraph,
3 means the 50 States and the District of
4 Columbia); plus

5 “(ii) any direct current expenditures
6 by the State for the operation of those
7 agencies; divided by

8 “(B) the aggregate number of children in
9 average daily attendance to whom those agen-
10 cies provided free public education during that
11 preceding year.

12 “(4) CHARTER SCHOOL.—The term ‘charter
13 school’ means a public school that—

14 “(A) in accordance with a specific State
15 statute authorizing the granting of charters to
16 schools, is exempt from significant State or
17 local rules that inhibit the flexible operation
18 and management of public schools, but not
19 from any rules relating to the other require-
20 ments of this paragraph;

21 “(B) is created by a developer as a public
22 school, or is adapted by a developer from an ex-
23 isting public school, and is operated under pub-
24 lic supervision and direction;

1 “(C) operates in pursuit of a specific set of
2 educational objectives determined by the
3 school’s developer and agreed to by the author-
4 ized public chartering agency;

5 “(D) provides a program of elementary or
6 secondary education, or both;

7 “(E) is nonsectarian in its programs, ad-
8 missions policies, employment practices, and all
9 other operations;

10 “(F) does not charge tuition;

11 “(G) complies with the Age Discrimination
12 Act of 1975, title VI of the Civil Rights Act of
13 1964, title IX of the Education Amendments of
14 1972, section 504 of the Rehabilitation Act of
15 1973, and part B of the Individuals with Dis-
16 abilities Education Act;

17 “(H) is a school to which parents choose to
18 send their children, and that admits students
19 on the basis of a lottery, if more students apply
20 for admission than can be accommodated;

21 “(I) agrees to comply with the same Fed-
22 eral and State audit requirements as do other
23 elementary schools and secondary schools in the
24 State, unless such requirements are specifically
25 waived for the purpose of this program;

1 “(J) meets all applicable Federal, State,
2 and local health and safety requirements;

3 “(K) operates in accordance with State
4 law;

5 “(L) has a written performance contract
6 with the authorized public chartering agency in
7 the State that includes a description of how
8 student performance will be measured in char-
9 ter schools pursuant to State assessments that
10 are required of other schools and pursuant to
11 any other assessments mutually agreeable to
12 the authorized public chartering agency and the
13 charter school; and

14 “(M) may serve pre-kindergarten or post-
15 secondary school students.

16 “(5) CHILD.—The term ‘child’ means any per-
17 son within the age limits for which the State pro-
18 vides free public education.

19 “(6) CHILD WITH A DISABILITY.—The term
20 ‘child with a disability’ has the same meaning given
21 that term in section 602 of the Individuals with Dis-
22 abilities Education Act.

23 “(7) COMMUNITY-BASED ORGANIZATION.—The
24 term ‘community-based organization’ means a public

1 or private nonprofit organization of demonstrated ef-
2 fectiveness that—

3 “(A) is representative of a community or
4 significant segments of a community; and

5 “(B) provides educational or related serv-
6 ices to individuals in the community.

7 “(8) CONSOLIDATED LOCAL APPLICATION.—
8 The term ‘consolidated local application’ means an
9 application submitted by a local educational agency
10 pursuant to section 5305.

11 “(9) CONSOLIDATED LOCAL PLAN.—The term
12 ‘consolidated local plan’ means a plan submitted by
13 a local educational agency pursuant to section 5305.

14 “(10) CONSOLIDATED STATE APPLICATION.—
15 The term ‘consolidated State application’ means an
16 application submitted by a State educational agency
17 pursuant to section 5302.

18 “(11) CONSOLIDATED STATE PLAN.—The term
19 ‘consolidated State plan’ means a plan submitted by
20 a State educational agency pursuant to section
21 5302.

22 “(12) CORE ACADEMIC SUBJECTS.—The term
23 ‘core academic subjects’ means English, reading or
24 language arts, mathematics, science, foreign lan-

1 guages, civics and government, economics, arts, his-
2 tory, and geography.

3 “(13) COUNTY.—The term ‘county’ means one
4 of the divisions of a State used by the Secretary of
5 Commerce in compiling and reporting data regard-
6 ing counties.

7 “(14) COVERED PROGRAM.—The term ‘covered
8 program’ means each of the programs authorized
9 by—

10 “(A) part A of title I;

11 “(B) title II; and

12 “(C) title III.

13 “(15) CURRENT EXPENDITURES.—The term
14 ‘current expenditures’ means expenditures for free
15 public education—

16 “(A) including expenditures for adminis-
17 tration, instruction, attendance and health serv-
18 ices, pupil transportation services, operation
19 and maintenance of plant, fixed charges, and
20 net expenditures to cover deficits for food serv-
21 ices and student body activities; but

22 “(B) not including expenditures for com-
23 munity services, capital outlay, and debt serv-
24 ice, or any expenditures made from funds re-
25 ceived under title I.

1 “(16) DEPARTMENT.—The term ‘Department’
2 means the Department of Education.

3 “(17) DISTANCE EDUCATION.—The term ‘dis-
4 tance education’ means the use of one or more tech-
5 nologies to deliver instruction to students who are
6 separated from the instructor and to support regular
7 and substantive interaction between the students
8 and the instructor synchronously or nonsyn-
9 chronously.

10 “(18) EDUCATIONAL SERVICE AGENCY.—The
11 term ‘educational service agency’ means a regional
12 public multiservice agency authorized by State stat-
13 ute to develop, manage, and provide services or pro-
14 grams to local educational agencies.

15 “(19) ELEMENTARY SCHOOL.—The term ‘ele-
16 mentary school’ means a nonprofit institutional day
17 or residential school, including a public elementary
18 charter school, that provides elementary education,
19 as determined under State law.

20 “(20) ENGLISH LEARNER.—The term ‘English
21 learner’, when used with respect to an individual,
22 means an individual—

23 “(A) who is aged 3 through 21;

24 “(B) who is enrolled or preparing to enroll
25 in an elementary school or secondary school;

1 “(C)(i) who was not born in the United
2 States or whose native language is a language
3 other than English;

4 “(ii)(I) who is a Native American or
5 Alaska Native, or a native resident of the
6 outlying areas; and

7 “(II) who comes from an environ-
8 ment where a language other than
9 English has had a significant impact
10 on the individual’s level of English
11 language proficiency; or

12 “(iii) who is migratory, whose native
13 language is a language other than English,
14 and who comes from an environment where
15 a language other than English is domi-
16 nant; and

17 “(D) whose difficulties in speaking, read-
18 ing, writing, or understanding the English lan-
19 guage may be sufficient to deny the indi-
20 vidual—

21 “(i) the ability to meet the State’s
22 academic standards described in section
23 1111;

1 “(ii) the ability to successfully achieve
2 in classrooms where the language of in-
3 struction is English; or

4 “(iii) the opportunity to participate
5 fully in society.

6 “(21) EXTENDED-YEAR ADJUSTED COHORT
7 GRADUATION RATE.—

8 “(A) IN GENERAL.—The term ‘extended-
9 year adjusted cohort graduation rate’ means the
10 ratio where—

11 “(i) the denominator consists of the
12 number of students who form the original
13 cohort of students who entered the entry
14 grade together in the entry year of high
15 school, adjusted by—

16 “(I) adding the students who
17 joined that cohort, after the time of
18 the determination of the original co-
19 hort; and

20 “(II) subtracting only those stu-
21 dents who left that cohort, after the
22 time of the determination of the origi-
23 nal cohort; and

24 “(ii) the numerator consists of the
25 number of students in the cohort, as ad-

1 justed under clause (i), who earned a reg-
2 ular high school diploma before, during, or
3 at the conclusion of—

4 “(I) one or more additional years
5 beyond the fourth year of high school;
6 or

7 “(II) a summer session imme-
8 diately following the additional year of
9 high school.

10 “(B) COHORT REMOVAL.—To remove a
11 student from a cohort, a school or local edu-
12 cational agency shall require documentation to
13 confirm that the student has transferred out,
14 emigrated to another country, transferred to a
15 prison or juvenile facility, or is deceased.

16 “(C) TRANSFERRED OUT.—

17 “(i) IN GENERAL.—For purposes of
18 this paragraph, the term ‘transferred out’
19 means a student who the high school or
20 local educational agency has confirmed, ac-
21 cording to clause (ii), has transferred—

22 “(I) to another school from which
23 the student is expected to receive a
24 regular high school diploma; or

1 “(II) to another educational pro-
2 gram from which the student is ex-
3 pected to receive a regular high school
4 diploma.

5 “(ii) CONFIRMATION REQUIRE-
6 MENTS.—

7 “(I) DOCUMENTATION RE-
8 QUIRED.—The confirmation of a stu-
9 dent’s transfer to another school or
10 educational program described in
11 clause (i) requires documentation
12 from the receiving school or program
13 that the student enrolled in the receiv-
14 ing school or program.

15 “(II) LACK OF CONFIRMATION.—
16 A student who was enrolled, but for
17 whom there is no confirmation of the
18 student having transferred out, shall
19 remain in the extended-year adjusted
20 cohort.

21 “(iii) PROGRAMS NOT PROVIDING
22 CREDIT.—A student who is retained in
23 grade or who is enrolled in a GED or other
24 alternative educational program that does
25 not issue or provide credit toward the

1 issuance of a regular high school diploma
2 shall not be considered transferred out and
3 shall remain in the extended-year adjusted
4 cohort.

5 “(D) SPECIAL RULE.—For those high
6 schools that start after grade 9, the original co-
7 hort shall be calculated for the earliest high
8 school grade students attend no later than the
9 effective date for student membership data sub-
10 mitted annually by State educational agencies
11 to the National Center for Education Statistics
12 pursuant to section 153 of the Education
13 Sciences Reform Act.

14 “(22) FAMILY LITERACY SERVICES.—The term
15 ‘family literacy services’ means services provided to
16 participants on a voluntary basis that are of suffi-
17 cient intensity in terms of hours, and of sufficient
18 duration, to make sustainable changes in a family,
19 and that integrate all of the following activities:

20 “(A) Interactive literacy activities between
21 parents and their children.

22 “(B) Training for parents regarding how
23 to be the primary teacher for their children and
24 full partners in the education of their children.

1 “(C) Parent literacy training that leads to
2 economic self-sufficiency.

3 “(D) An age-appropriate education to pre-
4 pare children for success in school and life ex-
5 periences.

6 “(23) FREE PUBLIC EDUCATION.—The term
7 ‘free public education’ means education that is pro-
8 vided—

9 “(A) at public expense, under public super-
10 vision and direction, and without tuition charge;
11 and

12 “(B) as elementary school or secondary
13 school education as determined under applicable
14 State law, except that the term does not include
15 any education provided beyond grade 12.

16 “(24) GRADUATION RATE.—The term ‘gradua-
17 tion rate’ means the adjusted cohort graduation
18 rate.

19 “(25) HIGH SCHOOL.—The term ‘high school’ ”
20 means a secondary school that—

21 “(A) grants a diploma, as defined by the
22 State; and

23 “(B) includes, at least, grade 12.

24 “(26) INSTITUTION OF HIGHER EDUCATION.—
25 The term ‘institution of higher education’ has the

1 meaning given that term in section 101(a) of the
2 Higher Education Act of 1965.

3 “(27) LOCAL EDUCATIONAL AGENCY.—

4 “(A) IN GENERAL.—The term ‘local edu-
5 cational agency’ means a public board of edu-
6 cation or other public authority legally con-
7 stituted within a State for either administrative
8 control or direction of, or to perform a service
9 function for, public elementary schools or sec-
10 ondary schools in a city, county, township,
11 school district, or other political subdivision of
12 a State, or of or for a combination of school
13 districts or counties that is recognized in a
14 State as an administrative agency for its public
15 elementary schools or secondary schools.

16 “(B) ADMINISTRATIVE CONTROL AND DI-
17 RECTION.—The term includes any other public
18 institution or agency having administrative con-
19 trol and direction of a public elementary school
20 or secondary school.

21 “(C) BIE SCHOOLS.—The term includes
22 an elementary school or secondary school fund-
23 ed by the Bureau of Indian Education but only
24 to the extent that including the school makes
25 the school eligible for programs for which spe-

1 cific eligibility is not provided to the school in
2 another provision of law and the school does not
3 have a student population that is smaller than
4 the student population of the local educational
5 agency receiving assistance under this Act with
6 the smallest student population, except that the
7 school shall not be subject to the jurisdiction of
8 any State educational agency other than the
9 Bureau of Indian Education.

10 “(D) EDUCATIONAL SERVICE AGENCIES.—

11 The term includes educational service agencies
12 and consortia of those agencies.

13 “(E) STATE EDUCATIONAL AGENCY.—The

14 term includes the State educational agency in a
15 State in which the State educational agency is
16 the sole educational agency for all public
17 schools.

18 “(28) NATIVE AMERICAN AND NATIVE AMER-

19 ICAN LANGUAGE.—The terms ‘Native American’ and
20 ‘Native American language’ have the same meaning
21 given those terms in section 103 of the Native
22 American Languages Act of 1990.

23 “(29) OTHER STAFF.—The term ‘other staff’

24 means specialized instructional support personnel, li-
25 brarians, career guidance and counseling personnel,

1 education aides, and other instructional and admin-
2 istrative personnel.

3 “(30) OUTLYING AREA.—The term ‘outlying
4 area’—

5 “(A) means American Samoa, the Com-
6 monwealth of the Northern Mariana Islands,
7 Guam, and the United States Virgin Islands;

8 “(B) means the Republic of Palau, to the
9 extent permitted under section 105(f)(1)(B)(ix)
10 of the Compact of Free Association Amend-
11 ments Act of 2003 (Public Law 99–658; 117
12 Stat. 2751) and until an agreement for the ex-
13 tension of United States education assistance
14 under the Compact of Free Association becomes
15 effective for the Republic of Palau; and

16 “(C) for the purpose of any discretionary
17 grant program under this Act, includes the Re-
18 public of the Marshall Islands and the Fed-
19 erated States of Micronesia, to the extent per-
20 mitted under section 105(f)(1)(B)(viii) of the
21 Compact of Free Association Amendments Act
22 of 2003 (Public Law 108–188; 117 Stat.
23 2751).

24 “(31) PARENT.—The term ‘parent’ includes a
25 legal guardian or other person standing in loco

1 parentis (such as a grandparent or stepparent with
2 whom the child lives, or a person who is legally re-
3 sponsible for the child’s welfare).

4 “(32) PARENTAL INVOLVEMENT.—The term
5 ‘parental involvement’ means the participation of
6 parents in regular, two-way, and meaningful commu-
7 nication involving student academic learning and
8 other school activities, including ensuring—

9 “(A) that parents play an integral role in
10 assisting in their child’s learning;

11 “(B) that parents are encouraged to be ac-
12 tively involved in their child’s education at
13 school;

14 “(C) that parents are full partners in their
15 child’s education and are included, as appro-
16 priate, in decisionmaking and on advisory com-
17 mittees to assist in the education of their child;
18 and

19 “(D) the carrying out of other activities,
20 such as those described in section 1118.

21 “(33) POVERTY LINE.—The term ‘poverty line’
22 means the poverty line (as defined by the Office of
23 Management and Budget and revised annually in ac-
24 cordance with section 673(2) of the Community

1 Services Block Grant Act) applicable to a family of
2 the size involved.

3 “(34) PROFESSIONAL DEVELOPMENT.—The
4 term ‘professional development’—

5 “(A) includes activities that—

6 “(i) improve and increase teachers’
7 knowledge of the academic subjects the
8 teachers teach, and enable teachers to be-
9 come effective educators;

10 “(ii) are an integral part of broad
11 schoolwide and districtwide educational im-
12 provement plans;

13 “(iii) give teachers, school leaders,
14 other staff, and administrators the knowl-
15 edge and skills to provide students with
16 the opportunity to meet State academic
17 standards;

18 “(iv) improve classroom management
19 skills;

20 “(v)(I) are high quality, job-embed-
21 ded, and continuous in order to have a
22 positive and lasting impact on classroom
23 instruction and the teacher’s performance
24 in the classroom; and

1 “(II) are not 1-day or short-term
2 workshops or conferences;

3 “(vi) support the recruiting, hiring,
4 and training of effective teachers, including
5 teachers who became certified or licensed
6 through State and local alternative routes
7 to certification;

8 “(vii) advance teacher understanding
9 of effective instructional strategies that
10 are—

11 “(I) evidence-based; and

12 “(II) strategies for improving
13 student academic achievement or sub-
14 stantially increasing the knowledge
15 and teaching skills of teachers, includ-
16 ing through addressing the social and
17 emotional development needs of stu-
18 dents; and

19 “(viii) are aligned with and directly
20 related to—

21 “(I) State academic standards
22 and assessments; and

23 “(II) the curricula and programs
24 tied to the standards described in sub-
25 clause (I);

1 “(ix) are developed with extensive par-
2 ticipation of teachers, school leaders, par-
3 ents, and administrators of schools to be
4 served under this Act;

5 “(x) are designed to give teachers of
6 English learners and other teachers and
7 instructional staff, the knowledge and
8 skills to provide instruction and appro-
9 priate language and academic support
10 services to those children, including the ap-
11 propriate use of curricula and assessments;

12 “(xi) to the extent appropriate, pro-
13 vide training for teachers and school lead-
14 ers in the use of technology so that tech-
15 nology and technology applications are ef-
16 fectively used in the classroom to improve
17 teaching and learning in the curricula and
18 core academic subjects in which the teach-
19 ers teach;

20 “(xii) as a whole, are regularly evalu-
21 ated for their impact on increased teacher
22 effectiveness and improved student aca-
23 demic achievement, with the findings of
24 the evaluations used to improve the quality
25 of the professional development;

1 “(xiii) provide instruction in methods
2 of teaching children with special needs;

3 “(xiv) include instruction in the use of
4 data and assessments to inform and in-
5 struct classroom practice; and

6 “(xv) include instruction in ways that
7 teachers, school leaders, specialized in-
8 structional support personnel, and school
9 administrators may work more effectively
10 with parents; and

11 “(B) may include activities that—

12 “(i) involve the forming of partner-
13 ships with institutions of higher education
14 to establish school-based teacher training
15 programs that provide prospective teachers
16 and new teachers with an opportunity to
17 work under the guidance of experienced
18 teachers and college faculty;

19 “(ii) create programs to enable para-
20 professionals (assisting teachers employed
21 by a local educational agency receiving as-
22 sistance under subpart 1 of part A of title
23 I) to obtain the education necessary for
24 those paraprofessionals to become certified
25 and licensed teachers; and

1 “(iii) provide follow-up training to
2 teachers who have participated in activities
3 described in subparagraph (A) or another
4 clause of this subparagraph that are de-
5 signed to ensure that the knowledge and
6 skills learned by the teachers are imple-
7 mented in the classroom.

8 “(35) REGULAR HIGH SCHOOL DIPLOMA.—

9 “(A) IN GENERAL.—The term ‘regular
10 high school diploma’ means the standard high
11 school diploma awarded to the preponderance of
12 students in the State that is fully aligned with
13 State standards, or a higher diploma. Such
14 term shall not include a GED or other recog-
15 nized equivalent of a diploma, a certificate of
16 attendance, or any lesser diploma award.

17 “(B) EXCEPTION FOR STUDENTS WITH
18 SIGNIFICANT COGNITIVE DISABILITIES.—For a
19 student who is assessed using an alternate as-
20 sessment aligned to alternate academic stand-
21 ards under section 1111(b)(1)(D), receipt of a
22 regular high school diploma or a State-defined
23 alternate diploma obtained within the time pe-
24 riod for which the State ensures the availability
25 of a free appropriate public education and in

1 accordance with section 612(a)(1) of the Indi-
2 viduals with Disabilities Education Act shall be
3 counted as graduating with a regular high
4 school diploma for the purposes of this Act.

5 “(36) SECONDARY SCHOOL.—The term ‘sec-
6 ondary school’ means a nonprofit institutional day or
7 residential school, including a public secondary char-
8 ter school, that provides secondary education, as de-
9 termined under State law, except that the term does
10 not include any education beyond grade 12.

11 “(37) SECRETARY.—The term ‘Secretary’
12 means the Secretary of Education.

13 “(38) SPECIALIZED INSTRUCTIONAL SUPPORT
14 PERSONNEL; SPECIALIZED INSTRUCTIONAL SUPPORT
15 SERVICES.—

16 “(A) SPECIALIZED INSTRUCTIONAL SUP-
17 PORT PERSONNEL.—The term ‘specialized in-
18 structional support personnel’ means school
19 counselors, school social workers, school psy-
20 chologists, and other qualified professional per-
21 sonnel involved in providing assessment, diag-
22 nosis, counseling, educational, therapeutic, and
23 other necessary services (including related serv-
24 ices as that term is defined in section 602 of
25 the Individuals with Disabilities Education Act)

1 as part of a comprehensive program to meet
2 student needs.

3 “(B) SPECIALIZED INSTRUCTIONAL SUP-
4 PORT SERVICES.—The term ‘specialized instruc-
5 tional support services’ means the services pro-
6 vided by specialized instructional support per-
7 sonnel.

8 “(39) STATE.—The term ‘State’ means each of
9 the 50 States, the District of Columbia, the Com-
10 monwealth of Puerto Rico, and each of the outlying
11 areas.

12 “(40) STATE EDUCATIONAL AGENCY.—The
13 term ‘State educational agency’ means the agency
14 primarily responsible for the State supervision of
15 public elementary schools and secondary schools.

16 “(41) TECHNOLOGY.—The term ‘technology’
17 means modern information, computer and commu-
18 nication technology products, services, or tools, in-
19 cluding, but not limited to, the Internet and other
20 communications networks, computer devices and
21 other computer and communications hardware, soft-
22 ware applications, data systems, and other electronic
23 content and data storage.

1 **“SEC. 5102. APPLICABILITY OF TITLE.**

2 “Parts B, C, D, and E of this title do not apply to
3 title IV of this Act.

4 **“SEC. 5103. APPLICABILITY TO BUREAU OF INDIAN EDU-
5 CATION OPERATED SCHOOLS.**

6 “For the purpose of any competitive program under
7 this Act—

8 “(1) a consortium of schools operated by the
9 Bureau of Indian Education;

10 “(2) a school operated under a contract or
11 grant with the Bureau of Indian Education in con-
12 sortium with another contract or grant school or a
13 tribal or community organization; or

14 “(3) a Bureau of Indian Education school in
15 consortium with an institution of higher education,
16 a contract or grant school, or a tribal or community
17 organization,

18 shall be given the same consideration as a local edu-
19 cational agency.

20 **“PART B—FLEXIBILITY IN THE USE OF
21 ADMINISTRATIVE AND OTHER FUNDS**

22 **“SEC. 5201. CONSOLIDATION OF STATE ADMINISTRATIVE
23 FUNDS FOR ELEMENTARY AND SECONDARY
24 EDUCATION PROGRAMS.**

25 “(a) CONSOLIDATION OF ADMINISTRATIVE FUNDS.—

1 “(1) IN GENERAL.—A State educational agency
2 may consolidate the amounts specifically made avail-
3 able to it for State administration under one or
4 more of the programs under paragraph (2).

5 “(2) APPLICABILITY.—This section applies to
6 any program under this Act under which funds are
7 authorized to be used for administration, and such
8 other programs as the Secretary may designate.

9 “(b) USE OF FUNDS.—

10 “(1) IN GENERAL.—A State educational agency
11 shall use the amount available under this section for
12 the administration of the programs included in the
13 consolidation under subsection (a).

14 “(2) ADDITIONAL USES.—A State educational
15 agency may also use funds available under this sec-
16 tion for administrative activities designed to enhance
17 the effective and coordinated use of funds under pro-
18 grams included in the consolidation under subsection
19 (a), such as—

20 “(A) the coordination of those programs
21 with other Federal and non-Federal programs;

22 “(B) the establishment and operation of
23 peer-review mechanisms under this Act;

24 “(C) the administration of this title;

1 “(D) the dissemination of information re-
2 garding model programs and practices;

3 “(E) technical assistance under any pro-
4 gram under this Act;

5 “(F) State-level activities designed to carry
6 out this title;

7 “(G) training personnel engaged in audit
8 and other monitoring activities; and

9 “(H) implementation of the Cooperative
10 Audit Resolution and Oversight Initiative of the
11 Department.

12 “(c) RECORDS.—A State educational agency that
13 consolidates administrative funds under this section shall
14 not be required to keep separate records, by individual
15 program, to account for costs relating to the administra-
16 tion of programs included in the consolidation under sub-
17 section (a).

18 “(d) REVIEW.—To determine the effectiveness of
19 State administration under this section, the Secretary may
20 periodically review the performance of State educational
21 agencies in using consolidated administrative funds under
22 this section and take such steps as the Secretary finds
23 appropriate to ensure the effectiveness of that administra-
24 tion.

1 “(e) UNUSED ADMINISTRATIVE FUNDS.—If a State
2 educational agency does not use all of the funds available
3 to the agency under this section for administration, the
4 agency may use those funds during the applicable period
5 of availability as funds available under one or more pro-
6 grams included in the consolidation under subsection (a).

7 “(f) CONSOLIDATION OF FUNDS FOR STANDARDS
8 AND ASSESSMENT DEVELOPMENT.—In order to develop
9 State academic standards and assessments, a State edu-
10 cational agency may consolidate the amounts described in
11 subsection (a) for those purposes under title I.

12 **“SEC. 5202. SINGLE LOCAL EDUCATIONAL AGENCY STATES.**

13 “A State educational agency that also serves as a
14 local educational agency shall, in its applications or plans
15 under this Act, describe how the agency will eliminate du-
16 plication in conducting administrative functions.

17 **“SEC. 5203. CONSOLIDATED SET-ASIDE FOR DEPARTMENT**
18 **OF THE INTERIOR FUNDS.**

19 “(a) GENERAL AUTHORITY.—

20 “(1) TRANSFER.—The Secretary shall transfer
21 to the Department of the Interior, as a consolidated
22 amount for covered programs, the Indian education
23 programs under subpart 6 of part A of title I, and
24 the education for homeless children and youth pro-
25 gram under subtitle B of title VII of the McKinney-

1 Vento Homeless Assistance Act, the amounts allotted to the Department of the Interior under those
2 programs.
3

4 “(2) AGREEMENT.—

5 “(A) IN GENERAL.—The Secretary and the
6 Secretary of the Interior shall enter into an
7 agreement, consistent with the requirements of
8 the programs specified in paragraph (1), for the
9 distribution and use of those program funds
10 under terms that the Secretary determines best
11 meet the purposes of those programs.

12 “(B) CONTENTS.—The agreement shall—

13 “(i) set forth the plans of the Secretary of the Interior for the use of the
14 amount transferred and the achievement
15 measures to assess program effectiveness;
16 and
17

18 “(ii) be developed in consultation with
19 Indian tribes.

20 “(b) ADMINISTRATION.—The Department of the Interior may use not more than 1.5 percent of the funds
21 consolidated under this section for its costs related to the
22 administration of the funds transferred under this section.
23

1 “PART C—COORDINATION OF PROGRAMS; CONSOLI-
2 DATED STATE AND LOCAL PLANS AND APPLICA-
3 TIONS

4 **“SEC. 5301. PURPOSES.**

5 “The purposes of this part are—

6 “(1) to improve teaching and learning by en-
7 couraging greater cross-program coordination, plan-
8 ning, and service delivery;

9 “(2) to provide greater flexibility to State and
10 local authorities through consolidated plans, applica-
11 tions, and reporting; and

12 “(3) to enhance the integration of programs
13 under this Act with State and local programs.

14 **“SEC. 5302. OPTIONAL CONSOLIDATED STATE PLANS OR**
15 **APPLICATIONS.**

16 “(a) GENERAL AUTHORITY.—

17 “(1) SIMPLIFICATION.—In order to simplify ap-
18 plication requirements and reduce the burden for
19 State educational agencies under this Act, the Sec-
20 retary, in accordance with subsection (b), shall es-
21 tablish procedures and criteria under which, after
22 consultation with the Governor, a State educational
23 agency may submit a consolidated State plan or a
24 consolidated State application meeting the require-
25 ments of this section for—

1 “(A) each of the covered programs in
2 which the State participates; and

3 “(B) such other programs as the Secretary
4 may designate.

5 “(2) CONSOLIDATED APPLICATIONS AND
6 PLANS.—After consultation with the Governor, a
7 State educational agency that submits a consolidated
8 State plan or a consolidated State application under
9 this section shall not be required to submit separate
10 State plans or applications under any of the pro-
11 grams to which the consolidated State plan or con-
12 solidated State application under this section ap-
13 plies.

14 “(b) COLLABORATION.—

15 “(1) IN GENERAL.—In establishing criteria and
16 procedures under this section, the Secretary shall
17 collaborate with State educational agencies and, as
18 appropriate, with other State agencies, local edu-
19 cational agencies, public and private agencies, orga-
20 nizations, and institutions, private schools, and par-
21 ents, students, and teachers.

22 “(2) CONTENTS.—Through the collaborative
23 process described in paragraph (1), the Secretary
24 shall establish, for each program under this Act to
25 which this section applies, the descriptions, informa-

1 tion, assurances, and other material required to be
2 included in a consolidated State plan or consolidated
3 State application.

4 “(3) NECESSARY MATERIALS.—The Secretary
5 shall require only descriptions, information, assur-
6 ances (including assurances of compliance with ap-
7 plicable provisions regarding participation by private
8 school children and teachers), and other materials
9 that are absolutely necessary for the consideration of
10 the consolidated State plan or consolidated State ap-
11 plication.

12 **“SEC. 5303. CONSOLIDATED REPORTING.**

13 “(a) IN GENERAL.—In order to simplify reporting re-
14 quirements and reduce reporting burdens, the Secretary
15 shall establish procedures and criteria under which a State
16 educational agency, in consultation with the Governor of
17 the State, may submit a consolidated State annual report.

18 “(b) CONTENTS.—The report shall contain informa-
19 tion about the programs included in the report, including
20 the performance of the State under those programs, and
21 other matters as the Secretary determines are necessary,
22 such as monitoring activities.

23 “(c) REPLACEMENT.—The report shall replace sepa-
24 rate individual annual reports for the programs included
25 in the consolidated State annual report.

1 **“SEC. 5304. GENERAL APPLICABILITY OF STATE EDU-**
2 **CATIONAL AGENCY ASSURANCES.**

3 “(a) ASSURANCES.—A State educational agency, in
4 consultation with the Governor of the State, that submits
5 a consolidated State plan or consolidated State application
6 under this Act, whether separately or under section 5302,
7 shall have on file with the Secretary a single set of assur-
8 ances, applicable to each program for which the plan or
9 application is submitted, that provides that—

10 “(1) each such program will be administered in
11 accordance with all applicable statutes, regulations,
12 program plans, and applications;

13 “(2)(A) the control of funds provided under
14 each such program and title to property acquired
15 with program funds will be in a public agency, an
16 eligible private agency, institution, or organization,
17 or an Indian tribe, if the law authorizing the pro-
18 gram provides for assistance to those entities; and

19 “(B) the public agency, eligible private agency,
20 institution, or organization, or Indian tribe will ad-
21 minister those funds and property to the extent re-
22 quired by the authorizing law;

23 “(3) the State will adopt and use proper meth-
24 ods of administering each such program, including—

25 “(A) the enforcement of any obligations
26 imposed by law on agencies, institutions, orga-

1 nizations, and other recipients responsible for
2 carrying out each program;

3 “(B) the correction of deficiencies in pro-
4 gram operations that are identified through au-
5 dits, monitoring, or evaluation; and

6 “(C) the adoption of written procedures for
7 the receipt and resolution of complaints alleging
8 violations of law in the administration of the
9 programs;

10 “(4) the State will cooperate in carrying out
11 any evaluation of each such program conducted by
12 or for the Secretary or other Federal officials;

13 “(5) the State will use such fiscal control and
14 fund accounting procedures that will ensure proper
15 disbursement of, and accounting for, Federal funds
16 paid to the State under each such program;

17 “(6) the State will—

18 “(A) make reports to the Secretary as may
19 be necessary to enable the Secretary to perform
20 the Secretary’s duties under each such pro-
21 gram; and

22 “(B) maintain such records, provide such
23 information to the Secretary, and afford such
24 access to the records as the Secretary may find

1 necessary to carry out the Secretary's duties;
2 and

3 “(7) before the plan or application was sub-
4 mitted to the Secretary, the State afforded a reason-
5 able opportunity for public comment on the plan or
6 application and considered such comment.

7 “(b) GEPA PROVISION.—Section 441 of the General
8 Education Provisions Act shall not apply to programs
9 under this Act.

10 **“SEC. 5305. CONSOLIDATED LOCAL PLANS OR APPLICA-**
11 **TIONS.**

12 “(a) GENERAL AUTHORITY.—

13 “(1) CONSOLIDATED PLAN.—A local edu-
14 cational agency receiving funds under more than one
15 covered program may submit plans or applications
16 to the State educational agency under those pro-
17 grams on a consolidated basis.

18 “(2) AVAILABILITY TO GOVERNOR.—The State
19 educational agency shall make any consolidated local
20 plans and applications available to the Governor.

21 “(b) REQUIRED CONSOLIDATED PLANS OR APPLICA-
22 TIONS.—A State educational agency that has an approved
23 consolidated State plan or application under section 5302
24 may require local educational agencies in the State receiv-
25 ing funds under more than one program included in the

1 consolidated State plan or consolidated State application
2 to submit consolidated local plans or applications under
3 those programs, but may not require those agencies to
4 submit separate plans.

5 “(c) COLLABORATION.—A State educational agency,
6 in consultation with the Governor, shall collaborate with
7 local educational agencies in the State in establishing pro-
8 cedures for the submission of the consolidated State plans
9 or consolidated State applications under this section.

10 “(d) NECESSARY MATERIALS.—The State edu-
11 cational agency shall require only descriptions, informa-
12 tion, assurances, and other material that are absolutely
13 necessary for the consideration of the local educational
14 agency plan or application.

15 **“SEC. 5306. OTHER GENERAL ASSURANCES.**

16 “(a) ASSURANCES.—Any applicant, other than a
17 State educational agency that submits a plan or applica-
18 tion under this Act, shall have on file with the State edu-
19 cational agency a single set of assurances, applicable to
20 each program for which a plan or application is submitted,
21 that provides that—

22 “(1) each such program will be administered in
23 accordance with all applicable statutes, regulations,
24 program plans, and applications;

1 “(2)(A) the control of funds provided under
2 each such program and title to property acquired
3 with program funds will be in a public agency or in
4 an eligible private agency, institution, organization,
5 or Indian tribe, if the law authorizing the program
6 provides for assistance to those entities; and

7 “(B) the public agency, eligible private agency,
8 institution, or organization, or Indian tribe will ad-
9 minister the funds and property to the extent re-
10 quired by the authorizing statutes;

11 “(3) the applicant will adopt and use proper
12 methods of administering each such program, in-
13 cluding—

14 “(A) the enforcement of any obligations
15 imposed by law on agencies, institutions, orga-
16 nizations, and other recipients responsible for
17 carrying out each program; and

18 “(B) the correction of deficiencies in pro-
19 gram operations that are identified through au-
20 dits, monitoring, or evaluation;

21 “(4) the applicant will cooperate in carrying out
22 any evaluation of each such program conducted by
23 or for the State educational agency, the Secretary,
24 or other Federal officials;

1 “(5) the applicant will use such fiscal control
2 and fund accounting procedures as will ensure prop-
3 er disbursement of, and accounting for, Federal
4 funds paid to the applicant under each such pro-
5 gram;

6 “(6) the applicant will—

7 “(A) submit such reports to the State edu-
8 cational agency (which shall make the reports
9 available to the Governor) and the Secretary as
10 the State educational agency and Secretary may
11 require to enable the State educational agency
12 and the Secretary to perform their duties under
13 each such program; and

14 “(B) maintain such records, provide such
15 information, and afford such access to the
16 records as the State educational agency (after
17 consultation with the Governor) or the Sec-
18 retary may reasonably require to carry out the
19 State educational agency’s or the Secretary’s
20 duties; and

21 “(7) before the application was submitted, the
22 applicant afforded a reasonable opportunity for pub-
23 lic comment on the application and considered such
24 comment.

1 “(b) GEPA PROVISION.—Section 442 of the General
2 Education Provisions Act shall not apply to programs
3 under this Act.

4 “PART D—WAIVERS

5 **“SEC. 5401. WAIVERS OF STATUTORY AND REGULATORY RE-**
6 **QUIREMENTS.**

7 “(a) IN GENERAL.—

8 “(1) REQUEST FOR WAIVER.—A State edu-
9 cational agency, local educational agency, or Indian
10 tribe that receives funds under a program authorized
11 under this Act may submit a request to the Sec-
12 retary to waive any statutory or regulatory require-
13 ment of this Act.

14 “(2) RECEIPT OF WAIVER.—Except as provided
15 in subsection (c) and subject to the limits in sub-
16 section (b)(5)(A), the Secretary shall waive any stat-
17 utory or regulatory requirement of this Act for a
18 State educational agency, local educational agency,
19 Indian tribe, or school (through a local educational
20 agency), that submits a waiver request pursuant to
21 this subsection.

22 “(b) PLAN.—

23 “(1) IN GENERAL.—A State educational agen-
24 cy, local educational agency, or Indian tribe that de-
25 sires a waiver under this section shall submit a waiv-

1 er request to the Secretary, which shall include a
2 plan that—

3 “(A) identifies the Federal programs af-
4 fected by the requested waiver;

5 “(B) describes which Federal statutory or
6 regulatory requirements are to be waived;

7 “(C) reasonably demonstrates that the
8 waiver will improve instruction for students and
9 advance student academic achievement;

10 “(D) describes the methods the State edu-
11 cational agency, local educational agency, or In-
12 dian tribe will use to monitor the effectiveness
13 of the implementation of the plan;

14 “(E) describes the State educational agen-
15 cy, local educational agency, or Indian tribe’s
16 process for holding public schools accountable
17 for student academic achievement and inter-
18 vening in low performing schools; and

19 “(F) describes how schools will continue to
20 provide assistance to the same populations
21 served by programs for which the waiver is re-
22 quested.

23 “(2) ADDITIONAL INFORMATION.—A waiver re-
24 quest under this section—

1 “(A) may provide for waivers of require-
2 ments applicable to State educational agencies,
3 local educational agencies, Indian tribes, and
4 schools; and

5 “(B) shall be developed and submitted—

6 “(i)(I) by local educational agencies
7 (on behalf of those agencies and schools)
8 to State educational agencies; and

9 “(II) by State educational agencies
10 (on their own behalf, or on behalf of, and
11 based on the requests of, local educational
12 agencies in the State) to the Secretary; or

13 “(ii) by Indian tribes (on behalf of
14 schools operated by the tribes) to the Sec-
15 retary.

16 “(3) GENERAL REQUIREMENTS.—

17 “(A) STATE EDUCATIONAL AGENCIES.—In
18 the case of a waiver request submitted by a
19 State educational agency acting on its own be-
20 half, or on behalf of local educational agencies
21 in the State, the State educational agency
22 shall—

23 “(i) provide all interested local edu-
24 cational agencies in the State with notice

1 and a reasonable opportunity to comment
2 and provide input on the request;

3 “(ii) submit the comments and input
4 to the Secretary, with a description of how
5 the State addressed the comments and
6 input; and

7 “(iii) provide notice and information
8 to the public regarding the waiver request
9 in the manner in which the applying agen-
10 cy customarily provides similar notices and
11 information to the public.

12 “(B) LOCAL EDUCATIONAL AGENCIES.—In
13 the case of a waiver request submitted by a
14 local educational agency that receives funds
15 under this Act—

16 “(i) the request shall be reviewed by
17 the State educational agency and be ac-
18 companied by the comments, if any, of the
19 State educational agency; and

20 “(ii) notice and information regarding
21 the waiver request shall be provided to the
22 public by the agency requesting the waiver
23 in the manner in which that agency cus-
24 tomarily provides similar notices and infor-
25 mation to the public.

1 “(4) PEER REVIEW.—

2 “(A) ESTABLISHMENT.—The Secretary
3 shall establish a multi-disciplinary peer review
4 team to review waiver requests under this sec-
5 tion.

6 “(B) APPLICABILITY.—The Secretary may
7 approve a waiver request under this section
8 without conducting a peer review of the request,
9 but shall use the peer review process under this
10 paragraph before disapproving such a request.

11 “(C) STANDARD AND NATURE OF RE-
12 VIEW.—Peer reviewers shall conduct a good
13 faith review of waiver requests submitted to
14 them under this section. Peer reviewers shall re-
15 view such waiver requests—

16 “(i) in their totality;

17 “(ii) in deference to State and local
18 judgment; and

19 “(iii) with the goal of promoting
20 State- and local-led innovation.

21 “(5) WAIVER DETERMINATION, DEMONSTRA-
22 TION, AND REVISION.—

23 “(A) IN GENERAL.—The Secretary shall
24 approve a waiver request not more than 60
25 days after the date on which such request is

1 submitted, unless the Secretary determines and
2 demonstrates that—

3 “(i) the waiver request does not meet
4 the requirements of this section;

5 “(ii) the waiver is not permitted under
6 subsection (c);

7 “(iii) the plan that is required under
8 paragraph (1)(C), and reviewed with def-
9 erence to State and local judgment, pro-
10 vides no reasonable evidence to determine
11 that a waiver will enhance student aca-
12 demic achievement; or

13 “(iv) the waiver request does not pro-
14 vide for adequate evaluation to ensure re-
15 view and continuous improvement of the
16 plan.

17 “(B) WAIVER DETERMINATION AND REVI-
18 SION.—If the Secretary determines and dem-
19 onstrates that the waiver request does not meet
20 the requirements of this section, the Secretary
21 shall—

22 “(i) immediately—

23 “(I) notify the State educational
24 agency, local educational agency, or

1 Indian tribe of such determination;
2 and

3 “(II) at the request of the State
4 educational agency, local educational
5 agency, or Indian tribe, provide de-
6 tailed reasons for such determination
7 in writing;

8 “(ii) offer the State educational agen-
9 cy, local educational agency, or Indian
10 tribe an opportunity to revise and resubmit
11 the waiver request not more than 60 days
12 after the date of such determination; and

13 “(iii) if the Secretary determines that
14 the resubmission does not meet the re-
15 quirements of this section, at the request
16 of the State educational agency, local edu-
17 cational agency, or Indian tribe, conduct a
18 public hearing not more than 30 days after
19 the date of such resubmission.

20 “(C) WAIVER DISAPPROVAL.—The Sec-
21 retary may disapprove a waiver request if—

22 “(i) the State educational agency,
23 local educational agency, or Indian tribe
24 has been notified and offered an oppor-
25 tunity to revise and resubmit the waiver

1 request, as described under clauses (i) and
2 (ii) of subparagraph (B); and

3 “(ii) the State educational agency,
4 local educational agency, or Indian tribe—

5 “(I) does not revise and resubmit
6 the waiver request; or

7 “(II) revises and resubmits the
8 waiver request, and the Secretary de-
9 termines that such waiver request
10 does not meet the requirements of this
11 section after a hearing conducted
12 under subparagraph (B)(iii), if re-
13 quested.

14 “(D) EXTERNAL CONDITIONS.—The Sec-
15 retary shall not require or impose new or addi-
16 tional requirements in exchange for receipt of a
17 waiver if such requirements are not specified in
18 this Act.

19 “(c) RESTRICTIONS.—The Secretary shall not waive
20 under this section any statutory or regulatory require-
21 ments relating to—

22 “(1) the allocation or distribution of funds to
23 States, local educational agencies, Indian tribes, or
24 other recipients of funds under this Act;

25 “(2) comparability of services;

1 “(3) use of Federal funds to supplement, not
2 supplant, non-Federal funds;

3 “(4) equitable participation of private school
4 students and teachers;

5 “(5) parental participation and involvement;

6 “(6) applicable civil rights requirements;

7 “(7) the prohibitions regarding—

8 “(A) State aid in section 5521;

9 “(B) use of funds for religious worship or
10 instruction in section 5505; and

11 “(C) activities in section 5525; or

12 “(8) the selection of a school attendance area or
13 school under subsections (a) and (b) of section 1113,
14 except that the Secretary may grant a waiver to
15 allow a school attendance area or school to partici-
16 pate in activities under subpart 1 of part A of title
17 I if the percentage of children from low-income fami-
18 lies in the school attendance area or who attend the
19 school is not more than 10 percentage points below
20 the lowest percentage of those children for any
21 school attendance area or school of the local edu-
22 cational agency that meets the requirements of sub-
23 sections (a) and (b) of section 1113.

24 “(d) DURATION AND EXTENSION OF WAIVER; LIM-
25 TATIONS.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), a waiver approved by the Secretary under
3 this section may be for a period not to exceed 3
4 years.

5 “(2) EXTENSION.—The Secretary may extend
6 the period described in paragraph (1) if the State
7 demonstrates that—

8 “(A) the waiver has been effective in ena-
9 bling the State or affected recipient to carry out
10 the activities for which the waiver was re-
11 quested and the waiver has contributed to im-
12 proved student achievement; and

13 “(B) the extension is in the public interest.

14 “(3) SPECIFIC LIMITATIONS.—The Secretary
15 shall not require a State educational agency, local
16 educational agency, or Indian tribe, as a condition of
17 approval of a waiver request, to—

18 “(A) include in, or delete from, such re-
19 quest, specific academic standards;

20 “(B) use specific academic assessment in-
21 struments or items; or

22 “(C) include in, or delete from, such waiv-
23 er request any criterion that specifies, defines,
24 or prescribes the standards or measures that a

1 State or local educational agency or Indian
2 tribe uses to establish, implement, or improve—

3 “(i) State academic standards;

4 “(ii) academic assessments;

5 “(iii) State accountability systems; or

6 “(iv) teacher and school leader evalua-
7 tion systems.

8 “(e) REPORTS.—

9 “(1) WAIVER REPORTS.—A State educational
10 agency, local educational agency, or Indian tribe
11 that receives a waiver under this section shall, at the
12 end of the second year for which a waiver is received
13 under this section and each subsequent year, submit
14 a report to the Secretary that—

15 “(A) describes the uses of the waiver by
16 the agency or by schools;

17 “(B) describes how schools continued to
18 provide assistance to the same populations
19 served by the programs for which waivers were
20 granted; and

21 “(C) evaluates the progress of the agency
22 and schools, or Indian tribe, in improving the
23 quality of instruction or the academic achieve-
24 ment of students.

1 “(2) REPORT TO CONGRESS.—The Secretary
2 shall annually submit to the Committee on Edu-
3 cation and the Workforce of the House of Rep-
4 resentatives and the Committee on Health, Edu-
5 cation, Labor, and Pensions of the Senate a re-
6 port—

7 “(A) summarizing the uses of waivers by
8 State educational agencies, local educational
9 agencies, Indian tribes, and schools; and

10 “(B) describing the status of the waivers
11 in improving academic achievement.

12 “(f) TERMINATION OF WAIVERS.—The Secretary
13 shall terminate a waiver under this section if the Secretary
14 determines, after notice and an opportunity for a hearing,
15 that the performance of the State or other recipient af-
16 fected by the waiver has been inadequate to justify a con-
17 tinuation of the waiver and the recipient of the waiver has
18 failed to make revisions needed to carry out the purpose
19 of the waiver, or if the waiver is no longer necessary to
20 achieve its original purpose.

21 “(g) PUBLICATION.—A notice of the Secretary’s deci-
22 sion to grant each waiver under subsection (a) shall be
23 published in the Federal Register and the Secretary shall
24 provide for the dissemination of the notice to State edu-
25 cational agencies, interested parties, including educators,

1 parents, students, advocacy and civil rights organizations,
2 and the public.

3 “PART E—UNIFORM PROVISIONS

4 “SUBPART 1—PRIVATE SCHOOLS

5 “SEC. 5501. PARTICIPATION BY PRIVATE SCHOOL CHIL-
6 DREN AND TEACHERS.

7 “(a) PRIVATE SCHOOL PARTICIPATION.—

8 “(1) IN GENERAL.—Except as otherwise pro-
9 vided in this Act, to the extent consistent with the
10 number of eligible children in areas served by a
11 State educational agency, local educational agency,
12 educational service agency, consortium of those
13 agencies, or another entity receiving financial assist-
14 ance under a program specified in subsection (b),
15 who are enrolled in private elementary schools and
16 secondary schools in areas served by such agency,
17 consortium, or entity, the agency, consortium, or en-
18 tity shall, after timely and meaningful consultation
19 with appropriate private school officials or their rep-
20 resentatives, provide to those children and their
21 teachers or other educational personnel, on an equi-
22 table basis, special educational services or other ben-
23 efits that address their needs under the program.

24 “(2) SECULAR, NEUTRAL, AND NONIDEOLOG-
25 ICAL SERVICES OR BENEFITS.—Educational services

1 or other benefits, including materials and equipment,
2 provided under this section, shall be secular, neutral,
3 and nonideological.

4 “(3) SPECIAL RULE.—Educational services and
5 other benefits provided under this section for private
6 school children, teachers, and other educational per-
7 sonnel shall be equitable in comparison to services
8 and other benefits for public school children, teach-
9 ers, and other educational personnel participating in
10 the program and shall be provided in a timely man-
11 ner.

12 “(4) EXPENDITURES.—

13 “(A) IN GENERAL.—Expenditures for edu-
14 cational services and other benefits to eligible
15 private school children, teachers, and other
16 service personnel shall be equal to the expendi-
17 tures for participating public school children,
18 taking into account the number and educational
19 needs, of the children to be served.

20 “(B) OBLIGATION OF FUNDS.—Funds allo-
21 cated to a local educational agency for edu-
22 cational services and other benefits to eligible
23 private school children shall—

1 “(i) be obligated in the fiscal year for
2 which the funds are received by the agen-
3 cy; and

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

8 “(C) NOTICE OF ALLOCATION.—Each
9 State educational agency shall—

10 “(i) determine, in a timely manner,
11 the proportion of funds to be allocated to
12 each local educational agency in the State
13 for educational services and other benefits
14 under this subpart to eligible private school
15 children; and

16 “(ii) provide notice, simultaneously, to
17 each such local educational agency and the
18 appropriate private school officials or their
19 representatives in the State of such alloca-
20 tion of funds.

21 “(5) PROVISION OF SERVICES.—An agency,
22 consortium, or entity described in subsection (a)(1)
23 of this section may provide those services directly or
24 through contracts with public and private agencies,
25 organizations, and institutions.

1 “(b) APPLICABILITY.—

2 “(1) IN GENERAL.—This section applies to pro-
3 grams under—

4 “(A) subpart 2 of part A of title I;

5 “(B) subpart 4 of part A of title I;

6 “(C) part A of title II;

7 “(D) part B of title II; and

8 “(E) part B of title III.

9 “(2) DEFINITION.—For the purpose of this sec-
10 tion, the term ‘eligible children’ means children eligi-
11 ble for services under a program described in para-
12 graph (1).

13 “(c) CONSULTATION.—

14 “(1) IN GENERAL.—To ensure timely and
15 meaningful consultation, a State educational agency,
16 local educational agency, educational service agency,
17 consortium of those agencies, or entity shall consult
18 with appropriate private school officials or their rep-
19 resentatives during the design and development of
20 the programs under this Act, on issues such as—

21 “(A) how the children’s needs will be iden-
22 tified;

23 “(B) what services will be offered;

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

1 “(D) how the services will be assessed and
2 how the results of the assessment will be used
3 to improve those services;

4 “(E) the size and scope of the equitable
5 services to be provided to the eligible private
6 school children, teachers, and other educational
7 personnel and the amount of funds available for
8 those services;

9 “(F) how and when the agency, consor-
10 tium, or entity will make decisions about the
11 delivery of services, including a thorough con-
12 sideration and analysis of the views of the pri-
13 vate school officials or their representatives on
14 the provision of services through potential
15 third-party providers or contractors; and

16 “(G) how, if the agency disagrees with the
17 views of the private school officials or their rep-
18 resentatives on the provision of services through
19 a contract, the local educational agency will
20 provide in writing to such private school offi-
21 cials or their representatives an analysis of the
22 reasons why the local educational agency has
23 chosen not to use a contractor.

24 “(2) DISAGREEMENT.—If the agency, consor-
25 tium, or entity disagrees with the views of the pri-

1 vate school officials or their representatives with re-
2 spect to an issue described in paragraph (1), the
3 agency, consortium, or entity shall provide to the
4 private school officials or their representatives a
5 written explanation of the reasons why the local edu-
6 cational agency has chosen not to adopt the course
7 of action requested by such officials or their rep-
8 resentatives.

9 “(3) TIMING.—The consultation required by
10 paragraph (1) shall occur before the agency, consor-
11 tium, or entity makes any decision that affects the
12 opportunities of eligible private school children,
13 teachers, and other educational personnel to partici-
14 pate in programs under this Act, and shall continue
15 throughout the implementation and assessment of
16 activities under this section.

17 “(4) DISCUSSION REQUIRED.—The consultation
18 required by paragraph (1) shall include a discussion
19 of service delivery mechanisms that the agency, con-
20 sortium, or entity could use to provide equitable
21 services to eligible private school children, teachers,
22 administrators, and other staff.

23 “(5) DOCUMENTATION.—Each local educational
24 agency shall maintain in the agency’s records and
25 provide to the State educational agency involved a

1 written affirmation signed by officials or their rep-
2 resentatives of each participating private school that
3 the meaningful consultation required by this section
4 has occurred. The written affirmation shall provide
5 the option for private school officials or their rep-
6 resentatives to indicate that timely and meaningful
7 consultation has not occurred or that the program
8 design is not equitable with respect to eligible pri-
9 vate school children. If such officials or their rep-
10 resentatives do not provide such affirmation within
11 a reasonable period of time, the local educational
12 agency shall forward the documentation that such
13 consultation has, or attempts at such consultation
14 have, taken place to the State educational agency.

15 “(6) COMPLIANCE.—

16 “(A) IN GENERAL.—If the consultation re-
17 quired under this section is with a local edu-
18 cational agency or educational service agency, a
19 private school official or representative shall
20 have the right to file a complaint with the State
21 educational agency that the consultation re-
22 quired under this section was not meaningful
23 and timely, did not give due consideration to
24 the views of the private school official or rep-
25 resentative, or did not treat the private school

1 or its students equitably as required by this sec-
2 tion.

3 “(B) PROCEDURE.—If the private school
4 official or representative wishes to file a com-
5 plaint, the private school official or representa-
6 tive shall provide the basis of the noncompli-
7 ance with this section and all parties shall pro-
8 vide the appropriate documentation to the ap-
9 propriate officials or representatives.

10 “(C) SERVICES.—A State educational
11 agency shall provide services under this section
12 directly or through contracts with public and
13 private agencies, organizations, and institutions,
14 if—

15 “(i) the appropriate private school of-
16 ficials or their representatives have—

17 “(I) requested that the State
18 educational agency provide such serv-
19 ices directly; and

20 “(II) demonstrated that the local
21 educational agency or Education Serv-
22 ice Agency involved has not met the
23 requirements of this section; or

24 “(ii) in a case in which—

1 “(I) a local educational agency
2 has more than 10,000 children from
3 low-income families who attend pri-
4 vate elementary schools or secondary
5 schools in such agency’s school at-
6 tendance areas, as defined in section
7 1113(a)(2)(A), that are not being
8 served by the agency’s program under
9 this section; or

10 “(II) 90 percent of the eligible
11 private school students in a school at-
12 tendance area, as defined in section
13 1113(a)(2)(A), are not being served
14 by the agency’s program under this
15 section.

16 “(d) PUBLIC CONTROL OF FUNDS.—

17 “(1) IN GENERAL.—The control of funds used
18 to provide services under this section, and title to
19 materials, equipment, and property purchased with
20 those funds, shall be in a public agency for the uses
21 and purposes provided in this Act, and a public
22 agency shall administer the funds and property.

23 “(2) PROVISION OF SERVICES.—

24 “(A) IN GENERAL.—The provision of serv-
25 ices under this section shall be provided—

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

2 or

3 “(ii) through contract by the public
4 agency with an individual, association,
5 agency, organization, or other entity.

6 “(B) INDEPENDENCE; PUBLIC AGENCY.—

7 In the provision of those services, the employee,
8 person, association, agency, organization, or
9 other entity shall be independent of the private
10 school and of any religious organization, and
11 the employment or contract shall be under the
12 control and supervision of the public agency.

13 “(C) COMMINGLING OF FUNDS PROHIB-
14 ITED.—Funds used to provide services under
15 this section shall not be commingled with non-
16 Federal funds.

17 **“SEC. 5502. STANDARDS FOR BY-PASS.**

18 “(a) IN GENERAL.—If, by reason of any provision of
19 law, a State educational agency, local educational agency,
20 educational service agency, consortium of those agencies,
21 or other entity is prohibited from providing for the partici-
22 pation in programs of children enrolled in, or teachers or
23 other educational personnel from, private elementary
24 schools and secondary schools, on an equitable basis, or
25 if the Secretary determines that the agency, consortium,

1 or entity has substantially failed or is unwilling to provide
2 for that participation, as required by section 5501, the
3 Secretary shall—

4 “(1) waive the requirements of that section for
5 the agency, consortium, or entity; and

6 “(2) arrange for the provision of equitable serv-
7 ices to those children, teachers, or other educational
8 personnel through arrangements that shall be sub-
9 ject to the requirements of this section and of sec-
10 tions 5501, 5503, and 5504.

11 “(b) DETERMINATION.—In making the determina-
12 tion under subsection (a), the Secretary shall consider one
13 or more factors, including the quality, size, scope, and lo-
14 cation of the program, and the opportunity of private
15 school children, teachers, and other educational personnel
16 to participate in the program.

17 **“SEC. 5503. COMPLAINT PROCESS FOR PARTICIPATION OF**
18 **PRIVATE SCHOOL CHILDREN.**

19 “(a) PROCEDURES FOR COMPLAINTS.—The Sec-
20 retary shall develop and implement written procedures for
21 receiving, investigating, and resolving complaints from
22 parents, teachers, or other individuals and organizations
23 concerning violations of section 5501 by a State edu-
24 cational agency, local educational agency, educational
25 service agency, consortium of those agencies, or entity.

1 The individual or organization shall submit the complaint
2 to the State educational agency for a written resolution
3 by the State educational agency within 45 days.

4 “(b) APPEALS TO SECRETARY.—The resolution may
5 be appealed by an interested party to the Secretary not
6 later than 30 days after the State educational agency re-
7 solves the complaint or fails to resolve the complaint with-
8 in the 45-day time limit. The appeal shall be accompanied
9 by a copy of the State educational agency’s resolution,
10 and, if there is one, a complete statement of the reasons
11 supporting the appeal. The Secretary shall investigate and
12 resolve the appeal not later than 90 days after receipt of
13 the appeal.

14 “SUBPART 2—OTHER PROVISIONS

15 “**SEC. 5521. GENERAL PROHIBITIONS.**

16 “(a) PROHIBITION.—None of the funds authorized
17 under this Act shall be used—

18 “(1) to develop or distribute materials, or oper-
19 ate programs or courses of instruction directed at
20 youth, that are designed to promote or encourage
21 sexual activity, whether homosexual or heterosexual;

22 “(2) to distribute or to aid in the distribution
23 by any organization of legally obscene materials to
24 minors on school grounds;

1 “(3) to provide sex education or HIV-prevention
2 education in schools unless that instruction is age
3 appropriate and includes the health benefits of absti-
4 nence; or

5 “(4) to operate a program of contraceptive dis-
6 tribution in schools.

7 “(b) LOCAL CONTROL.—Nothing in this section shall
8 be construed to—

9 “(1) authorize an officer or employee of the
10 Federal Government to mandate, direct, review, sup-
11 port, or control a State, local educational agency, or
12 school’s instructional content, curriculum, and re-
13 lated activities;

14 “(2) limit the application of the General Edu-
15 cation Provisions Act;

16 “(3) require the distribution of scientifically or
17 medically false or inaccurate materials or to prohibit
18 the distribution of scientifically or medically true or
19 accurate materials; or

20 “(4) create any legally enforceable right.

21 **“SEC. 5522. PROHIBITIONS ON FEDERAL GOVERNMENT AND**
22 **USE OF FEDERAL FUNDS.**

23 “(a) GENERAL PROHIBITION.—Nothing in this Act
24 shall be construed to authorize an officer or employee of
25 the Federal Government to mandate, direct, support, or

1 control a State, local educational agency, or school’s cur-
2 riculum, program of instruction, or allocation of State or
3 local resources, or mandate a State or any subdivision
4 thereof to spend any funds or incur any costs not paid
5 for under this Act.

6 “(b) PROHIBITION ON ENDORSEMENT OF CUR-
7 RICULUM.—Notwithstanding any other prohibition of Fed-
8 eral law, no funds provided to the Department under this
9 Act may be used by the Department to endorse, approve,
10 develop, support, coerce, or sanction any curriculum de-
11 signed to be used in an elementary school or secondary
12 school.

13 “(c) PROHIBITION ON REQUIRING FEDERAL AP-
14 PROVAL OR CERTIFICATION OF STANDARDS.—Notwith-
15 standing any other provision of Federal law, no State shall
16 be required to have academic standards approved or cer-
17 tified by the Federal Government, in order to receive as-
18 sistance under this Act.

19 “(d) RULE OF CONSTRUCTION ON BUILDING STAND-
20 ARDS.—Nothing in this Act shall be construed to mandate
21 national school building standards for a State, local edu-
22 cational agency, or school.

1 **“SEC. 5523. ARMED FORCES RECRUITER ACCESS TO STU-**
2 **DENTS AND STUDENT RECRUITING INFORMA-**
3 **TION.**

4 “(a) POLICY.—

5 “(1) ACCESS TO STUDENT RECRUITING INFOR-
6 MATION.—Notwithstanding section 444(a)(5)(B) of
7 the General Education Provisions Act, each local
8 educational agency receiving assistance under this
9 Act shall provide, upon a request made by a military
10 recruiter or an institution of higher education, ac-
11 cess to the name, address, and telephone listing of
12 each secondary school student served by the local
13 educational agency, unless the parent of such stu-
14 dent has submitted the prior consent request under
15 paragraph (2).

16 “(2) CONSENT.—

17 “(A) OPT-OUT PROCESS.—A parent of a
18 secondary school student may submit a written
19 request, to the local educational agency, that
20 the student’s name, address, and telephone list-
21 ing not be released for purposes of paragraph
22 (1) without prior written consent of the parent.
23 Upon receiving such request, the local edu-
24 cational agency may not release the student’s
25 name, address, and telephone listing for such

1 purposes without the prior written consent of
2 the parent.

3 “(B) NOTIFICATION OF OPT-OUT PROC-
4 ESS.—Each local educational agency shall no-
5 tify the parents of the students served by the
6 agency of the option to make a request de-
7 scribed in subparagraph (A).

8 “(3) SAME ACCESS TO STUDENTS.—Each local
9 educational agency receiving assistance under this
10 Act shall provide military recruiters the same access
11 to secondary school students as is provided generally
12 to institutions of higher education or to prospective
13 employers of those students.

14 “(4) RULE OF CONSTRUCTION PROHIBITING
15 OPT-IN PROCESSES.—Nothing in this subsection
16 shall be construed to allow a local educational agen-
17 cy to withhold access to a student’s name, address,
18 and telephone listing from a military recruiter or in-
19 stitution of higher education by implementing an
20 opt-in process or any other process other than the
21 written consent request process under paragraph
22 (2)(A).

23 “(5) PARENTAL CONSENT.—For purposes of
24 this subsection, whenever a student has attained 18
25 years of age, the permission or consent required of

1 and the rights accorded to the parents of the stu-
2 dent shall only be required of and accorded to the
3 student.

4 “(b) NOTIFICATION.—The Secretary, in consultation
5 with the Secretary of Defense, shall, not later than 120
6 days after the date of enactment of the Student Success
7 Act, notify school leaders, school administrators, and other
8 educators about the requirements of this section.

9 “(c) EXCEPTION.—The requirements of this section
10 do not apply to a private secondary school that maintains
11 a religious objection to service in the Armed Forces if the
12 objection is verifiable through the corporate or other orga-
13 nizational documents or materials of that school.

14 **“SEC. 5524. PROHIBITION ON FEDERALLY SPONSORED**
15 **TESTING.**

16 “(a) GENERAL PROHIBITION.—Notwithstanding any
17 other provision of Federal law and except as provided in
18 subsection (b), no funds provided under this Act to the
19 Secretary or to the recipient of any award may be used
20 to support, develop, pilot test, field test, implement, ad-
21 minister, or distribute any federally sponsored national
22 test or testing materials in reading, mathematics, or any
23 other subject, unless specifically and explicitly authorized
24 by law.

1 **“SEC. 5526. RULEMAKING.**

2 “The Secretary shall issue regulations under this Act
3 as prescribed under section 1401 only to the extent that
4 such regulations are necessary to ensure that there is com-
5 pliance with the specific requirements and assurances re-
6 quired by this Act.

7 **“SEC. 5527. PEER REVIEW.**

8 “(a) IN GENERAL.—If the Secretary uses a peer re-
9 view panel to evaluate an application for any program re-
10 quired under this Act, the Secretary shall conduct it in
11 accordance with this section.

12 “(b) MAKEUP.—The Secretary shall—

13 “(1) solicit nominations for peers to serve on
14 the panel from States that are—

15 “(A) practitioners in the subject matter; or

16 “(B) experts in the subject matter; and

17 “(2) select the peers from such nominees, ex-
18 cept that there shall be at least 75 percent practi-
19 tioners on each panel and in each group formed
20 from the panel.

21 “(c) GUIDANCE.—The Secretary shall issue the peer
22 review guidance concurrently with the notice of the grant.

23 “(d) REPORTING.—The Secretary shall—

24 “(1) make the names of the peer reviewers
25 available to the public before the final deadline for
26 the application of the grant;

1 “(2) make the peer review notes publically
2 available once the review has concluded; and

3 “(3) make any deviations from the peer review-
4 ers’ recommendations available to the public with an
5 explanation of the deviation.

6 “(e) **APPLICANT REVIEWS.**—An applicant shall have
7 an opportunity within 30 days to review the peer review
8 notes and appeal the score to the Secretary prior to the
9 Secretary making any final determination.

10 “(f) **PROHIBITION.**—The Secretary, and the Sec-
11 retary’s staff, may not attempt to participate in, or influ-
12 ence, the peer review process. No Federal employee may
13 participate in, or attempt to influence the peer review
14 process, except to respond to questions of a technical na-
15 ture, which shall be publicly reported.

16 **“SEC. 5528. PARENTAL CONSENT.**

17 “Upon receipt of written notification from the par-
18 ents or legal guardians of a student, the local educational
19 agency shall withdraw such student from any program
20 funded under part B of title III. The local educational
21 agency shall make reasonable efforts to inform parents or
22 legal guardians of the content of such programs or activi-
23 ties funded under this Act, other than classroom instruc-
24 tion.

1 **“SEC. 5529. PROHIBITED USES OF FUNDS.**

2 “No funds under this Act may be used for—

3 “(1) construction, renovation, or repair of any
4 school facility (except for minor remodeling needed
5 to accomplish the purposes of this Act and except
6 for those activities under subpart 1 of part A of title
7 III and title IV); or

8 “(2) medical services, drug treatment or reha-
9 bilitation, except for specialized instructional support
10 services or referral to treatment for students who
11 are victims of, or witnesses to, crime or who illegally
12 use drugs.

13 **“SEC. 5539. SEVERABILITY.**

14 “If any provision of this Act is held invalid, the re-
15 mainder of this Act shall be unaffected thereby.

16 “PART F—EVALUATIONS

17 **“SEC. 5601. EVALUATIONS.**

18 “(a) RESERVATION OF FUNDS.—Except as provided
19 in subsections (b) and (c), the Secretary may reserve not
20 more than 0.5 percent of the amount appropriated to
21 carry out each categorical program and demonstration
22 project authorized under this Act—

23 “(1) to conduct—

24 “(A) comprehensive evaluations of the pro-
25 gram or project; and

1 “(B) studies of the effectiveness of the pro-
2 gram or project and its administrative impact
3 on schools and local educational agencies;

4 “(2) to evaluate the aggregate short- and long-
5 term effects and cost efficiencies across Federal pro-
6 grams assisted or authorized under this Act and re-
7 lated Federal preschool, elementary, and secondary
8 programs under any other Federal law; and

9 “(3) to increase the usefulness of evaluations of
10 grant recipients in order to ensure the continuous
11 progress of the program or project by improving the
12 quality, timeliness, efficiency, and use of information
13 relating to performance under the program or
14 project.

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

18 “(c) EVALUATION ACTIVITIES AUTHORIZED ELSE-
19 WHERE.—If, under any other provision of this Act (other
20 than title I), funds are authorized to be reserved or used
21 for evaluation activities with respect to a program or
22 project, the Secretary may not reserve additional funds
23 under this section for the evaluation of that program or
24 project.”.

25 (b) TECHNICAL AMENDMENTS.—

1 (1) TITLE IX.—

2 (A) SUBPART 1 OF PART E OF TITLE V.—

3 (i) TRANSFER AND REDESIGNA-
4 TION.—Sections 9504 through 9506 (20
5 U.S.C. 7884; 7885; 7886) are—

6 (I) transferred to title V, as
7 amended by subsection (a) of this sec-
8 tion;

9 (II) inserted after section 5503
10 of such title; and

11 (III) redesignated as sections
12 5504 through 5506, respectively.

13 (ii) AMENDMENTS.—Section 5504 (as
14 so redesignated) is amended—

15 (I) in subsection (a)(1)(A), by
16 striking “section 9502” and inserting
17 “section 5502”;

18 (II) in subsection (b), by striking
19 “section 9501” and inserting “section
20 5501”; and

21 (III) in subsection (d), by strik-
22 ing “No Child Left Behind Act of
23 2001” and inserting “Student Success
24 Act”.

25 (B) SUBPART 2 OF PART E OF TITLE V.—

1 (i) TRANSFER AND REDESIGNA-
2 TION.—Sections 9522, 9523, 9524, 9525,
3 9531, 9533, and 9534 (20 U.S.C. 7902;
4 7903; 7904; 7905; 7911; 7913; 7914)
5 are—

6 (I) transferred to title V, as
7 amended by subparagraph (A) of this
8 paragraph;

9 (II) inserted after section 5529
10 of such title; and

11 (III) redesignated as sections
12 5530 through 5536, respectively.

13 (ii) AMENDMENT.—Section 5536 (as
14 so redesignated) is amended by striking
15 subsection (b).

16 (2) TITLE IV.—Sections 4141 and 4155 (20
17 U.S.C. 7151; 7161) are—

18 (A) transferred to title V, as amended by
19 paragraph (1) of this subsection;

20 (B) inserted after section 5536 (as so re-
21 designated by paragraph (1)(B) of this sub-
22 section); and

23 (C) redesignated as sections 5537 and
24 5538, respectively.

1 **SEC. 202. REPEAL.**

2 Title IX (20 U.S.C. 7801 et seq.), as amended by
3 section 201(b)(1) of this title, is repealed.

4 **SEC. 203. AMENDMENT TO IDEA.**

5 Section 602 of the Individuals with Disabilities Edu-
6 cation Act (20 U.S.C. 1401) is amended by striking para-
7 graph (10).

○