The SPEAKER pro tempore (Mr. RYAN of Wisconsin). The question is on the motion offered by the gentleman from Arizona (Mr. STUMP) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 1696.

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

A motion to reconsider was laid on the table.

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

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that, during further consideration of the bill, H.R. 1, pursuant to House Resolution 143, amendment numbered 3 in House Report 107–69 may be offered out of the specified order and immediately following amendment numbered 5.

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

There was no objection.

NO CHILD LEFT BEHIND ACT OF 2001

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

□ 1048

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1) to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind, with Mr. HASTINGS of Washington in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Thursday, May 17, 2001, 1 hour and 46 minutes remained in general debate.

The gentleman from Ohio (Mr. BOEHNER) has 55 minutes remaining and the gentleman from California (Mr. GEORGE MILLER) has 51 minutes remaining.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Mr. Chairman, I am happy to yield 3 minutes to the gentleman from Georgia (Mr. Isakson).

Mr. ISAKSON. Mr. Chairman, I thank the gentleman from Ohio for yielding me this time. I am delighted to rise today in support of the number one campaign issue of President George Bush, the number one focus of the House Committee on Education and the Workforce, and a bill to which any number of Members of this House have contributed tremendous time and effort in the interest of improving the education of all America's children, but in particular our most disadvantaged.

I want to particularly thank the gentleman from Ohio (Chairman BOEHNER) for his tireless work over the last 4 months and the gentleman from California (Mr. GEORGE MILLER), ranking member for his tireless effort as well.

The results of the working group and the House Committee on Education and the Workforce is a bipartisan bill that ensures this country has accountability in the expenditure of title I funds, I might add for the first time.

It ensures more flexibility than has ever been allowed with Federal funds to every single one of the 6,000 public school systems in the United States of America.

Most importantly of all, it informs parents and children on an individual basis of their progress, how their schools are doing, and it provides work and money to allow schools that are failing to come up in their performance and ultimately to meet the success that schools that are succeeding are in fact doing.

I want to particularly address myself to the accountability portion this morning, which in later amendments will receive a good certain amount of debate.

Since the inception of title I, there has not been a mechanism for accountability of the progress of America's most disadvantaged students. For the benefit of this Chamber, it is important to understand that title I students are America's poorest students, those on free and reduced lunch, those who most likely have come from an environment that is less than conducive to learning, and those, that after they enter the public school system, more often than other students, that will find themselves dropping out before they ever get a high school diploma.

The important part of the President's initiative is as follows: First we will have an early reading first program that ensures that children will learn to read and comprehend to the third grade level by the time they reach that level. Second, it ensures that, in reading and in arithmetic, children will be tested annually by the local system and by the State on a test approved by the State to ensure that they are progressing at normal levels.

In addition, there is a $675 million increase to a total of $975 million to ensure that reading instruction is the very first and most important and paramount instruction that every child gets.

There are options in this bill, options for the children for the first time and their parents. If a title I child attends a public school that is ranked as failing, then where consistent with State law, that child will have the opportunity to transfer to a public school that is succeeding. For the first time, title I funds will be used to allow transportation of that student to ensure their biggest problem, which is mobility, is overcome; and they can attend the school that is public that is best performing to meet their needs.

In addition, this program focuses on flexibility. Historically, for years, flexibility has been something local systems have not had. As this debate goes on, we will learn local systems will now have up to 50 percent of their own flexibility, flexibility at their own volition.

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

There was no objection.

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

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

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

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

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

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

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

bipartisan compromise that this bill represents.

I do not question the motivation of Members who have sought or will seek to offer and support these issues, but I am positive that the passage of such amendments will jeopardize bipartisan support of this bill. I want to thank the gentleman from California (Mr. GEORGE MILLER), my ranking member, for his leadership and many hours of hard work on what is a major piece of legislation.

I also want to thank the gentleman from Ohio (Chairman BOEHNER), he did yeoman's service; and the gentlewoman from Hawaii (Mrs. MINK); the gentleman from Indiana (Mr. ROEMER); the gentleman from Delaware (Mr. CASTLE); the gentleman from Georgia (Mr. ISAKSON); and the gentleman from California (Mr. MCKEON) for their hard work on this bill. They and their staffs, along with Sandy Kress from the White House, deserve a tremendous amount of credit for this truly bipartisan bill.

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

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

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

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

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

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

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

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

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

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

□ 1100

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Accountability, flexibility, resources for remediation, all good ideas coming together to support a bill that the President of the United States has encouraged bipartisanship on; that he has encouraged that we work together in a civil manner, where Democrats and Republicans can reach across the aisle, as we have done with this core group, to bring this bill to the floor.

I would hope accountability, flexibility, new resources, new investments for remediation and tutoring will bring together bipartisan support on this

floor to truly bring ideas together, to give our children a better chance, to get a top-notch, first-rate education in our public schools in this country.

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

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

There was no objection.

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

Mr. BALLENGER. Mr. Chairman, I thank the gentleman for yielding me this time, and I would also like to thank the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER) for all their hard work. Their leadership and willingness to work in cooperation is to be commended.

When I look at H.R. 1, I see a bill which will truly reform the way Federal dollars are spent on education. This legislation puts the decision-making in the hands of local teachers and parents, not Washington bureaucrats.

Often, we in Congress let the perfect be the enemy of the good. Does this bill have everything we conservatives want? No. Does this bill have everything liberals want? No. Does H.R. 1 have concrete reforms which will give States and local schools the resources they need to better educate our youth? Absolutely.

H.R. 1 is the President's plan. It allows for local flexibility with greater accountability. It also provides a safety valve for children trapped in failing schools by providing immediate public school choice. We should also note that public school choice would be the option after just 1 year in a failing school and not 3 years, as originally proposed.

Now, I know many of my colleagues on this side of the aisle believe H.R. 1 does not live up to the President's plan. I understand that private school choice is an issue which is a sticking point, and I also support private school choice. However, I ask that we look at the reforms this bill does provide and not what it does not. Do not throw the baby out with the bathwater.

H.R. 1 allows public school choice. It allows children in failing schools to obtain tutoring by private or religiously-affiliated educators. It allows local schools to transfer up to 50 percent of their Federal funding to programs that they believe are best for their needs. These are major reforms which cannot be overlooked. These are the most sweeping changes in the Elementary and Secondary Education Act since its enactment, and we cannot forget this.

Also, just a few minutes ago, the Assistant Secretary told me that my conservative friends should remember that the management of the Department has changed, and their ideas will have some influence there.

I strongly urge my colleagues to support H.R. 1.

Mr. KILDEE. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of this extremely important bill. Nothing we do in the 107th Congress will be more significant than this reauthorization of the Elementary and Secondary Education Act of 1965 as amended.

First, I want to recognize the gentleman from Ohio (Mr. BOEHNER) and the ranking member, the gentleman from California (Mr. GEORGE MILLER) for their outstanding leadership in crafting a bipartisan committee bill. I also commend the Members who worked on the committee negotiating groups for their efforts. We have accomplished much with our committee, but much more work needs to be done.

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

We should provide positive alternatives for the students in the gifted and talented programs as well as advanced placement for the college bound. Let us increase our investment in our country's K–16 students.

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

Title III consolidates bilingual education, immigrant education, and foreign language assistance programs and delegates these functions and funds to the States. The bill changes from a well-respected competitive grant to a poorly-funded formula grant program that at present does not count all the eligible population. The elimination of the National Bilingual Clearinghouse makes no sense fiscally or policy-wise.

H.R. 1 does not provide adequate funds nor strong policy support for dropout prevention. I remind my colleagues that already Hispanics suffer from the Nation's highest dropout rate. These students will certainly be neglected and left behind.

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

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

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

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

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

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

I am urging my colleagues to vote for H.R. 1 because the core bill is there and because I think we can improve it with the help of our colleagues in the other body.

I am also urging our President as well as the Secretary of Education to support us as we try to improve the bill so that children all over this country may truly benefit. This is the time for leadership and substance over rhetoric.

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

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

NATIONAL EDUCATION ASSOCIATION,
Washington, DC, May 16, 2001.

Representative RUBÉN HINOJOSA,
House of Representatives,
Washington, DC.

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

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

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

Sincerely,

MARY ELIZABETH TEASLEY,
Director of Government Relations.

Mr. ISAKSON. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. HOEKSTRA), the chairman of the Subcommittee on Select Education.

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

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

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

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

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

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

□ 1115

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

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

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

On the other hand, H.R. 1 includes testing provisions, provisions that must be removed from this bill.

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

Mr. Chairman, I encourage my colleagues, keep H.R. 1 clean so we can pass it. Otherwise, H.R. 1 is good enough to vote for. It would be better, however, with coordinated services, ''Go Girl'' programs, school construction, and smaller class size.

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

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

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

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

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

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

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

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

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

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

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

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

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

This is the way the process is supposed to work—partisan politics have been set aside to make way for a meaningful debate on the issues that matter to America and our children. This process has not been about politics—this process has been about children.

BUSH PLAN

Yes, I am pleased that the bill before us today is bipartisan. But I am also pleased that

this bill is reflective of President Bush's vision for education reform—to have the best education system possible to leave no child behind. And President Bush supports this bill—That's what this bill accomplishes. We all won on some issues and we all lost on some issues. But, in the best spirit of compromise, America's children win.

For instance:

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

It is vitally important to cut federal education regulations and provide more flexibility to states and local school districts. We should give our educators the flexibility to shape federal education programs in ways that work best for our teachers and our students.

Flexibility allows school districts the ability to target federal resources where they are needed the most. This will ensure that state and local officials can meet the unique needs of their students.

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

H.R. 1 enhances accountability and demands results.

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

This bill provides accountability and demands results through high standards and assessments. And it provides appropriate responses to address failure. States will be required to test students in grades 3–8.

This provision has not been clearly understood.

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

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

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

H.R. 1 Promotes Reading First.

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

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

VOTE FOR THIS BILL

Mr. Chairman, this bill represents true bipartisan compromise—a true compromise. Had I written this bill, it would look significantly different. But, I recognize that we cannot allow the perfect be the enemy of the good.

Is this a good bill? Yes.

Does it reflect the President's priorities? Absolutely.

Will it improve education in America today? No doubt about that.

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

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

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

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

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

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

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

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

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

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

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

Mr. Chairman, I rise in support of H.R. 1, which reauthorizes the Elementary and Secondary Education Act for 5 additional years.

ESEA was passed in 1965 to help America's most disadvantaged children. These are our poorest children, who go to school in crumbling buildings, with outdated textbooks, few if any computers, little access to challenging, up-to-date curriculum, and a teaching force that is often overburdened, inexperienced, underpaid, and undertrained. These are children who have been left behind by the way we fund our schools—through local property taxes. The communities these children live in are often unable to raise sufficient funds to provide for the same high-quality education as in wealthier communities. States also provide resources for education, but don't do enough to eliminate this disparity and ensure every child in the State has equal access to the same, high-quality education. ESEA exists to close the gap in resources to the poorest schools, to provide them with the funds to build a foundation for a solid, high-quality education.

The bill we are considering today, H.R. 1 continues the efforts of ESEA. For one, recognizing that highly qualified teachers are crucial to ensuring that the most disadvantaged students have access to the best education possible, H.R. 1 provides additional resources to

help train teachers to improve their skills. Funding under title II is significantly increased, by almost $3 billion. Though almost $2 billion come from consolidating class size reduction funds with other teacher training funds, this represents a significant increase for teacher quality programs.

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

Another major improvement included in H.R. 1 is the doubling of title I funds within 5 years. These funds are the main Federal resources that are intended to fill in the gaps between poor schools and wealthier ones and are very much needed. While these funds are doing a great deal of good in many schools, we know the program is currently underfunded and that we need to help many more students. Doubling title I funds over the life of this authorization is a good start toward providing disadvantaged students with the best educational opportunities available, improving teacher quality, and helping struggling schools help themselves.

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

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

H.R. 1 makes some resources available to failing schools, but not enough. In the 1998–1999 school year, States identified 8,800 schools as needing improvement. Since different States use different standards, this may understate the number of failing schools. And with the new annual tests under H.R. 1, it's likely even more schools will fail. However, this bill authorizes only $500 million to help these schools. While this builds on President Clinton's effort over the last 2 years to provide additional funds for low-performing schools, it does not go nearly far enough to provide the kind of intensive, high-quality support failing schools still need.

H.R. 1 is grievously flawed if it passes the House without sufficient resources to help failing schools. Of the schools identified by States as needing improvement in 1998–1999, only 47 percent of these principals said they got any additional help from their district, from their State, or from the Federal Government. That's less than half. And while these schools are more likely to get help the longer they've been identified as needing improvement, the help isn't likely to come anytime soon. 70 percent of principals in a school that's been struggling for 3 years saw no additional help, and even 38 percent who ran a school that's been struggling for 4 years saw no additional help. Almost a third of principals in struggling schools had no idea what their districts considered to be ''adequate yearly progress'', the State's benchmark for what constitutes success.

Almost half the title I schools identified as low-performing in 1998–1999 were 75 percent or more minority and eligible for free and reduced price lunch. These schools simply cannot turn themselves around without real help.

This issue is not just a national one, but a very local one for me and many of my colleagues. In many of my communities in Hawaii, three-quarters or more schools have been identified as low-performing. Part of this has to do with our State strengthening its education system, but much of it is also a direct result of these schools not having the resources in the first place to provide a high-quality education. Without the necessary additional resources, these schools will continue to fail, and the annual testing provisions in H.R. 1 will only serve as a vehicle for punishing these schools and disrupting communities rather than making a sincere effort to provide help.

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

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

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

H.R. 1 also contains a dangerous provision for limited English proficient students, requiring schools to get approval from their parents prior to giving these students access to bilingual education services. This provision could cause significant delays in schools providing these children with an education. These are the most vulnerable of our students—they may have little understanding of our systems, little capacity to understand directions people are giving them, and little chance of becoming dedicated to a system they can't comprehend. By inserting this onerous provision in ESEA, the bill will simply disrupt or even deny to our neediest children educational opportunities on an equal basis, as required by Brown versus Board of Education.

In the end, this bill tries hard to retain some of the best things in ESEA, and even adds some good new ideas, such as the Reading First program. But one good idea cannot disguise many bad ideas. In an apparent fervor to block-grant programs with no consideration for effectiveness, H.R. 1, for example, eviscerates the Class-Size Reduction Program. This is the one program that will really help with reading. It is research-based and scientifically proven to work, as is required of all other programs in the bill, and flexible enough to be used for improving teacher quality. Combined with a genuine effort to help communities repair and build new schools, the Reading First Program and the Class-Size Reduction Program might have actually driven change in education for disadvantaged students.

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

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

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

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

How many times have we turned on the television to see a college athlete

explain he is not able to read, yet he was able to graduate from high school. He has fallen through the cracks, and by measuring the performance each year, we are going to put an end to this problem right here in this Congress.

Third, there will be a safety valve for children trapped in failing schools. Specifically this bill provides for immediate public choice, as well as providing tutoring, including those provided by faith-based providers.

I have heard two criticisms of this bill raised by some of my conservative colleagues, and as a conservative myself, I would like to address both of those criticisms head on.

First, they say, ''The President's reforms have been left behind in this bill.'' Let us look at the facts. The President called for more money for reading, testing, and school choice. This bill provides for reading, testing, and immediate school choice that takes place even sooner than the President proposed. It is true that we did not have the votes for private school choice at the committee level.

Mr. Chairman, I support private school vouchers. I argued for them at the committee level, and will support them as an amendment on the floor later today. But even if we do not have the votes for private school vouchers, it is important to realize that public school choice provides a nice safety valve for children trapped in these public schools. It gets them immediate relief, and I believe 90 percent of a loaf of bread is better than none at all. That is why the President himself supports this bill. Do not allow the perfect to be the enemy of the good.

The second criticism is that the Federal Government should not be involved in testing. H.R. 1 explicitly prohibits federally sponsored national tests, prohibits federally controlled curricula criteria, as well as any mandatory national teacher test or certification.

Mr. Chairman, I urge my colleagues to vote ''yes'' on H.R. 1.

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

Ms. McCOLLUM. Mr. Chairman, I am very proud of the bipartisan work the Committee on Education and the Workforce has done on this bill. Members have worked together with the White House; and I thank the gentleman from Ohio (Mr. BOEHNER), our chairman, and the gentleman from California (Mr. GEORGE MILLER), my ranking member, for leading this bipartisan effort.

Mr. Chairman, I want to vote for an education bill that demonstrates leadership and accountability to parents and students; and I want to support a bill that prepares today's students to be active citizens in our democracy and contributing to our economy and our communities. But I will not support a bill where vouchers are included. Vouchers take away scarce resources from our children and provide no accountability for our tax dollars.

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

When our school districts, teachers, parents, and students look at this bill, will we have passed their test? Special education remains underfunded. Title I remains underfunded, and this bill includes a new, unfunded Federal mandate for our school districts, six more tests for our children.

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

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

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

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

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

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

We have a national crisis in education because so many students are simply passed along. Roughly 68 percent of all fourth graders in the Nation cannot read at a functional level.

□ 1130

So I think H.R. 1 really addresses most of these problems and will alleviate much of the crisis that we see before us.

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

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

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

So one says, well, what is happening here? Why, if they have been given all these tools, would this happen?

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

So I think that mentoring is something that will address this because it does cut absenteeism, drug abuse, teenage pregnancy, violence, and lowers drop-out rates.

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

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

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

Mr. Chairman, when we ask our fellow House Members how Congress can best help fix our schools, we get as many different answers as we have Members. We all feel strongly about education, and we all have our own ideas about what needs to be done; and many of these ideas have merit. That is why I rise today in support of H.R. 1, a bill that offers a balanced, thoughtful, bipartisan course of action for helping achieve the educational results that most of us seek; a bill offering more accountability without undue Federal influence; more flexibility while still targeting many special needs; options for

children who are trapped in underperforming schools while retaining public funds for public education and without vouchers; and provisions I strongly pushed to update technology in rural schools and to double title I funding.

We should ask not whether the bill achieves perfection but whether it is a fair, constructive compromise that can move the country closer to achieving better schools and a brighter future. And without question, the answer is yes. I urge my colleagues to join in supporting this legislation. It is a good bill. A lot of people have worked hard on it. It is a bipartisan consensus of what we need to do to move forward on education, and I think that it will make a difference.

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

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

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

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

Now, mandatory phase-in is good for the program if it is done on a percentage basis. It is good because local school boards can plan financially from year to year how much money they are going to have. It is good for education most importantly because we need to meet that unfunded mandate; but lastly and probably even more importantly, it is important for the program to have it funded on a mandatory basis because then the Congress will be forced to address the programmatic side of IDEA and reconcile the program to a budget.

There are two problems with IDEA, the unfunded mandate and the programmatic side. I hope that the House will consider ceding to the Senate's position on IDEA because it is for responsible government, smart tax policy, and good for education. I commend the chairman and the ranking member for a job well done on H.R. 1.

The CHAIRMAN. Without objection, the gentleman from California (Mr. GEORGE MILLER) will control the time on the Democratic side.

There was no objection.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MCCARTHY), a member of the committee.

Mrs. MCCARTHY of New York. Mr. Chairman, I want to thank certainly the gentleman from California (Mr. GEORGE MILLER) for the work that he has done, as well as the gentleman from Ohio (Mr. BOEHNER).

Mr. Chairman, I have been hearing that there are some people that are unhappy with this bill, and I am sorry to say that is too bad. This is a good bipartisan bill. Both sides gave up a lot, and they did. There are certain things in this bill that I would like to have seen in it, but anyway working on bipartisan, that means each person has to give a little bit. Let us get down to what this bill really does. It is going to help our schools that need the most help, with accountability and flexibility.

Mr. Chairman, I come from Long Island. I have some very wealthy suburban schools. They are doing very well, but I also have schools that are failing terribly because they do not have the resources to do what they have to do.

This bill, through title I, is going to help them. We will be helping all the children across this Nation, and that is what the Committee on Education and the Workforce is supposed to do. With that, I would like to say we on the committee are on that committee because we care about education. So I am hoping that all the Members will listen to us and say this is a good bill, accept it and let us help the children of America. That is why we are here. That is why we sit on all the different committees. We can disagree and we can disagree, but when a bill like this comes out of our committee with good bipartisan support, each of us giving up a little bit of something that we wanted, this bill will help the American people.

President Bush accepts this bill, and we should work with him to make sure it goes flying through this House.

Mr. ISAKSON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Georgia (Mr. CHAMBLISS).

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

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

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

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

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

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

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

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

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

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

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

We have to keep in mind that there already is testing being done in the

States. Virtually every State has a significant amount of testing being done and the Federal Government already requires testing three times in math and reading throughout an elementary school career.

We have to be concerned that the testing that is in this bill does not amount to just quantity over quality, and my fear is that we have not allowed or provided for in this bill a ramping up to scale the capabilities of the testing community to be able to put those 260 additional tests that are now going to be required throughout this country in an appropriate way. We have not allowed time for them to be developed and implemented. We have not allowed enough resources for them to be done. The estimates are that it is $30 per test for the administration and much more for the development. The Congressional Budget Office estimates $650 million a year for these tests. Yet the President is only asking for $350 million.

If we continue in this path, States may feel forced to go to off-the-shelf tests, the lowest common denominator here; and the problem with that is we are going to run into all sorts of difficulties about whether or not this testing procedure then really does measure the progress of our students or is it just putting on them yet an additional burden of still another test in which teachers have to prepare; it has to be developed; they have to take time out of the classroom and away from other subjects that probably should be taught.

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

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

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

Mr. Chairman, I rise today to express my strong support for H.R. 1, the No Child Left Behind Act of 2001.

As a member of the Committee on Education and the Workforce, I am pleased to say that H.R. 1 encompasses President Bush's vision for education in America. The bill empowers parents, helps children learn to read at an early age, and grants unprecedented new flexibility to local school districts while demanding results in public education through strict accountability measures.

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

□ 1145

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

Mr. Chairman, H.R. 1 strengthens the McKinney program by incorporating the provisions contained in the McKinney-Vento Homeless Education Act of 2001. This bill ensures that a homeless child is immediately enrolled in school. That means no red tape, no waiting for paperwork, no bureaucratic delays. It limits the disruption caused by homelessness by requiring schools to make every effort to keep homeless children in the school they attended before becoming homeless. It also creates a mechanism to quickly and fairly resolve enrollment disputes, ensuring that such process burdens neither the school nor the children's education. Last, it assists overlooked and underserved homeless children and youth by raising the program's authorizing level to $60 million in fiscal year 2002 and reauthorizing the McKinney-Vento program for another 5 years.

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

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

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

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

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

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

But even if this power grab succeeds, Congress cannot deliver on the promises this bill makes. Testing is not the panacea its advocates claim. Polling shows some 70 percent of the public supports school accountability, and that would seem to show support for this proposal, but we have not asked the follow up question: do you favor a larger Federal role in the operation of your local school district? I dare say the opposition to that would be as high as accountability.

While the Federal Government will help with the costs associated in giving these tests, no dollars are available for the very real costs of scoring the tests nor for any response to what the tests may uncover. This creates a largely unfunded mandate, something we, the Congress, have condemned since 1995.

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

This bill is a mirage. It is not what it seems to be, and it makes a terrible trade. It stands a two-century tradition of community-controlled schools on its head in exchange for the mere illusion of reform. Vote ''no.''

Mr. ISAKSON. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Pennsylvania (Mr. PLATTS), a distinguished member of the Committee on Education and the Workforce and the gentleman who replaced the former chairman of that committee, Mr. Goodling.

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

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

As a member of the committee, I rise in full support of H.R. 1. I would like to commend the chairman of the committee, the gentleman from Ohio (Mr. BOEHNER), and the ranking member, the gentleman from California (Mr. GEORGE MILLER) for working so diligently with each other, as well as with other members from both sides of the

aisle, to help craft a bipartisan bill that I believe all of us can enthusiastically support. I certainly want to also commend President Bush for his efforts in this area.

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

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

Mr. Chairman, H.R. 1 consolidates education programs. It increases flexibility for local schools and, most importantly, and a corner stone of the President's plan, it requires accountability through annual testing. It treats literacy as a new civil right by proposing an investment of $5 billion in literacy programs to guarantee every student can read by grade 3.

An area I have particular interest in is preschool education, and the Early Reading First program proposed by H.R. 1 will help to advance the debate in this area. Too many children, because they come from broken families and shattered communities, first arrive at the schoolhouse already at a tremendous disadvantage. Quality pre-K programs, such as those envisioned in Early Reading First, can do much to ensure that these kids will not have to spend their entire elementary years merely trying to catch up.

I look forward to these and other considerations of the provisions in the bill, and I certainly join with the chairman of the committee and with other Members of the House in fully supporting the President's education plan so that we leave no child behind.

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

Ms. SOLIS. Mr. Chairman, I would like to thank my colleagues as well, the gentleman from Ohio (Mr. BOEHNER), the chair of the committee, and the gentleman from California (Mr. GEORGE MILLER), our ranking member.

As a freshman Member of Congress, it has been an exciting time for me and a challenge to serve on the House Committee on Education and the Workforce, working to draft a bipartisan education bill which truly will help students in California and throughout the country. I have been touring the schools in my district to find out exactly what our teachers, administrators, parents and students really need in terms of help from the Federal Government. I think the bill that was reported out of our Committee on Education and the Workforce makes an excellent start towards helping our students achieve success. I am pleased with the increased funding levels of title I, and the increase targeting of funds to low-income and at-risk students. I am also extremely happy with what was not in the bill, and that is, private vouchers.

Although I am happy with the bill, I do have some concerns. I had hoped that the Republican leadership would have allowed Democrats the opportunity to improve the bill through amendments. I had hoped that school construction, an amendment that was offered by the gentleman from New York (Mr. OWENS) would have had some consideration today. Likewise, I also wanted to offer an amendment to allow community learning centers to use their funds to implement programs which would help immigrant students with language and life skills. Unfortunately, we were not allowed to offer these amendments.

I have several concerns with portions of the bill dealing with bilingual and immigrant education. I believe we must dramatically increase funding for bilingual and migrant education in order to meet the needs of States which are experiencing a large influx of immigrant and bilingual students. Also, the bill recommends that students be moved out of bilingual classrooms and into English-only programs within a matter of 3 years. I believe this provision is overly restrictive and has no basis in academic research.

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

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

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

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

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

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

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

The President goes on with respect to flexibility: ''Under this program, charter States and districts would be freed from categorical program requirements in return for submitting a 5-year performance agreement to the Secretary of Education.'' This provision has been stripped from the bill.

Fortunately, today here on the floor, there are a number of amendments that were made in order that allow the President's vision to be restored to, in fact, secure for the President a victory out of the jaws of what appeared to be imminent defeat. We will have, for example, an opportunity to vote on a limited Straight A's provision which allows flexibility to seven States. This is a watered-down provision from what the President proposed, but important, nonetheless, for us to adopt.

Our failure to adopt these important amendments would be a betrayal to our President and I am hopeful, Mr. Chairman, that we will honor the President's vision to leave no child behind by restoring his bill here on the House Floor.

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

(Mrs. DAVIS of California asked and was given permission to revise and extend her remarks.)

Mrs. DAVIS of California. Mr. Chairman, I want to thank the leadership on both sides, because they have worked diligently to create a document that would focus Federal funds on those students who are most needy.

While each of us would like to see changes in language or additions to the program, it is important to respect the restraints of these compromises and reject attempts to commit major surgery that would kill the patient. Studies

regularly show that students learn best in small classes with high quality teachers. One of the most critical focuses of this bill is to infuse significant funding into professional development for educators.

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

□ 1200

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

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

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

Teachers seeking this certification have to justify the decisions they make every day on how they teach and respond to children of diverse backgrounds, learning styles, and achievement levels. They answer these questions in writing and through videotape portfolios of their own interaction with students. One of the most critical elements is the follow-up self-reflection critiquing their own performance. Teachers who have survived this rigorous process repeatedly tell me that just doing it has made them better teachers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Prior to 1965, many poor and minority students were denied access to a quality education. In effect, this country had a two-tiered educational system, one with low expectations for poor and minority students and high expectations for others.

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

Today, with the consideration of H.R. 1, we have rededicated ourselves to the notion that all children can learn, and we begin the reforms to ensure that no child is limited by a high school education that does not provide him or her with the necessary skills to read and write well. The No Child Left Behind Act of 2001 fundamentally changes our system of education to enhance accountability and focus on student achievement. It increases flexibility, expands options for parents, and ensures that all reforms are tested by scientific research.

Specifically, H.R. 1 builds on the 1994 authorization, focusing on what will be taught and what should be learned at the State and local levels, and it asks schools to demonstrate their ability to drive student results by measuring how well or poorly students perform from one year to the next in reading and math.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

There was no objection.

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

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

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

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

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

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

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

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

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

Let me also make one last comment about ''Leaving no child behind.'' I believe that it is very important to apply

that principle to all those who have learning difficulties but are still learning-able. I am referring specifically to dyslexia, in which I have a deep interest because I have a grandchild who has dyslexia. This tie I am wearing today came from a private institution which offers training in dyslexia. My grandson is also in a private school which specializes in dyslexia. We are simply not doing the job in public education to take care of these students, and we must in the future.

□ 1215

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

As the gentleman from Ohio knows, I had filed an amendment to restore the science assessment provisions that were included in H.R. 1, as introduced, that would essentially mirror the science assessment language in the Senate bill.

Specifically, my amendment would have required States to assess student performance in science by the 2007–2008 school year. A similar amendment was offered in the last Congress to H.R. 2, where it passed with a vote of 360–62.

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

Mr. EHLERS. I yield to the gentleman from Ohio.

Mr. BOEHNER. That is correct. I am very familiar with the gentleman's amendment.

Mr. EHLERS. Mr. Chairman, reclaiming my time, I understand the gentleman supported making this amendment in order and that it was left out in the amendments that we are considering in this bill.

Mr. BOEHNER. If the gentleman will continue to yield, the gentleman has been a leader in improving science education in our Nation's schools, and I was looking forward to working with the gentleman to debate this issue on the floor. Unfortunately, the amendment was not made in order.

Mr. EHLERS. Would the gentleman agree to include the science assessment amendment in the conference committee to H.R. 1?

Mr. BOEHNER. As the gentleman noted, similar language is in the Senate bill, and I would pledge to work with the gentleman from Michigan (Mr. EHLERS) when we get to conference to ensure ESEA legislation reflects our Nation's dire need for closing the international achievement gap in math and science.

Mr. Chairman, I pledge to work to develop concrete strategies to address this important need.

Mr. EHLERS. Mr. Chairman, I thank the gentleman from Ohio for yielding the time, and I thank him for his leadership. I look forward to continuing our work together, not only on this amendment, but also on the entire bill.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. PRICE).

(Mr. PRICE of North Carolina asked and was given permission to revise and extend his remarks.)

Mr. PRICE of North Carolina. Mr. Chairman, this education bill represents the first real bipartisan effort of this Congress. I commend the leaders from both sides of the aisle who have put it together. I just hope it stays bipartisan for the sake of our children and our home communities.

The bill will help local school districts meet some of our most pressing education challenges. There is a strong emphasis on early reading and a commitment to title I and special education funding. The bill expands public school choice, which is welcome news in my district where magnet schools have been especially successful. The bill also provides resources and specific remedies to turn around low-performing schools.

In these next hours of debate, we are going to face amendments that could derail this bipartisan success. We will face an amendment to provide public funding for private school vouchers, which would siphon money away from public education, not strengthen it.

We will face amendments to weaken the link between dollars and results. We must maintain accountability to ensure that our children are learning.

Of course, when you have a truly bipartisan piece of legislation, no one gets everything he or she wants. I would have liked to have seen more attention paid to reducing class size. We know that smaller class size improves student learning, especially in the early years. We need to build more schools and hire more teachers to get class size down and to improve the quality of what is going on in the classroom.

Schools in my area are bursting at the seams with thousands of students going to school in hundreds of trailers. We have crumbling classrooms and outdated facilities. Over 90 percent of children in kindergarten through third grade in my district are learning in overcrowded classrooms. There are 24,000 children trying to learn in classrooms with 25 or more students.

So we need local school districts to build more schools; and when new classrooms are built, we need quality teachers to teach in them.

In my State, we have a staggering need to hire 80,000 new teachers in the next 10 years. I actually think that the teacher shortage is the education issue of the next decade, and neither party has paid sufficient attention to it. Without quality teachers in the classroom, no other education reforms we talk about are going to work.

But today, Mr. Chairman, we have a chance to take an important first step, a bipartisan step in the right direction. We can improve American public education in this country together. Vote for the bill and against crippling amendments.

Mr. BOEHNER. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi (Mr. WICKER).

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

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

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

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

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

Will the chairman continue to examine this issue during the conference with the Senate?

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

Mr. WICKER. I yield to the gentleman from Ohio.

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

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

Mr. WICKER. Reclaiming my time, I thank the gentleman for this assurance.

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

Ms. SANCHEZ. Mr. Chairman, I am pleased to speak in support of this legislation. This bill is proof that friends on both sides of the aisle, even those who may not agree often, can come together in a bipartisanship way to accomplish a goal.

We cannot hold public schools accountable for improving education unless we give them the funds to ensure

that they can meet those goals. I believe that this bill does both.

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

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

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

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

I am reluctant to support some parts of this legislation, but, overall, I am very proud of the work that my fellow members of the Committee on Education and the Workforce have done. And I commend both the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER) for having made this bill possible, because truly without both gentlemen, this would not have gotten done.

Today, the House has a rare opportunity to get some real work done, and I urge my colleagues to support H.R. 1.

Mr. BOEHNER. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. NETHERCUTT).

Mr. NETHERCUTT. Mr. Chairman, I thank the gentleman from Ohio (Mr. BOEHNER) for yielding the time.

Let me first thank the gentleman for all the hard work he has done in putting together a truly bipartisan education bill.

Mr. Chairman, I would request that the gentleman from Ohio (Mr. BOEHNER) enter into a colloquy with me.

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

Mr. NETHERCUTT. I yield to the gentleman from Ohio.

Mr. BOEHNER. I would be happy to do so.

Mr. NETHERCUTT. Mr. Chairman, reclaiming my time. I come before the House today to draw the gentleman's attention and the attention of the Committee on Education and the Workforce to the Star Schools program. I believe the Star Schools program has served students in my district and throughout the country very well.

The Star Schools program is a distance-learning network which gives students the opportunity to take classes they have never had before.

As many of my colleagues know, many small, rural and underserved urban school districts cannot afford to hire teachers to offer a wide variety of classes.

In small school districts, distance-learning programs are often the only opportunity students have to take advanced math and science or foreign language classes necessary to apply to college. Underserved urban school districts are often unable to find or afford qualified teachers to offer students unique and upper level courses.

The distance-learning programs offer a cost-effective way to level the playing field for all students, offering them the opportunity to take the same classes as their peers in larger and better-funded schools.

Mr. BOEHNER. Mr. Chairman, if the gentleman will continue to yield, I want to thank the gentleman from Washington (Mr. NETHERCUTT) for bringing this to my attention and talking about the importance of distance learning.

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

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

Mr. Chairman, I visited STEP Star, which is the distance-learning program operated by Educational Service District 101 in my own 5th District of Washington. Their program is very impressive. STEP Star and all Star Schools programs provide an irreplaceable education resource to our rural school districts. STEP Star, which is partially funded through the Star Schools program, has made it possible for students in rural school districts, in my district and around the country, to take a variety of classes from a live teacher, whom they can interact with and ask questions of.

Outside of the class hour, programs like STEP Star allow students to talk with teaching staff. Online resources provide for instant exchange of electronic paperwork. Students can communicate with teachers and tutors through e-mail or participate in discussions with fellow classmates through bulletin boards.

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

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

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. HOLT).

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

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

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

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

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

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

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

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

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

Going farther, one of the main recommendations of the Glenn Commission was to establish regional academies that would recruit talented, mid-career professional and recent graduates in math and science teaching. Unfortunately, that recommendation is

not in this bill, and the rule did not allow that and many other important areas to come for debate.

Mr. BOEHNER. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. SOUDER), a member of the Committee on Education and the Workforce.

□ 1230

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

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

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

Furthermore, it will lead to, in my belief, a national curriculum. There are more new programs in this bill than there were under President Clinton. At some point, one says when is it a bipartisan bill and when is it just taking two-thirds or more of what the Democrats had proposed in the past?

Now, there are some amendments here that could change the bill. The amendment of the gentleman from Michigan (Mr. HOEKSTRA) would wipe out the testing and put us back to where we were under President Clinton. The amendment of the gentleman from California (Mr. COX) would have the spending be only a little bit more than under President Clinton. The bill of the gentleman from Texas (Mr. ARMEY) would take us back to where we were as Republicans last year on school choice. The bill of the gentleman from South Carolina (Mr. DEMINT) would take us, not quite back to where we were last year, but at least to the Kennedy position in the Senate.

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

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

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

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

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

Let me be clear though, we have a lot of good schools, a lot of good school districts, a lot of good students doing incredibly well in the public education system throughout our country. I am particularly proud of the education system we have in the State of Wisconsin and my district that I represent in western Wisconsin. But there are also a lot of students in need, a lot of schools and school districts in need. That is what this bill is meant to address.

The underlying provisions of this bill, I believe, are very good and receiving wide bipartisan support for good reason. It does retain targeting for the most disadvantaged students throughout the country. It increases resources in key programs. It does consolidate a lot of the programs that exist at the Federal level, but consolidates it with added flexibility to local school districts.

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

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

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

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

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

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

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

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

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

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

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

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

The gap has not decreased. We have not offered the kind of help in education to empower minorities in this country that we should. I think it is a reflection of some soft discrimination that lowers expectations, that we need to make sure that that is stopped and that we raise expectations, the accountability, the focus on literacy which is needed in this country greatly to make sure that the minorities close that gap.

We have seen that happen in Texas under the President's leadership. I believe it can happen nationally, and I think that is one of the strengths of this bill is to say let us stop that soft discrimination. Let us provide the kind of educational opportunities we need to provide to the minorities in this country so that we give them the kind of freedom for those children to be all that they can be.

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

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

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

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

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

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

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

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

We are going to work together to pass this bill, Republican and Democrat. We will work together and send it to the President's desk. I believe that schools and students all across the country will be better for it. I urge my colleagues to support this bill.

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

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

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

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

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

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

So all of this sounds great, but until the appropriators come to meet and decide on what that level of funding would be, we face a problem.

Two, we constantly complain in this body about how the Federal Government is not living up to its responsibility with local governments in terms of providing dollars for special education, or IDEA as we call it.

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

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

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

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

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

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

We will pass this bill in the coming days, but I hope we come back and do what is right and build schools for kids all across this Nation.

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

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

Mr. Chairman, we may be actually watching Congress at its best; that is to say, that we have managed to, number one, address one of the Nation's most pressing concerns, improving our education system; and, two, we have done it in a very bipartisan method.

To that extent, I want to begin by offering congratulations to the gentleman from Ohio (Chairman BOEHNER) for his hard work and also to the gentleman from California (Mr. GEORGE MILLER), a Democratic chairman. I think this is a great example of what happens when we work together. We deal with the Nation's business. This is not a perfect product, however; but it certainly is a very good product.

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

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

□ 1245

Reading, the foundation for educational achievement, is funded adequately, and I am very pleased with that. And my personal issue, after-

school programs, received a substantial increase. We need to provide opportunities for young people to have constructive after-school activities to provide a total environment.

Let me add that we also have in this bill something called public school choice, which is part of the accountability mechanism, and I think that is a good idea. Now, we will hear later about private school vouchers. I think that is a very bad idea. But giving students the opportunity to attend other public magnet schools or charter schools or schools that are performing helps enforce accountability. I think that is very good.

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

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

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

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

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

People keep talking about accountability and they use the word ''accountability.'' That means piling on of tests. And when the educational system, especially in local areas, know that there are high stakes involved and they know that they are going to get more money for a particular school because they pass a particular test, then the focus is on the test. When the focus is on the test, we do not observe teachers teaching the broad range of knowledge, we observe teachers teaching techniques to the test, and then the children are left out.

So I would urge my colleagues to vote for an amendment when it comes up to deal with this issue.

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

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

Lacking permanent shelter of their own, these children and their parents, oftentimes single heads of household, move from place to place throughout the school year. Forced to migrate between the homes of kind relatives and friends, the children of these families are uprooted from the neighborhood elementary school with every move, until the next move to yet another temporary location, usually in another nearby neighborhood. Our Nation's migrant farm workers know too well the constant stress of moving from community to community and taking their children out of school multiple times during the school year. Transient and migrant families need stability for their children to succeed in school.

Mr. Chairman, I will be placing in the RECORD key findings from the GAO study that documented this phenomenon, Elementary School Children: Many Change Schools Frequently, Harming Their Education, and also key articles from the Catalyst for Cleveland Schools. Both support the findings that residential instability is the key corollary to poor student performance.

The revolving door for mobile students, many experts say, has been ignored for too long by educators who accept the notion that there is little they can do about it. But with rising consciousness of these disruptive patterns, local school systems have begun to focus on how to address mobility with specific programs targeted to help these multiple-move families.

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

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

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

Ms. KAPTUR. I thank the gentleman.

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

Ms. KAPTUR. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, I would like to thank the gentlewoman from Ohio for her deep interest in this issue and her desire to meet the needs of these specific families.

The gentleman from Ohio (Mr. KUCINICH) and the gentlewoman from Ohio (Mrs. JONES) have also expressed their concern regarding this issue and have asked that I work with them to address the problems associated with student transiency.

I think we can focus on the problem in a bipartisan manner and seek solutions that will have broad support in the Congress. I will work with the ranking member, the gentleman from California (Mr. GEORGE MILLER) and our counterparts in the Senate to address the issue of transient students and the effects that multiple-family moves have on those children's education.

Mr. GEORGE MILLER of California. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from California.

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

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

Letter Report from General Accounting Office

FEBRUARY 4, 1994.

Hon. MARCY KAPTUR,
House of Representatives.

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

In response to these concerns, you asked us to obtain information on children who change schools frequently: (1) their number and characteristics, (2) their success in school relative to children who have never changed schools, (3) the help that federal educational programs, such as Migrant Education and Chapter 1, provide, and (4) the help that improved student record systems could provide.

ELEMENTARY SCHOOL CHILDREN: MANY CHANGE SCHOOLS FREQUENTLY, HARMING THEIR EDUCATION

One-sixth of the nation's third graders—more than half a million children—have attended at least three different schools since starting first grade. Unless policymakers focus more on the needs of the children who are changing schools frequently—often poor, inner city, and with limited English skills—these children may continue to do poorly in math and reading and risk having to repeat grades. Local school districts typically provide little additional assistance to these children. The Education Department could help by developing strategies to provide all eligible children, including those who have switched schools frequently, access to federally funded Migrant Education and Chapter 1 services. Timely and comparable record systems are one way to help mobile children receive services. For example, a child's school records often take up to 6 weeks to arrive in a new school, and student records often differ from states and districts.

RESULTS IN BRIEF

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

The Department of Education can play a role in helping mobile children to receive appropriate educational services in a timely manner. Specifically, the Department can develop strategies so that all eligible children, including those who have changed schools frequently, will have access to federally funded Migrant Education and Chapter 1 services. Children who have changed schools frequently are not as likely to receive services provided by the federal Migrant Education and Chapter 1 programs as children who have never changed schools.

Timely and comparable record systems could be one way to help mobile children receive services. A child's records often take 2 to 6 weeks to arrive in a new school, according to data collected by the California State Department of Education and others. Moreover, student records often are not comparable across states and districts. The federal Migrant Student Record Transfer System (MSRTS), established to transfer information from a migrant child's former school district to a new school district, also does not provide timely and complete information. However, other systems, such as one currently being piloted in a few states, may in the future provide comparable and more timely transfer of student records for all children, including migrants.

CONCLUSIONS

Children who change schools frequently face many challenges to their success in school. Such change can cause disruption and add to the other challenges—low-income, limited English proficiency, and migrant status—that make learning and achievement difficult for them. Nevertheless, many of the children who change schools frequently may be less likely to receive Migrant Education and Chapter 1 programs services than other children meeting program eligibility standards.

LOW-INCOME, INNER CITY, MIGRANT, AND LEP CHILDREN ARE MORE LIKELY TO HAVE CHANGED SCHOOLS FREQUENTLY

Children who are from low-income families or attend inner city schools are more likely than others to have changed schools frequently. Overall, about 17 percent of all third-graders—more than a half million—have changed schools frequently, attending three or more schools since first grade. Of third-graders from low-income families—that is, with incomes below $10,000—30 percent have changed schools frequently, compared with about 10 percent from families with incomes of $25,000 and above. About 25 percent of third-graders in inner city schools have changed schools frequently, compared with about 15 percent of third-graders in rural or suburban schools.

An inner city child, compared with one in a suburban or rural school, may be more likely to change schools frequently, in part, because he or she is more likely to come from a low-income family. Another factor that could contribute to an inner city child changing schools is that such a child may move only a short distance, yet move into a new school attendance area; however, a child in a larger, less densely populated school attendance area—for example, in a suburban or rural school district—may move several miles and still attend the same school.

Migrant and LEP children also are much more likely than others to have changed schools frequently: about 40 percent of migrant children have changed schools frequently, compared with about 17 percent of all children. Among LEP children, about 34 percent have changed schools frequently.

CHILDREN WHO HAVE CHANGED SCHOOLS FREQUENTLY ARE MORE LIKELY TO BE LOW ACHIEVERS AND TO REPEAT A GRADE

Of the nation's third-graders who have changed schools frequently, 41 percent are low achievers, that is, below grade level, in reading, compared with 26 percent of third-graders who have never changed schools. Results are similar for math—33 percent of children who have changed schools frequently are below grade level, compared with 17 percent of those who have never changed schools. In grouping the children who have changed schools frequently into four income categories, we found that within each category, these children are more likely to be below grade level in reading and math than those who have never changed schools. Children who have moved often were also more likely to have behavioral problems, according to a recent study.

Overall, third-graders who have changed schools frequently are two-and-a-half times as likely to repeat a grade as third-graders who have never changed schools (20 versus 8 percent). For all income groups, children who have changed schools frequently are more likely to repeat a grade than children who have never changed schools.

Children who have changed schools frequently, compared with children who have never changed schools, are more than twice as likely to have nutrition and health or hygiene problems, according to teachers.

When children changed schools four or more times, both a Department of Education and a Denver Public Schools study found, they were more likely to drop out of school. Children who changed schools four or more time by eighth grade were at least four times more likely to drop out than those who remained in the same school; this is true even after taking into account the socio-economic status of a child's family, according to the Department study. Children who transferred within the district five or more times dropped out of school at similarly high rates, regardless of reading achievement scores, the Denver study found.

Except for migrant children, little is currently done to help children whose frequent school changes affect the continuity of their schooling. It may be difficult for teachers to focus on the needs of these children, particularly those who enter after school has started, rather than on maintaining continuity for the rest of the class. When children enter classrooms after the beginning of the year, teachers may prejudge them unfavorably. Teachers in schools with high proportions of children who change schools after the beginning of the year indicated that these school changes disrupt classroom instruction, and teachers must spend additional time on non-instructional tasks. Teachers may therefore not have the time to identify gaps in such a child's knowledge; moreover, these gaps may grow as the child is left on his or her own to make sense of the new curriculum and its relation to the one at the previous school. Children who changed schools often, except for migrant children, did not receive specialized educational services, researchers have noted.

MIGRANT CHILDREN WHO HAVE CHANGED SCHOOLS FREQUENTLY ARE LESS LIKELY THAN THOSE NOT CHANGING SCHOOLS TO RECEIVE MIGRANT EDUCATION PROGRAM SERVICES

Of migrant third-graders who have attended three or more schools since first grade, 21 percent receive migrant services, compared with 54 percent of migrants who have not changed schools at all. These results are surprising since the Migrant Education Act is intended to address, to a large degree, the problems mobility creates for migrant children. Migrant children who have changed schools frequently are less likely to attend schools with migrant education programs than those who have never changed schools.

CHAPTER 1 PARTICIPATION RATES LOWER FOR LOW-ACHIEVING CHILDREN WHO HAVE CHANGED SCHOOLS FREQUENTLY THAN FOR LOW-ACHIEVING CHILDREN WHO HAVE NEVER CHANGED SCHOOLS

Low-achieving children who have changed schools frequently are less likely to receive Chapter 1 services than low-achieving children who have never changed schools. Of third-graders who have never changed schools and read below grade level, 25 percent receive Chapter 1 reading services. In contrast, 20 percent of third-graders who have changed schools frequently and read below grade level receive these services. In grades kindergarten through 6, approximately 90,000 additional low-achieving children who have changed schools frequently could receive Chapter 1 reading services if the program provided these services at the same rates to these children as to low-achieving children who have never changed schools.

LACK OF CHAPTER 1 DATA TO EXPLAIN THE LOWER CHAPTER 1 PARTICIPATION RATES OF CHILDREN WHO HAVE CHANGED SCHOOLS FREQUENTLY

The Department of Education has little information on children who change schools frequently and their participation in the Chapter 1 program, as well as the effects that children moving frequently from school to school have had on Chapter 1 services. Therefore, we were unable to explain why low-achieving children who have changed schools frequently may be less likely to be served by Chapter 1 than low-achieving children who have never changed schools. A 1992 Department of Education policy instructs districts to reserve adequate funds so that migrant children who are eligible for Chapter 1 services—even if they arrive late in the school year—will receive them. But non-migrant children who change schools frequently and are also eligible for Chapter 1 services are omitted in this policy.

We found that about 17 percent of third-graders have changed schools frequently, that is, have attended three or more schools since the beginning of first grade. About one-quarter, or 24 percent, of third-graders have attended two schools; the remaining 59 percent of third-graders have remained in the same school since first grade.

INNER CITY AND LOW-INCOME CHILDREN MUCH MORE LIKELY TO CHANGE SCHOOLS FREQUENTLY

Inner city children are much more likely to change schools frequently, on average, than those in rural or suburban areas or in small cities or towns. One-fourth of third-graders in inner city schools have changed schools frequently, that is, have attended three or more schools since first grade. In comparison, only about one-seventh of children from rural or suburban areas or from small cities or towns have changed schools frequently.

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

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

Native American, black, and Hispanic children are more likely to change schools frequently than Asian or white children. However, these differences are less related to race or ethnicity than to differences in income and, consequently, homeownership versus renter status: renters tend to move much more frequently than homeowners. When we examined 1990 Current Population Survey data reported by the Bureau of the Census, race or ethnic differences in mobility largely disappeared after considering homeownership versus renter status.

Migrant and limited English proficient (LEP) children are much more likely to change schools frequently than all children. About 40 percent of migrant children and 34 percent of LEP children change schools frequently, in comparison with 17 percent of all children. In addition, compared with 59 percent of all children, a smaller percentage of migrant and LEP children have never changed schools—28 and 38 percent, respectively.

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

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

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

[From the CATALYST, Cleveland, Mar./Apr. 2001]

MOBILE STUDENTS SCORE LOWER ON STATE TEST

(By Sandra Clark)

Cleveland 4th-graders who changed schools one or more times during the school year scored lower than their stable classmates on all five sections of the Ohio Proficiency Test, according to a CATALYST analysis of test scores from 1997 to 1999.

On average, mobile students scored 5.12 points below their more stable counterparts. The largest spread between the two was in math and science. The smallest gap was in reading.

The analysis of test scores of 16,278 students, 1,914 of whom changed schools at least once during the school year, was conducted for *CATALYST* by Joshua G. Bagaka's, assistant professor of educational research and statistics at Cleveland State University.

''Across all five parts of the Ohio 4th- and 6th-grade proficiency test, mobile students consistently received lower scores than their stable counterparts,'' Bagaka's says.

''I don't think we need to down play the role of mobility here,'' Bagaka's says. ''Schools should find ways of giving mobile kids special attention because they are at risk of failing.''

Bagaka's analysis also showed that the test scores of mobile students suffered regardless of the students' family income or whether they live with one or both parents.

The analysis also shows: The achievement gap between stable and mobile students by income is often widest for mobile students who pay full price for lunch and smallest for students on free lunch. In many areas, poor mobile students do better than well-off mobile students. (See chart page 5.)

Similar conclusions can be drawn when comparing students from single-parent and two-parent homes. Mobile students from single-parent homes often do just as well as mobile students from two-parent homes. (See chart page 5.)

Mobility refers to students who change schools one or more times during an academic year. Students change schools frequently due to school choice, family moves, poverty, hopelessness, changes in child custody and other problems.

Cleveland's mobility rate has fallen from 19.5 percent in 1998 and 1999 to 15.8 percent in 1999 due in part to the end of desegregation, says Peter A. Robertson, Cleveland Municipal School District's executive director of Research, Evaluation and Assessment.

Individually, however, high-poverty elementary schools such as Willow, East Clark, Bolton and George Washington Carver reported rates nearing 30 percent during the period.

Based on student demographics and test scores from 1997 through 1999, the analysis indicated an achievement gap that varied little even as the test changed in difficulty during the period.

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

CATALYST'S findings come as no surprise to Robertson. The district has not targeted mobile students for any special help, Robertson says. However, he adds that districtwide initiatives such as establishing standards and periodically assessing students' strengths and weaknesses should help them. (See story page 9.)

''Beyond that,'' Robertson says, ''we are trying to make sure they have access to good teaching and what we need to do for all kids.''

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

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

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

MILES PARK FINDS ANSWERS

(By Sandra Clark)

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

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

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

The Cleveland Municipal School District, like most in the country, has no official policy for mitigating the impact of mobility. The district has been pushing schools to improve proficiency test scores without taking mobility and its drag on achievement into account, Miles Park Principal William J. Bauer says. So the school struck out on its own, making the needs of mobile students a schoolwide focus.

''The area superintendent says 'You did good [with proficiencies] last year. How much are you going to improve this year?' '' Bauer says. ''There's a new student, there's a new student, there's a new student with grades lower than an LD [Learning Disabled] student. You're a teacher and you're responsible for increasing scores every year.''

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

Yet, staff sees a constant churning of students in and out of the school. To date, the school's enrollment shifted from 530 students, to 510 and then 571 for a total change of 81. That means about four whole classrooms full of kids have come and gone this school year. The impact the movement has on learning at the school is huge, Bauer says.

Mobility's influence on behavior and achievement becomes clear one day when

Kenneth returns from speech lessons to Rodgers' 2nd-grade class. The tenor of the class shifts. A slight rumble of discord replaces the chatter of children constructing a picture graph.

Kenneth, not his real name, is the most recent of eight new students in Rodgers' class this school year. Kenneth rarely follows school rules and is functioning below grade level, Rodgers says. His classmates know this and give him grief. Little shoves are sent his way, to which he responds by glaring at the tallest kid in class.

He stands out, Rodgers says. Kenneth is the only student not wearing the school's blue and white uniform.

''My students are starting to write paragraphs, and he can't write a sentence,'' Rodgers says. ''I don't have time to work with him.

''I move quicker,'' Rodgers says. ''I'm a 25-year teacher. He had a first-year teacher.''

Students like Kenneth are in danger of failing. A 1994 General Accounting Office report on mobility said 3rd-graders who have changed schools frequently are 2½ times as likely to repeat a grade as 3rd-graders who have never changed schools.

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

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

Janice Smallwood's 4th-grade class at Miles Park has 24 students. Seven are new. When Smallwood tested reading and math levels, students scored between 4.66 and 1.68. Six of the mobile students are at the bottom of the list, scoring below those labeled Learning Disabled. Tianna scored 3.84, the highest of all new students, to rank 11th in the class.

BAD BEHAVIOR

Behavior is high on the list of areas affected by mobility. The GAO report said that children who move frequently are 77 percent more likely to have four or more behavioral problems than those with no or infrequent moves.

This constant movement, loss of friends and the effort it takes to make new ones can be ''a social nightmare,'' says Ted Feinberg, assistant executive director of the National Association of School Psychologists.

Some mobile students are content to quietly scope out the class before inserting themselves into the mix. Some use humor to cope, Feinberg explains. The antics of a 4th-grader who had attended about five schools constantly pulled the class off task, says Miles Park teacher Teresa Goetz. She telephoned the boy's previous school to get his history and found that he had jumped on one child's out-stretched leg, breaking it. In November, the boy transferred to another school.

A move from family to foster care sent a Cleveland student to Hawthorne Elementary School in Lorain. This boy was so desperate to make friends, he stole money from a teacher's purse and passed it out to fellow students, Hawthorne Principal Loretta Jones says.

''What we see are kids who are depressed because they don't have a social network,'' Feinberg says. ''Kids feel awkward and uncomfortable. They try to prove themselves through strength and coolness.''

NO RECORDS

In addition to behavioral and academic problems, mobile students frustrate administrators because the children seldom arrive with records, grades and immunization forms.

Clerk Ella Kirtley spends half her day enrolling new students, withdrawing them and searching for records from their old schools.

Kirtley is retired but Bauer has convinced her to stay on because he doesn't think he can find another clerk who can keep up.

What's scary to Kirtley is how difficult it is to get vital information on students and now quickly that information changes.

Addresses change, telephone numbers change and pagers are cut off so frequently that ''You can't be up to date with emergency cards,'' Principal Bauer says. Sick children have been sent back to class because the school could not find an emergency contact Kirtley says.

TESTING MOBILE STUDENTS

Neither Cleveland schools nor the Ohio Department of Education have official strategies to mitigate the impact of mobility. Academic standards are surfacing as a way to be sure all kids are exposed to the same information and tests even though they change schools. (See story page 9.) The state department also plans to create a system of exchanging student records using Education Management Information Systems. The system should be completed in two years, says department spokeswoman Dorothea Howe.

But for the most part, teachers and principals individually hammer out solutions. Some start by finding out the student's performance level so they can be placed in the appropriate class. This is an informal process at most schools.

For example, at Willow Elementary School, Tannesha Saunders' 4th-grade teacher casually quizzed her when she joined the class in October.

''I think she wanted to see what I knew,'' says Tannesha, who attended four schools in three years. ''She'd teach some stuff then she'd ask some people some questions. Then she'd ask me a question and I answered it.''

Tannesha says the teacher also gave her a buddy, ''Brittany, to help me with my work and show me around like where the lunchroom was.''

Testing for placement of new students is serious business at Miles Park. New students are given the Star Test for reading and Computer Curriculum Corp. math, says Miles Park's Assistant Principal Kelley A. Dudley. Both tests assign a grade equivalent based on the student's score and prescribe what students should study to close any achievement gaps, Dudley says.

Star Test scores correspond with grade-appropriate books in Accelerated Reader. Computer Curriculum aligns math with grade levels and allows students to work on problems during math lab and after school. Students work independently or get tutoring from retired professionals who volunteer.

Paris, a new student in Smallwood's 4th-grade class, moved up a grade level to 3.6, Dudley says. ''He's still behind, but look where he came from,'' she says.

MANAGING MOBILITY

(By Sandra Clark)

THE CAUSES: POVERTY AND FAMILY BREAK-UPS

Miles Park Principal William J. Bauer and other heads of Cleveland elementary schools that experience mobility can only guess why students frequently transfer in and out of their schools.

In most cases, the district does not keep records on why students are withdrawn from school.

School leaders point to income and family instability as primary culprits. Loss of income often means families must move from their houses or apartments. Changes in child custody or guardianship also can cause movement. Some children transfer schools after being placed in foster care.

Then there's homelessness. For example, Kentucky and Case elementary schools serve students in nearby homeless and battered women's shelters.

Families living at the Zelma George Homeless Shelter attend Miles Park, A.B. Hart Middle and South High School. Families can stay only 14 days unless they receive an extension from the shelter, shelter officials say. (See story page 12.)

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

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

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

Another major cause of movement is discomfort with the school. For example, results of a survey of students in Chicago Public Schools showed one reason students transferred was school-related, not that the family changed homes, says David Kerbow, education researcher at the University of Chicago. When conflict with school staff or students occurred, parents chose to leave rather than solve the problem, Kerbow explains.

Margaret V. Alberty was so uncomfortable with teachers handling of her special-needs 4th-grader that she changed schools six times before settling on Willow Elementary School.

Alberty is guardian of 10-year-old Damien Lightfoot, who has Attention Deficit Hyperactivity Disorder.

Alberty says many teachers are unprepared to teach a child with his condition and do not know how to handle Damien when he's upset. He's been grabbed and jerked about by teachers, Alberty says. ''They aggravate you so much you have to take them out of the school.''

It's not unusual for parents like Alberty to change schools because they disagree with a school's academic practices or front-office manners. ''A rude clerk can really damage your school,'' says Doug Clay, a former district researcher now with the Urban School Collaborative at Cleveland State University.

Finally, Peter A. Robertson, Cleveland Municipal School's executive director of Research, Evaluation and Assessment, says a number of Cleveland students transfer to escape poor grades or a special education diagnosis.

Districts and communities across the country are using a variety of strategies to lessen the negative effects of mobility or to limit mobility itself. Some schools have created programs to welcome students and place them in the most suitable classroom. Others go outside the school walls to address housing issues. Here is a list of tactics principals, districts and states have used to manage mobility.

PLACING NEW STUDENTS

When Jo Ann Isken, principal of Moffett Elementary School in Los Angeles County, learned about a kindergartner who was having trouble learning to read, she did a little checking. She found he had attended three different schools, with lengthy absences in

between. His lessons had been in English, some in Spanish.

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

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

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

RECORD EXCHANGE

A program designed to serve the children of migrant workers has provided a way to help ensure that student records follow them. New Generation System is a student-record exchange program established in 1995. It is operated by a consortium of 11 states, including Ohio and Texas. Health, academic and demographic information is available to consortium members via the Internet, says Patricia Meyertholen, programs director for the Texas Migrant Information Program.

To protect student privacy, the site is encrypted and requires a password: Only consortium members have access, Meyertholen says.

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

LOW-COST HOUSING

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

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

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

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

EXTRA RESOURCES

In 1994, Montgomery County Public Schools in Maryland began allocating extra staff to schools based on mobility rates, poverty rates and the number of students speaking limited English, says Susan F. Marks, the district's executive assistant for School Performance. Lean budgets meant the district, headquartered in Rockville, Md., simply sent an extra teacher or two to high-mobility schools.

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

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

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

To add resources, the system ranked schools by poverty. Then it gave funds for such items as all-day kindergarten, extra staff to achieve a 15–1 teacher-student ratio and programs like Reading Recovery in the primary grades, Mark says. It also plans to add 41 positions to reduce class size at high-poverty high schools, Marks says.

TRANSPORTATION

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

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

The Stay Put program was founded in 1992 to cut school mobility. It is a non-profit project of the education committee of the Essex-Middle River-White Marsh Chamber of Commerce.

The group runs several programs such as shuttle buses supplied by the district to transport children who move back to their old school.

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

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

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

ACCOUNTABILITY

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

The California Department of Education figures mobility into its accountability system. Districts are required to report mobility. The state uses the rate to decide which scores will or will not be used in the system.

''If you're not in the district a year, your scores don't count for rewards and interventions for schools,'' says Patrick J. McCabe, in the department's Office of Policy and Evaluation.

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

Districts failing to meet targets are given three years and extra money to improve. If no improvement occurs, penalties such as removing the principal, staff or closing the school kick in.

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

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

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

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

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

The other tools that are available is the resources we put into teacher quality, to professional development, to training, to lower class sizes in those areas that have not done it and still need to do that. Those are decisions that the local school district can make. It is very important. We know now

that a well-qualified teacher is one of the most important ingredients in that child's education in the school setting.

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

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

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

Mr. Chairman, let me first thank all of the Members for all their kind comments and their support of the bill that we have before us. I think that, as the gentleman from California (Mr. GEORGE MILLER) just pointed out, we have a very sound piece of legislation that will improve the educational prospects for millions of American children. All we need to do is to have the courage to stand up and to vote for it.

There are Members with different views and different visions of what the Federal Government's role in education should be. I have conservative friends who are a little hesitant about this. We have some liberal friends who are just as hesitant. And as the gentleman from California pointed out, this is the most major change in the Federal Government's role in education in the 35 years that the Federal Government has been involved. This is a big step. This will take courage on the part of Members and take courage on the part of this institution to forge our way down a new path. But I think today is the day to do it, and I think this is the bill that will put us on the right path.

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

Let me also thank the Democrat staff who worked very closely with us: Charlie Barone, Alex Nock, Denise Forte, John Lawrence, Brendan O'Neil with the office of the gentlewoman from Hawaii (Mrs. MINK); Maggie McDow with the office of the gentleman from Indiana (Mr. ROEMER); Kara Haas, a staffer in the office of the gentleman from Delaware (Mr. CASTLE); Karen Weiss with the office of the gentleman from California (Mr. MCKEON); and Glee Smith of the office of the gentleman from Georgia (Mr. ISAKSON).

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

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

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

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

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

Mr. PAUL. Mr. Chairman, thirty-six years ago Congress blatantly disregarded all constitutional limitations on its power over K–12 education by passing the Elementary and Secondary Education Act (ESEA). This act of massive federal involvement in education was sold to the American people with promises that federal bureaucrats had it within their power to usher in a golden age of education. Yet, instead of the promised nirvana, federal control over education contributed to a decline in education quality. Congress has periodically responded to the American people's concerns over education by embracing education ''reforms,'' which it promises are the silver bullet to fixing American schools. ''Trust us,'' proponents of new federal edcation programs say, we have learned from the mistakes of the past and all we need are a few billion more dollars and some new federal programs and we will produce the educational utopia in which ''all children are above average.'' Of course, those reforms only result in increasing the education bureaucracy, reducing parental control, increasing federal expenditures, continuing decline in education and an inevitable round of new ''reforms.''

Congress is now considering whether to continue this cycle by passing the national five-year plan contained in H.R. 1, the so-called ''No Child Left Behind Act.'' A better title for this bill is ''No Bureaucrat Left Behind'' because, even though it's proponents claim H.R. 1 restores power over education to states and local communities, this bill represents a massive increase in federal control over education. H.R. 1 contains the word ''ensure'' 150 times, ''require'' 477 times, ''shall'' 1,537 and ''shall not'' 123 times. These words are usually used to signify federal orders to states and localities. Only in a town where a decrease in the rate of spending increases is considered a cut could a bill laden with federal mandates be considered an increase in local control!

H.R. 1 increases federal control over education through increases in education spending. Because ''he who pays the piper calls the tune,'' it is inevitable that increased federal expenditures on education will increase federal control. However, Mr. Chairman, as much as I object to the new federal expenditures in H.R. 1, my biggest concern is with the new mandate that states test children and compare the test with a national normed test such as the National Assessment of Education Progress (NAEP). While proponents of this approach claim that the bill respects state autonomy as states' can draw up their own tests, these claims fail under close observation. First of all, the very act of imposing a testing mandate on states is a violation of states' and local communities' authority, protected by the 10th Amendment to the United States Constitution, to control education free from federal interference.

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

Mr. Chairman, H.R. 1 will lead to de facto, if not de jure, national testing. States will inevitably fashion their test to match the ''nationally-normed'' test so as to relieve their students and teachers of having to prepare for two different tests. Furthermore, states will feel pressure from employers, colleges, and perhaps even future Congresses to conform their standards with other national tests ''for the children's sake.'' After all, what state superintendent wants his state's top students denied admission to the top colleges, or the best jobs, or even student loans, because their state's test is considered inferior to the ''assessments'' used by the other 49 states?

National testing will inevitably lead to a national curriculum as teachers will teach what their students need to know in order to pass their mandated ''assessment.'' After all, federal

funding depends on how students perform on these tests! Proponents of this approach dismiss these concerns by saying ''there is only one way to read and do math.'' Well then what are the battles about phonics versus whole language or new math versus old math about? There are continuing disputes about teaching all subjects as well as how to measure mastery of a subject matter. Once federal mandatory testing is in place however, those arguments will be settled by the beliefs of whatever regime currently holds sway in DC. Mr. Chairman, I would like my colleagues to consider how comfortable they would feel supporting this bill if they knew that in five years proponents of fuzzy math and whole language could be writing the NAEP?

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

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

As a constitutional means to provide parents with the means to hold schools accountable, I have introduced the Family Education Freedom Act (H.R. 368). The Family Education Freedom Act restores parental control over the classroom by providing American parents a tax credit of up to $3,000 for the expenses incurred in sending their child to private, public, parochial, other religious school, or for home schooling their children.

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

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

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

I have also introduced the Education Quality Tax Cut Act (H.R. 369), which provides a $3,000 tax deduction for contributions to K–12 education scholarships as well as for cash or in-kind donations to private or public schools. The Education Quality Tax Cut Act will allow concerned citizens to become actively involved in improving their local public schools as well as help underprivileged children receive the type of education necessary to help them reach their full potential. I ask my colleagues: ''Who is better suited to lead the education reform effort: parents and other community leaders or DC-based bureaucrats and politicians?''

If, after the experience of the past thirty years, you believe that federal bureaucrats are better able to meet children's unique educational needs than parents and communities then vote for H.R. 1. However, if you believe that the failures of the past shows expanding federal control over the classroom is a recipe for leaving every child behind then do not settle for some limited state flexibility in the context of a massive expansion of federal power: Reject H.R. 1 and instead help put education resources back into the hands of parents by supporting my Family Education Freedom Act and Education Improvement Tax Cut Act.

Mr. CLEMENT. Mr. Chairman, I rise today in support of this bill as it was reported out of committee. I believe that the underlying bill is a good piece of legislation that will go a long ways in making our schools better places of learning and our students more successful. I commend the chairman, Mr. BOEHNER, the ranking member, Mr. GEORGE MILLER of California, and my fellow New Democrat, Mr. ROEMER, for the bipartisan way in which this bill has been crafted.

I am pleased to see H.R. 1 include language supporting both music and arts education as well as character education. I am a strong supporter of both. We must ensure that our children receive a well rounded education which includes music and the arts. Society is growing increasingly concerned about the steady decline of our nation's core ethical values, especially in our children. Although parents should be the primary developers of character, the role of schools in character-building has become increasingly important.

I am pleased to see the increased emphasis H.R. 1 has placed on low-performing Title I schools. If we are to demand that our schools meet high standards of achievement, we must also ensure that schools serving low-income students receive sufficient funds to meet these students' needs. These much needed Title I funds will make a real difference in the academic lives of many of my young constituents.

I also support several other provisions of the bill including accountability measures, student mentoring and the retention of the Safe Schools and 21st Century Learning Centers programs as separate initiatives.

I am extremely pleased to see that neither vouchers nor the ''Straight A's'' provision are included in the reported bill and am hopeful that they will not be attached as amendments. We have a remarkable consensus on this bill, but it is a fragile one. I urge my colleagues to protect this delicate balance by rejecting voucher or ''Straight A's'' proposals that would jeopardize passage of the bill.

While H.R. 1 substantially increases local flexibility, a ''Straight A's'' proposal only increases control at the state level. It will result in less funding to many local school districts, particularly those with low-income children.

Every child deserves the opportunity to succeed in our public school system. This bill takes a positive step forward toward helping students achieve academically and strengthening public schools.

Mrs. LOWEY. Mr. Chairman, this bill makes some pretty big promises. It has the potential to dramatically change the public education system in this country. It authorizes significant levels of funding. It says to parents that Congress thinks education is a priority, and that we will make good on our goal—that every child in America should get a quality education.

But, Mr. Chairman, I sit on the Appropriations Subcommittee that funds education, and my experience tells me that we are a long way from being able to keep these promises. The budget we passed two weeks ago does not provide the funds to do everything we promise in this bill. At the end of the year, when push comes to shove, we will do what we've done for the past few years—we will short education.

Tonight and tomorrow we will talk about how we are going to provide more funding than ever for our most disadvantaged students through Title I, about how we will give states flexibility to determine their fiscal needs in the areas of teacher recruitment, teacher development and school renovation, and about how we will demand results for our efforts. These are all worthy goals, and I support them.

But without funding, this new flexibility becomes a gilded prison. States will have to decide whether to spend their money on facilities, teachers or testing. The bill does not provide any additional funds for school construction, and does not provide enough to help states develop the new mandated tests or recruit more teachers to reduce class sizes. In fact, the rule will not even allow these issues to be discussed on the floor.

Unless we work to ensure that sufficient money is included for education in the appropriations process, then all we are doing today is making empty promises.

When the annual appropriations melee begins toward the end of the year, I hope the American people will remind every member who votes for this bill that they have a promise to keep. Every member who holds a press conference to tout their commitment to education after their vote for this bill should be prepared to follow through.

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

Ms. SOLIS. Mr. Speaker, as a freshman Member of Congress it has been exciting to be a part of the House Education and Workforce Committee, working to draft a bipartisan

education bill which truly will help students in California and throughout the country. I have been touring the schools in my district to find out from teachers, administrators, parents, and students what they need from the Federal Government when it comes to education policy.

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

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

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

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

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

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

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

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

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

The distinctive characteristic of Federal participation in elementary and secondary education has always been that Federal funding is targeted to reach the needs of students who come from low-income families. I firmly believe that we must continue this targeting. Unfortunately, by diluting the targeting of title I funds, H.R. 1 fails our students from low-income families and continues the movement toward abandoning our commitment to them.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

For this reason, Mr. Chairman, I would oppose any amendment to restore the President's choice proposal and I am disappointed at the adopted rule to block any amendment on school construction and modernization. My dear colleague Congressman MAJOR OWENS introduced one of those amendments. Congressman's OWEN's amendment proposed $20 billion for school construction, renovation and repair, provide schools located in underserved communities with funding to repair leaking roofs and faulty plumbing; ensure that schools built before WWII do not continue to contribute to childhood illnesses; and modernize more than 150,000 schools nationwide.

I would like to acknowledge and express my gratitude to Congressman UNDERWOOD for offering an amendment to title IV of the Elementary and Secondary Education Act of 1965 to include general assistance for certain outlying areas. The General Assistance Grant was established by section 4501 of the Elementary Act 1965, as amended, and provided for general assistance to improve education in, my district, the U.S. Virgin Islands. No appropriations have been provided fro this program since FY 1994, thus slowing almost to a halt, the incipient progress we were beginning to make in our education system. Mr. Chairman, while we fully recognize that it takes more than just money to make an educational system work well, this grant would give the Virgin Islands Department of Education, a tremendous and needed boost, in its ongoing efforts to improve the education it provides to our children. I am disappointed that the Rules Committee did not make Mr. UNDERWOOD's amendment in order.amendment

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

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

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

Mr. CRENSHAW. Mr. Chairman, I rise today to address this important measure to reform and improve our public education system.

As an original cosponsor of H.R. 1, I, like many of my colleagues, was disappointed at some of the changes that the bill underwent during committee consideration. For instance, I believe that the school choice provisions that the President outlined in his education reform package represented a reasonable compromise. He provided a graduated series of steps that bolstered a failing school's efforts to improve without jeopardizing the students who attend that school awaiting improvement. His three-year program recognized that every year a child is in school is a precious opportunity to instill knowledge in her mind and a love of learning in her soul.

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

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

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

Mr. REYES. Mr. Chairman, today the House is taking up extremely important legislation, H.R. 1, a bill to reauthorize the Elementary and Secondary Education Act (ESEA). Although the bipartisan support for this bill is encouraging, just two weeks ago the republicans passed a budget resolution that committed no new resources for education. In fact, the budget resolution provided less than the amount the President requested by $900 million for fiscal year 2002 and by $21.4 billion over ten years. Instead of providing new resources for education, the conference report set funding levels equal to the amount needed, according the Congressional Budget Office (CBO), just to keep up with inflation. by contrast, H.R. 1 as reported authorizes approximately $5.5 billion more for elementary and secondary education programs for fiscal year 2002 than the $18.5 billion appropriated in fiscal year 2001.

This difference between the funding levels authorized in H.R. 1 and the funds committed to education in the budget conference report confirms my concern about the Republican budget. Although Republicans claim to support investments in priorities such as education, their budget did not commit the necessary resources. Furthermore, last week we voted on an unfair rule for H.R. 1 which prevented Democrats from offering key education priorities as amendments. There is nothing in the bill addressing class-size reduction, school modernization or the need to provide adequate funding authorizations for bilingual and migrant education.

The absence of a specific class size reduction program in the bill is unfortunate. H.R. 1 combines professional development and class size. In my opinion, schools should not be forced to chose between reducing class size and providing high quality professional development. Research clearly shows that reducing class size, particularly in the early grades, improves student achievement.

This bill also falls short of providing enough resources for migrant students. In just the past two years, the average number of dollars spent per migrant student has declined by 11 percent. This bill's proposed increase in migrant education funding does not go nearly far enough to reverse that decline.

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

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

Mr. Chairman, the nation's priorities in education will not be met within the confines of the budget resolution that was passed on May

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

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

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

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

The CHAIRMAN. All time for general debate has expired.

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

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

H.R. 1

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

SECTION 1. SHORT TITLE.

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

SEC. 2. REFERENCES.

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

SEC. 3. TRANSITION.

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

SEC. 4. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

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Sec. 2. References.
Sec. 3. Transition.
Sec. 4. Table of contents.
Sec. 5. Effective date.

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PART A—BASIC PROGRAM

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

PART B—STUDENT READING SKILLS IMPROVEMENT GRANTS

Sec. 111. Reading first; early reading first.
Sec. 112. Amendments to Even Start.
Sec. 113. Inexpensive book distribution program.

PART C—EDUCATION OF MIGRATORY CHILDREN

Sec. 121. State allocations.
Sec. 122. State applications; services.
Sec. 123. Authorized activities.
Sec. 124. Coordination of migrant education activities.

PART D—NEGLECTED OR DELINQUENT YOUTH

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

PART E—FEDERAL EVALUATIONS AND DEMONSTRATIONS

Sec. 151. Evaluations.
Sec. 152. Demonstrations of innovative practices.
Sec. 153. Ellender-close up fellowship program; dropout reporting.

PART F—COMPREHENSIVE SCHOOL REFORM

Sec. 161. School reform.

PART G—RURAL EDUCATION FLEXIBILITY AND ASSISTANCE

Sec. 171. Rural education.

PART H—GENERAL PROVISIONS OF TITLE I

Sec. 181. General provisions.

TITLE II—PREPARING, TRAINING, AND RECRUITING QUALITY TEACHERS

Sec. 201. Teacher quality training and recruiting fund.
Sec. 202. National writing project.
Sec. 203. Civic education; teacher liability protection.

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

PART A—EDUCATION OF LIMITED ENGLISH PROFICIENT AND IMMIGRANT CHILDREN

Sec. 301. Programs authorized.
Sec. 302. Conforming amendment to Department of Education Organization Act.

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PART A—INNOVATIVE PROGRAMS

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

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Sec. 701. Flexibility and accountability.

TITLE VIII—GENERAL PROVISIONS

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

TITLE IX—MISCELLANEOUS PROVISIONS

PART A—AMENDMENTS TO OTHER ACTS

SUBPART 1—NATIONAL EDUCATION STATISTICS ACT

Sec. 901. Amendment to NESA.

SUBPART 2—HOMELESS EDUCATION

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

PART B—REPEALS

Sec. 921. Repeals.

SEC. 5. EFFECTIVE DATE.

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

TITLE I—IMPROVING THE ACADEMIC PERFORMANCE OF THE DISADVANTAGED

PART A—BASIC PROGRAM

SEC. 101. DISADVANTAGED CHILDREN MEET HIGH ACADEMIC STANDARDS.

Section 1001 is amended to read as follows:

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

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

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

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

''(3) The best education decisions are made by those who know the students and who are responsible for implementing the decisions.

''(4) Educators and parents should retain the right and responsibility to educate their pupils and children free of excessive regulation by the Federal Government.

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

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

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

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

''(9) Congress and the public would benefit from additional data evaluating the efficacy of the Elementary and Secondary Education Act of 1965.

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

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

''(c) RECOGNITION OF NEED.—The Congress recognizes the following:

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

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

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

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

''(5) States and local educational agencies need to ensure that high quality academic assessments, accountability systems, teacher preparation and training, curriculum, and instructional materials are aligned with challenging State academic standards so that students, teachers, parents, and administrators can measure progress against common expectations for student academic achievement.

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

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

Section 1002 is amended to read as follows:

''SEC. 1002. AUTHORIZATION OF APPROPRIATIONS.

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

''(b) STUDENT READING SKILLS IMPROVEMENT GRANTS.—

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

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

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

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

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

''(d) PREVENTION AND INTERVENTION PROGRAMS FOR YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT RISK OF DROPPING OUT.—For the purpose of carrying out part D, there are authorized to be appropriated $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

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

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

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

''(h) FEDERAL ACTIVITIES.—

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

''(B) For the purpose of carrying out section 1502, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and for each of the 4 succeeding fiscal years.

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

''(i) STATE ADMINISTRATION.—

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

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

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

''(j) ASSISTANCE FOR LOCAL SCHOOL IMPROVEMENT.—

''(1) PROGRAM AUTHORIZED.—The Secretary shall award grants to States to provide subgrants to local educational agencies for the purpose of providing assistance for school improvement consistent with section 1116. Such grants shall be allocated among States, the Bureau of Indian Affairs, and the outlying areas, in proportion to the grants received by the State, the Bureau of Indian Affairs, and the outlying areas for the fiscal year under parts A, C, and D of this title. The Secretary shall expeditiously allocate a portion of such funds to States for the purpose of assisting local educational agencies and schools that were in school improvement status on the date preceding the date of the enactment of the No Child Left Behind Act of 2001.

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

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

''(4) LOCAL EDUCATIONAL AGENCY GRANTS.—A grant to a local educational agency under this subsection shall be—

''(A) of sufficient size and scope to support the activities required under sections 1116 and 1117, but not less than $50,000 and not more than $500,000 to each participating school;

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

''(C) renewable for 2 additional 1-year periods if schools are making yearly progress consistent with State and local educational agency plans developed under section 1116.

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

''(6) ADMINISTRATIVE COSTS.—A State educational agency that receives a grant award under this subsection may reserve not more than 5 percent of such award for administration, evaluation, and technical assistance expenses.

''(7) LOCAL AWARDS.—Each local educational agency that applies for assistance under this subsection shall describe how it will provide the lowest achieving schools the resources necessary to meet yearly progress goals under State and local school improvement, corrective action, and restructuring plans under section 1116.

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

SEC. 103. RESERVATION FOR SCHOOL IMPROVEMENT.

Section 1003 is amended to read as follows:

''SEC. 1003. RESERVATION FOR SCHOOL IMPROVEMENT.

''(a) STATE RESERVATIONS.—Each State shall reserve 1 percent of the amount it receives under subpart 2 of part A for fiscal years 2002 and 2003, and 3 percent of the amount received under such subpart for fiscal years 2004 through 2006, to carry out subsection (b) and to carry out the State's responsibilities under sections 1116 and 1117, including carrying out the State educational agency's statewide system of technical assistance and support for local educational agencies.

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

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

''(1) have the lowest achieving schools;

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

''(3) demonstrate the strongest commitment to ensuring that such funds are used to enable the lowest achieving schools to meet the yearly progress goals under section 1116(b)(3)(A)(v).

''(d) UNUSED FUNDS.—If, after consultation with local educational agencies in the State, the State educational agency determines that the amount of funds reserved to carry out subsection (b) is greater than the amount needed to provide the assistance described in that subsection, it may allocate the excess amount to local educational agencies in accordance with either or both—

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

''(2) section 1126(c).

''(e) SPECIAL RULE.—Notwithstanding any other provision of this section, the amount of funds reserved by the State under subsection (a) in any given fiscal year shall not decrease the amount of State funds each local educational agency receives below the amount received by such agency under subpart 2 in the preceding fiscal year.''.

SEC. 104. BASIC PROGRAMS.

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

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

''Subpart 1—Basic Program Requirements

''SEC. 1111. STATE PLANS.

''(a) PLANS REQUIRED.—

''(1) IN GENERAL.—Any State desiring to receive a grant under this part shall submit to the Secretary, by March 1, 2002, a plan, developed in consultation with local educational agencies, teachers, principals, pupil services personnel, administrators (including administrators of programs described in other parts of this title), other staff, and parents, that satisfies the requirements of this section and that is coordinated with other programs under this Act, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), the Head Start Act (42 U.S.C. 9831 et seq.), and the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.).

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

''(b) ACADEMIC STANDARDS, ACADEMIC ASSESSMENTS, AND ACCOUNTABILITY.—

''(1) CHALLENGING ACADEMIC STANDARDS.—

''(A) Each State plan shall demonstrate that the State has adopted challenging academic content standards and challenging student academic achievement standards that will be used by the State, its local educational agencies, and its schools to carry out this part, except that a State shall not be required to submit such standards to the Secretary.

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

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

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

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

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

''(II) contain coherent and rigorous content; and

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

''(ii) challenging student academic achievement standards that—

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

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

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

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

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

''(2) ACCOUNTABILITY.—

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

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

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

''(iii) include rewards and sanctions the State will use to hold local educational agencies and public schools accountable for student achievement and for ensuring that they make adequate yearly progress in accordance with the State's definition under subparagraph (B).

''(B) ADEQUATE YEARLY PROGRESS.—Each State plan shall demonstrate, based on academic assessments described under paragraph (4), what constitutes adequate yearly progress of the State, and of public schools and local educational agencies in the State, toward enabling all public school students to meet the State's student academic achievement standards, while working toward the goal of narrowing the achievement gaps in the State, local educational agency, and school.

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

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

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

''(iii) measures the student dropout rate, as defined for the Common Core of Data maintained by the National Center for Education Statistics established under section 403 of the National Education Statistics Act of 1994 (20 U.S.C. 9002);

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

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

''(II) The achievement of—

''(aa) economically disadvantaged students;

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

''(cc) students with disabilities; and

''(dd) students with limited English proficiency;

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

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

''(vi) includes a timeline that—

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

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

''(III) for each year until and including the target year, establishes annual goals for the academic performance of each group of students

described in subclauses (I) and (II) of clause (iii) on the State academic assessment that—

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

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

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

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

''(3) STATE AUTHORITY.—If a State educational agency provides evidence, which is satisfactory to the Secretary, that neither the State educational agency nor any other State government official, agency, or entity has sufficient authority, under State law, to adopt curriculum content and student academic achievement standards, and academic assessments aligned with such academic standards, which will be applicable to all students enrolled in the State's public schools, then the State educational agency may meet the requirements of this subsection by—

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

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

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

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

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

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

''(D) for the purposes of this part, be scored to ensure the performance of each student is evaluated solely against the State's challenging academic content standards and not relative to the score of other students;

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

''(i) grades 3 through 5;

''(ii) grades 6 through 9; and

''(iii) grades 10 through 12;

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

''(G) beginning not later than school year 2004-2005, measure the performance of students against the challenging State content and student academic achievement standards in each of grades 3 through 8 in, at a minimum, mathematics, and reading or language arts, except that the Secretary may provide the State 1 additional year if the State demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State, prevented full implementation of the academic assessments by that deadline and that it will complete implementation within the additional 1-year period;

''(H) provide for—

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

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

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

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

''(I) include students who have attended schools in a local educational agency for a full academic year but have not attended a single school for a full academic year, except that the performance of students who have attended more than 1 school in the local educational agency in any academic year shall be used only in determining the progress of the local educational agency;

''(J) produce individual student reports to be provided to parents, which include academic assessment scores, or other information on the attainment of student academic achievement standards; and

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

''(5) SPECIAL RULE.—Academic assessment measures in addition to those in paragraph (4) that do not meet the requirements of such paragraph may be included as additional measures, but may not be used in lieu of the academic assessments required in paragraph (4). Results on any additional measures under this paragraph shall not change which schools or local educational agencies would otherwise be subject to improvement or corrective action under section 1116 if the additional measures were not included.

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

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

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

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

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

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

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

''(A) will be provided promptly, but not later than the end of the school year (consistent with 1116, to local educational agencies, schools, and teachers in a manner that is clear and easy to understand; and

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

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

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

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

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

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

''(B) another academic assessment selected by the State which meets the criteria of section 7101(b)(1)(B)(ii) of this Act;

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

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

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

''(5) the State educational agency shall notify local educational agencies and the public of the content and student academic achievement standards and academic assessments developed under this section, and of the authority to operate schoolwide programs, and will fulfill the State educational agency's responsibilities regarding local educational agency improvement and school improvement under section 1116, including such corrective actions as are necessary;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(C) providing a hearing; and

''(5) have the authority to disapprove a State plan for not meeting the requirements of this part, but shall not have the authority to require a State, as a condition of approval of the State plan, to include in, or delete from, such plan 1 or more specific elements of the State's academic content standards or to use specific academic assessment instruments or items.

''(e) DURATION OF THE PLAN.—

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

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

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

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

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

''(f) LIMITATION ON CONDITIONS.—Officers and employees of the Federal Government are prohibited from mandating, directing, or controlling a State, local educational agency, or school's specific instructional content or student academic achievement standards and academic assessments, curriculum, or program of instruction, as a condition of eligibility to receive funds under this part.

''(g) PENALTIES.—

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

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

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

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

''(h) REPORTS.—

''(1) ANNUAL STATE REPORT CARD.—

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

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

''(i) concise; and

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

''(C) PUBLIC DISSEMINATION.—The State shall widely disseminate the information described in subparagraph (D) to all schools and local educational agencies in the State and make the information broadly available through public means, such as posting on the Internet, distribution to the media, and distribution through public agencies.

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

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

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

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

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

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

''(vi) such other information (such as dropout and school attendance rates; and average class size by grade level) as the State believes will best provide parents, students, and other members of the public with information on the progress of each of the State's public schools.

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

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

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

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

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

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

''(II) in the case of a school—

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

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

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

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

''(3) PRE-EXISTING REPORT CARDS.—A State or local educational agency that was providing public report cards on the performance of students, schools, local educational agencies, or the

State prior to the enactment of the No Child Left Behind Act of 2001 may use those reports for the purpose of this subsection, so long as any such report is modified, as may be needed, to contain the information required by this subsection.

''(4) ANNUAL STATE REPORT TO THE SECRETARY.—Each State receiving assistance under this Act shall report annually to the Secretary, and make widely available within the State—

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

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

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

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

''(5) PARENTS RIGHT-TO-KNOW.—

''(A) QUALIFICATIONS.—At the beginning of each school year, a local educational agency that receives funds under this part shall notify the parents of each student attending any school receiving funds under this part that they may request, and shall provide the parents upon request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, the following:

''(i) Whether the teacher has met State qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.

''(ii) Whether the teacher is teaching under emergency or other provisional status through which State qualification or licensing criteria have been waived.

''(iii) The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree.

''(iv) Whether the child is provided services by paraprofessionals and if so, their qualifications.

''(B) ADDITIONAL INFORMATION.—In addition to the information which parents may request under subparagraph (A), a school which receives funds under this part shall provide to each individual parent—

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

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

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

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

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

"SEC. 1112. LOCAL EDUCATIONAL AGENCY PLANS.

''(a) PLANS REQUIRED.—

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

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

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

''(1) a description of additional high-quality student academic assessments, if any, other than the academic assessments described in the State plan under section 1111, that the local educational agency and schools served under this part will use to—

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

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

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

''(2) at the local educational agency's discretion, a description of any other indicators that will be used in addition to the academic assessments described in paragraph (1) for the uses described in such paragraph, except that results on any discretionary indicators shall not change which schools would otherwise be subject to improvement of corrective action under section 1118 if the additional measures are not included;

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

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

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

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

''(B) services for children with limited English proficiency or with disabilities, migratory children served under part C, neglected or delinquent youth, Indian children served under part B of title III, homeless children, and immigrant children in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program;

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

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

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

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

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

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

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

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

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

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

''(c) ASSURANCES.—

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

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

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

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

''(D) fulfill such agency's school improvement responsibilities under section 1116, including taking corrective actions under paragraphs (6) and (7) of section 1116(b);

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

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

''(G) in the case of a local educational agency that chooses to use funds under this part to provide early childhood development services to

low-income children below the age of compulsory school attendance, ensure that such services comply with the academic achievement standards established under section 641A(a) of the Head Start Act (42 U.S.C. 9836a(a));

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

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

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

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

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

''(B) shall disseminate to local educational agencies the Head Start academic achievement standards as in effect under section 641A(a) of the Head Start Act (42 U.S.C. 9836a(a)), and such agencies affected by such subparagraph shall plan for the implementation of such subparagraph (taking into consideration existing State and local laws, and local teacher contracts), including pursuing the availability of other Federal, State, and local funding sources to assist in compliance with such subparagraph.

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

''(d) PLAN DEVELOPMENT AND DURATION.—

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

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

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

''(e) STATE APPROVAL.—

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

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

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

''(B) meets the requirements of this section.

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

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

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

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

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

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

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

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

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

''(2) CONSENT.—

''(A) AGENCY REQUIREMENTS.—

''(i) INFORMED CONSENT.—For a child who has been identified as limited English proficient prior to the beginning of a school year, each local educational agency that receives funds under this part shall make a reasonable and substantial effort to obtain informed parental consent prior to the placement of a child in an English language instruction program for limited English proficient children funded under this part if the program does not include classes which exclusively or almost exclusively use the English language in instruction.

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

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

''(iv) SPECIAL RULE APPLICABLE DURING SCHOOL YEAR.—For those children who have not been identified as limited English proficient prior to the beginning of the school year, the local educational agency shall make a reasonable and substantial effort to obtain parental consent under this clause. For such children, the agency shall document, in writing, its specific efforts made to obtain such consent prior to placing the child in a program described in clause (i). After such documentation has been made, the local educational agency shall provide appropriate educational services to such child. The proof of documentation shall be mailed or delivered in writing to a parent or parents of the child in a timely manner and shall include information on how to have their child immediately removed from the program upon their request. Nothing in this clause shall be construed as exempting a local educational agency from complying with the notification requirements of subsection (g)(1) and the consent requirements of this paragraph.

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

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

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

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

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

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

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

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

"SEC. 1113. ELIGIBLE SCHOOL ATTENDANCE AREAS.

''(a) DETERMINATION.—

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

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

''(A) the term 'school attendance area' means, in relation to a particular school, the geographical area in which the children who are normally served by that school reside; and

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

''(3) LOCAL EDUCATIONAL AGENCY DISCRETION.—

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

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

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

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

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

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

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

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

''(B) SPECIAL RULE.—Notwithstanding subparagraph (A)(iv), the number of children attending private elementary and secondary schools who are to receive services, and the assistance such children are to receive under this part, shall be determined without regard to whether the public school attendance area in which such children reside is assisted under subparagraph (A).

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

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

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

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

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

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

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

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

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

''(A) to identify eligible school attendance areas;

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

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

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

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

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

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

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

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

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

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

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

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

''(f) ALLOCATIONS.—

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

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

''(B) A local educational agency may reduce the amount of funds allocated under subparagraph (A) for a school attendance area or school by the amount of any supplemental State and local funds expended in that school attendance area or school for programs that meet the requirements of section 1114 or 1115.

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

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

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

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

''(4) SCHOOL IMPROVEMENT RESERVATION.—In addition to the funding a local educational agency receives under section 1003(b), a local educational agency may reserve such funds as are necessary under this part to meet such agency's school improvement responsibilities under section 1116, including taking corrective actions under paragraphs (6) and (7) of section 1116(b).

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

"SEC. 1114. SCHOOLWIDE PROGRAMS.

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

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

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

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

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

''(2) IDENTIFICATION OF STUDENTS NOT REQUIRED.—

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

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

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

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

''(B) REQUIREMENTS.—A school that chooses to use funds from such other programs shall not be relieved of the requirements relating to health, safety, civil rights, student and parental participation and involvement, services to private school children, maintenance of effort, uses of Federal funds to supplement, not supplant non-Federal funds, or the distribution of funds to State or local educational agencies that apply to the receipt of funds from such programs.

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

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

''(c) COMPONENTS OF A SCHOOLWIDE PROGRAM.—

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

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

''(B) Schoolwide reform strategies that—

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

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

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

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

school year and before- and after-school and summer programs and opportunities, and help provide an enriched and accelerated curriculum; and

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

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

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

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

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

''(D) In accordance with section 1119A and subsection (b)(4), high quality and ongoing professional development for teachers and paraprofessionals, and, where appropriate, pupil services personnel, parents, principals, and other staff to enable all children in the school to meet the State's student academic achievement standards.

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

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

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

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

''(I) Activities to ensure that students who experience difficulty mastering the proficient or advanced levels of academic achievement standards required by section 1111(b) shall be provided with effective, timely additional assistance which shall include measures to ensure that students' difficulties are identified on a timely basis and to provide sufficient information on which to base effective assistance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"SEC. 1115. TARGETED ASSISTANCE SCHOOLS.

''(a) IN GENERAL.—In all schools selected to receive funds under section 1113(f) that are ineligible for a schoolwide program under section 1114, or that choose not to operate such a schoolwide program, a local educational agency may use funds received under this part only for programs that provide services to eligible children under subsection (b) identified as having the greatest need for special assistance.

''(b) ELIGIBLE CHILDREN.—

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

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

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

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

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

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

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

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

''(ii) A child in a local institution for neglected or delinquent children or attending a community day program for such children is eligible for services under this part.

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

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

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

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

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

''(C) use effective methods and instructional strategies that are based upon scientifically based research that strengthens the core academic program of the school and that—

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

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

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

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

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

''(F) in accordance with subsection (e)(3) and section 1119A, provide opportunities for professional development with resources provided under this part, and, to the extent practicable, from other sources, for teachers, principals, and administrators and other school staff, including, if appropriate, pupil services personnel, who work with participating children in programs under this section or in the regular education program; and

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

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

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

''(B) reviewing, on an ongoing basis, the progress of participating children and revising the targeted assistance program, if necessary, to provide additional assistance to enable such children to meet the State's challenging student academic achievement standards, such as an extended school year, before- and after-school, and summer programs and opportunities, training for teachers regarding how to identify students that require additional assistance, and training for teachers regarding how to implement student academic achievement standards in the classroom.

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

''(e) SPECIAL RULES.—

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

''(2) COMPREHENSIVE SERVICES.—If medical, nutrition, and other social services are not otherwise available to eligible children in a targeted assistance school and such school, if appropriate, has engaged in a comprehensive needs assessment and established a collaborative partnership with local service providers, and if funds are not reasonably available from other public or private sources to provide such services, then a portion of the funds provided under this part may be used as a last resort to provide such services, including—

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

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

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

SEC. 105. SCHOOL CHOICE.

Section 1115A is amended to read as follows:

''SEC. 1115A. SCHOOL CHOICE.

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

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

''(1) all eligible students across grade levels served under this part will have equal access to the program;

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

''(3) parents of eligible students in the local educational agency will be given prompt notice of the existence of the public school choice program and its availability to them, and a clear explanation of how the program will operate;

''(4) the program will include charter schools and any other public school and shall not include a school that is or has been identified as a school in school improvement or is or has been in corrective action for the past 2 consecutive years; and

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

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

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

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

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

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

''(1) use the State academic assessments described in the State plan to review annually the progress of each school served under this part to determine whether the school is making adequate yearly progress as defined in section 1111(b)(2)(B);

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

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

''(b) SCHOOL IMPROVEMENT.—

''(1) IN GENERAL.—

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

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

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

''(B) DEADLINE.—The identification described in subparagraph (A) shall take place not later than the first day of the school year following such failure to make adequate yearly progress.

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

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

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

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

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

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

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

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

''(3) SCHOOL PLAN.—

''(A) REVISED PLAN.—After the resolution of a review under paragraph (2), each school identified under paragraph (1) for school improvement shall, not later than 3 months after being so identified, develop or revise a school plan, in consultation with parents, school staff, the local educational agency serving the school, the local school board, and other outside experts, for approval by such local educational agency. The school plan shall cover a 2-year period and—

''(i) incorporate scientifically based research strategies that strengthen the core academic subjects in the school and address the specific academic issues that caused the school to be identified for school improvement;

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

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

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

''(II) meets the requirements for professional development activities under section 1119A; and

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

''(iv) specify how the funds described in clause (iii) will be used to remove the school from school improvement status;

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

''(vi) identify how the school will provide written notification about the identification to parents of each student enrolled in such school, in a format and, to the extent practicable, in a language the parents can understand;

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

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

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

''(i) inclusion of 1 or more of the corrective actions specified in paragraph (6)(D)(ii); or

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

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

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

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

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

''(ii) promptly review the school plan, work with the school as necessary, and approve the

school plan if it meets the requirements of this paragraph.

''(4) TECHNICAL ASSISTANCE.—

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

''(B) SPECIFIC ASSISTANCE.—Such technical assistance—

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

''(ii) shall include assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based upon scientifically based research and that have proven effective in addressing the specific instructional issues that caused the school to be identified for school improvement;

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

''(iv) may be provided—

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

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

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

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

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

''(B) the reasons for the identification;

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

''(D) an explanation of what the local educational agency or State educational agency is doing to help the school address the achievement problem;

''(E) an explanation of how parents described in this paragraph can become involved in addressing the academic issues that caused the school to be identified for school improvement; and

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

''(6) CORRECTIVE ACTION.—

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

''(i) substantially and directly responds to—

''(I) the consistent academic failure of a school that caused the local educational agency to take such action; and

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

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

''(B) SYSTEM.—In order to help students served under this part meet challenging State academic standards, each local educational agency shall implement a system of corrective action in accordance with subparagraphs (C) through (F) and paragraphs (7) through (9).

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

''(i) after providing public school choice under paragraph (1)(E) and technical assistance under paragraph (4), shall identify for corrective action and take corrective action with respect to any school served by the local educational agency under this part that—

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

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

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

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

''(i) continue to provide all students enrolled in the school with the option to transfer to another public school within the local educational agency, including a public charter school, that has not been identified for school improvement under paragraph (1), unless such an option is prohibited by State law; and

''(ii) take at least 1 of the following corrective actions:

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

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

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

''(IV) Appoint an outside expert to advise the school on its progress toward meeting adequate yearly progress, based on its school plan under this subsection.

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

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

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

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

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

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

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

''(7) RESTRUCTURING.—

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

''(i) a school is subject to corrective action under paragraph (6) for one full school year, and at the end of such year continues to fail to make adequate yearly progress and students in the school who are from economically disadvantaged families are not making statistically significant progress in the subjects included in the State's definition of adequate yearly progress; or

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

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

''(II) make supplemental instructional services available, consistent with subsection (d)(1); and

''(III) prepare a plan and make necessary arrangements to carry out subparagraph (B).

''(B) ALTERNATIVE GOVERNANCE.—Not later than the beginning of the school year following the year in which the local educational agency implements subparagraph (A), the local educational agency shall implement 1 of the following alternative governance arrangements for the school consistent with State law:

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

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

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

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

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

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

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

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

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

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

''(10) DURATION.—If any school identified for corrective action or restructuring—

''(A) makes adequate yearly progress for 2 consecutive years, the local educational agency need no longer subject it to corrective action or restructuring nor identify it as in need of improvement; or

''(B) fails to make adequate yearly progress, but children from low-income families in the school make statistically significant educational progress for 1 year, the local educational agency shall place or continue as appropriate the school in corrective action under paragraph (6).

''(11) STATE RESPONSIBILITIES.—The State shall—

''(A) make technical assistance under section 1117 available to all schools identified for school improvement and restructuring under this subsection;

''(B) if it determines that a local educational agency has failed to carry out its responsibilities under this subsection, take such corrective actions as the State finds appropriate and in compliance with State law; and

''(C) ensure that academic assessment results under this part are provided to schools within the same school year in which the assessment was given.

''(c) STATE REVIEW AND LOCAL EDUCATIONAL AGENCY IMPROVEMENT.—

''(1) IN GENERAL.—A State shall—

''(A) annually review the progress of each local educational agency receiving funds under this part to determine whether schools receiving assistance under this part are making adequate yearly progress as defined in section 1111(b)(2) toward meeting the State's student academic achievement standards; and

''(B) publicize and disseminate to local educational agencies, teachers and other staff, parents, students, and the community the results of the State review consistent with section 1111, including statistically sound disaggregated results, as required by section 1111(b)(2).

''(2) IDENTIFICATION OF LOCAL EDUCATIONAL AGENCY FOR IMPROVEMENT.—A State shall identify for improvement any local educational agency that—

''(A) for 2 consecutive years failed to make adequate yearly progress as defined in the State's plan under section 1111(b)(2); or

''(B) was in improvement status under this section as this section was in effect on the day preceding the date of the enactment of the No Child Left Behind Act of 2001.

''(3) TRANSITION.—The 2-year period described in paragraph (2)(A) shall include any continuous period of time immediately preceding the date of the enactment of the No Child Left Behind Act of 2001, during which a local educational agency did not make adequate yearly progress as defined in the State's plan, as such plan was in effect on the day preceding the date of such enactment.

''(4) TARGETED ASSISTANCE SCHOOLS.—For purposes of targeted assistance schools in a local educational agency, a State educational agency may choose to review the progress of only the students in such schools who are served or are eligible for services under this part.

''(5) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE.—

''(A) REVIEW.—Before identifying a local educational agency for improvement under paragraph (2), a State educational agency shall provide the local educational agency with an opportunity to review the local educational agency data, including academic assessment data, on which that proposed identification is based.

''(B) SUPPORTING EVIDENCE.—If the local educational agency believes that the proposed identification is in error for statistical or other substantive reasons, it may provide supporting evidence to the State educational agency, which such agency shall consider before making a final determination not later than 30 days after the State educational agency provides the local educational agency with the opportunity to review such data under subparagraph (A).

''(6) NOTIFICATION TO PARENTS.—The State educational agency shall promptly notify parents in a format, and to the extent practicable in a language they can understand, of each student enrolled in a school in a local educational agency identified for improvement, of the results of the review under paragraph (1) and, if the agency is identified as in need of improvement, the reasons for that identification and how parents can participate in upgrading the quality of the local educational agency.

''(7) LOCAL EDUCATIONAL AGENCY REVISIONS.—

''(A) PLAN.—Each local educational agency identified under paragraph (2) shall, not later than 3 months after being so identified, develop or revise a local educational agency plan, in consultation with parents, school staff, and others. Such plan shall—

''(i) incorporate scientifically based research strategies that strengthen the core academic program in the local educational agency;

''(ii) identify specific goals and objectives the local educational agency will undertake to make adequate yearly progress and which—

''(I) have the greatest likelihood of improving the performance of participating children in meeting the State's student academic achievement standards;

''(II) address the professional development needs of staff; and

''(III) include specific measurable achievement goals and targets for each of the groups of students identified in the disaggregated data pursuant to section 1111(b)(2)(C)(iii)(I) and (II);

''(iii) incorporate, as appropriate, extended learning time for students such as before school, after school, during the summer, and extension of the school year.

''(iv) identify how the local educational agency will provide written notification to parents in a format, and to the extent practicable in a language, that they can understand, pursuant to paragraph (6); and

''(v) specify the responsibilities of the State educational agency and the local educational agency under the plan.

''(B) IMPLEMENTATION.—The local educational agency shall implement its plan or revised plan expeditiously, but not later than the beginning of the school year after which the school has been identified for improvement.

''(8) STATE RESPONSIBILITY.—

''(A) IN GENERAL.—For each local educational agency identified under paragraph (2), the State shall provide technical or other assistance, if requested, as authorized under section 1117, to better enable the local educational agency—

''(i) to develop and implement its revised plan as approved by the State educational agency consistent with the requirements of this section; and

''(ii) to work with schools needing improvement.

''(B) TECHNICAL ASSISTANCE.—Technical assistance provided under this section by the State educational agency or an entity authorized by such agency shall be based upon scientifically based research.

''(9) CORRECTIVE ACTION.—In order to help students served under this part meet challenging State academic standards, each State shall implement a system of corrective action in accordance with the following:

''(A) IN GENERAL.—After providing technical assistance under paragraph (8) and subject to subparagraph (D), the State—

''(i) may take corrective action at any time with respect to a local educational agency that has been identified under paragraph (2);

''(ii) shall take corrective action with respect to any local educational agency that fails to make adequate yearly progress, as defined by the State, after the end of the second year following its identification under paragraph (2); and

''(iii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).

''(B) DEFINITION.—As used in this paragraph, the term 'corrective action' means action, consistent with State law, that—

''(i) substantially and directly responds to the consistent academic failure that caused the State to take such action and to any underlying staffing, curricular, or other problems in the school; and

''(ii) is designed to meet the goal of having all students served under this part perform at the proficient and advanced performance levels.

''(C) CERTAIN LOCAL EDUCATIONAL AGENCIES.—In the case of a local educational agency described in this paragraph, the State educational agency shall take not less than 1 of the following corrective actions:

''(i) Withhold funds from the local educational agency.

''(ii) Replace the school district personnel who are relevant to the failure to make adequate year progress.

''(iii) Remove particular schools from the jurisdiction of the local educational agency and establish alternative arrangements for public governance and supervision of such schools.

''(iv) Appoint, through the State educational agency, a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board.

''(v) Abolish or restructure the local educational agency.

''(vi) Authorize students to transfer from a school operated by a local educational agency to a higher performing public school operated by another local educational agency, or to a public charter school and provide such students transportation (or the costs of transportation to such schools), in conjunction with not less than 1 additional action described under this paragraph.

''(D) HEARING.—Prior to implementing any corrective action, the State educational agency shall provide due process and a hearing to the affected local educational agency, if State law provides for such process and hearing.

''(E) PUBLICATION.—The State educational agency shall publish, and disseminate to parents and the public any corrective action it takes under this paragraph through such means as the Internet, the media, and public agencies.

''(F) DELAY.—A local educational agency may delay, for a period not to exceed 1 year, implementation of corrective action if the failure to make adequate yearly progress was justified due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency or school.

''(10) SPECIAL RULE.—A local educational agency, that, for at least 2 of the 3 years following identification under paragraph (2), makes adequate yearly progress shall no longer be identified for improvement.

''(d) PARENTAL OPTIONS.—

''(1) In any case described in subsection (b)(7)(A)(ii)(II), the local educational agency shall permit the parents of each eligible child to obtain supplemental educational services for such child from a provider, as approved by the State educational agency in accordance with reasonable criteria that it shall adopt. Such criteria shall require a provider to demonstrate a record of effectiveness, or the potential of effectiveness, in providing supplemental instructional services to children, consistent with the instructional program of the local educational agency and the academic standards described under section 1111.

''(2) SELECTION.—In obtaining services under this paragraph, a parent shall select a provider that meets the criteria described under paragraph (1). The local educational agency shall provide assistance, upon request, to parents in the selection of a provider to provide supplemental instructional services.

''(3) CONTRACT.—In the case of the selection of a provider under paragraph (2) by a parent, the local educational agency shall enter into a contract with such provider. Such contract shall—

''(A) require the local educational agency to develop, with parents (and the provider they have chosen), a statement of specific performance goals for the student, how the student's progress will be measured, and a timetable for improving achievement;

''(B) provide for the termination of such contract with a provider that is unable to meet such goals and timetables; and

''(C) contain provisions with respect to the making of payments to the provider by the local educational agency.

''(4) ADDITIONAL LOCAL EDUCATIONAL AGENCY RESPONSIBILITIES.—Each local educational

agency subject to this paragraph shall provide annual notice to parents (if feasible, in the parents' language) of the availability of services under this paragraph and the eligible providers of those services.

''(5) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—Each State educational agency shall—

''(A) consult with local educational agencies and promote maximum participation by providers to ensure, to the extent practicable, that parents have as many choices of those providers as possible;

''(B) develop criteria consistent with paragraph (6) and apply such criteria to potential providers to determine which, based on the quality and effectiveness of their services, are eligible to participate;

''(C) maintain an updated list of approved providers across the State, from which parents may select;

''(D) develop and implement standards and techniques for monitoring the quality and effectiveness of the services offered by providers, and withdraw approval from those that fail to meet those standards for two consecutive years;

''(E) provide annual notice to potential providers of supplemental services of the opportunity to provide services under this paragraph and of the applicable procedures for obtaining approval from the State educational agency to be a provider of those services.

''(6) CRITERIA FOR PROVIDERS.—In order for a provider to be included on the State list under paragraph (5)(c), a provider shall agree to the following:

''(A) Provide parents of children receiving supplemental instructional services under this paragraph and the appropriate local educational agency with information on the progress of their children in increasing achievement, in a format and, to the extent practicable, a language such parents can understand.

''(B) Ensure that instruction and content used by the provider is consistent with the instruction and content used by the local educational agency and State.

''(C) Require a provider to meet all applicable Federal, State, and local health, safety and civil rights laws.

''(D) Ensure that all instruction and content under this paragraph shall be secular, neutral, and nonideological.

''(7) COSTS.—

''(A) The costs of administration of this paragraph and the costs of providing such supplemental instructional services shall be limited to the total of 40 percent of the per child allocation under subpart 2 of each school identified under subsection (b)(7)(A)(ii)(II);

''(B) ADDITIONAL FUNDS.—If the allocation under subparagraph (A) is insufficient to provide services for all eligible students that have selected a provider, a local educational agency may use funds under subpart 1 of part A of title IV to pay for additional costs;

''(C) TRANSPORTATION COSTS.—A local educational agency may use up to 15 percent of its allocation under subpart 2 for transportation costs.

''(8) FUNDS PROVIDED BY STATE EDUCATIONAL AGENCY.—Each State educational agency may use funds that it reserves under this part, and subpart 1 of part A of title IV to provide local educational agencies that do not have sufficient funds to provide services under this paragraph for all eligible students requesting such services.

''(9) DURATION.—The local educational agency shall continue to provide supplemental instructional services to enrolled children receiving such services under this paragraph until the child completes the grade corresponding to the highest grade offered at the public school which was identified for restructuring under subsection (b)(7), or until such school, so long as the child attends such school, is not identified under subsection (b)(1), (b)(6), or (b)(7), whichever comes earlier.

''(10) DEFINITIONS.—As used in this subsection, the term—

''(A) 'eligible child' means a child from a low-income family, as determined by the local educational agency for purposes of allocating funds to schools under section 1113(c)(1);

''(B) 'supplemental instructional services' means tutoring and other supplemental academic enrichment services that are in addition to instruction provided during the school day and are specifically designed to increase the academic achievement of eligible children on the academic assessments required under section 1111; and

''(C) 'provider' means a non-profit or a for-profit entity which has a demonstrated record of effectiveness or the potential of effectiveness—

''(i) in providing supplemental instructional services that are consistent with the instructional program of the local educational agency and the academic standards described under section 1111; and

''(ii) in sound fiscal management;

''(D) 'per child allocation' means an amount that is equal to at least—

''(i) the amount of the school's allocation under subpart 2; divided by

''(ii) the number of children from low-income families enrolled in the school.

''(11) PROHIBITION.—Nothing contained in this paragraph shall permit the making of any payment under this paragraph for religious worship or instruction.''.

SEC. 107. STATE ASSISTANCE FOR SCHOOL SUPPORT AND IMPROVEMENT.

Section 1117 is amended to read as follows:

''SEC. 1117. STATE ASSISTANCE FOR SCHOOL SUPPORT AND IMPROVEMENT.

''(a) SYSTEM FOR SUPPORT.—Each State shall establish a statewide system of intensive and sustained support and improvement for local educational agencies and schools receiving funds under this part, in order to increase the opportunity for all students in those agencies and schools to meet the State's academic content standards and student academic achievement standards.

''(b) PRIORITIES.—In carrying out this section, a State shall—

''(1) first, provide support and assistance to local educational agencies subject to corrective action under section 1116 and assist schools, in accordance with section 1116(b)(10), for which a local educational agency has failed to carry out its responsibilities under paragraphs (6) and (7) of section 1116(b);

''(2) second, provide support and assistance to other local educational agencies identified as in need of improvement under section 1116(b); and

''(3) third, provide support and assistance to other local educational agencies and schools participating under this part that need that support and assistance in order to achieve the purpose of this part.

''(c) APPROACHES.—In order to achieve the purpose described in subsection (a), each such system shall provide technical assistance and support through such approaches as—

''(1) school support teams, composed of individuals who are knowledgeable about scientifically based research and practice on teaching and learning, particularly about strategies for improving educational results for low-achieving children; and

''(2) the designation and use of ''Distinguished Educators'', chosen from schools served under this part that have been especially successful in improving academic achievement.

''(d) FUNDS.—Each State—

''(1) shall use funds reserved under section 1003(a); and

''(2) may use State administrative funds authorized under section 1002(i) for such purpose to establish a Statewide system of support.

''(e) ALTERNATIVES.—The State may devise additional approaches to providing the assistance described in paragraphs (1) and (2) of subsection (c), such as providing assistance through institutions of higher education and educational service agencies or other local consortia, and private providers of scientifically based technical assistance and the State may seek approval from the Secretary to use funds made available under section 1002(j) for such approaches as part of the State plan.''.

SEC. 108. ACADEMIC ACHIEVEMENT AWARDS PROGRAM.

Sections 1118 through 1127 are amended to read as follows:

''SEC. 1117A. ACADEMIC ACHIEVEMENT AWARDS PROGRAM.

''(a) ESTABLISHMENT OF ACADEMIC ACHIEVEMENT AWARDS PROGRAM.—

''(1) IN GENERAL.—Each State receiving a grant under this part may establish a program for making academic achievement awards to recognize and financially reward schools served under this part that have—

''(A) significantly closed the achievement gap between the groups of students defined in section 1111(b)(2); or

''(B) exceeded their adequate yearly progress goals, consistent with section 1111(b)(2), for 2 or more consecutive years.

''(2) AWARDS TO TEACHERS.—A State program under paragraph (1) may also recognize and provide financial awards to teachers teaching in a school described in such paragraph whose students consistently make significant gains in academic achievement in the areas in which the teacher provides instruction.

''(b) FUNDING.—

''(1) RESERVATION OF FUNDS BY STATE.—For the purpose of carrying out this section, each State receiving a grant under this part may reserve, from the amount (if any) by which the funds received by the State under this part for a fiscal year exceed the amount received by the State under this part for the preceding fiscal year, not more than 30 percent of such excess amount.

''(2) USE WITHIN 3 YEARS.—Notwithstanding any other provision of law, the amount reserved under paragraph (1) by a State for each fiscal year shall remain available to the State until expended for a period not exceeding 3 years.

''(3) SPECIAL ALLOCATION RULE FOR SCHOOLS IN HIGH-POVERTY AREAS.—

''(A) IN GENERAL.—Each State receiving a grant under this part shall distribute at least 75 percent of the amount reserved under paragraph (1) for each fiscal year to schools described in subparagraph (B), or to teachers teaching in such schools.

''(B) SCHOOL DESCRIBED.—A school described in subparagraph (A) is a school whose student population is in the highest quartile of schools statewide in terms of the percentage of children from low income families.

''SEC. 1118. PARENTAL INVOLVEMENT.

''(a) LOCAL EDUCATIONAL AGENCY POLICY.—

''(1) IN GENERAL.—A local educational agency may receive funds under this part only if such agency implements programs, activities, and procedures for the involvement of parents in programs assisted under this part consistent with the provisions of this section. Such activities shall be planned and implemented with meaningful consultation with parents of participating children.

''(2) WRITTEN POLICY.—Each local educational agency that receives funds under this part shall develop jointly with, agree upon with, and distribute to, parents of participating children a written parent involvement policy that is incorporated into the local educational agency's plan developed under section 1112, establishes the expectations for parent involvement, and describes how the local educational agency will—

''(A) involve parents in the joint development of the plan under section 1112, and the process of school review and improvement under section 1116;

''(B) provide the coordination, technical assistance, and other support necessary to assist participating schools in planning and implementing effective parent involvement;

''(C) build the schools' and parents' capacity for strong parent involvement as described in subsection (e);

''(D) coordinate and integrate parental involvement strategies under this part with parental involvement strategies under other programs, such as Head Start, Early Reading First, Reading First, Even Start, the Parents as Teachers Program, the Home Instruction Program for Preschool Youngsters, and State-run preschool programs;

''(E) conduct, with the involvement of parents, an annual evaluation of the content and effectiveness of the parental involvement policy in improving the academic quality of the schools served under this part; and

''(F) involve parents in the activities of the schools served under this part.

''(3) RESERVATION.—

''(A) IN GENERAL.—Each local educational agency shall reserve not less than 1 percent of such agency's allocation under this part to carry out this section, including family literacy and parenting skills, except that this paragraph shall not apply if 1 percent of such agency's allocation under this part (other than funds allocated under section 1002(g) for the fiscal year for which the determination is made is $5,000 or less.

''(B) PARENTAL INPUT.—Parents of children receiving services under this part shall be involved in the decisions regarding how funds reserved under subparagraph (A) are allotted for parental involvement activities.

''(C) DISTRIBUTION OF FUNDS.—Not less than 95 percent of the funds reserved under subparagraph (A) shall be distributed to schools served under this part.

''(b) SCHOOL PARENTAL INVOLVEMENT POLICY.—

''(1) IN GENERAL.—Each school served under this part shall jointly develop with, and distribute to, parents of participating children a written parental involvement policy, agreed upon by such parents, that shall describe the means for carrying out the requirements of subsections (c) through (f). Parents shall be notified of the policy in a format, and to the extent practicable in a language they can understand. Such policy shall be updated periodically to meet the changing needs of parents and the school.

''(2) SPECIAL RULE.—If the school has a parental involvement policy that applies to all parents, such school may amend that policy, if necessary, to meet the requirements of this subsection.

''(3) AMENDMENT.—If the local educational agency has a school district-level parental involvement policy that applies to all parents, such agency may amend that policy, if necessary, to meet the requirements of this subsection.

''(4) PARENTAL COMMENTS.—If the plan under section 1112 is not satisfactory to the parents of participating children, the local educational agency shall submit any parent comments with such plan when such local educational agency submits the plan to the State.

''(c) POLICY INVOLVEMENT.—Each school served under this part shall—

''(1) convene an annual meeting, at a convenient time, to which all parents of participating children shall be invited and encouraged to attend, to inform parents of their school's participation under this part and to explain this part, its requirements, and their right to be involved;

''(2) offer a flexible number of meetings, such as meetings in the morning or evening, and may provide, with funds provided under this part, transportation, child care, or home visits, as such services relate to parental involvement;

''(3) involve parents, in an organized, ongoing, and timely way, in the planning, review, and improvement of programs under this part, including the school parental involvement policy and the joint development of the schoolwide program plan under section 1114(c)(2) and (c)(3), except that if a school has in place a process for involving parents in the joint planning and design of its programs, the school may use that process, if such process includes an adequate representation of parents of participating children;

''(4) provide parents of participating children—

''(A) timely information about programs under this part;

''(B) a description and explanation of the curriculum in use at the school, the forms of academic assessment used to measure student progress, and the proficiency levels students are expected to meet; and

''(5) if the schoolwide program plan under section 1114(c)(2) and (c)(3) is not satisfactory to the parents of participating children, submit any parent comments on the plan when the school makes the plan available to the local educational agency.

''(d) SHARED RESPONSIBILITIES FOR HIGH STUDENT PERFORMANCE.—As a component of the school-level parental involvement policy developed under subsection (b), each school served under this part shall agree with parents of children served under this part regarding how parents, the entire school staff, and students will share the responsibility for improved student achievement and the means by which the school and parents will build and develop a partnership to help children achieve the State's high academic standards.

''(e) BUILDING CAPACITY FOR INVOLVEMENT.—To ensure effective involvement of parents and to support a partnership among the school, parents, and the community to improve student achievement, each school and local educational agency—

''(1) shall provide assistance to participating parents in such areas as understanding the State's academic content standards and State student academic achievement standards, State and local academic assessments, the requirements of this part, and how to monitor a child's progress and work with educators to improve the performance of their children;

''(2) shall provide materials and training to help parents to work with their children to improve their children's achievement;

''(3) shall educate teachers, pupil services personnel, principals and other staff, with the assistance of parents, in the value and utility of contributions of parents, and in how to reach out to, communicate with, and work with parents as equal partners, implement and coordinate parent programs, and build ties between parents and the school;

''(4) shall coordinate and integrate parent involvement programs and activities with Head Start, Reading First, Early Reading First, Even Start, the Home Instruction Programs for Preschool Youngsters, the Parents as Teachers Program, and public preschool programs and other programs, to the extent feasible and appropriate;

''(5) shall ensure, to the extent possible, that information related to school and parent programs, meetings, and other activities is sent to the parents of participating children in the language used by such parents;

''(6) may involve parents in the development of training for teachers, principals, and other educators to improve the effectiveness of such training in improving instruction and services to the children of such parents in a format, and to the extent practicable, in a language the parent can understand;

''(7) may provide necessary literacy training from funds received under this part if the local educational agency has exhausted all other reasonably available sources of funding for such activities;

''(8) may pay reasonable and necessary expenses associated with local parental involvement activities, including transportation and child care costs, to enable parents to participate in school-related meetings and training sessions;

''(9) may train parents to enhance the involvement of other parents;

''(10) may arrange for teachers or other educators, who work directly with participating children, to conduct in-home conferences with parents who are unable to attend such conferences at school;

''(11) may adopt and implement model approaches to improving parental involvement;

''(12) may establish a districtwide parent advisory council to provide advice on all matters related to parental involvement in programs supported under this part;

''(13) may develop appropriate roles for community-based organizations and businesses in parent involvement activities; and

''(14) may arrange for teachers or other educators, who work directly with participating children, to conduct in-home conferences with parents who are unable to attend such conferences at school.

''(f) ACCESSIBILITY.—In carrying out the parental involvement requirements of this part, local educational agencies and schools, to the extent practicable, shall provide full opportunities for the participation of parents with limited English proficiency or with disabilities and parents of migratory children, including providing information and school reports required under section 1111 in a format, and to the extent practicable, in a language such parents understand.

"SEC. 1119. QUALIFICATIONS FOR TEACHERS AND PARAPROFESSIONALS.

''(a) TEACHERS.—

''(1) IN GENERAL.—Each local educational agency receiving assistance under this part shall ensure that all teachers hired on or after the effective date of the No Child Left Behind Act of 2001 and teaching in a program supported with funds under this part are fully qualified.

''(2) PLAN.—Each State receiving assistance under this part shall develop and submit to the Secretary a plan to ensure that all teachers teaching within the State are fully qualified not later than December 31, 2005. Such plan shall include an assurance that the State will require each local educational agency and school receiving funds under this part publicly to report their annual progress on the agency's and the school's performance in increasing the percentage of classes in core academic areas taught by fully qualified teachers.

''(b) NEW PARAPROFESSIONALS.—

''(1) IN GENERAL.—Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired 1 year or more after the effective date of the No Child Left Behind Act of 2001 and working in a program supported with funds under this part shall—

''(A) have completed at least 2 years of study at an institution of higher education;

''(B) have obtained an associate's (or higher) degree; or

''(C) have met a rigorous standard of quality that demonstrates, through a formal academic assessment—

''(i) knowledge of, and the ability to assist in instructing reading, writing, and math; or

''(ii) knowledge of, and the ability to assist in instructing reading readiness, writing readiness, and math readiness, as appropriate.

''(2) CLARIFICATION.—For purposes of paragraph (1)(C), the receipt of a high school diploma (or its recognized equivalent) shall be necessary but not by itself sufficient to satisfy the requirements of such paragraph.

''(c) EXISTING PARAPROFESSIONALS.—Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired before the date that is 1 year after the effective date of the No Child Left Behind Act of 2001 and working in a program supported with funds under this part shall, not later than 3 years after such effective date, satisfy the requirements of subsection (b).

''(d) EXCEPTIONS FOR TRANSLATION AND PARENTAL INVOLVEMENT ACTIVITIES.—Subsections

(b) and (c) shall not apply to a paraprofessional—

''(1) who is proficient in English and a language other than English and who provides services primarily to enhance the participation of children in programs under this part by acting as a translator; or

''(2) whose duties consist solely of conducting parental involvement activities consistent with section 1118.

''(e) GENERAL REQUIREMENT FOR ALL PARAPROFESSIONALS.—Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals working in a program supported with funds under this part, regardless of the paraprofessional's hiring date, possess a high school diploma or its recognized equivalent.

''(f) DUTIES OF PARAPROFESSIONALS.—

''(1) IN GENERAL.—Each local educational agency receiving assistance under this part shall ensure that a paraprofessional working in a program supported with funds under this part is not assigned a duty inconsistent with this subsection.

''(2) RESPONSIBILITIES PARAPROFESSIONALS MAY BE ASSIGNED.—A paraprofessional described in paragraph (1) may only be assigned—

''(A) to provide one-on-one tutoring for eligible students, if the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher;

''(B) to assist with classroom management, such as organizing instructional and other materials;

''(C) to provide assistance in a computer laboratory;

''(D) to conduct parental involvement activities;

''(E) to provide support in a library or media center;

''(F) to act as a translator; or

''(G) to provide instructional services to students.

''(3) ADDITIONAL LIMITATIONS.—A paraprofessional described in paragraph (1)—

''(A) may not provide any instructional service to a student unless the paraprofessional is working under the direct supervision of a fully qualified teacher; and

''(B) may not provide instructional services to students in the area of reading, writing, or math unless the paraprofessional has demonstrated, through a State or local academic assessment, the ability to effectively carry out reading, writing, or math instruction.

''(g) USE OF FUNDS.—

''(1) PROFESSIONAL DEVELOPMENT.—A local educational agency receiving funds under this part may use such funds to support ongoing training and professional development to assist teachers and paraprofessionals in satisfying the requirements of this section.

''(2) LIMITATION ON USE OF FUNDS FOR PARAPROFESSIONALS.—

''(A) IN GENERAL.—Beginning on and after the effective date of the No Child Left Behind Act of 2001, a local educational agency may not use funds received under this part to fund any paraprofessional hired after such date unless the hiring is to fill a vacancy created by the departure of another paraprofessional funded under this part and such new paraprofessional satisfies the requirements of subsection (b), except as provided in subsection (d).

''(B) EXCEPTION.—Subparagraph (A) shall not apply for a fiscal year to a local educational agency that can demonstrate to the State that all teachers under the jurisdiction of the agency are fully qualified.

''(h) VERIFICATION OF COMPLIANCE.—

''(1) IN GENERAL.—In verifying compliance with this section, each local educational agency at a minimum shall require that the principal of each school operating a program under section 1114 or 1115 annually attest in writing as to whether such school is in compliance with the requirements of this section.

''(2) AVAILABILITY OF INFORMATION.—Copies of attestations under paragraph (1)—

''(A) shall be maintained at each school operating a program under section 1114 or 1115 and at the main office of the local educational agency; and

''(B) shall be available to any member of the general public upon request.

"SEC. 1119A. PROFESSIONAL DEVELOPMENT.

''(a) PURPOSE.—The purpose of this section is to assist each local educational agency receiving assistance under this part in increasing the academic achievement of children served under this part through improved teacher quality.

''(b) PROFESSIONAL DEVELOPMENT ACTIVITIES.—Professional development activities under this section shall—

''(1) give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State or local academic content standards and student academic achievement standards;

''(2) support the recruiting, hiring, and training of fully qualified teachers, including teachers fully qualified through State and local alternative routes;

''(3) advance teacher understanding of effective instructional strategies based on scientifically based research for improving student achievement, at a minimum, in reading or language arts and mathematics;

''(4) be directly related to the curriculum and content areas in which the teacher provides instruction, except this requirement does not apply to activities that instruct in methods of improving student behavior;

''(5) be designed to enhance the ability of a teacher to understand and use the State's academic standards for the subject area in which the teacher provides instruction;

''(6) be tied to scientifically based research demonstrating the effectiveness of such professional development activities or programs in increasing student achievement or substantially increasing the knowledge and teaching skills of teachers;

''(7) be of sufficient intensity and duration (not to include 1-day or short-term workshops and conferences) to have a positive and lasting impact on the teacher's performance in the classroom;

''(8) be developed with extensive participation of teachers, principals, parents, and administrators of schools to be served under this part;

''(9) be designed to give teachers of limited English proficient children, other teachers, and instructional staff the knowledge and skills to provide instruction and appropriate language and academic support services to such children, including the appropriate use of curriculum and academic assessments;

''(10) to the extent appropriate, provide training for teachers in the use of technology so that technology and its applications are effectively used in the classroom to improve teaching and learning in the curriculum and academic content areas in which the teachers provide instruction; and

''(11) as a whole, be regularly evaluated for their impact on increased teacher effectiveness and improved student achievement, with the findings of such evaluations used to improve the quality of professional development.

''(c) ADDITIONAL PROFESSIONAL DEVELOPMENT ACTIVITIES.—Such professional development activities may include—

''(1) instruction in the use of data and academic assessments to inform and instruct classroom practice;

''(2) instruction in ways that teachers, principals, pupil services personnel, and school administrators may work more effectively with parents;

''(3) the forming of partnerships with institutions of higher education to establish school-based teacher training programs that provide prospective teachers and novice teachers with an opportunity to work under the guidance of experienced teachers and college faculty;

''(4) the creation of career ladder programs for paraprofessionals (assisting teachers under this part) to obtain the education necessary for such paraprofessionals to become licensed and certified teachers; and

''(5) instruction in ways to teach special needs children.

''(d) PROGRAM PARTICIPATION.—Each local educational agency receiving assistance under this part may design professional development programs so that—

''(1) all school staff in schools participating in a schoolwide program under section 1114 can participate in professional development activities; and

''(2) all school staff in targeted assistance schools may participate in professional development activities if such participation will result in better addressing the needs of students served under this part.

''(e) PARENTAL PARTICIPATION.—Parents may participate in professional development activities under this part if the school determines that parental participation is appropriate.

''(f) CONSORTIA.—In carrying out such professional development programs, local educational agencies may provide services through consortia arrangements with other local educational agencies, educational service agencies or other local consortia, institutions of higher education, or other public or private institutions or organizations.

''(g) CONSOLIDATION OF FUNDS.—Funds provided under this part that are used for professional development purposes may be consolidated with funds provided under title II of this Act and other sources.

''(h) SPECIAL RULE.—No State educational agency shall require a school or a local educational agency to expend a specific amount of funds for professional development activities under this part, except that this paragraph shall not apply with respect to requirements under section 1116(b)(3)(A)(iii).

"SEC. 1120. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

''(a) GENERAL REQUIREMENT.—

''(1) IN GENERAL.—To the extent consistent with the number of eligible children identified under section 1115(b) in a local educational agency who are enrolled in private elementary and secondary schools, a local educational agency shall, after timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis, special educational services or other benefits under this part (such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) that address their needs, and shall ensure that teachers and families of these students participate, on an equitable basis, in services and activities developed pursuant to sections 1118 and 1119A.

''(2) SECULAR, NEUTRAL, NONIDEOLOGICAL.—Such educational services or other benefits, including materials and equipment, shall be secular, neutral, and nonideological.

''(3) EQUITY.—Educational services and other benefits for such private school children shall be equitable in comparison to services and other benefits for public school children participating under this part, and shall be provided in a timely manner.

''(4) EXPENDITURES.—Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools, which the local educational agency may determine each year or every 2 years.

''(5) PROVISION OF SERVICES.—The local educational agency shall provide services under this

section directly or through contracts with public and private agencies, organizations, and institutions.

''(b) CONSULTATION.—

''(1) IN GENERAL.—To ensure timely and meaningful consultation, a local educational agency shall consult with appropriate private school officials during the design and development of such agency's programs under this part, on issues such as—

''(A) how the children's needs will be identified;

''(B) what services will be offered;

''(C) how, where, and by whom the services will be provided;

''(D) how the services will be academically assessed and how the results of that assessment will be used to improve those services;

''(E) the size and scope of the equitable services to be provided to the eligible private school children, and the amount of funds generated by low-income private school children in each participating attendance area;

''(F) the method or sources of data that are used under subsection (a)(4) and section 1113(c)(2) to determine the number of children from low-income families in participating school attendance areas who attend private schools; and

''(G) how and when the agency will make decisions about the delivery of services to such children, including a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third party providers.

If the local educational agency disagrees with the views of the private school officials on the provision of services, through a contract, the local educational agency shall provide in writing to such private school officials, an analysis of the reasons why the local educational agency has chosen not to use a contractor.

''(2) TIMING.—Such consultation shall include meetings of agency and private school officials and shall occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under this part. Such meetings shall continue throughout implementation and assessment of services provided under this section.

''(3) DISCUSSION.—Such consultation shall include a discussion of service delivery mechanisms a local educational agency can use to provide equitable services to eligible private school children.

''(4) DOCUMENTATION.—Each local educational agency shall maintain in its records and provide to the State educational agency a written affirmation signed by officials of each participating private school that the consultation required by this section has occurred.

''(5) COMPLIANCE.—Private school officials shall have the right to appeal to the State as to whether the consultation provided for in this section was meaningful and timely, and that due consideration was given to the views of private school officials. If the private school wishes to appeal, the basis of the claim of noncompliance with this section by a local educational agency shall be provided to the State, and the local educational agency shall forward the documentation provided in subsection (b)(4) to the State.

''(c) PUBLIC CONTROL OF FUNDS.—

''(1) IN GENERAL.—The control of funds provided under this part, and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds and property.

''(2) PROVISION OF SERVICES.—(A) The provision of services under this section shall be provided—

''(i) by employees of a public agency; or

''(ii) through contract by such public agency with an individual, association, agency, or organization.

''(B) In the provision of such services, such employee, person, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

''(d) STANDARDS FOR A BYPASS.—If a local educational agency is prohibited by law from providing for the participation on an equitable basis of eligible children enrolled in private elementary and secondary schools or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for such participation, as required by this section, the Secretary shall—

''(1) waive the requirements of this section for such local educational agency;

''(2) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 8505 and 8506; and

''(3) in making the determination, consider 1 or more factors, including the quality, size, scope, and location of the program and the opportunity of eligible children to participate.

''(e) CAPITAL EXPENSES.—

''(1) IN GENERAL.—(A) From the amount appropriated for this subsection under section 1002(g) for any fiscal year, each State is eligible to receive an amount that bears the same ratio to the amount so appropriated as the number of private school children who received services under this part in the State in the most recent year for which data satisfactory to the Secretary are available bears to the number of such children in all States in that same year.

''(B) The Secretary shall reallocate any amounts allocated under subparagraph (A) that are not used by a State for the purpose of this subsection to other States on the basis of their respective needs, as determined by the Secretary.

''(2) CAPITAL EXPENSES.—(A) A local educational agency may apply to the State educational agency for payments for capital expenses consistent with this subsection.

''(B) State educational agencies shall distribute such funds under this subsection to local educational agencies based on the degree of need set forth in their respective applications for assistance under this subsection.

''(3) USES OF FUNDS.—Any funds appropriated to carry out this subsection shall be used only for capital expenses incurred to provide equitable services for private school children under this section.

"SEC. 1120A. FISCAL REQUIREMENTS.

''(a) MAINTENANCE OF EFFORT.—A local educational agency may receive funds under this part for any fiscal year only if the State educational agency finds that the local educational agency has maintained its fiscal effort in accordance with section 8501 of this Act.

''(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT, NON-FEDERAL FUNDS.—

''(1) IN GENERAL.—A State or local educational agency shall use funds received under this part only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds.

''(2) SPECIAL RULE.—No local educational agency shall be required to provide services under this part through a particular instructional method or in a particular instructional setting in order to demonstrate such agency's compliance with paragraph (1).

''(c) COMPARABILITY OF SERVICES.—

''(1) IN GENERAL.—(A) Except as provided in paragraphs (4) and (5), a local educational agency may receive funds under this part only if State and local funds will be used in schools served under this part to provide services that, taken as a whole, are at least comparable to services in schools that are not receiving funds under this part.

''(B) If the local educational agency is serving all of such agency's schools under this part, such agency may receive funds under this part only if such agency will use State and local funds to provide services that, taken as a whole, are substantially comparable in each school.

''(C) A local educational agency may meet the requirements of subparagraphs (A) and (B) on a grade-span by grade-span basis or a school-by-school basis.

''(2) WRITTEN ASSURANCE.—(A) A local educational agency shall be considered to have met the requirements of paragraph (1) if such agency has filed with the State educational agency a written assurance that such agency has established and implemented—

''(i) a local educational agency-wide salary schedule;

''(ii) a policy to ensure equivalence among schools in teachers, administrators, and other staff; and

''(iii) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

''(B) For the purpose of subparagraph (A), in the determination of expenditures per pupil from State and local funds, or instructional salaries per pupil from State and local funds, staff salary differentials for years of employment shall not be included in such determinations.

''(C) A local educational agency need not include unpredictable changes in student enrollment or personnel assignments that occur after the beginning of a school year in determining comparability of services under this subsection.

''(3) PROCEDURES AND RECORDS.—Each local educational agency assisted under this part shall—

''(A) develop procedures for compliance with this subsection; and

''(B) maintain records that are updated biennially documenting such agency's compliance with this subsection.

''(4) INAPPLICABILITY.—This subsection shall not apply to a local educational agency that does not have more than 1 building for each grade span.

''(5) COMPLIANCE.—For the purpose of determining compliance with paragraph (1), a local educational agency may exclude State and local funds expended for—

''(A) English language instruction for children of limited English proficiency; and

''(B) excess costs of providing services to children with disabilities as determined by the local educational agency.

''(d) EXCLUSION OF FUNDS.—For the purpose of complying with subsections (b) and (c), a State or local educational agency may exclude supplemental State or local funds expended in any school attendance area or school for programs that meet the intent and purposes of this part.

"SEC. 1120B. COORDINATION REQUIREMENTS.

''(a) IN GENERAL.—Each local educational agency receiving assistance under this part shall carry out the activities described in subsection (b) with Head Start Agencies, and if feasible, other early childhood development programs such as Early Reading First.

''(b) ACTIVITIES.—The activities referred to in subsection (a) are activities that increase coordination between the local educational agency and a Head Start agency, and, if feasible, other early childhood development programs, such as Early Reading First serving children who will attend the schools of such agency, including—

''(1) developing and implementing a systematic procedure for receiving records regarding such children transferred with parental consent from a Head Start program or, where applicable, other early childhood development programs such as Early Reading First;

''(2) establishing channels of communication between school staff and their counterparts in such Head Start agencies (including teachers, social workers, and health staff) or other early

childhood development programs such as Early Reading First, as appropriate, to facilitate coordination of programs;

''(3) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start teachers or, if appropriate, teachers from other early childhood development programs such as Early Reading First, to discuss the developmental and other needs of individual children;

''(4) organizing and participating in joint transition related training of school staff, Head Start staff, Early Reading First staff and, where appropriate, other early childhood staff; and

''(5) linking the educational services provided in such local educational agency with the services provided in local Head Start agencies and Early Reading First programs.

''(c) COORDINATION OF REGULATIONS.—The Secretary shall work with the Secretary of Health and Human Services to coordinate regulations promulgated under this part with regulations promulgated under the Head Start Act.

"Subpart 2—Allocations

"SEC. 1121. GRANTS FOR THE OUTLYING AREAS AND THE SECRETARY OF THE INTERIOR.

''(a) RESERVATION OF FUNDS.—From the amount appropriated for payments to States for any fiscal year under section 1002(a), the Secretary shall reserve a total of 1 percent to provide assistance to—

''(1) the outlying areas in the amount determined in accordance with subsection (b); and

''(2) the Secretary of the Interior in the amount necessary to make payments pursuant to subsection (d).

''(b) ASSISTANCE TO OUTLYING AREAS.—

''(1) FUNDS RESERVED.—From the amount made available for any fiscal year under subsection (a), the Secretary shall award grants to the outlying areas.

''(2) COMPETITIVE GRANTS.—For each of fiscal years 2002 and 2003, the Secretary shall carry out the competition described in paragraph (3), except that the amount reserved to carry out such competition shall not exceed the amount reserved under this section for the freely associated states for fiscal year 1999.

''(3) LIMITATION FOR COMPETITIVE GRANTS.—

''(A) COMPETITIVE GRANTS.—The Secretary shall use funds described in paragraph (2) to award grants, on a competitive basis, to the outlying areas and freely associated States to carry out the purposes of this part.

''(B) AWARD BASIS.—The Secretary shall award grants under subparagraph (A) on a competitive basis, pursuant to the recommendations of the Pacific Region Educational Laboratory in Honolulu, Hawaii.

''(C) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the amount reserved for grants under this paragraph to pay the administrative costs of the Pacific Region Educational Laboratory under subparagraph (B).

''(4) SPECIAL RULE.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to the freely associated States under this section.

''(c) DEFINITIONS.—For the purposes of subsections (a) and (b)—

''(1) the term 'freely associated States' means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau; and

''(2) the term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(d) ALLOTMENT TO THE SECRETARY OF THE INTERIOR.—

''(1) IN GENERAL.—The amount allotted for payments to the Secretary of the Interior under subsection (a)(2) for any fiscal year shall be, as determined pursuant to criteria established by the Secretary, the amount necessary to meet the special educational needs of—

''(A) Indian children on reservations served by elementary and secondary schools for Indian children operated or supported by the Department of the Interior; and

''(B) out-of-State Indian children in elementary and secondary schools in local educational agencies under special contracts with the Department of the Interior.

''(2) PAYMENTS.—From the amount allotted for payments to the Secretary of the Interior under subsection (a)(2), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this part, with respect to out-of-State Indian children described in paragraph (1). The amount of such payment may not exceed, for each such child, the greater of—

''(A) 40 percent of the average per-pupil expenditure in the State in which the agency is located; or

''(B) 48 percent of such expenditure in the United States.

"SEC. 1122. AMOUNTS FOR BASIC GRANTS, CONCENTRATION GRANTS, AND TARGETED GRANTS.

''(a) ALLOCATION FORMULA.—Of the amount appropriated to carry out this part for each of fiscal years 2002 through 2006 (referred to in this subsection as the current fiscal year)—

''(1) an amount equal to the amount appropriated to carry out section 1124 for fiscal year 2001 shall be allocated in accordance with section 1124;

''(2) an amount equal to the amount appropriated to carry out section 1124A for fiscal year 2001 shall be allocated in accordance with section 1124A; and

''(3) an amount equal to 100 percent of the amount, if any, by which the amount appropriated under section 1002(a) for the current fiscal year exceeds the amount appropriated under such section for fiscal year 2001 shall be allocated in accordance with section 1125.

''(b) ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS.—

''(1) IN GENERAL.—If the sums available under this part for any fiscal year are insufficient to pay the full amounts that all local educational agencies in States are eligible to receive under sections 1124, 1124A, and 1125 for such year, the Secretary shall ratably reduce the allocations to such local educational agencies, subject to subsections (c) and (d) of this section.

''(2) ADDITIONAL FUNDS.—If additional funds become available for making payments under sections 1124, 1124A, and 1125 for such fiscal year, allocations that were reduced under paragraph (1) shall be increased on the same basis as they were reduced.

''(c) HOLD-HARMLESS AMOUNTS.—

''(1) AMOUNTS FOR SECTIONS 1124 AND 1125.—For each fiscal year, the amount made available to each local educational agency under each of sections 1124 and 1125 shall be—

''(A) not less than 95 percent of the amount made available in the preceding fiscal year if the number of children counted for grants under section 1124 is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, in the local educational agency;

''(B) not less than 90 percent of the amount made available in the preceding fiscal year if the percentage described in subparagraph (A) is between 15 percent and 30 percent; and

''(C) not less than 85 percent of the amount made available in the preceding fiscal year if the percentage described in subparagraph (A) is below 15 percent.

''(2) AMOUNT FOR SECTION 1124A.—The amount made available to each local educational agency under section 1124A shall be not less than 85 percent of the amount made available in the preceding fiscal year.

''(3) PAYMENTS.—If sufficient funds are appropriated, the amounts described in paragraph (2) shall be paid to all local educational agencies that received grants under section 1124A for the preceding fiscal year, regardless of whether the local educational agency meets the minimum eligibility criteria for that fiscal year provided in section 1124A(a)(1)(A) except that a local educational agency that does not meet such minimum eligibility criteria for 4 consecutive years shall no longer be eligible to receive a hold harmless amount referred to in paragraph (2).

''(4) POPULATION DATA.—In any fiscal year for which the Secretary calculates grants on the basis of population data for counties, the Secretary shall apply the hold harmless percentages in paragraphs (1) and (2) to counties, and if the Secretary's allocation for a county is not sufficient to meet the hold-harmless requirements of this subsection for every local educational agency within that county, the State educational agency shall reallocate funds proportionately from all other local educational agencies in the State that are receiving funds in excess of the hold harmless amounts specified in this subsection.

''(d) RATABLE REDUCTIONS.—

''(1) IN GENERAL.—If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under subsection (c) for such year, the Secretary shall ratably reduce such amounts for such year.

''(2) ADDITIONAL FUNDS.—If additional funds become available for making payments under subsection (c) for such fiscal year, amounts that were reduced under paragraph (1) shall be increased on the same basis as such amounts were reduced.

''(e) DEFINITION.—For the purpose of this section and sections 1124, 1124A, and 1125, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 1124. BASIC GRANTS TO LOCAL EDUCATIONAL AGENCIES.

''(a) AMOUNT OF GRANTS.—

''(1) GRANTS FOR LOCAL EDUCATIONAL AGENCIES AND PUERTO RICO.—Except as provided in paragraph (4) and in section 1126, the grant that a local educational agency is eligible to receive under this section for a fiscal year is the amount determined by multiplying—

''(A) the number of children counted under subsection (c); and

''(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this subparagraph shall not be less than 32 percent or more than 48 percent, of the average per-pupil expenditure in the United States.

''(2) CALCULATION OF GRANTS.—

''(A) ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—The Secretary shall calculate grants under this section on the basis of the number of children counted under subsection (c) for local educational agencies, unless the Secretary and the Secretary of Commerce determine that some or all of those data are unreliable or that their use would be otherwise inappropriate, in which case—

''(i) the 2 Secretaries shall publicly disclose the reasons for their determination in detail; and

''(ii) paragraph (3) shall apply.

''(B) ALLOCATIONS TO LARGE AND SMALL LOCAL EDUCATIONAL AGENCIES.—(i) For any fiscal year in which this paragraph applies, the Secretary shall calculate grants under this section for each local educational agency.

''(ii) The amount of a grant under this section for each large local educational agency shall be the amount determined under clause (i).

''(iii) For small local educational agencies, the State educational agency may either—

''(I) distribute grants under this section in amounts determined by the Secretary under clause (i); or

''(II) use an alternative method approved by the Secretary to distribute the portion of the

State's total grants under this section that is based on those small agencies.

''(iv) An alternative method under clause (iii)(II) shall be based on population data that the State educational agency determines best reflect the current distribution of children in poor families among the State's small local educational agencies that meet the eligibility criteria of subsection (b).

''(v) If a small local educational agency is dissatisfied with the determination of its grant by the State educational agency under clause (iii)(II), it may appeal that determination to the Secretary, who shall respond not later than 45 days after receipt of such appeal.

''(vi) As used in this subparagraph—

''(I) the term 'large local educational agency' means a local educational agency serving an area with a total population of 20,000 or more; and

''(II) the term 'small local educational agency' means a local educational agency serving an area with a total population of less than 20,000.

''(3) ALLOCATIONS TO COUNTIES.—

''(A) CALCULATION.—For any fiscal year to which this paragraph applies, the Secretary shall calculate grants under this section on the basis of the number of children counted under section 1124(c) for counties, and State educational agencies shall suballocate county amounts to local educational agencies, in accordance with regulations issued by the Secretary.

''(B) DIRECT ALLOCATIONS.—In any State in which a large number of local educational agencies overlap county boundaries, or for which the State believes it has data that would better target funds than allocating them by county, the State educational agency may apply to the Secretary for authority to make the allocations under this part for a particular fiscal year directly to local educational agencies without regard to counties.

''(C) ASSURANCES.—If the Secretary approves the State educational agency's application under subparagraph (B), the State educational agency shall provide the Secretary an assurance that such allocations shall be made—

''(i) using precisely the same factors for determining a grant as are used under this part; or

''(ii) using data that the State educational agency submits to the Secretary for approval that more accurately target poverty.

''(D) APPEAL.—The State educational agency shall provide the Secretary an assurance that it shall establish a procedure through which a local educational agency that is dissatisfied with its determinations under subparagraph (B) may appeal directly to the Secretary for a final determination.

''(4) PUERTO RICO.—

''(A) IN GENERAL.—For each fiscal year, the grant which the Commonwealth of Puerto Rico shall be eligible to receive under this section shall be the amount determined by multiplying the number of children counted under subsection (c) for the Commonwealth of Puerto Rico by the product of—

''(i) the percentage which the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

''(ii) 32 percent of the average per-pupil expenditure in the United States.

''(B) MINIMUM PERCENTAGE.—The percentage in subparagraph (A)(i) shall not be less than—

''(i) for fiscal year 2002, 77.5 percent;

''(ii) for fiscal year 2003, 80.0 percent;

''(iii) for fiscal year 2004, 82.5 percent; and

''(iv) for fiscal year 2005 and succeeding fiscal years, 85.0 percent.

''(C) LIMITATION.—If the application of subparagraph (B) would result in any of the 50 States or the District of Columbia receiving less under this part than it received under this part for the preceding fiscal year, the percentage in subparagraph (A) shall be the greater of the percentage in subparagraph (A)(i) or the percentage used for the preceding fiscal year.

''(5) DEFINITION.—For purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands.

''(b) MINIMUM NUMBER OF CHILDREN TO QUALIFY.—A local educational agency is eligible for a basic grant under this section for any fiscal year only if the number of children counted under subsection (c) for that agency is both—

''(1) 10 or more; and

''(2) more than 2 percent of the total school-age population in the agency's jurisdiction.

''(c) CHILDREN TO BE COUNTED.—

''(1) CATEGORIES OF CHILDREN.—The number of children to be counted for purposes of this section is the aggregate of—

''(A) the number of children aged 5 to 17, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2);

''(B) the number of children (determined under paragraph (4) for either the preceding year as described in that paragraph, or for the second preceding year, as the Secretary finds appropriate) aged 5 to 17, inclusive, in the school district of such agency in institutions for neglected and delinquent children (other than such institutions operated by the United States), but not counted pursuant to subpart 1 of part D for the purposes of a grant to a State agency, or being supported in foster homes with public funds; and

''(C) the number of children aged 5 to 17, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (4).

''(2) DETERMINATION OF NUMBER OF CHILDREN.—For the purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families below the poverty level on the basis of the most recent satisfactory data, described in paragraph (3), available from the Department of Commerce. The District of Columbia and the Commonwealth of Puerto Rico shall be treated as individual local educational agencies. If a local educational agency contains 2 or more counties in their entirety, then each county will be treated as if such county were a separate local educational agency for purposes of calculating grants under this part. The total of grants for such counties shall be allocated to such a local educational agency, which local educational agency shall distribute to schools in each county within such agency a share of the local educational agency's total grant that is no less than the county's share of the population counts used to calculate the local educational agency's grant.

''(3) POPULATION UPDATES.—In fiscal year 2001 and every 2 years thereafter, the Secretary shall use updated data on the number of children, aged 5 to 17, inclusive, from families below the poverty level for local educational agencies or counties, published by the Department of Commerce, unless the Secretary and the Secretary of Commerce determine that use of the updated population data would be inappropriate or unreliable. If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in this paragraph are inappropriate or unreliable, they shall publicly disclose their reasons. In determining the families which are below the poverty level, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census, in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics.

''(4) OTHER CHILDREN TO BE COUNTED.—For the purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under a State program funded under part A of title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics. The Secretary shall determine the number of such children and the number of children aged 5 through 17 living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to the Secretary before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to the Secretary at the time of such determination. The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year. For the purpose of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

''(5) ESTIMATE.—When requested by the Secretary, the Secretary of Commerce shall make a special updated estimate of the number of children of such ages who are from families below the poverty level (as determined under subparagraph (A) of this paragraph) in each school district, and the Secretary is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information.

''(d) STATE MINIMUM.—Notwithstanding section 1122, the aggregate amount allotted for all local educational agencies within a State may not be less than the lesser of—

''(1) 0.25 percent of total grants under this section; or

''(2) the average of—

''(A) one-quarter of 1 percent of the total amount available for such fiscal year under this section; and

''(B) the number of children in such State counted under subsection (c) in the fiscal year multiplied by 150 percent of the national average per-pupil payment made with funds available under this section for that year.

"SEC. 1124A. CONCENTRATION GRANTS TO LOCAL EDUCATIONAL AGENCIES.

''(a) ELIGIBILITY FOR AND AMOUNT OF GRANTS.—

''(1) IN GENERAL.—(A) Except as otherwise provided in this paragraph, each local educational agency, in a State other than Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, which is eligible for a grant under section 1124 for any fiscal year is eligible for an additional grant under this section for that fiscal year if the number of children counted under section 1124(c) in the agency exceeds either—

''(i) 6,500; or

''(ii) 15 percent of the total number of children aged 5 through 17 in the agency.

''(B) Notwithstanding section 1122, no State described in subparagraph (A) shall receive less than the lesser of—

''(i) 0.25 percent of total grants; or

''(ii) the average of—

''(I) one-quarter of 1 percent of the sums available to carry out this section for such fiscal year; and

''(II) the greater of—

''(aa) $340,000; or

''(bb) the number of children in such State counted for purposes of this section in that fiscal year multiplied by 150 percent of the national average per-pupil payment made with funds available under this section for that year.

''(2) SPECIAL RULE.—For each county or local educational agency eligible to receive an additional grant under this section for any fiscal year the Secretary shall determine the product of—

''(A) the number of children counted under section 1124(c) for that fiscal year; and

''(B) the quotient resulting from the division of the amount determined for those agencies under section 1124(a)(1) for the fiscal year for which the determination is being made divided by the total number of children counted under section 1124(c) for that agency for that fiscal year.

''(3) AMOUNT.—The amount of the additional grant for which an eligible local educational agency or county is eligible under this section for any fiscal year shall be an amount which bears the same ratio to the amount available to carry out this section for that fiscal year as the product determined under paragraph (2) for such local educational agency for that fiscal year bears to the sum of such products for all local educational agencies in the United States for that fiscal year.

''(4) LOCAL ALLOCATIONS.—(A) Grant amounts under this section shall be determined in accordance with section 1124(a)(2) and (3).

''(B) For any fiscal year for which the Secretary allocates funds under this section on the basis of counties, a State may reserve not more than 2 percent of its allocation under this section to make grants to local educational agencies that meet the criteria of paragraph (1)(A)(i) or (ii) and are in ineligible counties that do not meet these criteria.

''(b) STATES RECEIVING MINIMUM GRANTS.—In States that receive the minimum grant under subsection (a)(1)(B), the State educational agency shall allocate such funds among the local educational agencies in each State either—

''(1) in accordance with paragraphs (2) and (4) of subsection (a); or

''(2) based on their respective concentrations and numbers of children counted under section 1124(c), except that only those local educational agencies with concentrations or numbers of children counted under section 1124(c) that exceed the statewide average percentage of such children or the statewide average number of such children shall receive any funds on the basis of this paragraph.

''SEC. 1125. TARGETED GRANTS TO LOCAL EDUCATIONAL AGENCIES.

''(a) ELIGIBILITY OF LOCAL EDUCATIONAL AGENCIES.—A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if the number of children in the local educational agency counted under subsection 1124(c), before application of the weighting factor described in subsection (c), is at least 10, and if the number of children counted for grants under section 1124 is at least 5 percent of the total population aged 5 to 17 years, inclusive, in the local educational agency. For each fiscal year for which the Secretary uses county population data to calculate grants, funds made available as a result of applying this subsection shall be reallocated by the State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

''(b) GRANTS FOR LOCAL EDUCATIONAL AGENCIES, THE DISTRICT OF COLUMBIA, AND PUERTO RICO.—

''(1) IN GENERAL.—The amount of the grant that a local educational agency in a State or that the District of Columbia is eligible to receive under this section for any fiscal year shall be the product of—

''(A) the weighted child count determined under subsection (c); and

''(B) the amount in paragraph 1124(a)(1)(B).

''(2) PUERTO RICO.—For each fiscal year, the amount of the grant for which the Commonwealth of Puerto Rico is eligible under this section shall be equal to the number of children counted under subsection (c) for Puerto Rico, multiplied by the amount determined in subparagraph 1124(a)(4).

''(c) WEIGHTED CHILD COUNT.—

''(1) WEIGHTS FOR ALLOCATIONS TO COUNTIES.—

''(A) IN GENERAL.—For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the 2 amounts determined under clause (i) or (ii), as follows:

''(i) BY PERCENTAGE OF CHILDREN.—This amount is determined by adding—

''(I) the number of children determined under section 1124(c) for that county constituting up to 15 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

''(II) the number of such children constituting more than 15 percent, but not more than 19 percent, of such population, multiplied by 1.75;

''(III) the number of such children constituting more than 19 percent, but not more than 24.20 percent, of such population, multiplied by 2.5;

''(IV) the number of such children constituting more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 3.25; and

''(V) the number of such children constituting more than 29.20 percent of such population, multiplied by 4.0.

''(ii) BY NUMBER OF CHILDREN.—This amount is determined by adding—

''(I) the number of children determined under section 1124(c) constituting up to 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

''(II) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 1.5;

''(III) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.0;

''(IV) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 2.5; and

''(V) the number of such children in excess of 93,811 in such population, multiplied by 3.0.

''(B) PUERTO RICO.—Notwithstanding subparagraph (A), the weighted child count for Puerto Rico under this paragraph shall not be greater than the total number of children counted under subsection 1124(c) multiplied by 1.72.

''(2) WEIGHTS FOR ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—

''(A) IN GENERAL.—For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the 2 amounts determined under clauses (i) and (ii), as follows:

''(i) BY PERCENTAGE OF CHILDREN.—This amount is determined by adding—

''(I) the number of children determined under section 1124(c) for that local educational agency constituting up to 15.233 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

''(II) the number of such children constituting more than 15.233 percent, but not more than 22.706 percent, of such population, multiplied by 1.75;

''(III) the number of such children constituting more than 22.706 percent, but not more than 32.213 percent, of such population, multiplied by 2.5;

''(IV) the number of such children constituting more than 32.213 percent, but not more than 41.452 percent, of such population, multiplied by 3.25; and

''(V) the number of such children constituting more than 41.452 percent of such population, multiplied by 4.0.

''(ii) BY NUMBER OF CHILDREN.—This amount is determined by adding—

''(I) the number of children determined under section 1124(c) constituting up to 710, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

''(II) the number of such children between 711 and 2,384, inclusive, in such population, multiplied by 1.5;

''(III) the number of such children between 2,385 and 9,645, inclusive, in such population, multiplied by 2.0;

''(IV) the number of such children between 9,646 and 54,600, inclusive, in such population, multiplied by 2.5; and

''(V) the number of such children in excess of 54,601 in such population, multiplied by 3.0.

''(B) PUERTO RICO.—Notwithstanding subparagraph (A), the weighted child count for Puerto Rico under this paragraph shall not be greater than the total number of children counted under section 1124(c) multiplied by 1.72.

''(d) CALCULATION OF GRANT AMOUNTS.—Grants under this section shall be calculated in accordance with section 1124(a)(2) and (3).

''(e) STATE MINIMUM.—Notwithstanding any other provision of this section or section 1122, from the total amount available for any fiscal year to carry out this section, each State shall be allotted at least the lesser of—

''(1) 0.25 percent of total appropriations; or

''(2) the average of—

''(A) one-quarter of 1 percent of the total amount available to carry out this section; and

''(B) 150 percent of the national average grant under this section per child described in section 1124(c), without application of a weighting factor, multiplied by the State's total number of children described in section 1124(c), without application of a weighting factor.

''SEC. 1126. SPECIAL ALLOCATION PROCEDURES.

''(a) ALLOCATIONS FOR NEGLECTED CHILDREN.—

''(1) IN GENERAL.—If a State educational agency determines that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children who are living in institutions for neglected children as described in subparagraph (B) of section 1124(c)(1), the State educational agency shall, if such agency assumes responsibility for the special educational needs of such children, receive the portion of such local educational agency's allocation under sections 1124, 1124A, and 1125 that is attributable to such children.

''(2) SPECIAL RULE.—If the State educational agency does not assume such responsibility, any other State or local public agency that does assume such responsibility shall receive that portion of the local educational agency's allocation.

''(b) ALLOCATIONS AMONG LOCAL EDUCATIONAL AGENCIES.—The State educational agency may allocate the amounts of grants under sections 1124, 1124A, and 1125 among the affected local educational agencies—

''(1) if 2 or more local educational agencies serve, in whole or in part, the same geographical area;

''(2) if a local educational agency provides free public education for children who reside in the school district of another local educational agency; or

''(3) to reflect the merger, creation, or change of boundaries of 1 or more local educational agencies.

''(c) REALLOCATION.—If a State educational agency determines that the amount of a grant a local educational agency would receive under sections 1124, 1124A, and 1125 is more than such local agency will use, the State educational agency shall make the excess amount available to other local educational agencies in the State that need additional funds in accordance with criteria established by the State educational agency.

''SEC. 1127. CARRYOVER AND WAIVER.

''(a) LIMITATION ON CARRYOVER.—Notwithstanding section 421 of the General Education

Provisions Act or any other provision of law, not more than 15 percent of the funds allocated to a local educational agency for any fiscal year under this subpart (but not including funds received through any reallocation under this subpart) may remain available for obligation by such agency for 1 additional fiscal year.

''(b) WAIVER.—A State educational agency may, once every 3 years, waive the percentage limitation in subsection (a) if—

''(1) the agency determines that the request of a local educational agency is reasonable and necessary; or

''(2) supplemental appropriations for this subpart become available.

''(c) EXCLUSION.—The percentage limitation under subsection (a) shall not apply to any local educational agency that receives less than $50,000 under this subpart for any fiscal year.

''SEC. 1128. SECULAR, NEUTRAL, AND NONIDEOLOGICAL.

''Any school that receives funds under this part shall ensure that educational services or other benefits provided under this part, including materials and equipment, shall be secular, neutral, and nonideological.''.

PART B—STUDENT READING SKILLS IMPROVEMENT GRANTS

SEC. 111. READING FIRST; EARLY READING FIRST.

Part B of title I (20 U.S.C. 6361 et seq.) is amended—

(1) by striking the part heading and inserting the following:

''PART B—STUDENT READING SKILLS IMPROVEMENT GRANTS'';

(2) by redesignating sections 1201 through 1212 as sections 1231 through 1242, respectively; and

(3) by inserting after the part heading the following:

''Subpart 1—Reading First

''SEC. 1201. FINDINGS.

''The Congress finds as follows:

''(1) The 2000 National Assessment of Educational Progress found that 68 percent of fourth grade students in the United States are reading below the proficient level.

''(2) According to the 2000 National Assessment of Educational Progress report on reading, 63 percent of African Americans, 58 percent of Hispanic Americans, 60 percent of children living in poverty, and 47 percent of children in urban schools scored 'below basic' in reading.

''(3) More than ½ of the students placed in special education classes are identified as learning disabled and, for as many as 80 percent of the students so identified, reading is the primary difficulty.

''(4) It is estimated that, at a minimum, 10,000,000 children have difficulty learning to read. 10 to 15 percent of those children eventually drop out of high school, and only 2 percent complete a 4-year program at an institution of higher education.

''(5) It is estimated that the number of children who are typically identified as poor readers can be significantly reduced through the implementation of early identification and prevention programs that are based on scientifically based reading research.

''(6) The report issued by the National Reading Panel in 2000 found that the course of reading instruction that obtains maximum benefits for students includes explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency, and reading comprehension strategies.

''SEC. 1202. PURPOSES.

''The purposes of this subpart are as follows:

''(1) To provide assistance to States and local educational agencies in establishing reading programs for students in grades kindergarten through 3 that are based on scientifically based reading research, in order to ensure that every student can read at grade level or above not later than the end of the third grade.

''(2) To provide assistance to States and local educational agencies in preparing teachers, including special education teachers, through professional development and other support, so the teachers can identify specific reading barriers facing their students and so the teachers have the tools to effectively help their students learn to read.

''(3) To provide assistance to States and local educational agencies in selecting and administering rigorous diagnostic reading and screening assessment tools that are valid and reliable, document the effectiveness of this subpart in improving the reading skills of students, and improve classroom instruction.

''(4) To provide assistance to States and local educational agencies in selecting or developing effective classroom instructional materials, programs, and strategies to implement scientific research-based methods that have been proven to prevent or remediate reading failure.

''(5) To strengthen coordination among schools and early literacy programs in order to improve reading achievement for all children.

''SEC. 1203. FORMULA GRANTS TO STATES.

''(a) IN GENERAL.—

''(1) AUTHORIZATION TO MAKE GRANTS.—In the case of each State that in accordance with section 1204 submits to the Secretary an application for a 5-year period, the Secretary, subject to the application's approval, shall make a grant to the State for the uses specified in subsections (c) and (d). For each fiscal year, the funds provided under the grant shall equal the allotment determined for the State under subsection (b).

''(2) DURATION OF GRANTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), a grant under this section shall be awarded for a period of not more than 5 years.

''(B) INTERIM REVIEW.—

''(i) PROGRESS REPORT.—

''(I) SUBMISSION.—Not later than 60 days after the termination of the third year of the grant period, each State receiving a grant under this section shall submit a progress report to the Secretary.

''(II) INFORMATION INCLUDED.—The progress report shall include information on the progress the State, and local educational agencies within the State, are making in reducing the number of students served under this subpart in the first and second grades who are reading below grade level, as demonstrated by such information as teacher reports and school evaluations of mastery of the essential components of reading instruction. The report shall also include evidence from the State and its local educational agencies that they have significantly increased the number of students reading at grade level or above, significantly increased the percentages of students in ethnic, racial, and low-income populations who are reading at grade level or above, and successfully implemented this subpart.

''(ii) PEER REVIEW.—The progress report described in clause (i) shall be reviewed by the peer review panel convened under section 1204(c)(2).

''(iii) CONSEQUENCES OF INSUFFICIENT PROGRESS.—After the submission of the progress report described in clause (i), if the Secretary determines that the State is not making significant progress in meeting the purposes of this subpart, the Secretary may withhold from the State, in whole or in part, further payments under this section in accordance with section 455 of the General Education Provisions Act (20 U.S.C. 1234d) or take such other action authorized by law as the Secretary deems necessary, including providing technical assistance upon request of the State.

''(b) DETERMINATION OF AMOUNT OF ALLOTMENTS.—

''(1) RESERVATIONS FROM APPROPRIATIONS.—From the total amount made available under section 1002(b)(1) to carry out this subpart for a fiscal year, the Secretary—

''(A) shall reserve ½ of 1 percent for allotments for the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be distributed among these outlying areas on the basis of their relative need, as determined by the Secretary in accordance with the purposes of this subpart;

''(B) shall reserve ½ of 1 percent for the Secretary of the Interior for programs under this subpart in schools operated or funded by the Bureau of Indian Affairs;

''(C) shall reserve not more than 3 percent or $30,000,000, whichever is less, to carry out section 1206;

''(D) may reserve not more than 1 percent to carry out section 1207; and

''(E) shall reserve $5,000,000 to carry out section 1208.

''(2) STATE ALLOTMENTS.—From the total amount made available under section 1002(b)(1) to carry out this subpart for a fiscal year and not reserved under paragraph (1), the Secretary shall allot 80 percent under this section among each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(3) DETERMINATION OF STATE ALLOTMENT AMOUNTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall allot the amount made available under paragraph (2) for a fiscal year among the States described in such paragraph in proportion to the number of children, aged 5 to 17, who reside within the State from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved for the most recent fiscal year for which satisfactory data are available, compared to the number of such individuals who reside in all such States for that fiscal year.

''(B) EXCEPTIONS.—

''(i) IN GENERAL.—Subject to clause (ii), no State receiving an allotment under subparagraph (A) may receive less than ¼ of 1 percent of the total amount allotted under such subparagraph.

''(ii) PUERTO RICO.—The percentage of the amount allotted under subparagraph (A) that is allotted to the Commonwealth of Puerto Rico for a fiscal year may not exceed the percentage that was received by the Commonwealth of Puerto Rico of the funds allocated to all States under subpart 2 of part A for the preceding fiscal year.

''(4) REALLOTMENT.—If a State described in paragraph (2) does not apply for an allotment under this section for any fiscal year, or if the State's application is not approved, the Secretary shall reallot such amount to the remaining States in accordance with paragraph (3).

''(c) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(1) DISTRIBUTION OF SUBGRANTS.—The Secretary may make a grant to a State under this section only if the State agrees to expend at least 80 percent of the amount of the funds provided under the grant for the purpose of making, in accordance with this subsection, competitive subgrants to local educational agencies.

''(2) NOTICE.—A State receiving a grant under this section shall provide notice to all local educational agencies in the State of the availability of competitive subgrants under this subsection and of the requirements for applying for the subgrants.

''(3) LOCAL APPLICATIONS.—To be eligible to receive a subgrant under this subsection, a local educational agency shall submit an application to the State at such time, in such manner, and containing such information as the State may reasonably require.

''(4) LIMITATION TO CERTAIN LOCAL AGENCIES.—A State receiving a grant under this section may award subgrants under this subsection only to local educational agencies—

''(A) that have the highest percentages of students in grades kindergarten through 3 reading below grade level; and

''(B) that—

''(i) have jurisdiction over—

''(I) a geographic area that includes an area designated as an empowerment zone, or an enterprise community, under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986; or

''(II) a significant number of schools that are identified for school improvement under section 1116(b); or

''(ii) are located in areas having the greatest numbers or percentages of children aged 5 through 17 from low-income families.

''(5) STATE REQUIREMENT.—In distributing subgrant funds to local educational agencies under this subsection, a State shall provide funds in sufficient size and scope to enable local educational agencies to improve reading instruction, as determined by rigorous diagnostic reading and screening assessment tools.

''(6) LIMITATION TO CERTAIN SCHOOLS.—In distributing subgrant funds under this subsection, a local educational agency may provide funds only to schools—

''(A) that have the highest percentages of students in grades kindergarten through 3 reading below grade level; and

''(B) that—

''(i) are identified for school improvement under section 1116(b); or

''(ii) have the greatest numbers or percentages of children aged 5 through 17 from low-income families.

''(7) LOCAL USES OF FUNDS.—

''(A) REQUIRED USES.—Subject to paragraph (8), a local educational agency that receives a subgrant under this subsection shall use the funds provided under the subgrant to carry out the following activities:

''(i) Selecting and administering rigorous diagnostic reading and screening assessment tools.

''(ii) Selecting and implementing a program or programs of classroom reading instruction based on scientifically based reading research that—

''(I) includes the essential components of reading instruction; and

''(II) provides such instruction to all children, including children who—

''(aa) may have reading difficulties;

''(bb) are at risk of being referred to special education based on these difficulties;

''(cc) have been evaluated under section 614 of the Individuals with Disabilities Education Act but, in accordance with section 614(b)(5) of such Act, have not been identified as being a child with a disability (as defined in section 602 of such Act);

''(dd) are being served under such Act primarily due to being identified as being a child with a specific learning disability (as defined in section 602 of such Act) related to reading;

''(ee) are deficient in their phonemic awareness, phonics skills, vocabulary development, oral reading fluency, or comprehension strategies; or

''(ff) are identified as having limited English proficiency.

''(iii) Procuring classroom instructional materials based on scientifically based reading research.

''(iv) Providing professional development for teachers of grades kindergarten through 3, and special education teachers of grades kindergarten through 12, that—

''(I) will prepare these teachers in all of the essential components of reading instruction;

''(II) shall include—

''(aa) information, instructional materials, programs, strategies, and approaches based on scientifically based reading research, including early intervention and classroom reading materials and remedial programs and approaches; and

''(bb) instruction in the use of rigorous diagnostic reading and screening assessment tools and other procedures that effectively identify students who may be at risk for reading failure or who are having difficulty reading;

''(III) shall be provided by eligible professional development providers; and

''(IV) will assist teachers in becoming fully qualified in accordance with the requirements of section 1119.

''(B) OPTIONAL USES.—Subject to paragraph (8), a local educational agency that receives a subgrant under this subsection may use the funds provided under the subgrant to carry out the following activities:

''(i) Providing training to parents and other individuals who volunteer to be reading tutors in the essential components of reading instruction.

''(ii) Providing family literacy services, especially to parents enrolled in participating schools, through the use of library materials and reading programs, strategies, and approaches that are based on scientifically based reading research, to encourage reading and support their children's reading development.

''(8) LOCAL PLANNING AND ADMINISTRATION.—A local educational agency that receives a subgrant under this subsection may use not more than 2 percent of the funds provided under the subgrant for planning and administration.

''(d) OTHER STATE USES OF FUNDS.—

''(1) PROFESSIONAL DEVELOPMENT.—

''(A) IN GENERAL.—A State that receives a grant under this section may expend not more than 15 percent of the amount of the funds provided under the grant—

''(i) to develop and implement a program of in-service professional development for teachers of kindergarten through third grade, and special education teachers of grades kindergarten through 12, that—

''(I) will prepare these teachers in all of the essential components of reading instruction;

''(II) shall include—

''(aa) information on interventions, instructional materials, programs, and approaches based on scientifically based reading research, including early intervention and reading remediation materials, programs, and approaches; and

''(bb) instruction in the use of rigorous diagnostic reading and screening assessment tools and other procedures to improve instruction and effectively identify students who may be at risk for reading failure or who are having difficulty reading; and

''(III) shall be provided by eligible professional development providers;

''(ii) to strengthen and enhance professional development courses for students preparing, at all public institutions of higher education in the State, to teach kindergarten through third grades by—

''(I) reviewing such courses to determine whether their content is consistent with the findings of the most current scientifically based reading research, including findings on the essential components of reading instruction;

''(II) following up such reviews with recommendations to ensure that such institutions offer courses that meet the highest standards; and

''(III) preparing a report on the results of such reviews, submitting it to the reading and literacy partnership for the State established under section 1204(d), and making it available for public review via the Internet; and

''(iii) to make recommendations on how the State's licensure and certification standards in the area of reading might be improved.

''(B) FUNDS NOT USED FOR PROFESSIONAL DEVELOPMENT.—Any portion of the funds described in subparagraph (A) that a State does not expend in accordance with such subparagraph shall be expended for the purpose of making subgrants in accordance with subsection (c).

''(2) OTHER STATE-LEVEL ACTIVITIES.—A State that receives a grant under this section may expend not more than 3 percent of the amount of the funds provided under the grant for one or more of the following authorized State activities:

''(A) Assisting local educational agencies in accomplishing the tasks required to design and implement a classroom reading program under this subpart, including—

''(i) selecting and implementing a program or programs of classroom reading instruction based on scientifically based reading research;

''(ii) selecting rigorous diagnostic reading and screening assessment tools; and

''(iii) identifying eligible professional development providers to help prepare reading teachers to teach students using the programs and assessments described in clauses (i) and (ii);

''(B) Providing to students in kindergarten through third grades, through appropriate providers, reading instruction that includes—

''(i) rigorous diagnostic reading and screening assessment tools; and

''(ii) as need is indicated by such assessments, instruction based on scientifically based reading research that includes the essential components of reading instruction.

''(3) PLANNING, ADMINISTRATION, AND REPORTING.—

''(A) IN GENERAL.—A State that receives a grant under this section shall expend not more than 2 percent of the amount of the funds provided under the grant for the activities described in this paragraph.

''(B) PLANNING AND ADMINISTRATION.—A State that receives a grant under this section may expend funds described in subparagraph (A) for—

''(i) planning and administration relating to the State uses of funds authorized under this subpart, including administering the distribution of competitive subgrants to local educational agencies under this section and section 1205; and

''(ii) assessing and evaluating, on a regular basis, local educational agency activities assisted under this subpart, with respect to whether they have been effective in increasing the number of children in first and second grades served under this subpart who can read at or above grade level.

''(C) ANNUAL REPORTING.—

''(i) IN GENERAL.—A State that receives a grant under this section shall expend funds provided under the grant to provide the Secretary annually with a report on the implementation of this subpart. The report shall include evidence that the State is fulfilling its obligations under this subpart. The report shall include a specific identification of those schools and local educational agencies that report the largest gains in reading achievement.

''(ii) PRIVACY PROTECTION.—Data in the report shall be set forth in a manner that protects the privacy of individuals.

''(iii) CONTRACT.—To the extent practicable, a State shall enter into a contract with an entity that conducts scientifically based reading research, under which contract the entity will produce the reports required to be submitted under this subparagraph.

"SEC. 1204. STATE FORMULA GRANT APPLICATIONS.

''(a) IN GENERAL.—A State that desires to receive a grant under section 1203 shall submit an application to the Secretary at such time and in such form as the Secretary may require. The application shall contain the information described in subsection (b).

''(b) CONTENTS.—An application under this section shall contain the following:

''(1) An assurance that the Governor of the State, in consultation with the State educational agency, has established a reading and literacy partnership described in subsection (d), and a description of how such partnership—

''(A) coordinated the development of the application; and

''(B) will assist in the oversight and evaluation of the State's activities under this subpart.

''(2) An assurance that the State will submit to the Secretary, at such time and in such manner as the Secretary may reasonably require, a State plan containing a description of a process—

''(A) to evaluate programs carried out by local educational agencies under this subpart;

''(B) to assist local educational agencies in identifying rigorous diagnostic reading and screening assessment tools; and

''(C) to assist local educational agencies in identifying interventions, and instructional materials, programs and approaches, based on scientifically based reading research, including early intervention and classroom reading materials and remedial programs and approaches.

''(3) An assurance that the State, and local educational agencies in the State, will participate in all national evaluations under this subpart.

''(c) APPROVAL OF APPLICATIONS.—

''(1) IN GENERAL.—The Secretary, in consultation with the peer review panel convened under paragraph (2), shall approve an application of a State under this section if such application meets the requirements of this section.

''(2) PEER REVIEW.—

''(A) IN GENERAL.—The Secretary, in consultation with the National Institute for Literacy, shall convene a panel to evaluate applications under this section. At a minimum, the panel shall include—

''(i) 3 individuals selected by the Secretary;

''(ii) 3 individuals selected by the National Institute for Literacy;

''(iii) 3 individuals selected by the National Research Council of the National Academy of Sciences; and

''(iv) 3 individuals selected by the National Institute of Child Health and Human Development.

''(B) EXPERTS.—The panel shall include experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under this section, and experts who provide professional development to teachers of reading to children and adults, and experts who provide professional development to other instructional staff, based on scientifically based reading research.

''(C) RECOMMENDATIONS.—The panel shall recommend grant applications from States under this section to the Secretary for funding or for disapproval.

''(d) READING AND LITERACY PARTNERSHIPS.—

''(1) IN GENERAL.—In order for a State to receive a grant under section 1203, the Governor of the State, in consultation with the State educational agency, shall establish a reading and literacy partnership.

''(2) REQUIRED PARTICIPANTS.—The reading and literacy partnership shall include the following participants:

''(A) The Governor of the State.

''(B) The chief State school officer.

''(C) The chairman and the ranking member of each committee of the State legislature that is responsible for education policy.

''(D) A representative, selected jointly by the Governor and the chief State school officer, of at least one local educational agency that is eligible to receive a subgrant under section 1203.

''(E) A representative, selected jointly by the Governor and the chief State school officer, of a community-based organization working with children to improve their reading skills, particularly a community-based organization using tutors and scientifically based reading research.

''(F) State directors of appropriate Federal or State programs with a strong reading component.

''(G) A parent of a public or private school student or a parent who educates their child or children in their home, selected jointly by the Governor and the chief State school officer.

''(H) A teacher, who may be a special education teacher, who successfully teaches reading and an instructional staff member, selected jointly by the Governor and the chief State school officer.

''(I) A family literacy service provider selected jointly by the Governor and the chief state school officer.

''(3) OPTIONAL PARTICIPANTS.—The reading and literacy partnership may include additional participants, who shall be selected jointly by the Governor and the chief State school officer, and who may include a representative of—

''(A) an institution of higher education operating a program of teacher preparation based on scientifically based reading research in the State;

''(B) a local educational agency;

''(C) a private nonprofit or for-profit eligible professional development provider providing instruction based on scientifically based reading research;

''(D) an adult education provider;

''(E) a volunteer organization that is involved in reading programs; or

''(F) a school library or a public library that offers reading or literacy programs for children or families.

"SEC. 1205. DISCRETIONARY GRANTS TO STATES.

''(a) IN GENERAL.—In the case of a State that, in accordance with sections 1203 and 1204, has received approval of an application for a 5-year formula grant, the Secretary may make additional 2-year discretionary grants to the State for the use specified in (d). For each fiscal year, the funds provided under the discretionary grant shall equal the allotment determined for the State under subsection (b).

''(b) DETERMINATION OF AMOUNT OF ALLOTMENTS.—From the total amount made available under section 1002(b)(1) to carry out this subpart for a fiscal year and not reserved under paragraph (1), the Secretary, upon the recommendation of the peer review panel convened under section 1204(c)(2), shall allot 20 percent under this section among the States described in subsection (a)—

''(1) for fiscal years 2002 and 2003, based upon a determination of such States' relative likelihood of effectively implementing a program under this subpart; and

''(2) for fiscal year 2004 and subsequent fiscal years, based upon such States' applications under subsection (c).

''(c) STATE DISCRETIONARY GRANT APPLICATIONS.—

''(1) IN GENERAL.—A State that desires to receive a grant under this section for a grant period that includes any fiscal year after fiscal year 2003 shall submit the information described in paragraph (3) to the Secretary at such time and in such form as the Secretary may require.

''(2) PEER REVIEW.—The peer review panel convened under section 1204(c)(2) shall review the information submitted under this subsection. The panel shall recommend such applications to the Secretary for funding or for disapproval.

''(3) INFORMATION.—The information described in this paragraph is the following:

''(A) An assurance that the State will award competitive subgrants to local educational agencies consistent with subsection (d)(4).

''(B) An assurance that the State will ensure that local educational agencies that receive a subgrant under subsection (d) use the funds provided under the subgrant in accordance with subsection (d)(5).

''(C) Evidence that the State has increased significantly the percentage of students reading at grade level or above.

''(D) Evidence that the State has been successful in increasing the percentage of students in ethnic, racial, and low-income populations who are reading at grade level or above.

''(E) Any additional evidence that demonstrates success in the implementation of this subpart.

''(d) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(1) IN GENERAL.—The Secretary may make a grant to a State under this section only if the State agrees to expend 100 percent of the amount of the funds provided under the grant for the purpose of making competitive subgrants in accordance with this subsection to local educational agencies.

''(2) NOTICE.—A State receiving a grant under this section shall provide notice to all local educational agencies in the State of the availability of competitive subgrants under this subsection and of the requirements for applying for the subgrants.

''(3) APPLICATION.—To be eligible to receive a subgrant under this subsection, a local educational agency shall submit an application to the State at such time, in such manner, and containing such information as the State may reasonably require.

''(4) DISTRIBUTION.—

''(A) IN GENERAL.—A State shall distribute subgrants under this section through a competitive process based on relative need and the evidence described in this paragraph.

''(B) EVIDENCE USED IN ALL YEARS.—For all fiscal years, a State shall distribute subgrants under this section based on evidence that a local educational agency—

''(i) satisfies the requirements of section 1203(c)(4);

''(ii) will carry out its obligations under this subpart, particularly paragraph (5); and

''(iii) will work with other local educational agencies in the State that have not received a subgrant under this subsection to assist such non-receiving agencies in increasing the reading achievement of students.

''(C) EVIDENCE USED IN FISCAL YEARS AFTER 2003.—For fiscal year 2004 and subsequent fiscal years, a State shall distribute subgrants under this section based on the evidence described in subparagraph (B) and, in addition, evidence that a local educational agency—

''(i) has significantly increased the percentage of all students reading at grade level or above;

''(ii) has significantly increased the percentage of students in ethnic, racial, and low-income populations who are reading at grade level or above; and

''(iii) has demonstrated success in the implementation of this subpart.

''(5) LOCAL USES OF FUNDS.—A local educational agency that receives a subgrant under this subsection—

''(A) shall use the funds provided under the subgrant to carry out the activities described in section 1203(c)(7)(A); and

''(B) may use such funds to carry out the activities described in section 1203(c)(7)(B).

''(e) DEFINITION.—For purposes of this section, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 1206. EXTERNAL EVALUATION.

''(a) IN GENERAL.—From funds reserved under section 1203(b)(1)(C), the Secretary shall contract with an independent outside organization for a 5-year, rigorous, scientifically valid, quantitative evaluation of this subpart.

''(b) PROCESS.—Such evaluation shall be conducted by an organization outside of the Department that is capable of designing and carrying out an independent evaluation that identifies the effects of specific activities carried out by States and local educational agencies under this subpart on improving reading instruction. Such evaluation shall use only data relating to students served under this subpart and shall take into account factors influencing student performance that are not controlled by teachers or education administrators.

''(c) ANALYSIS.—Such evaluation shall include the following:

''(1) An analysis of the relationship between each of the essential components of reading instruction and overall reading proficiency.

''(2) An analysis of whether assessment tools used by States and local educational agencies measure the essential components of reading instruction.

''(3) An analysis of how State reading standards correlate with the essential components of reading instruction.

''(4) An analysis of whether the receipt of a discretionary grant under section 1205 results in an increase in the number of children who read proficiently.

''(5) A measurement of the extent to which specific instructional materials improve reading proficiency.

''(6) A measurement of the extent to which specific rigorous diagnostic reading and screening assessment tools assist teachers in identifying specific reading deficiencies.

''(7) A measurement of the extent to which professional development programs implemented by States using funds received under this subpart improve reading instruction.

''(8) A measurement of how well students preparing to enter the teaching profession are prepared to teach the essential components of reading instruction.

''(9) An analysis of changes in students' interest in reading and time spent reading outside of school.

''(10) Any other analysis or measurement pertinent to this subpart that is determined to be appropriate by the Secretary.

''(d) PROGRAM IMPROVEMENT.—The findings of the evaluation conducted under this section shall be provided to States and local educational agencies on a periodic basis for use in program improvement.

"SEC. 1207. NATIONAL ACTIVITIES.

''From funds reserved under section 1203(b)(1)(D), the Secretary may provide technical assistance in achieving the purposes of this subpart to States, local educational agencies, and schools requesting such assistance.

"SEC. 1208. INFORMATION DISSEMINATION.

''(a) IN GENERAL.—From funds reserved under section 1203(b)(1)(E), the National Institute for Literacy, in collaboration with the Secretary of Education, the Secretary of Health and Human Services, and the Director of the National Institute for Child Health and Human Development—

''(1) shall disseminate information on scientifically based reading research pertaining to children, youth, and adults;

''(2) shall identify and disseminate information about schools, local educational agencies, and States that effectively developed and implemented classroom reading programs that meet the requirements of this subpart, including those effective States, local educational agencies, and schools identified through the evaluation and peer review provisions of this subpart; and

''(3) shall support the continued identification and dissemination of information on reading programs that contain the essential components of reading instruction as supported by scientifically based reading research, that can lead to improved reading outcomes for children, youth, and adults.

''(b) DISSEMINATION.—

''(1) IN GENERAL.—At a minimum, the National Institute for Literacy shall disseminate such information to—

''(A) recipients of Federal financial assistance under part A of this title, part A of title III, the Head Start Act, the Individuals with Disabilities Education Act, and the Adult Education and Family Literacy Act; and

''(B) each Bureau funded school (as defined in section 1141(3) of the Education Amendments of 1978).

''(2) USE OF EXISTING NETWORKS.—In carrying out this section, the National Institute for Literacy shall, to the extent practicable, utilize existing information and dissemination networks developed and maintained through other public and private entities.

"SEC. 1209. DEFINITIONS.

''For purposes of this subpart:

''(1) ELIGIBLE PROFESSIONAL DEVELOPMENT PROVIDER.—The term 'eligible professional development provider' means a provider of professional development in reading instruction to teachers, including special education teachers, that is based on scientifically based reading research.

''(2) ESSENTIAL COMPONENTS OF READING INSTRUCTION.—The term 'essential components of reading instruction' means explicit and systematic instruction in—

''(A) phonemic awareness;

''(B) phonics;

''(C) vocabulary development;

''(D) oral reading fluency; and

''(E) reading comprehension strategies.

''(3) INSTRUCTIONAL STAFF.—The term 'instructional staff'—

''(A) means individuals who have responsibility for teaching children to read; and

''(B) includes principals, teachers, supervisors of instruction, librarians, library school media specialists, teachers of academic subjects other than reading, and other individuals who have responsibility for assisting children to learn to read.

''(4) READING.—The term 'reading' means a complex system of deriving meaning from print that requires all of the following:

''(A) The skills and knowledge to understand how phonemes, or speech sounds, are connected to print.

''(B) The ability to decode unfamiliar words.

''(C) The ability to read fluently.

''(D) Sufficient background information and vocabulary to foster reading comprehension.

''(E) The development of appropriate active strategies to construct meaning from print.

''(F) The development and maintenance of a motivation to read.

''(5) RIGOROUS DIAGNOSTIC READING AND SCREENING ASSESSMENT TOOLS.—The term 'rigorous diagnostic reading and screening assessment tools' means assessments that—

''(A) are valid, reliable, and based on scientifically based reading research;

''(B) measure progress in developing phonemic awareness and phonics skills, vocabulary, reading fluency, and reading comprehension;

''(C) identify students who may be at risk for reading failure or who are having difficulty reading; and

''(D) are used to improve instruction.

''(6) SCIENTIFICALLY BASED READING RESEARCH.—The term 'scientifically based reading research'—

''(A) means the application of rigorous, systematic, and objective procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading difficulties; and

''(B) shall include research that—

''(i) employs systematic, empirical methods that draw on observation or experiment;

''(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

''(iii) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations; and

''(iv) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

"Subpart 2—Early Reading First

"SEC. 1221. PURPOSES.

''The purposes of this subpart are as follows:

''(1) To improve prereading skills in children aged 3 through 5, particularly children from low-income families, in high-quality oral language and literature-rich environments.

''(2) To provide professional development for early childhood teachers that prepares them with scientific research-based knowledge of early reading development to assist in developing the children's—

''(A) automatic recognition of the letters of the alphabet;

''(B) understanding that spoken words are made up of small segments of speech sounds and that certain letters regularly represent such speech sounds;

''(C) spoken vocabulary and oral comprehension abilities; and

''(D) understanding of semiotic concepts.

''(3) To use scientific research-based screening tools or other appropriate measures to determine whether preschool children are developing the skills identified in this section.

''(4) To identify and provide scientific research-based prereading language and literacy activities and instructional materials that can be used to assist in the development of prereading skills in children.

''(5) To integrate such scientific research-based instructional materials and literacy activities with existing programs of preschools, child care agencies, and Head Start centers, and with family literacy services.

"SEC. 1222. LOCAL EARLY READING FIRST GRANTS.

''(a) PROGRAM AUTHORIZED.—From amounts appropriated under section 1002(b)(2), the Secretary shall make awards, on a competitive basis and for periods of not more than 5 years, to eligible applicants to enable such applicants to carry out activities that are consistent with the purposes of this subpart.

''(b) DEFINITION OF ELIGIBLE APPLICANT.—In this subpart, the term 'eligible applicant' means—

''(1) a local educational agency;

''(2) one or more public or private organizations, acting on behalf of one or more programs that serve children aged 3 through 5 (such as a program at a child care agency or Head Start center or a family literacy program), which organizations shall be located in a community served by a local educational agency; or

''(3) one or more local educational agencies in collaboration with one or more organizations described in paragraph (2).

''(c) APPLICATIONS.—An eligible applicant that desires to receive a grant under this subpart shall submit an application to the Secretary, which shall include a description of—

''(1) the programs to be served by the proposed project, including general demographic and socioeconomic information on the communities in which the proposed project will be administered;

''(2) how the proposed project will enhance the school readiness of children aged 3 through 5 in high-quality oral language and literature-rich environments;

''(3) how the proposed project will provide early childhood teachers with scientific research-based knowledge of early reading development and assist such teachers in developing the children's prereading skills;

''(4) how the proposed project will provide services and utilize instructional materials that are based on scientifically based reading research on early language acquisition, prereading activities, and the development of spoken vocabulary skills;

''(5) how the proposed project will integrate such instructional materials and literacy activities with existing preschool programs and family literacy services;

''(6) how the proposed project will help staff in the programs to meet the diverse needs of children in the community, including children with limited English proficiency and children with learning disabilities;

''(7) how the proposed project will help children, particularly children experiencing difficulty with spoken language, prereading, and early reading skills, to make the transition from preschool to formal classroom instruction in school;

''(8) how the activities conducted under this subpart will be coordinated with the eligible applicant's activities under subpart 1, if the applicant has received a subgrant under such subpart, at the kindergarten through third grade levels;

''(9) how the proposed project will evaluate the success of the activities supported under this subpart in enhancing the early language and reading development of children served by the project; and

''(10) such other information as the Secretary may require.

''(d) APPROVAL OF LOCAL APPLICATIONS.—The Secretary shall select applicants for funding under this subpart based on the quality of the applications and the recommendations of the

peer review panel convened under section 1204(c)(2).

''(e) LOCAL USES OF FUNDS.—

''(1) REQUIRED ACTIVITIES.—An eligible applicant that receives a grant under this subpart shall use the funds provided under the grant to carry out the following activities:

''(A) Providing children aged 3 through 5 with high-quality oral language and literature-rich environments in which to acquire prereading skills.

''(B) Providing professional development for early childhood teachers that prepares them with scientific research-based knowledge of early reading development to assist in developing the children's—

''(i) automatic recognition of the letters of the alphabet;

''(ii) understanding that spoken words are made up of small segments of speech sounds and that certain letters regularly represent such speech sounds;

''(iii) spoken vocabulary and oral comprehension abilities; and

''(iv) understanding of semiotic concepts.

''(C) Identifying and providing scientific research-based prereading language and literacy activities and instructional materials for use in developing the children's—

''(i) automatic recognition of the letters of the alphabet;

''(ii) understanding that spoken words are made up of small segments of speech sounds and that certain letters regularly represent such speech sounds;

''(iii) spoken vocabulary and oral comprehension abilities; and

''(iv) understanding of semiotic concepts.

''(2) OPTIONAL ACTIVITIES.—An eligible applicant that receives a grant under this subpart may use the funds provided under the grant to carry out the following activities:

''(A) Using scientific research-based screening tools or other appropriate measures to determine whether preschool children are developing the skills identified in this subsection.

''(B) Integrating such instructional materials and literacy activities with programs of existing child care agencies, preschools, and Head Start centers, and with family literacy services.

''(f) AWARD AMOUNTS.—The Secretary may establish a maximum award amount, or ranges of award amounts, for grants under this subpart.

"SEC. 1223. FEDERAL ADMINISTRATION.

''The Secretary shall consult with the Secretary of Health and Human Services in order to coordinate the activities undertaken under this subpart with programs under the Head Start Act (42 U.S.C. 9831 et seq.).

"SEC. 1224. REPORTING REQUIREMENTS.

''Each eligible applicant receiving a grant under this subpart shall report annually to the Secretary regarding the eligible applicant's progress in addressing the purposes of this subpart.

"SEC. 1225. EVALUATION.

''From the total amount made available under section 1002(b)(2) for the period beginning October 1, 2002, and ending September 30, 2006, the Secretary shall reserve not more than $1,000,000 to conduct an independent evaluation of the effectiveness of this subpart.

"SEC. 1226. ADDITIONAL RESEARCH.

''From the amount made available under section 1002(b)(2) for each of the fiscal years 2002 through 2006, the Secretary shall reserve not more than $3,000,000 to conduct, in consultation with the National Institute for Child Health and Human Development, the National Institute for Literacy, and the Department of Health and Human Services, additional research on language and literacy development for children aged 3 through 5.''.

SEC. 112. AMENDMENTS TO EVEN START.

Part B of title I (20 U.S.C. 6361 et seq.), as amended by section 111, is further amended—

(1) by inserting before section 1231 (as so redesignated by section 111) the following:

"Subpart 3—William F. Goodling Even Start Family Literacy Programs";

(2) in each of sections 1231 through 1242 (as so redesignated by section 111)—

(A) by striking ''this part'' each place such term appears and inserting ''this subpart''; and

(B) by striking ''1002(b)'' each place such term appears and inserting ''1002(b)(3)'';

(3) in section 1231(4), by striking ''2252)'' and inserting ''1209)'';

(4) in section 1232—

(A) in subsection (b)—

(i) in paragraph (1)(A), by striking ''1209;'' and inserting ''1239;''; and

(ii) in paragraph (2), by striking ''1211(b)'' each place such term appears and inserting ''1241(b)''; and

(B) in subsection (c)—

(i) by amending paragraph (2)(C) to read as follows:

''(C) COORDINATION WITH SUBPART 1.—The consortium shall coordinate its activities with the activities of the reading and literacy partnership for the State established under section 1204(d), if the State receives a grant under section 1203.''; and

(ii) in paragraph (3), by striking ''2252).'' and inserting ''1209).'';

(5) in section 1233—

(A) by striking ''1202(d)(1)'' each place such term appears and inserting ''1232(d)(1)''; and

(B) by striking ''1210.'' and inserting ''1240.'';

(6) in section 1234—

(A) in subsection (b)—

(i) in paragraph (1)(A), by moving the margins of clauses (v) and (vi) 2 ems to the right; and

(ii) in paragraph (3), by striking ''1202(a)(1)(C)'' and inserting ''1232(a)(1)(C)''; and

(B) in subsection (c)—

(i) in paragraph (1)—

(I) by striking ''1203(a),'' and inserting ''1233(a),''; and

(II) by striking ''1203(b)'' and inserting ''1233(b)''; and

(ii) in paragraph (2), by striking ''1210.'' and inserting ''1240.'';

(7) in section 1235—

(A) in paragraph (10), by striking ''2252)'' and inserting ''1209)'';

(B) in paragraph (12), by striking ''2252),'' and inserting ''1209),''; and

(C) in paragraph (15), by striking ''program.'' and inserting ''program to be used for program improvement.'';

(8) in section 1237—

(A) in subsection (c)(1)—

(i) in subparagraph (B), by striking ''1205;'' and inserting ''1235;''; and

(ii) in subparagraph (F), by striking ''14306;'' and inserting ''8306;''; and

(B) in subsection (d), by striking ''14302.'' and inserting ''8302.'';

(9) in section 1238—

(A) in subsection (a)(1)—

(i) in subparagraph (A)(ii), by striking ''1205;'' and inserting ''1235;''; and

(ii) in subparagraph (F), by striking ''1204(b);'' and inserting ''1234(b);''; and

(B) in subsection (b)—

(i) in paragraph (3)—

(I) by striking ''1207(c)(1)(A)'' and inserting ''1237(c)(1)(A)''; and

(II) by striking ''1210.'' and inserting ''1240.'';

(ii) in paragraph (4), by striking ''1210,'' and inserting ''1240,''; and

(iii) in paragraph (5)(B), by striking ''1204(b).'' and inserting ''1234(b).'';

(10) in section 1239—

(A) by striking ''1202(b)(1),'' and inserting ''1232(b)(1),''; and

(B) by striking ''1205(10)'' and inserting ''1235(10)''; and

(11) in section 1241—

(A) in subsection (b)(1)—

(i) by striking ''1202(b)(2),'' and inserting ''1232(b)(2),''; and

(ii) by striking ''2252);'' and inserting ''1209);''; and

(B) in subsection (c), by striking ''2258,'' and inserting ''1208,''.

SEC. 113. INEXPENSIVE BOOK DISTRIBUTION PROGRAM.

(a) TRANSFER AND REDESIGNATION.—Part E of title X (20 U.S.C. 8131) is transferred and redesignated as subpart 4 of part B of title I. Section 10501 is redesignated as section 1251.

(b) PURPOSE.—Section 1251 (as so redesignated) is amended—

(1) by striking subsection (e);

(2) by redesignating subsection (d) as subsection (g);

(3) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively; and

(4) by inserting before subsection (b) (as so redesignated) the following:

''(a) PURPOSE.—The purpose of this program is to establish and implement a model partnership between a governmental entity and a private entity, to help prepare young children for reading, and motivate older children to read, through the distribution of inexpensive books. Local reading motivation programs assisted under this section shall use such assistance to provide books, training for volunteers, motivational activities, and other essential literacy resources, and shall assign the highest priority to serving the youngest and neediest children in the United States.''.

(c) AUTHORIZATION.—Section 1251(b) (as so redesignated) is amended by striking ''books to students, that motivate children to read.'' and inserting ''books to young and school-aged children that motivate them to read.''.

(d) REQUIREMENTS OF CONTRACT.—Section 1251(c) (as so redesignated) is amended—

(1) in the matter preceding paragraph (1), by striking ''subsection (a)'' and inserting ''subsection (b)''; and

(2) in paragraph (4), by inserting ''training and'' before ''technical''.

(e) SPECIAL RULES FOR CERTAIN SUBCONTRACTORS; MULTI-YEAR CONTRACTS.—Section 1251 (as so redesignated) is amended by inserting after subsection (d) the following:

''(e) SPECIAL RULES FOR CERTAIN SUBCONTRACTORS.—

''(1) FUNDS FROM OTHER FEDERAL SOURCES.—Subcontractors operating programs under this section in low-income communities with a substantial number or percentage of children with special needs, as described in subsection (c)(3), may use funds from other Federal sources to pay the non-Federal share of the cost of the program, if those funds do not comprise more than 50 percent of the non-Federal share of the funds used for the cost of acquiring and distributing books.

''(2) WAIVER AUTHORITY.—Notwithstanding subsection (c), the contractor may waive, in whole or in part, the requirement in subsection (c)(1) for a subcontractor, if the subcontractor demonstrates that it would otherwise not be able to participate in the program, and enters into an agreement with the contractor with respect to the amount of the non-Federal share to which the waiver will apply. In a case in which such a waiver is granted, the requirement in subsection (c)(2) shall not apply.

''(f) MULTI-YEAR CONTRACTS.—The contractor may enter into a multi-year subcontract under this section, if—

''(1) the contractor believes that such subcontract will provide the subcontractor with additional leverage in seeking local commitments; and

''(2) the subcontract does not undermine the finances of the national program.''.

(f) CONTINUATION OF AWARDS.—Notwithstanding any other provision of this Act, any person or agency that was awarded a contract under part E of title X (20 U.S.C. 8131) prior to

the date of the enactment of this Act shall continue to receive funds in accordance with the terms of such contract until the date on which the contract period terminates under such terms.

PART C—EDUCATION OF MIGRATORY CHILDREN

SEC. 121. STATE ALLOCATIONS.

Section 1303 (20 U.S.C. 6393) is amended—

(1) by amending subsection (a) to read as follows:

''(a) STATE ALLOCATIONS.—

''(1) FISCAL YEAR 2002.—For fiscal year 2002, each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part an amount equal to—

''(A) the sum of the estimated number of migratory children aged three through 21 who reside in the State full time and the full-time equivalent of the estimated number of migratory children aged three through 21 who reside in the State part time, as determined in accordance with subsection (d); multiplied by

''(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this paragraph shall not be less than 32 percent, nor more than 48 percent, of the average expenditure per pupil in the United States.

''(2) SUBSEQUENT YEARS.—

''(A) BASE AMOUNT.—

''(i) IN GENERAL.—Except as provided in subsection (b) and clause (ii), each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part, for fiscal year 2003 and succeeding fiscal years, an amount equal to—

''(I) the amount that such State received under this part for fiscal year 2002; plus

''(II) the amount allocated to the State under subparagraph (B).

''(ii) NONPARTICIPATING STATES.—In the case of a State (other than the Commonwealth of Puerto Rico) that did not receive any funds for fiscal year 2002 under this part, the State shall receive, for fiscal year 2003 and succeeding fiscal years, an amount equal to—

''(I) the amount that such State would have received under this part for fiscal year 2002 if its application under section 1304 for the year had been approved; plus

''(II) the amount allocated to the State under subparagraph (B).

''(B) ALLOCATION OF ADDITIONAL AMOUNT.—For fiscal year 2003 and succeeding fiscal years, the amount (if any) by which the funds appropriated to carry out this part for the year exceed such funds for fiscal year 2002 shall be allocated to a State (other than the Commonwealth of Puerto Rico) so that the State receives an amount equal to—

''(i) the sum of—

''(I) the number of identified eligible migratory children, aged 3 through 21, residing in the State during the previous year; and

''(II) the number of identified eligible migratory children, aged 3 through 21, who received services under this part in summer or intersession programs provided by the State during such year; multiplied by

''(ii) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this clause may not be less than 32 percent, or more than 48 percent, of the average per-pupil expenditure in the United States.'';

(2) by amending subsection (b) to read as follows:

''(b) ALLOCATION TO PUERTO RICO.—

''(1) IN GENERAL.—For each fiscal year, the grant which the Commonwealth of Puerto Rico shall be eligible to receive under this part shall be the amount determined by multiplying the number of children counted under subsection (a)(1)(A) for the Commonwealth of Puerto Rico by the product of—

''(A) the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States; and

''(B) 32 percent of the average per pupil expenditure in the United States.

''(2) MINIMUM PERCENTAGE.—The percentage in paragraph (1)(A) shall not be less than—

''(A) for fiscal year 2002, 77.5 percent;

''(B) for fiscal year 2003, 80.0 percent;

''(C) for fiscal year 2004, 82.5 percent; and

''(D) for fiscal year 2005 and succeeding fiscal years, 85.0 percent.

''(3) LIMITATION.—If the application of paragraph (2) would result in any of the 50 States or the District of Columbia receiving less under this part than it received under this part for the preceding fiscal year, the percentage in paragraph (1) shall be the greater of the percentage in paragraph (1)(A) or the percentage used for the preceding fiscal year.''; and

(3) by striking subsection (d) and redesignating subsection (e) as subsection (d).

SEC. 122. STATE APPLICATIONS; SERVICES.

(a) PROGRAM INFORMATION.—Section 1304(b) (20 U.S.C. 6394(b)) is amended—

(1) in paragraph (1), by striking ''addressed through'' and all that follows through the semicolon at the end and inserting the following: ''addressed through—

''(A) the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;

''(B) joint planning among local, State, and Federal educational programs serving migrant children, including programs under part A of title III;

''(C) the integration of services available under this part with services provided by those other programs; and

''(D) measurable program goals and outcomes;''; and

(2) in paragraph (5), by striking ''the requirements of paragraph (1);'' and inserting ''the numbers and needs of migratory children, the requirements of subsection (d), and the availability of funds from other Federal, State, and local programs;''.

(b) ASSURANCES.—Section 1304(c) (20 U.S.C. 6394(c)) is amended—

(1) in paragraph (1), by striking ''1306(b)(1);'' and inserting ''1306(a);'';

(2) in paragraph (2), by striking ''part F;'' and inserting ''part H;''

(3) in paragraph (3)—

(A) by striking ''appropriate'';

(B) by striking ''out, to the extent feasible,'' and inserting ''out''; and

(C) by striking ''1118;'' and inserting ''1118, unless extraordinary circumstances make implementation consistent with such section impractical;''; and

(4) in paragraph (7), by striking ''section 1303(e)'' and inserting ''paragraphs (1)(A) and (2)(B)(i) of section 1303(a)''.

SEC. 123. AUTHORIZED ACTIVITIES.

Section 1306 (20 U.S.C. 6396) is amended to read as follows:

''SEC. 1306. AUTHORIZED ACTIVITIES.

''(a) IN GENERAL.—

''(1) FLEXIBILITY.—Each State educational agency, through its local educational agencies, shall have the flexibility to determine the activities to be provided with funds made available under this part, except that such funds shall first be used to meet the identified needs of migratory children that result from their migratory lifestyle, and to permit these children to participate effectively in school.

''(2) UNADDRESSED NEEDS.—Funds provided under this part shall be used to address the needs of migratory children that are not addressed by services available from other Federal or non-Federal programs, except that migratory children who are eligible to receive services under part A of this title may receive those services through funds provided under that part, or through funds under this part that remain after the agency addresses the needs described in paragraph (1).

''(b) CONSTRUCTION.—Nothing in this part shall be construed to prohibit a local educational agency from serving migratory children simultaneously with students with similar educational needs in the same educational settings, where appropriate.

''(c) SPECIAL RULE.—Notwithstanding section 1114, a school that receives funds under this part shall continue to address the identified needs described in subsection (a)(1).''.

SEC. 124. COORDINATION OF MIGRANT EDUCATION ACTIVITIES.

(a) DURATION.—Section 1308(a)(2) (20 U.S.C. 6398(a)(2)) is amended by striking ''subpart'' and inserting ''subsection''.

(b) STUDENT RECORDS.—Section 1308(b) (20 U.S.C. 6398(b)) is amended to read as follows:

''(b) STUDENT RECORDS.—

''(1) ASSISTANCE.—The Secretary shall assist States in developing effective methods for the transfer of student records and in determining the number of migratory children in each State. The Secretary, in consultation with the States, shall determine the minimum data elements that each State receiving funds under this part shall collect and maintain. The Secretary shall assist States to implement a system of linking their student record transfer systems for the purpose of electronic records maintenance and transfer for migrant students.

''(2) NO COST FOR CERTAIN TRANSFERS.—A State educational agency or local educational agency receiving assistance under this part shall make student records available to another State or local educational agency that requests the records at no cost to the requesting agency, if the request is made in order to meet the needs of a migratory child.''.

(c) AVAILABILITY OF FUNDS.—Section 1308(c) (20 U.S.C. 6398(c)) is amended by striking ''$6,000,000'' and inserting ''$10,000,000''.

(d) INCENTIVE GRANTS.—Section 1308(d) (20 U.S.C. 6398(d)) is amended to read as follows:

''(d) INCENTIVE GRANTS.—From the amounts made available to carry out this section for any fiscal year, the Secretary may reserve not more than $3,000,000 to award grants of not more than $250,000 on a competitive basis to State educational agencies that propose a consortium arrangement with another State or other appropriate entity that the Secretary determines, pursuant to criteria that the Secretary shall establish, will improve the delivery of services to migratory children whose education is interrupted.''.

PART D—NEGLECTED OR DELINQUENT YOUTH

SEC. 131. NEGLECTED OR DELINQUENT YOUTH.

The heading for part D of title I is amended to read as follows:

''PART D—PREVENTION AND INTERVENTION PROGRAMS FOR NEGLECTED OR DELINQUENT CHILDREN AND YOUTH''.

SEC. 132. FINDINGS.

Section 1401(a) (20 U.S.C. 6421(a)) is amended by striking paragraphs (6) through (9) and inserting the following:

''(6) Youth returning from correctional facilities need to be involved in programs that provide them with high-level skills and other support to help them stay in school and complete their education.

''(7) Pregnant and parenting teenagers are a high-at-risk group for dropping out of school and should be targeted by dropout prevention programs.''.

SEC. 133. ALLOCATION OF FUNDS.

Section 1412(b) (20 U.S.C. 6432(b)) is amended to read as follows:

''(b) SUBGRANTS TO STATE AGENCIES IN PUERTO RICO.—

''(1) IN GENERAL.—For each fiscal year, the amount of the subgrant which a State agency in the Commonwealth of Puerto Rico shall be eligible to receive under this part shall be the amount determined by multiplying the number

of children counted under subparagraph (a)(1)(A) for the Commonwealth of Puerto Rico by the product of—

''(A) the percentage which the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

''(B) 32 percent of the average per-pupil expenditure in the United States.

''(2) MINIMUM PERCENTAGE.—The percentage in paragraph (1)(A) shall not be less than—

''(A) for fiscal year 2002, 77.5 percent;

''(B) for fiscal year 2003, 80.0 percent;

''(C) for fiscal year 2004, 82.5 percent; and

''(D) for fiscal year 2005 and succeeding fiscal years, 85.0 percent.

''(3) LIMITATION.—If the application of paragraph (2) would result in any of the 50 States or the District of Columbia receiving less under this part than it received under this part for the preceding fiscal year, the percentage in paragraph (1) shall be the greater of the percentage in paragraph (1)(A) or the percentage used for the preceding fiscal year.''.

SEC. 134. STATE PLAN AND STATE AGENCY APPLICATIONS.

Section 1414 (20 U.S.C. 6434) is amended to read as follows:

''SEC. 1414. STATE PLAN AND STATE AGENCY APPLICATIONS.

''(a) STATE PLAN.—

''(1) IN GENERAL.—Each State educational agency that desires to receive a grant under this part shall submit, for approval by the Secretary, a plan for meeting the educational needs of neglected and delinquent youth, for assisting in their transition from institutions to locally operated programs, and which is integrated with other programs under this Act or other Acts, as appropriate, consistent with section 8306.

''(2) CONTENTS.—Each such State plan shall—

''(A) describe the program goals, objectives, and performance measures established by the State that will be used to assess the effectiveness of the program in improving academic and vocational and technical skills of children in the program;

''(B) provide that, to the extent feasible, such children will have the same opportunities to learn as such children would have if such children were in the schools of local educational agencies in the State; and

''(C) contain assurances that the State educational agency will—

''(i) ensure that programs assisted under this part will be carried out in accordance with the State plan described in this subsection;

''(ii) carry out the evaluation requirements of section 1416;

''(iii) ensure that the State agencies receiving subgrants under this subpart comply with all applicable statutory and regulatory requirements; and

''(iv) provide such other information as the Secretary may reasonably require.

''(3) DURATION OF THE PLAN.—Each such State plan shall—

''(A) remain in effect for the duration of the State's participation under this part; and

''(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

''(b) SECRETARIAL APPROVAL AND PEER REVIEW.—

''(1) SECRETARIAL APPROVAL.—The Secretary shall approve each State plan that meets the requirements of this part.

''(2) PEER REVIEW.—The Secretary may review any State plan with the assistance and advice of individuals with relevant expertise.

''(c) STATE AGENCY APPLICATIONS.—Any State agency that desires to receive funds to carry out a program under this part shall submit an application to the State educational agency that—

''(1) describes the procedures to be used, consistent with the State plan under section 1111, to assess the educational needs of the children to be served;

''(2) provides assurances that in making services available to youth in adult correctional facilities, priority will be given to such youth who are likely to complete incarceration within a 2-year period;

''(3) describes the program, including a budget for the first year of the program, with annual updates to be provided to the State educational agency;

''(4) describes how the program will meet the goals and objectives of the State plan under this subpart;

''(5) describes how the State agency will consult with experts and provide the necessary training for appropriate staff, to ensure that the planning and operation of institution-wide projects under section 1416 are of high quality;

''(6) describes how the agency will carry out the evaluation requirements of section 8651 and how the results of the most recent evaluation are used to plan and improve the program;

''(7) includes data showing that the agency has maintained fiscal effort required of a local educational agency, in accordance with section 8501;

''(8) describes how the programs will be coordinated with other appropriate State and Federal programs, such as job training programs, vocational and technical education programs, State and local dropout prevention programs, and special education programs;

''(9) describes how States will encourage correctional facilities receiving funds under this subpart to coordinate with local educational agencies or alternative education programs attended by incarcerated youth prior to their incarceration to ensure that student assessments and appropriate academic records are shared jointly between the correctional facility and the local educational agency or alternative education program;

''(10) describes how appropriate professional development will be provided to teachers and other staff;

''(11) designates an individual in each affected institution to be responsible for issues relating to the transition of children and youth from the institution to locally operated programs;

''(12) describes how the agency will endeavor to coordinate with businesses for training and mentoring for participating youth;

''(13) provides assurances that the agency will assist in locating alternative programs through which students can continue their education if students are not returning to school after leaving the correctional facility;

''(14) provides assurances that the agency will work with parents to secure parents' assistance in improving the educational achievement of their children and preventing their children's further involvement in delinquent activities;

''(15) provides assurances that the agency works with special education youth in order to meet an existing individualized education program and an assurance that the agency will notify the youth's local school if such youth—

''(A) is identified as in need of special education services while the youth is in the facility; and

''(B) intends to return to the local school;

''(16) provides assurances that the agency will work with youth who dropped out of school before entering the facility to encourage the youth to reenter school once the term of incarceration has been completed or provide the youth with the skills necessary to gain employment, continue the education of the youth, or achieve a secondary school diploma or the recognized equivalent if the youth does not intend to return to school;

''(17) provides assurances that teachers and other qualified staff are also trained to work with children with disabilities and other students with special needs, taking into consideration the unique needs of such students;

''(18) describes any additional services to be provided to youth, such as career counseling, distance learning, and assistance in securing student loans and grants; and

''(19) provides assurances that the program under this subpart will be coordinated with any programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) or other comparable programs, if applicable.''.

SEC. 135. USE OF FUNDS.

Section 1415(a) (20 U.S.C. 6435(a)) is amended—

(1) in paragraph (1)(B), by inserting '', vocational and technical training'' after ''secondary school completion'';

(2) in paragraph (2)(B)—

(A) in clause (i), by inserting ''and'' after the semicolon;

(B) in clause (ii), by striking ''; and'' and inserting a semicolon; and

(C) by striking clause (iii);

(3) in paragraph (2)(C), by striking ''part F of this title'' and inserting ''part H''; and

(4) in paragraph (2)(D), by striking ''section 14701'' and inserting ''section 8651''.

SEC. 136. TRANSITION SERVICES.

Section 1418(a) (20 U.S.C. 6438(a)) is amended by striking ''10 percent'' and inserting ''15 percent''.

SEC. 137. PURPOSE.

Section 1421(3) (20 U.S.C. 6451(3)) is amended to read as follows:

''(3) operate programs in local schools for youth returning from correctional facilities and programs which may also serve youth at risk of dropping out of school.''.

SEC. 138. PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES.

Section 1422 (20 U.S.C. 6452) is amended—

(1) in subsection (a), by striking ''retained'';

(2) by amending subsection (b) to read as follows:

''(b) SPECIAL RULE.—A local educational agency which includes a correctional facility that operates a school is not required to operate a program of support for children returning from such school to a school not operated by a correctional agency but served by such local educational agency if more than 30 percent of the youth attending the school operated by the correctional facility will reside outside the boundaries of the local educational agency after leaving such facility.''; and

(3) by adding at the end the following:

''(d) TRANSITIONAL AND ACADEMIC SERVICES.—Transitional and supportive programs operated in local educational agencies under this subpart shall be designed primarily to meet the transitional and academic needs of students returning to local educational agencies or alternative education programs from correctional facilities. Services to students at risk of dropping out of school shall not have a negative impact on meeting the transitional and academic needs of the students returning from correctional facilities.''.

SEC. 139. LOCAL EDUCATIONAL AGENCY APPLICATIONS.

Section 1423 (20 U.S.C. 6453) is amended by striking paragraphs (4) through (9) and inserting the following:

''(4) a description of the program operated by participating schools for children returning from correctional facilities and the types of services that such schools will provide such youth and other at-risk youth;

''(5) a description of the characteristics (including learning difficulties, substance abuse problems, and other special needs) of the youth who will be returning from correctional facilities and, as appropriate, other at-risk youth expected to be served by the program and how the school will coordinate existing educational programs to meet the unique educational needs of such youth;

''(6) as appropriate, a description of how schools will coordinate with existing social, health, and other services to meet the needs of students returning from correctional facilities,

students at risk of dropping out of school, and other participating students, including prenatal health care and nutrition services related to the health of the parent and child, parenting and child development classes, child care, targeted reentry and outreach programs, referrals to community resources, and scheduling flexibility;

''(7) as appropriate, a description of any partnerships with local businesses to develop training, curriculum-based youth entrepreneurship education, and mentoring services for participating students;

''(8) as appropriate, a description of how programs will involve parents in efforts to improve the educational achievement of their children, prevent the involvement of their children in delinquent activities, and encourage their children to remain in school and complete their education;

''(9) a description of how the program under this subpart will be coordinated with other Federal, State, and local programs, such as job training programs and vocational and technical education programs serving this at-risk population of youth.''.

SEC. 140. USES OF FUNDS.

Section 1424 (20 U.S.C. 6454) is amended by striking paragraphs (1) through (3) and inserting the following:

''(1) programs that serve youth returning from correctional facilities to local schools, to assist in the transition of such youth to the school environment and help them remain in school in order to complete their education;

''(2) providing assistance to other youth at risk of dropping out of school, including pregnant and parenting teenagers;

''(3) the coordination of social, health, and other services, including day care, for participating youth, if the provision of such services will improve the likelihood that such youth will complete their education;

''(4) special programs to meet the unique academic needs of participating youth, including vocational and technical education, special education, career counseling, curriculum-based youth entrepreneurship education, and assistance in securing student loans or grants for postsecondary education; and

''(5) programs providing mentoring and peer mediation.''.

SEC. 141. PROGRAM REQUIREMENTS.

Section 1425 (20 U.S.C. 6455) is amended—

*(1) in the section heading, by striking ''**THIS SECTION**'' and inserting ''**this subpart**'';*

(2) in the matter preceding paragraph (1), by striking ''this section'' and inserting ''this subpart'';

(3) in paragraph (1), by striking ''where feasible, ensure educational programs'' and inserting ''to the extent practicable, ensure that educational programs'';

(4) in paragraphs (3) and (8), by striking ''where feasible,'' and inserting ''to the extent practicable,'';

(5) in paragraph (9)—

(A) by striking ''this program'' and inserting ''this subpart'';

(B) by inserting ''and technical'' after ''vocational''; and

(C) by striking ''title I of the Workforce Investment Act of 1998'' and inserting ''other job training programs'';

(6) in paragraph (10), by inserting ''(42 U.S.C. 5601 et seq.)'' after ''Juvenile Justice and Delinquency Prevention Act of 1974''; and

(7) by amending paragraph (11) to read as follows:

''(11) if appropriate, work with local businesses to develop training, curriculum-based youth entrepreneurship education, and mentoring programs for youth.''.

SEC. 142. PROGRAM EVALUATIONS.

Section 1431(a) (20 U.S.C. 6471(a)) is amended by striking ''sex, and if feasible,'' and inserting ''gender,''.

PART E—FEDERAL EVALUATIONS AND DEMONSTRATIONS

SEC. 151. EVALUATIONS.

Section 1501 (20 U.S.C. 6491) is amended to read as follows:

''SEC. 1501. EVALUATIONS.

''(a) NATIONAL ASSESSMENT.—

''(1) IN GENERAL.—In accordance with this section, the Secretary shall conduct a national assessment of programs assisted under this title.

''(2) ISSUES TO BE EXAMINED.—In conducting the assessment under this subsection, the Secretary shall examine—

''(A) the implementation of programs assisted under this title and the impact of such implementation on increasing student academic achievement, particularly schools with high concentrations of children living in poverty;

''(B) the implementation of State standards, assessments, and accountability systems developed under this title and the impact of such implementation on educational programs and instruction at the local level;

''(C) the impact of schoolwide programs and targeted assistance programs under this title on improving student academic achievement;

''(D) the extent to which varying models of comprehensive school reform are funded under this title, and the effect of the implementation of such models on improving achievement of disadvantaged students;

''(E) the costs as compared to the benefits of the activities assisted under this title;

''(F) the impact of school choice options under section 1116 on the academic achievement of disadvantaged students, on schools in school improvement, and on schools from which students have transferred under such options;

''(G) the extent to which actions authorized under section 1116 of this title are employed by State and local educational agencies to improve the academic achievement of students in low-performing schools, and the effectiveness of the implementation of such actions;

''(H) the extent to which technical assistance made available under this title is used to improve the achievement of students in low-performing schools, and the impact of such assistance on such achievement;

''(I) the extent to which State and local fiscal accounting requirements under this title limit the flexibility of schoolwide programs;

''(J) the impact of the professional development activities assisted under this title on instruction and student performance;

''(K) the extent to which the assistance made available under this title is targeted to disadvantaged students and schools that need them the most;

''(L) the effectiveness of Federal administration assistance made available under this title, including monitoring and technical assistance; and

''(M) such other issues as the Secretary considers appropriate.

''(3) SOURCES OF INFORMATION.—In conducting the assessment under this subsection, the Secretary shall use information from a variety of sources, including the National Assessment of Educational Progress (carried out under section 411 of the National Education Statistics Act of 1994 (20 U.S.C. 9010)), state evaluations, and other research studies.

''(4) COORDINATION.—In carrying out this subsection, the Secretary shall—

''(A) coordinate conducting the national assessment with conducting the longitudinal study described in subsection (c); and

''(B) ensure that the independent review panel described in subsection (d) participates in conducting the national assessment, including planning for and reviewing the assessment.

''(5) REPORTS.—

''(A) INTERIM REPORT.—Not later than 3 years after the date of enactment of the Leave No Child Behind Act of 2001, the Secretary shall transmit to the President and the Congress an interim report on the national assessment conducted under this subsection.

''(B) FINAL REPORT.—Not later than 4 years after the date of enactment of the Leave No Child Behind Act of 2001, the Secretary shall transmit to the President and the Congress a final report on the national assessment conducted under this subsection.

''(b) STUDIES AND DATA COLLECTION.—

''(1) IN GENERAL.—In addition to other activities described in this section, the Secretary may, directly or through the making of grants to or contracts with appropriate entities—

''(A) conduct studies and evaluations of the need for, and effectiveness of, each program authorized under this title;

''(B) collect the data necessary to comply with the Government Performance and Results Act of 1993; and

''(C) provide guidance and technical assistance to State educational agencies and local educational agencies in developing and maintaining management information systems through which such agencies can develop program performance indicators in order to improve services and performance.

''(2) MINIMUM INFORMATION.—Under this subsection, the Secretary shall collect, at a minimum, trend information on the effect of each program authorized under this title, which shall complement the data collected and reported under subsections (a) and (c).

''(c) NATIONAL LONGITUDINAL STUDY.—

''(1) IN GENERAL.—The Secretary shall conduct a longitudinal study of schools receiving assistance under this title.

''(2) ISSUES TO BE EXAMINED.—In carrying out this subsection, the Secretary shall ensure that the study referred to in paragraph (1) provides the Congress and educators with each of the following:

''(A) An accurate description and analysis of short-term and long-term effectiveness of the assistance made available under this title upon academic performance.

''(B) Information that can be used to improve the effectiveness of the assistance made available under this title in enabling students to meet challenging achievement standards.

''(C) An analysis of educational practices or model programs that are effective in improving the achievement of disadvantaged children.

''(D) An analysis of the costs as compared to the benefits of the assistance made available under this title in improving the achievement of disadvantaged children.

''(E) An analysis of the effects of the availability of school choice options under section 1116 on the academic achievement of disadvantaged students, on schools in school improvement, and on schools from which students have transferred under such options.

''(F) Such other information as the Secretary considers appropriate.

''(3) SCOPE.—In conducting the study referred to in paragraph (1), the Secretary shall ensure that the study—

''(A) bases its analysis on a nationally representative sample of schools participating in programs under this part;

''(B) to the extent practicable, includes in its analysis students who transfer to different schools during the course of the study; and

''(C) analyzes varying models or strategies for delivering school services, including—

''(i) schoolwide and targeted services; and

''(ii) comprehensive school reform models.

''(d) INDEPENDENT REVIEW PANEL.—

''(1) IN GENERAL.—The Secretary shall establish an independent review panel (in this subsection referred to as the 'Review Panel') to advise the Secretary on methodological and other issues that arise in carrying out subsections (a) and (c).

''(2) APPOINTMENT OF MEMBERS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall appoint members of the Review Panel from among qualified individuals who are—

''(i) specialists in statistics, evaluation, research, and assessment;

''(ii) education practitioners, including teachers, principals, and local and State superintendents; and

''(iii) other individuals with technical expertise who would contribute to the overall rigor and quality of the program evaluation.

''(B) LIMITATIONS.—In appointing members of the Review Panel under this subparagraph (A), the Secretary shall ensure that—

''(i) in order to ensure diversity, a majority of the number of individuals appointed under subparagraph (A)(i) represent disciplines or programs outside the field of education; and

''(ii) the total number of the individuals appointed under subparagraph (A)(ii) or (A)(iii) does not exceed ⅓ of the total number of the individuals appointed under this paragraph.

''(3) FUNCTIONS.—The Review Panel shall consult with and advise the Secretary—

''(A) to ensure that the assessment conducted under subsection (a) and the study conducted under subsection (c)—

''(i) adhere to the highest possible standards of quality with respect to research design, statistical analysis, and the dissemination of findings; and

''(ii) use valid and reliable measures to document program implementation and impacts; and

''(B) to ensure—

''(i) that the final report described in subsection (a)(5)(B) is reviewed not later than 120 days after its completion by not less than 2 independent experts in program evaluation;

''(ii) that such experts evaluate and comment on the degree to which the report complies with subsection (a); and

''(iii) that the comments of such experts are transmitted with the report under subsection (a)(5)(B).''.

SEC. 152. DEMONSTRATIONS OF INNOVATIVE PRACTICES.

(a) IN GENERAL.—Section 1502 (20 U.S.C. 6492) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by striking in subsection (a) ''(2) EVALUATION.—The Secretary'' and inserting ''(b) EVALUATION.—The Secretary'' and by moving such subsection (b) 2 ems to the left;

(3) by striking in subsection (a) ''Such projects shall include promising'' and all that follows through ''career guidance opportunities.'';

(4) by striking ''student performance standards'' and inserting ''student achievement standards'';

(5) by inserting ''academic'' after ''to meet challenging State''; and

(6) by striking ''(a) DEMONSTRATION PROGRAMS'' and all that follows through ''IN GENERAL.—From the'' and inserting ''(a) IN GENERAL.—From the''.

SEC. 153. ELLENDER-CLOSE UP FELLOWSHIP PROGRAM; DROPOUT REPORTING.

(a) IN GENERAL.—Part E of title I (20 U.S.C. 6491 et seq.) is further amended by adding at the end the following:

''SEC. 1503. ELLENDER-CLOSE UP FELLOWSHIP PROGRAM

''(a) FINDINGS.—Congress finds the following:

''(1) It is a worthwhile goal to ensure that all students in America are prepared for responsible citizenship and that all students should have the opportunity to be involved in activities that promote and demonstrate good citizenship.

''(2) It is a worthwhile goal to ensure that America's educators have access to programs for the continued improvement of their professional skills.

''(3) Allen J. Ellender, a Senator from Louisiana and President pro tempore of the United States Senate, had a distinguished career in public service characterized by extraordinary energy and real concern for young people. Senator Ellender provided valuable support and encouragement to the Close Up Foundation, a nonpartisan, nonprofit foundation promoting knowledge and understanding of the Federal Government among young people and educators. Therefore, it is a fitting and appropriate tribute to Senator Ellender to provide fellowships in his name to students of limited economic means and the teachers who work with such students, so that such students and teachers may participate in the programs supported by the Close Up Foundation.

''(4) The Close Up Foundation is a nonpartisan, nonprofit, education foundation promoting civic responsibility and knowledge and understanding of the Federal Government among young people and educators. The Congress has consistently supported the Close Up Foundation's work with disadvantaged young people and their educators through the Allen J. Ellender Fellowship Program. Therefore, it is fitting and appropriate to continue support under the successor Ellender-Close Up Fellowship Program to students of limited economic means and the teachers who work with such students, so that such students and teachers may participate in the programs supported by the Close Up Foundation.

''(b) PROGRAM FOR MIDDLE AND SECONDARY SCHOOL STUDENTS.—

''(1) ESTABLISHMENT.—

''(A) GENERAL AUTHORITY.—In accordance with this subsection, the Secretary may make grants to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing civic responsibility and understanding of the Federal Government among middle and secondary school students.

''(B) USE OF FUNDS.—Grants under this subsection shall be used only to provide financial assistance to economically disadvantaged students who participate in the program described in subparagraph (A). Financial assistance received pursuant to this subsection by such students shall be known as Ellender-Close Up fellowships.

''(2) APPLICATIONS.—

''(A) APPLICATION REQUIRED.—No grant under this subsection may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

''(B) CONTENTS OF APPLICATION.—Each application submitted under this paragraph shall contain provisions to assure—

''(i) that fellowship grants are made to economically disadvantaged middle and secondary school students;

''(ii) that every effort will be made to ensure the participation of students from rural and small town areas, as well as from urban areas, and that in awarding fellowships to economically disadvantaged students, special consideration will be given to the participation of students with special educational needs, including students with disabilities, ethnic minority students, recent immigrants, and gifted and talented students; and

''(iii) the proper disbursement of the funds received under this subsection.

''(c) PROGRAM FOR MIDDLE AND SECONDARY SCHOOL TEACHERS.—

''(1) ESTABLISHMENT.—

''(A) GENERAL AUTHORITY.—In accordance with this subsection, the Secretary may make grants to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of professional development for middle and secondary school teachers and to promote greater civic understanding and responsibility among the students of such teachers.

''(B) USE OF FUNDS.—Grants under this subsection shall be used only for financial assistance to teachers who participate in the program described in subparagraph (A). Financial assistance received pursuant to this subpart by such individuals shall be known as Ellender-Close Up fellowships.

''(2) APPLICATIONS.—

''(A) APPLICATION REQUIRED.—No grant under this subsection may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

''(B) CONTENTS OF APPLICATION.—Each application submitted under this paragraph shall contain provisions to assure—

''(i) that fellowship grants are made only to teachers who have worked with at least one student from such teacher's school who participates in the programs described in subsection (b);

''(ii) that no teacher in each school participating in the programs assisted under subsection (b) may receive more than one fellowship in any fiscal year; and

''(iii) the proper disbursement of the funds received under this subsection.

''(d) PROGRAMS FOR RECENT IMMIGRANTS AND STUDENTS OF MIGRANT PARENTS.—

''(1) ESTABLISHMENT.—

''(A) GENERAL AUTHORITY.—In accordance with this subsection, the Secretary may make grants to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing understanding of the Federal Government among economically disadvantaged recent immigrants and students of migrant parents.

''(B) USE OF FUNDS.—Grants under this subsection shall be used for financial assistance to economically disadvantaged older Americans, recent immigrants and students of migrant parents who participate in the program described in subsection (a). Financial assistance received pursuant to this subpart by such individuals shall be known as Ellender-Close Up fellowships.

''(2) APPLICATIONS.—

''(A) APPLICATION REQUIRED.—No grant under this subsection may be made except upon application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

''(B) CONTENTS OF APPLICATION.—Each application submitted under this paragraph shall contain provisions—

''(i) to assure that fellowship grants are made to economically disadvantaged recent immigrants and students of migrant parents;

''(ii) to assure that every effort will be made to ensure the participation of recent immigrants and students of migrant parents from rural and small town areas, as well as from urban areas, and that in awarding fellowships, special consideration will be given to the participation of recent immigrants and students of migrant parents with special needs, including individuals with disabilities, ethnic minorities, and gifted and talented students;

''(iii) that fully describe the activities to be carried out with the proceeds of the grant; and

''(iv) to assure the proper disbursement of the funds received under this subsection.

''(e) GENERAL PROVISIONS.—

''(1) ADMINISTRATIVE PROVISIONS.—

''(A) GENERAL RULE.—Payments under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment.

''(B) AUDIT RULE.—The Comptroller General of the United States or any of the Comptroller General's duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grant under this section.

''(f) LIMITATION.—Of the funds appropriated to carry out this section under section 1002, the Secretary may use not more than 30 percent to carry out subsection (c) of this section.

"SEC. 1504. DROPOUT REPORTING.

''State educational agencies receiving funds under this title shall annually report to the National Center on Education Statistics (established under section 403 of the National Education Statistics Act of 1994 (20 U.S.C. 9002)) on the dropout rate of students in the State, as defined for the Center's Common Core of Data.''.

(b) CONTINUATION OF AWARDS.—Notwithstanding any other provision of this Act, any person or agency that was awarded a grant under part G of title X (20 U.S.C. 8161 et seq.) prior to the date of the enactment of this Act shall continue to receive funds in accordance with the terms of such award until the date on which the award period terminates under such terms.

PART F—COMPREHENSIVE SCHOOL REFORM

SEC. 161. SCHOOL REFORM.

Part F of title I is amended to read as follows:

"PART F—COMPREHENSIVE SCHOOL REFORM

"SEC. 1601. COMPREHENSIVE SCHOOL REFORM.

''(a) FINDINGS AND PURPOSE.—

''(1) FINDINGS.—Congress finds the following:

''(A) A number of schools across the country have shown impressive gains in student performance through the use of comprehensive models for schoolwide change that incorporate virtually all aspects of school operations.

''(B) No single comprehensive school reform model may be suitable for every school, however, schools should be encouraged to examine successful, externally developed comprehensive school reform approaches as they undertake comprehensive school reform.

''(C) Comprehensive school reform is an important means by which children are assisted in meeting challenging State student academic achievement standards.

''(2) PURPOSE.—The purpose of this section is to provide financial incentives for schools to develop comprehensive school reforms, based upon scientifically-based research and effective practices that include an emphasis on basic academics and parental involvement so that all children can meet challenging State content and academic achievement standards.

''(b) PROGRAM AUTHORIZED.—

''(1) IN GENERAL.—The Secretary is authorized to provide grants to State educational agencies to provide subgrants to local educational agencies to carry out the purpose described in subsection (a)(2).

''(2) ALLOCATION.—

''(A) RESERVATION.—Of the amount appropriated under this section, the Secretary may reserve—

''(i) not more than 1 percent for schools supported by the Bureau of Indian Affairs and in the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

''(ii) not more than 1 percent to conduct national evaluation activities described under subsection (e); and

''(iii) not more than 2 percent of the amount appropriated in fiscal year 2002 to carry out this part, for quality initiatives described under subsection (f).

''(B) IN GENERAL.—Of the amount of funds remaining after the reservation under subparagraph (A), the Secretary shall allocate to each State for a fiscal year, an amount that bears the same ratio to the remainder for that fiscal year as the amount made available under section 1124 to the State for the preceding fiscal year bears to the total amount allocated under section 1124 to all States for that year.

''(C) REALLOCATION.—If a State does not apply for funds under this section, the Secretary shall reallocate such funds to other States that do apply in proportion to the amount allocated to such States under subparagraph (B).

''(c) STATE AWARDS.—

''(1) STATE APPLICATION.—

''(A) IN GENERAL.—Each State educational agency that desires to receive a grant under this section shall submit an application to the Secretary at such time, in such manner and containing such other information as the Secretary may reasonably require.

''(B) CONTENTS.—Each State application shall also describe—

''(i) the process and selection criteria by which the State educational agency, using expert review, will select local educational agencies to receive subgrants under this section;

''(ii) how the agency will ensure that funds under this part are used only for comprehensive school reform programs that—

''(I) include each of the components described in subsection (d)(2);

''(II) have the capacity to improve the academic achievement of all students in core academic subjects within participating schools; and

''(III) are supported by technical assistance providers that have a successful track record, financial stability, and the capacity to deliver high-quality materials and professional development for school personnel.

''(iii) how the agency will disseminate materials regarding information on comprehensive school reforms that are based on scientifically-based research and effective practices;

''(iv) how the agency will evaluate annually the implementation of such reforms and measure the extent to which the reforms resulted in increased student academic performance; and

''(v) how the agency will provide, technical assistance to the local educational agency or consortia of local educational agencies, and to participating schools, in evaluating, developing, and implementing comprehensive school reform.

''(2) USES OF FUNDS.—

''(A) IN GENERAL.—Except as provided in subparagraph (E), a State educational agency that receives an award under this section shall use such funds to provide competitive grants to local educational agencies or consortia of local educational agencies in the State receiving funds under part A to support comprehensive school reforms in schools eligible for funds under such part.

''(B) GRANT REQUIREMENTS.—A grant to a local educational agency or consortium shall be—

''(i) of sufficient size and scope to support the initial costs of the comprehensive school reforms selected or designed by each school identified in the application of the local educational agency or consortium;

''(ii) in an amount not less than $50,000 to each participating school; and

''(iii) renewable for two additional 1-year periods after the initial 1-year grant is made if schools are making substantial progress in the implementation of their reforms.

''(C) PRIORITY.—The State, in awarding grants under this paragraph, shall give priority to local educational agencies that—

''(i) plan to use the funds in schools identified as being in need of improvement or corrective action under section 1116(c); or

''(ii) demonstrate a commitment to assist schools with budget allocation, professional development, and other strategies necessary to ensure the comprehensive school reforms are properly implemented and are sustained in the future.

''(D) GRANT CONSIDERATION.—In making subgrant awards under this part, the State educational agency shall take into account the equitable distribution of awards to different geographic regions within the State, including urban and rural areas, and to schools serving elementary and secondary students.

''(E) ADMINISTRATIVE COSTS.—A State educational agency that receives a grant award under this section may reserve not more than 5 percent of such award for administrative, evaluation, and technical assistance expenses.

''(F) SUPPLEMENT.—Funds made available under this section shall be used to supplement, not supplant, any other Federal, State, or local funds that would otherwise be available to carry out this section.

''(3) REPORTING.—Each State educational agency that receives an award under this section shall provide to the Secretary such information as the Secretary may require, including the names of local educational agencies and schools selected to receive subgrant awards under this section, the amount of such award, a description of the comprehensive school reforms selected and in use and a copy of the State's annual evaluation of the implementation of comprehensive school reforms supported under this part and student achievement results.

''(d) LOCAL AWARDS.—

''(1) IN GENERAL.—Each local educational agency or consortium that applies for a subgrant under this section shall—

''(A) identify which schools eligible for funds under part A plan to implement a comprehensive school reform program, including the projected costs of such a program;

''(B) describe the comprehensive school reforms based on scientifically-based research and effective practices that such schools will implement;

''(C) describe how the agency or consortium will provide technical assistance and support for the effective implementation of the school reforms based on scientifically-based research and effective practices selected by such schools; and

''(D) describe how the agency or consortium will evaluate the implementation of such reforms and measure the results achieved in improving student academic performance.

''(2) COMPONENTS OF THE PROGRAM.—A local educational agency that receives a subgrant award under this section shall provide such funds to schools that implement a comprehensive school reform program that—

''(A) employs proven strategies and proven methods for student learning, teaching, and school management that are based on scientifically-based research and effective practices and have been replicated successfully in similar schools;

''(B) integrates a comprehensive design for effective school functioning, including instruction, assessment, classroom management, professional development, parental involvement, and school management, that aligns the school's curriculum, technology, and professional development into a comprehensive reform plan for schoolwide change designed to enable all students to meet challenging State content and challenging student performance standards and addresses needs identified through a school needs assessment;

''(C) provides high-quality and continuous teacher and staff professional development;

''(D) includes measurable goals for student performance and benchmarks for meeting such goals;

''(E) is supported by teachers, principals, administrators, and other professional staff;

''(F) provides for the meaningful involvement of parents and the local community in planning and implementing school improvement activities;

''(G) uses high quality external technical support and assistance from an entity, which may be an institution of higher education, with experience and expertise in schoolwide reform and improvement;

''(H) includes a plan for the annual evaluation of the implementation of school reforms and the student results achieved;

''(I) identifies how other resources, including Federal, State, local, and private resources, available to the school will be used to coordinate services to support and sustain the school reform effort; and

''(J)(i) has been found, through rigorous field experiments in multiple sites, to significantly improve the academic performance of students participating in such activity or program as compared to similar students in similar schools, who have not participated in such activity or program; or

''(ii) has been found to have strong evidence that such model will significantly improve the performance of participating children.

''(3) SPECIAL RULE.—A school that receives funds to develop a comprehensive school reform program shall not be limited to using nationally available approaches, but may develop its own comprehensive school reform program for schoolwide change that complies with paragraph (2).

''(e) EVALUATION AND REPORT.—

''(1) IN GENERAL.—The Secretary shall develop a plan for a national evaluation of the programs developed pursuant to this section.

''(2) EVALUATION.—This national evaluation shall evaluate the implementation and results achieved by schools after 3 years of implementing comprehensive school reforms, and assess the effectiveness of comprehensive school reforms in schools with diverse characteristics.

''(3) REPORTS.—Prior to the completion of a national evaluation, the Secretary shall submit an interim report outlining first year implementation activities to the Committees on Education and the Workforce and Appropriations of the House of Representatives and the Committees on Health, Education, Labor, and Pensions and Appropriations of the Senate.

''(f) QUALITY INITIATIVES.—The Secretary, through grants or contracts, shall provide funds for the following activities:

''(1) TECHNICAL ASSISTANCE.—A joint public and private partnership that receives matching funds from private organizations, in order to assist States, local educational agencies, and schools in making informed decisions when approving or selecting providers of comprehensive school reform, consistent with the requirements described in subsection (d)(3).

''(2) OTHER ACTIVITIES.—Other activities that—

''(A) encourage the development of comprehensive reform models;

''(B) build the capacity of comprehensive school reform providers to increase the number of schools the providers can serve; and

''(C) ensure that schools served receive high quality services that meet the needs of their teachers and students.''.

PART G—RURAL EDUCATION FLEXIBILITY AND ASSISTANCE

SEC. 171. RURAL EDUCATION.

Title I is amended by adding at the end the following new part:

''PART G—RURAL EDUCATION FLEXIBILITY AND ASSISTANCE

''SEC. 1701. SHORT TITLE.

''This part may be cited as the 'Rural Education Initiative Act'.

''SEC. 1702. FINDINGS.

''Congress finds the following:

''(1) While there are rural education initiatives identified at the State and local level, no Federal education policy focuses on the specific and unique needs of rural school districts and schools.

''(2) Small school districts often cannot use Federal grant funds distributed by formula because the formula allocation does not provide enough revenue to carry out the program the grant is intended to fund.

''(3) Rural schools often cannot compete for Federal funding distributed by competitive grants because the schools lack the personnel needed to prepare grant applications and the resources to hire specialists in the writing of Federal grant proposals.

''(4) A critical problem for rural school districts involves the hiring and retention of qualified administrators and certified teachers (especially in reading, science, and mathematics). As a result, teachers in rural schools are almost twice as likely to provide instruction in three or more subject areas than teachers in urban schools. Rural schools also face other tough challenges, such as shrinking local tax bases, high transportation costs, aging buildings, limited course offerings, and limited resources.

''Subpart 1—Rural Education Flexibility

''SEC. 1711. FORMULA GRANT PROGRAM AUTHORIZED.

''(a) ALTERNATIVE USES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, an eligible local educational agency may use the applicable funding, that the agency is eligible to receive from the State educational agency for a fiscal year, to carry out local activities authorized in part A of title I, part A of title II, part A of title III, part A of title IV, or part A or B of title V.

''(2) NOTIFICATION.—An eligible local educational agency shall notify the State educational agency of the local educational agency's intention to use the applicable funding in accordance with paragraph (1) not later than a date that is established by the State educational agency for the notification.

''(b) ELIGIBILITY.—

''(1) IN GENERAL.—A local educational agency shall be eligible to use the applicable funding in accordance with subsection (a) if—

''(A)(i) the total number of students in average daily attendance at all of the schools served by the local educational agency is less than 600; and

''(ii) all of the schools served by the local educational agency are designated with a school locale code of 7 or 8 as determined by the Secretary of Education; or

''(B) the agency meets the criteria established in subparagraph (A)(i) and the Secretary, in accordance with paragraph (2), grants the local educational agency's request to waive the criteria described in subparagraph (A)(ii).

''(2) CERTIFICATION.—The Secretary shall determine whether or not to waive the criteria described in paragraph (1)(A)(ii) based on a demonstration by a local educational agency and concurrence by the State educational agency that the local educational agency is located in an area defined as rural by a governmental agency of the State.

''(c) APPLICABLE FUNDING.—In this section, the term 'applicable funding' means funds provided under part A of title II, section 3106, part A of title IV, part A of title V, and section 5212(2)(A).

''(d) DISBURSEMENT.—Each State educational agency that receives applicable funding for a fiscal year shall disburse the applicable funding to local educational agencies for alternative uses under this section for the fiscal year at the same time that the State educational agency disburses the applicable funding to local educational agencies that do not intend to use the applicable funding for such alternative uses for the fiscal year.

''(e) SUPPLEMENT NOT SUPPLANT.—Funds used under this section shall be used to supplement and not supplant any other Federal, State, or local education funds that would otherwise be available for the purpose of this subpart.

''(f) APPLICABLE RULE.—Except as otherwise provided in this subpart, funds transferred under this subpart are subject to each of the rules and requirements applicable to the funds allocated by the Secretary under the provision to which the transferred funds are transferred.

''SEC. 1712. PROGRAM AUTHORIZED.

''(a) IN GENERAL.—The Secretary is authorized to award grants to eligible local educational agencies under section 1711(b) to enable the local educational agencies to support local or statewide education reform efforts intended to improve the academic achievement of elementary school and secondary school students and the quality of instruction provided for the students.

''(b) ALLOCATION.—

''(1) IN GENERAL.—Except as provided in paragraph (3), the Secretary shall award a grant to an eligible local educational agency under section 1711(b) for a fiscal year in an amount equal to the initial amount determined under paragraph (2) for the fiscal year minus the total amount received under the provisions of law described under section 1711(c) for the preceding fiscal year.

''(2) DETERMINATION OF THE INITIAL AMOUNT.—The initial amount referred to in paragraph (1) is equal to $100 multiplied by the total number of students, over 50 students, in average daily attendance in such eligible agency plus $20,000, except that the initial amount may not exceed $60,000.

''(3) RATABLE ADJUSTMENT.—

''(A) IN GENERAL.—If the amount made available for this subpart for any fiscal year is not sufficient to pay in full the amounts that local educational agencies are eligible to receive under paragraph (1) for such year, the Secretary shall ratably reduce such amounts for such year.

''(B) ADDITIONAL AMOUNTS.—If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subparagraph (A) shall be increased on the same basis as such payments were reduced.

''(4) CENSUS DETERMINATION.—

''(A) IN GENERAL.—Each local educational agency desiring a grant under this section shall conduct a census not later than December 1 of each year to determine the number of kindergarten through grade 12 students in average daily attendance at the schools served by the local educational agency.

''(B) SUBMISSION.—Each local educational agency shall submit the number described in subparagraph (A) to the Secretary not later than March 1 of each year.

''(c) DISBURSAL.—The Secretary shall disburse the funds awarded to a local educational agency under this section for a fiscal year not later than July 1 of that year.

''(d) SPECIAL RULE.—A local educational agency that is eligible to receive a grant under this subpart for a fiscal year shall be ineligible to receive funds for such fiscal year under subpart 2.

''(e) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement and not supplant any other Federal, State, or local education funds.

''SEC. 1713. ACCOUNTABILITY.

''(a) ACADEMIC ACHIEVEMENT.—

''(1) IN GENERAL.—Each local educational agency that uses or receives funds under section 1711 or 1712 for a fiscal year shall administer an assessment consistent with section 1111.

''(2) SPECIAL RULE.—Each local educational agency that uses or receives funds under section 1711 or 1712 shall use the same assessment described in paragraph (1) for each year of participation in the program under such section.

''(b) STATE EDUCATIONAL AGENCY DETERMINATION REGARDING CONTINUING PARTICIPATION.—Each State educational agency that receives funding under the provisions of law described in section 1711(c) shall—

''(1) after the second year that a local educational agency participates in a program under section 1711 or 1712 and on the basis of the results of the assessments described in subsection (a), determine whether the schools served by the local educational agency participating in the program performed in accordance with section 1111; and

''(2) only permit those local educational agencies that so participated and make adequate yearly progress, as described in section 1111(b)(2), to continue to so participate.

''Subpart 2—Rural Education Assistance

''SEC. 1721. PROGRAM AUTHORIZED.

''(a) RESERVATIONS.—From amounts appropriated under section 1002(f) for this subpart for a fiscal year, the Secretary shall reserve ½ of 1 percent to make awards to elementary or secondary schools operated or supported by the Bureau of Indian Affairs to carry out the purpose of this subpart.

''(b) GRANTS TO STATES.—

''(1) IN GENERAL.—From amounts appropriated under section 1002(f) for this subpart that are not reserved under subsection (a), the Secretary shall award grants for a fiscal year to State educational agencies that have applications approved under section 1723 to enable the State educational agencies to award subgrants to eligible local educational agencies for local authorized activities described in subsection (c)(2).

''(2) ALLOCATION.—From amounts appropriated for this subpart, the Secretary shall allocate to each State educational agency for a fiscal year an amount that bears the same ratio to the amount of funds appropriated under section 1002(f) for this subpart that are not reserved under subsection (a) as the number of students in average daily attendance served by eligible local educational agencies in the State bears to the number of all such students served by eligible local educational agencies in all States for that fiscal year.

''(3) DIRECT AWARDS TO SPECIALLY QUALIFIED AGENCIES.—

''(A) NONPARTICIPATING STATE.—If a State educational agency elects not to participate in the program under this subpart or does not have an application approved under section 1723 a specially qualified agency in such State desiring a grant under this subpart shall submit an application under such section directly to the Secretary to receive an award under this subpart.

''(B) DIRECT AWARDS TO SPECIALLY QUALIFIED AGENCIES.—The Secretary may award, on a competitive basis, the amount the State educational agency is eligible to receive under paragraph (2) directly to specially qualified agencies in the State.

''(c) LOCAL AWARDS.—

''(1) ELIGIBILITY.—A local educational agency shall be eligible to receive funds under this subpart if—

''(A) 20 percent or more of the children aged 5 to 17, inclusive, served by the local educational agency are from families with incomes below the poverty line; and

''(B) all of the schools served by the agency are designated with a school code of 6, 7, or 8 as determined by the Secretary of Education.

''(2) USES OF FUNDS.—Grant funds awarded to local educational agencies or made available to schools under this subpart shall be used for—

''(A) teacher recruitment and retention, including the use of signing bonuses and other financial incentives;

''(B) teacher professional development, including programs that train teachers to utilize technology to improve teaching and to train special needs teachers;

''(C) educational technology, including software and hardware as described in part B of title V;

''(D) parental involvement activities; or

''(E) programs to improve student academic achievement.

''SEC. 1722. STATE DISTRIBUTION OF FUNDS.

''(a) AWARD BASIS.—A State educational agency shall award grants to eligible local educational agencies—

''(1) on a competitive basis; or

''(2) according to a formula based on the number of students in average daily attendance served by the eligible local educational agencies or schools (as appropriate) in the State, as determined by the State.

''(b) ADMINISTRATIVE COSTS.—A State educational agency receiving a grant under this subpart may not use more than 5 percent of the amount of the grant for State administrative costs.

''SEC. 1723. APPLICATIONS.

''Each State educational agency and specially qualified agency desiring to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Such application shall include specific measurable goals and objectives relating to increased student academic achievement, decreased student dropout rates, or such other factors that the State educational agency or specially qualified agency may choose to measure.

''SEC. 1724. REPORTS.

''(a) STATE REPORTS.—Each State educational agency that receives a grant under this subpart shall provide an annual report to the Secretary. The report shall describe—

''(1) the method the State educational agency used to award grants to eligible local educational agencies and to provide assistance to schools under this subpart;

''(2) how local educational agencies and schools used funds provided under this subpart; and

''(3) the degree to which progress has been made toward meeting the goals and objectives described in the application submitted under section 1723.

''(b) SPECIALLY QUALIFIED AGENCY REPORT.—Each specially qualified agency that receives a grant under this subpart shall provide an annual report to the Secretary. Such report shall describe—

''(1) how such agency uses funds provided under this subpart; and

''(2) the degree to which progress has been made toward meeting the goals and objectives described in the application submitted under section 1723.

''(c) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the Committee on Education and the Workforce for the House of Representatives and the Committee on Health, Education, Labor, and Pensions for the Senate an annual report. The report shall describe—

''(1) the methods the State educational agency used to award grants to eligible local educational agencies and to provide assistance to schools under this subpart;

''(2) how eligible local educational agencies and schools used funds provided under this subpart; and

''(3) progress made in meeting specific measurable educational goals and objectives.

''SEC. 1725. PERFORMANCE REVIEW.

''Three years after a State educational agency or specially qualified agency receives funds under this part, the Secretary shall review the progress of such agency toward achieving the goals and objectives included in its application, to determine whether the agency has made progress toward meeting such goals and objectives. To review the performance of each agency, the Secretary shall—

''(1) review the use of funds of such agency under section 1721(c)(2); and

''(2) deny the provision of additional funds in subsequent fiscal years to an agency only if the Secretary determines, after notice and an opportunity for a hearing, that the agency's use of funds has been inadequate to justify continuation of such funding.

''SEC. 1726. DEFINITIONS.

''In this subpart—

''(1) The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

''(2) The term 'specially qualified agency' means an eligible local educational agency, located in a State that does not participate in a program under this subpart in a fiscal year, that may apply directly to the Secretary for a grant in such year under section 1721(b)(3)(A).

''Subpart 3—General Provisions

''SEC. 1731. DEFINITION.

''In this part, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.''.

PART H—GENERAL PROVISIONS OF TITLE I

SEC. 181. GENERAL PROVISIONS.

Title I is amended further by adding at the end the following:

''PART H—GENERAL PROVISIONS

''SEC. 1801. FEDERAL REGULATIONS.

''(a) IN GENERAL.—The Secretary is authorized to issue such regulations as are necessary to ensure reasonable compliance with this title.

''(b) NEGOTIATED RULEMAKING PROCESS.—

''(1) IN GENERAL.—Prior to publishing in the Federal Register proposed regulations to carry out this title, the Secretary shall obtain the advice and recommendations of representatives of Federal, State, and local administrators, parents, teachers, paraprofessionals, and members of local boards of education involved with the implementation and operation of programs under this title.

''(2) MEETINGS AND ELECTRONIC EXCHANGE.—Such advice and recommendation may be obtained through such mechanisms as regional meetings and electronic exchanges of information.

''(3) PROPOSED REGULATIONS.—After obtaining such advice and recommendations, and prior to publishing proposed regulations, the Secretary shall—

''(A) establish a negotiated rulemaking process on a minimum of three key issues, including—

''(i) accountability;

''(ii) implementation of assessments; and

''(iii) use of paraprofessionals;

''(B) select individuals to participate in such process from among individuals or groups which provided advice and recommendations, including representation from all geographic regions of the United States; and

''(C) prepare a draft of proposed regulations that shall be provided to the individuals selected by the Secretary under subparagraph (B) not less than 15 days prior to the first meeting under such process.

''(4) PROCESS.—Such process—

''(A) shall be conducted in a timely manner to ensure that final regulations are issued by the Secretary not later than 1 year after the date of the enactment of the No Child Left Behind Act of 2001; and

''(B) shall not be subject to the Federal Advisory Committee Act but shall otherwise follow the provisions of the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561 et seq.).

''(5) EMERGENCY SITUATION.—In an emergency situation in which regulations to carry out this title must be issued within a very limited time to assist State and local educational agencies with the operation of a program under this title, the Secretary may issue proposed regulations without following such process but shall, immediately thereafter and prior to issuing final regulations, conduct regional meetings to review such proposed regulations.

''(c) LIMITATION.—Regulations to carry out this part may not require local programs to follow a particular instructional model, such as the provision of services outside the regular classroom or school program.

''SEC. 1802. AGREEMENTS AND RECORDS.

''(a) AGREEMENTS.—All published proposed regulations shall conform to agreements that result from negotiated rulemaking described in section 1801 unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants involved in the process explaining why the Secretary decided to depart from and not adhere to such agreements.

''(b) RECORDS.—The Secretary shall ensure that an accurate and reliable record of agreements reached during the negotiations process is maintained.

''SEC. 1803. STATE ADMINISTRATION.

''(a) RULEMAKING.—

''(1) IN GENERAL.—Each State that receives funds under this title shall—

''(A) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title and provide any such proposed rules, regulations, and policies to the committee of practitioners under subsection (b) for their review and comment;

''(B) minimize such rules, regulations, and policies to which their local educational agencies and schools are subject;

''(C) eliminate or modify State and local fiscal accounting requirements in order to facilitate the ability of schools to consolidate funds under schoolwide programs; and

''(D) identify any such rule, regulation, or policy as a State-imposed requirement.

''(2) SUPPORT AND FACILITATION.—State rules, regulations, and policies under this title shall support and facilitate local educational agency and school-level systemic reform designed to enable all children to meet the challenging State student academic achievement standards.

''(b) COMMITTEE OF PRACTITIONERS.—

''(1) IN GENERAL.—Each State educational agency shall create a State committee of practitioners to advise the State in carrying out its responsibilities under this title.

''(2) MEMBERSHIP.—Each such committee shall include—

''(A) as a majority of its members, representatives from local educational agencies;

''(B) administrators, including the administrators of programs described in other parts of this title;

''(C) teachers, including vocational educators;

''(D) parents;

''(E) members of local boards of education;

''(F) representatives of private school children; and

''(G) pupil services personnel.

''(3) DUTIES.—The duties of such committee shall include a review, prior to publication, of any proposed or final State rule or regulation pursuant to this title. In an emergency situation where such rule or regulation must be issued within a very limited time to assist local educational agencies with the operation of the program under this title, the State educational agency may issue a regulation without prior consultation, but shall immediately thereafter convene the State committee of practitioners to review the emergency regulation prior to issuance in final form.

''SEC. 1804. LOCAL ADMINISTRATIVE COST LIMITATION.

''(a) LOCAL ADMINISTRATIVE COST LIMITATION.—Each local educational agency may use not more than 4 percent of funds received under part A for administrative expenses.

''(b) REGULATIONS.—The Secretary, after consulting with State and local officials and other experts in school finance, shall develop and issue regulations that define the term administrative cost for purposes of this title. Such definition shall be consistent with generally accepted accounting principles. The Secretary shall publish final regulations on this section not later than 1 year after the date of the enactment of the No Child Left Behind Act of 2001.

''SEC. 1805. APPLICABILITY.

''Nothing in this title shall be construed to affect home schools nor shall any home schooled student be required to participate in any assessment referenced in this title.

''SEC. 1806. PRIVATE SCHOOLS.

''Nothing in this title shall be construed to affect any private school that does not receive funds or services under this title, nor shall any student who attends a private school that does not receive funds or services under this title be required to participate in any assessment referenced in this title.

''SEC. 1807. PRIVACY OF ASSESSMENT RESULTS.

''Any results from individual assessments referenced in this title which become part of the education records of the student shall have the protections as provided in section 444 of the General Education Provisions Act.''.

TITLE II—PREPARING, TRAINING, AND RECRUITING QUALITY TEACHERS

SEC. 201. TEACHER QUALITY TRAINING AND RECRUITING FUND.

Title II (20 U.S.C. 6601 et seq.) is amended to read as follows:

''TITLE II—PREPARING, TRAINING, AND RECRUITING QUALITY TEACHERS

''PART A—TEACHER QUALITY TRAINING AND RECRUITING FUND

''SEC. 2001. PURPOSE.

''The purpose of this part is to provide grants to States and local educational agencies in order to assist their efforts to increase student academic achievement through such strategies as improving teacher and principal quality and increasing the number of highly qualified teachers in the classroom.

''Subpart 1—Grants to States to Prepare, Train, and Recruit Qualified Teachers

''SEC. 2011. FORMULA GRANTS TO STATES.

''(a) IN GENERAL.—In the case of each State that in accordance with section 2013 submits to the Secretary an application for a fiscal year, the Secretary shall make a grant for the year to the State for the uses specified in section 2012. The grant shall consist of the allotment determined for the State under subsection (b).

''(b) DETERMINATION OF AMOUNT OF ALLOTMENTS.—

''(1) RESERVATION OF FUNDS.—From the amount made available to carry out this subpart for any fiscal year, the Secretary shall reserve—

''(A) ½ of 1 percent for allotments for the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be distributed among these outlying areas on the basis of their relative need, as determined by the Secretary in accordance with the purpose of this part; and

''(B) ½ of 1 percent for the Secretary of the Interior for programs under this subpart for professional development activities for teachers, other staff, and administrators in schools operated or funded by the Bureau of Indian Affairs.

''(2) STATE ALLOTMENTS.—

''(A) HOLD HARMLESS.—

''(i) IN GENERAL.—Subject to subparagraph (B), from the total amount made available to carry out this subpart for any fiscal year and not reserved under paragraph (1), the Secretary shall allot to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico an amount equal to the total amount that such State received for fiscal year 2001 under—

''(I) section 2202(b) of this Act (as in effect on the day before the date of the enactment of the No Child Left Behind Act of 2001); and

''(II) section 306 of the Department of Education Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554).

''(ii) NONPARTICIPATING STATES.—In the case of a State that did not receive any funds for fiscal year 2001 under one or both of the provisions referred to in subclauses (I) and (II) of clause (i), the amount allotted to the State under such clause shall be the total amount that the State would have received for fiscal year 2001 if it had elected to participate in all of the programs for which it was eligible under each of the provisions referred to in such subclauses.

''(iii) RATABLE REDUCTION.—If the total amount made available to carry out this subpart for any fiscal year and not reserved under paragraph (1) is insufficient to pay the full amounts that all States are eligible to receive under clause (i) for any fiscal year, the Secretary shall ratably reduce such amounts for such fiscal year.

''(B) ALLOTMENT OF ADDITIONAL FUNDS.—

''(i) IN GENERAL.—Subject to clause (ii), for any fiscal year for which the total amount made available to carry out this subpart and not reserved under paragraph (1) exceeds the total amount required to make allotments under subparagraph (A), the Secretary shall allot such excess amount among the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico as follows:

''(I) 50 percent of such excess amount shall be allotted among such States on the basis of their relative populations of individuals aged 5 through 17, as determined by the Secretary on the basis of the most recent satisfactory data.

''(II) 50 percent of such excess amount shall be allotted among such States in proportion to the number of children, aged 5 to 17, who reside within the State from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved for the most recent fiscal year for which satisfactory data are available, compared to the number of such individuals who reside in all such States for that fiscal year.

''(ii) EXCEPTION.—No State receiving an allotment under clause (i) may receive less than ½ of 1 percent of the total excess amount allotted under such clause.

''(3) REALLOTMENT.—If any State does not apply for an allotment under this subsection for any fiscal year, the Secretary shall reallot such amount to the remaining States in accordance with this subsection.

''SEC. 2012. WITHIN-STATE ALLOCATIONS.

''(a) USE OF FUNDS.—Each State receiving a grant under this subpart shall use the funds provided under the grant in accordance with this section to carry out activities for the improvement of teaching and learning.

''(b) RESERVATION OF FUNDS.—

''(1) IN GENERAL.—A State that receives a grant under this subpart may reserve not more than 5 percent of the amount of the funds provided under the grant for—

''(A) one or more of the authorized State activities described in subsection (e); and

''(B) planning and administration related to carrying out such activities and making subgrants to local educational agencies under subparts 2 and 3.

''(2) LIMITATION ON ADMINISTRATIVE COSTS.—The amount reserved by a State under paragraph (1)(B) may not exceed 1 percent of the amount of the funds provided under the grant.

''(c) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(1) IN GENERAL.—The Secretary may make a grant to a State under this subpart only if the State agrees to distribute the funds described in this subsection as subgrants to local educational agencies under subpart 3.

''(2) HOLD HARMLESS.—

''(A) IN GENERAL.—From the funds that a State receives under this subpart for any fiscal year that are not reserved under subsection (b), the State shall allot to each local educational agency an amount equal to the total amount that such agency received for fiscal year 2001 under—

''(i) section 2203(1)(B) of this Act (as in effect on the day before the date of the enactment of the No Child Left Behind Act of 2001); and

''(ii) section 306 of the Department of Education Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554).

''(B) NONPARTICIPATING AGENCIES.—In the case of a local educational agency that did not receive any funds for fiscal year 2001 under one or both of the provisions referred to in clauses (i) and (ii) of subparagraph (A), the amount allotted to the agency under such subparagraph shall be the total amount that the agency would have received for fiscal year 2001 if it had elected to participate in all of the programs for which it was eligible under each of the provisions referred to in such clauses.

''(C) RATABLE REDUCTION.—If the funds described in subparagraph (A) are insufficient to

pay the full amounts that all local educational agencies are eligible to receive under such subparagraph for any fiscal year, the State shall ratably reduce such amounts for such fiscal year.

''(3) ALLOTMENT OF ADDITIONAL FUNDS.—

''(A) IN GENERAL.—For any fiscal year for which the funds that a State receives under this subpart that are not reserved under subsection (b) exceed the total amount required to make allotments under paragraph (2), the State shall distribute the amount described in subparagraph (B) through a formula under which—

''(i) 20 percent is allocated to local educational agencies in accordance with the relative enrollment in public and private nonprofit elementary and secondary schools within the boundaries of such agencies; and

''(ii) 80 percent is allocated to local educational agencies in proportion to the number of children, aged 5 to 17, who reside within the geographic area served by such agency from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved for the most recent fiscal year for which satisfactory data are available, compared to the number of such individuals who reside in the geographic areas served by all the local educational agencies in the State for that fiscal year.

''(B) CALCULATION OF AMOUNT.—

''(i) IN GENERAL.—The amount described in this subparagraph for a State for any fiscal year is the base amount for such State and year, plus any additional amount for such State and year.

''(ii) BASE AMOUNT.—For purposes of this subparagraph, the term 'base amount' means 50 percent of the funds that remain to a State after a State makes the reservations described in subsection (b) and the allotments described in paragraph (2).

''(iii) ADDITIONAL AMOUNT.—For purposes of this subparagraph, the term 'additional amount' means the amount (if any) by which the base amount for a State exceeds the maximum amount described in subsection (d)(2)(B).

''(d) MATH AND SCIENCE PARTNERSHIPS.—

''(1) IN GENERAL.—The Secretary may make a grant to a State under this subpart only if the State agrees to distribute the amount described in paragraph (2) through a competitive subgrant process in accordance with subpart 2.

''(2) AMOUNT DESCRIBED.—

''(A) IN GENERAL.—The amount described in this paragraph for a State for any fiscal year is 50 percent of the funds that the State receives under this subpart for the year that remain after the State makes the reservations described in subsection (b) and the allotments described in subsection (c)(2).

''(B) LIMITATION.—In no case may the amount described in this paragraph exceed a maximum amount calculated by multiplying the total amount of the funds that a State receives under this subpart for a fiscal year that the State does not reserve under subsection (b) by a percentage, selected by the State, that shall be not less than 15 nor more than 20 percent.

''(e) AUTHORIZED STATE ACTIVITIES.—The authorized State activities referred to in subsection (b)(1)(A) are the following:

''(1) Reforming teacher certification, recertification, or licensure requirements to ensure that—

''(A) teachers have the necessary teaching skills and academic content knowledge in the subject areas in which they are assigned to teach;

''(B) teacher certification, recertification, or licensure requirements are aligned with the State's challenging State academic content standards; and

''(C) teachers have the knowledge and skills necessary to help students meet challenging State student achievement standards.

''(2) Carrying out programs that—

''(A) include support during the initial teaching or leadership experience, such as mentoring programs that—

''(i) provide—

''(I) mentoring to beginning teachers from veteran teachers with expertise in the same subject matter that the beginning teachers will be teaching; or

''(II) similar mentoring to principals or superintendents;

''(ii) provide mentors time for activities such as coaching, observing, and assisting the teachers or school leaders who are mentored; and

''(iii) use standards or assessments for guiding beginning teachers that are consistent with the State's student achievement standards and with the requirements for professional development activities under section 2033; and

''(B) establish, expand, or improve alternative routes to State certification of teachers, especially in the areas of mathematics and science, for highly qualified individuals with a baccalaureate degree, including mid-career professionals from other occupations, paraprofessionals, former military personnel, and recent college or university graduates with records of academic distinction who demonstrate the potential to become highly effective teachers.

''(3) Developing and implementing effective mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified and effective teachers and principals.

''(4) Reforming tenure systems and implementing teacher testing and other procedures to expeditiously remove ineffective teachers from the classroom.

''(5) Developing enhanced performance systems to measure the effectiveness of specific professional development programs and strategies.

''(6) Providing technical assistance to local educational agencies consistent with this part.

''(7) Funding projects to promote reciprocity of teacher certification or licensure between or among States, except that no reciprocity agreement developed under this paragraph or developed using funds provided under this part may lead to the weakening of any State teaching certification or licensing requirement.

''(8) Developing or assisting local educational agencies in the development and utilization of proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as through the use of technology and distance learning.

''(9) Providing assistance to local educational agencies for the development and implementation of innovative professional development programs that train teachers to use technology to improve teaching and learning and are consistent with the requirements of section 2033.

''(10) Developing or assisting local educational agencies in developing merit-based performance systems, rigorous assessments for teachers, and strategies which provide differential and bonus pay for teachers in high-need subject areas such as reading, math, and science and in high-poverty schools and districts.

''(11) Providing assistance to local educational agencies for the development and implementation of professional development programs for principals that enable them to be effective school leaders and prepare all students to achieve challenging State content and student achievement standards, including the development and support of school leadership academies to help exceptionally talented aspiring or current principals and superintendents become outstanding managers and educational leaders.

''(12) Developing, or assisting local educational agencies in developing, teacher advancement initiatives that promote professional growth and emphasize multiple career paths, such as career teacher, mentor teacher, and master teacher career paths, with pay differentiation.

''(f) COORDINATION.—States receiving grants under section 202 of the Higher Education Act of 1965 shall coordinate the use of such funds with activities carried out under this section.

"SEC. 2013. APPLICATIONS BY STATES.

''(a) IN GENERAL.—To be eligible to receive a grant under this subpart, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(b) CONTENTS.—Each application under this section shall include the following:

''(1) A description of how the State will ensure that a local educational agency receiving a subgrant under subpart 3 will comply with the requirements of such subpart.

''(2) A description of how the State will use funds under this part to meet the requirements of section 1119(a)(2).

''(3) A description of how the State will coordinate professional development activities authorized under this part with professional development activities provided under other Federal, State, and local programs, including those authorized under title I, part A of title III, parts A and B of title V, and (where applicable) the Individuals with Disabilities Education Act and the Carl D. Perkins Vocational and Technical Education Act. The application shall also describe the comprehensive strategy that the State will take as part of such coordination effort, to ensure that teachers are trained in the utilization of technology so that technology and its applications are effectively used in the classroom to improve teaching and learning in all curriculum and content areas, as appropriate.

''(4) A description of how the State will encourage the development of proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as through the use of technology and distance learning.

''(5) A description of how the State will ensure that local educational agencies will comply with the requirements under section 2033, especially with respect to ensuring the participation of teachers, principals, and parents.

''(c) APPLICATION APPROVAL.—A State application submitted to the Secretary under this section shall be deemed approved by the Secretary unless the Secretary makes a written determination, within 90 days after receiving the application, that the application is in violation of the provisions of this subpart. The Secretary shall not finally disapprove a State application except after giving the State notice and opportunity for a hearing.

"Subpart 2—Math and Science Partnerships

"SEC. 2021. PURPOSE.

''The purpose of this subpart is to improve the achievement of students in the areas of mathematics and science by encouraging States, institutions of higher education, and local educational agencies to participate in programs that—

''(1) focus on education and training of mathematics and science teachers that improves teachers' knowledge and skills and encourages intellectual growth;

''(2) improve mathematics and science teaching by encouraging institutions of higher education to assume greater responsibility for improving mathematics and science teacher education through the establishment of a comprehensive, integrated system of recruiting, training, and advising such teachers; and

''(3) bring mathematics and science teachers in elementary and secondary schools together with scientists, mathematicians, and engineers to increase the subject matter knowledge of teachers and improve their teaching skills through the use of sophisticated laboratory equipment and work space, computing facilities, libraries, and other resources that institutions of higher education are better able to provide than the schools.

"SEC. 2022. APPLICATION REQUIREMENTS.

''(a) IN GENERAL.—An eligible partnership seeking to receive a subgrant from a State under this subpart shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may require.

''(b) PARTNERSHIP APPLICATION CONTENTS.—Each such application shall include—

''(1) an assessment of the teacher quality and professional development of all the schools and agencies participating in the eligible partnership with respect to the teaching and learning of mathematics and science;

''(2) a description of how the activities to be carried out by the eligible partnership will be aligned with State academic content standards in mathematics and science and with other educational reform activities that promote student achievement in mathematics and science;

''(3) a description of how the activities to be carried out by the eligible partnership will be based on a review of relevant research, and an explanation of why the activities are expected to improve student achievement and to strengthen the quality of mathematics and science instructions; and

''(4) a description of—

''(A) how the eligible partnership will carry out the activities described in section 2023(c); and

''(B) the eligible partnership's evaluation and accountability plan described in section 2024.

"SEC. 2023. MATH AND SCIENCE PARTNERSHIP SUBGRANTS.

''(a) IN GENERAL.—From the amount described in section 2012(d), the State educational agency, working in conjunction with the State agency for higher education (if such agencies are separate), shall award subgrants on a competitive basis to eligible partnerships to enable such partnerships to carry out activities described in subsection (c).

''(b) DURATION.—The State shall award subgrants under this subpart for a period of not less than 2 and not more than 5 years.

''(c) AUTHORIZED ACTIVITIES.—A recipient of funds provided under this subpart may use the funds for the following activities related to elementary or secondary schools:

''(1) Establishing and operating mathematics and science summer professional development workshops or institutes for elementary and secondary school teachers that—

''(A) shall—

''(i) directly relate to the curriculum and content areas in which the teacher provides instruction, and focus only secondarily on pedagogy;

''(ii) enhance the ability of a teacher to understand and use the State's academic content standards for mathematics and science and to select appropriate curricula;

''(iii) train teachers to use curricula that are—

''(I) based on scientific research;

''(II) aligned with State academic content standards; and

''(III) object-centered, experiment-oriented, and concept- and content-based; and

''(iv) provide supplemental assistance and follow-up training during the school year for summer institute graduates; and

''(B) may include—

''(i) programs that provide prospective teachers and novice teachers opportunities to work under the guidance of experienced teachers and college faculty;

''(ii) instruction in the use of data and assessments to inform and instruct classroom practice; and

''(iii) professional development activities, including supplemental and follow-up activities, such as curriculum alignment, distance learning, and activities that train teachers to utilize technology in the classroom.

''(2) Recruiting to the teaching profession—

''(A) students studying mathematics, engineering, and science; or

''(B) mathematicians, engineers, and scientists currently working in the field.

''(3) Establishing and operating programs to bring teachers into contact with working scientists, mathematicians, and engineers, to expand teacher content knowledge of and research in science and mathematics.

''(d) PRIORITY.—In awarding subgrants under this subpart, States shall give priority to applications seeking funding for the activity described in subsection (c)(1).

''(e) COORDINATION.—Partnerships receiving grants under section 203 of the Higher Education Act of 1965 (20 U.S.C. 1023) shall coordinate the use of such funds with any related activities carried out by such partnership with funds made available under this subpart.

"SEC. 2024. EVALUATION AND ACCOUNTABILITY PLAN.

''(a) IN GENERAL.—Each eligible partnership receiving a subgrant under this subpart shall develop an evaluation and accountability plan for activities assisted under this subpart that includes rigorous performance objectives that measure the impact of activities funded under this subpart.

''(b) CONTENTS.—The plan—

''(1) shall include measurable goals to increase the number of mathematics and science teachers who participate in content-based professional development activities; and

''(2) may include objectives and measures for—

''(A) improved student achievement on State mathematics and science assessments;

''(B) increased participation by students in advanced courses in mathematics and science;

''(C) increased percentages of elementary school teachers with academic majors or minors, or group majors or minors, in mathematics, engineering, or the sciences; and

''(D) increased percentages of secondary school classes in mathematics and science taught by teachers with academic majors in mathematics and science, respectively.

"SEC. 2025. REPORTS; REVOCATION OF SUBGRANTS.

''(a) REPORTS.—Each eligible partnership receiving a subgrant under this subpart annually shall report to the State regarding the eligible partnership's progress in meeting the performance objectives described in section 2024.

''(b) REVOCATION.—If the State determines that an eligible partnership that receives a subgrant under this subpart for 5 years is not making substantial progress in meeting the performance objectives described in section 2024 by the end of the third year of the subgrant, the subgrant payments shall not be made for the fourth and fifth years.

"SEC. 2026. DEFINITIONS.

''In this subpart:

''(1) ELIGIBLE PARTNERSHIP.—The term 'eligible partnership' means a partnership that—

''(A) shall include—

''(i) a State educational agency;

''(ii) a mathematics or science department of a private independent institution of higher education or a State-supported public institution of higher education; and

''(iii) a high need local educational agency; and

''(B) may include—

''(i) another institution of higher education or the teacher training department of such an institution;

''(ii) additional local educational agencies, public charter schools, public or private elementary or secondary schools, or a consortium of such schools;

''(iii) a business; or

''(iv) a nonprofit organization of demonstrated effectiveness, including a museum or research institution.

''(2) SUMMER PROFESSIONAL DEVELOPMENT WORKSHOP OR INSTITUTE.—The term 'summer professional development workshop or institute' means a workshop or institute that—

''(A) is conducted during a period of not less than 2 weeks;

''(B) includes as a component a program that provides direct interaction between students and faculty; and

''(C) provides for follow-up training during the academic year that is conducted in the classroom for a period of not less than 3 consecutive or nonconsecutive days, except that—

''(i) if the workshop or institute is conducted during a two-week period, the follow-up training shall be conducted for a period of at least 4 days; and

''(ii) if the follow-up training is for teachers in rural school districts, it may be conducted through distance learning.

"Subpart 3—Subgrants to Local Educational Agencies

"SEC. 2031. LOCAL USE OF FUNDS.

''(a) IN GENERAL.—Subject to subsection (b), each local educational agency that receives a subgrant under this subpart may use the subgrant to carry out the following activities:

''(1) Initiatives to assist in recruiting and hiring fully qualified teachers who will be assigned teaching positions within their field, including—

''(A) providing signing bonuses or other financial incentives, such as differential pay, for teachers to teach in academic subject areas in which there exists a shortage of such fully qualified teachers within a school or the local educational agency;

''(B) establishing programs that—

''(i) recruit professionals from other fields and provide such professionals with alternative routes to teacher certification; and

''(ii) provide increased opportunities for minorities, individuals with disabilities, and other individuals underrepresented in the teaching profession; and

''(C) implementing hiring policies that ensure comprehensive recruitment efforts as a way to expand the applicant pool, such as through identifying teachers certified through alternative routes, coupled with a system of intensive screening designed to hire the most qualified applicant.

''(2) Initiatives to promote retention of highly qualified teachers and principals, particularly within elementary and secondary schools with a high percentage of low-achieving students, including programs that provide—

''(A) mentoring to newly hired teachers, such as from master teachers, or principals or superintendents;

''(B) incentives, including financial incentives, to retain teachers who have a record of success in helping low-achieving students improve their academic success; or

''(C) incentives, including financial incentives, to principals who have a record of improving the performance of all students, but particularly students from economically disadvantaged families and students from racial and ethnic minority groups.

''(3) Programs and activities that are designed to improve the quality of the teacher force, such as—

''(A) innovative professional development programs (which may be through partnerships including institutions of higher education), including programs that train teachers and principals to utilize technology to improve teaching and learning, are consistent with the requirements of section 2033, and are coordinated with part B of title V;

''(B) development and utilization of proven, cost-effective strategies for the implementation of professional development activities, such as through the utilization of technology and distance learning;

''(C) tenure reform;

''(D) merit pay;

''(E) testing of elementary and secondary school teachers in the subject areas taught by such teachers;

''(F) professional development programs that provide instruction in how to teach children with different learning styles, particularly children with disabilities and children with special learning needs (including those who are gifted and talented); and

''(G) professional development programs that provide instruction in methods of improving student behavior in the classroom and how to identify early and appropriate interventions to help children described in subparagraph (F) learn.

''(4) Teacher opportunity payments, consistent with section 2034.

''(5) Professional activities designed to improve the quality of principals and superintendents, including the development and support of academies to help exceptionally talented aspiring or current principals and superintendents become outstanding managers and educational leaders.

''(6) Hiring fully qualified teachers, including teachers who become fully qualified through State and local alternative routes, and special education teachers, in order to reduce class size, particularly in the early grades.

''(7) Teacher advancement initiatives that promote professional growth and emphasize multiple career paths, such as career teacher, mentor teacher, and master teacher career paths, with pay differentiation.

''(b) SPECIAL RULE.—

''(1) IN GENERAL.—For any fiscal year for which the amount described in section 2012(d)(2)(A) for a State is less than 15 percent of the total amount of the funds that the State receives under this subpart for the year that the State does not reserve under section 2012(b), each local educational agency that receives a subgrant under this subpart from the State shall use the funds to comply with paragraph (2).

''(2) REQUIREMENT.—A local educational agency required to comply with this paragraph shall use not less than the amount expended by the agency under section 2206(b) of this Act (as in effect on the day before the date of the enactment of the No Child Left Behind Act of 2001), for the fiscal year preceding the year in which such enactment occurs, to carry out professional development activities in mathematics and science.

''SEC. 2032. LOCAL APPLICATIONS.

''(a) IN GENERAL.—A local educational agency seeking to receive a subgrant from a State under this subpart shall submit an application to the State—

''(1) at such time as the State shall require; and

''(2) which is coordinated with other programs under this Act, or other Acts, as appropriate.

''(b) LOCAL APPLICATION CONTENTS.—The local application described in subsection (a), shall include, at a minimum, the following:

''(1) An assurance that the local educational agency will target funds to schools within the jurisdiction of the local educational agency that—

''(A) have the lowest proportion of fully qualified teachers;

''(B) have the largest average class size; or

''(C) are identified for school improvement under section 1116(b).

''(2) A description of how the local educational agency will coordinate professional development activities authorized under this subpart with professional development activities provided through other Federal, State, and local programs, including those authorized under title I, part A of title III, parts A and B of title V, and (where applicable) the Individuals with Disabilities Education Act and the Carl D. Perkins Vocational and Technical Education Act.

''(3) A description of how the local educational agency will integrate funds under this subpart with funds received under part B of title V that are used for professional development to train teachers to utilize technology to improve teaching and learning.

''(4) A description of how the local educational agency has collaborated with teachers, principals, parents, and administrators in the preparation of the application.

''SEC. 2033. PROFESSIONAL DEVELOPMENT FOR TEACHERS.

''(a) REQUIREMENTS FOR PROFESSIONAL DEVELOPMENT ACTIVITIES.—Professional development activities under this subpart shall—

''(1) meet the requirements of section 1119(a)(2);

''(2) support professional development activities that give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State academic content standards and student achievement standards;

''(3) support the recruiting, hiring, and training of fully qualified teachers, including teachers fully qualified through State and local alternative routes;

''(4) advance teacher understanding of effective instructional strategies based on scientifically based research for improving student achievement, at a minimum, in reading or language arts and mathematics;

''(5) be directly related to the curriculum and content areas in which the teacher provides instruction, except that this paragraph shall not apply to subparagraphs (F) and (G) of section 2031(3);

''(6) be designed to enhance the ability of a teacher to understand and use the State's standards for the subject area in which the teacher provides instruction;

''(7) be tied to scientifically based research demonstrating the effectiveness of such professional development activities or programs in increasing student achievement or substantially increasing the knowledge and teaching skills of teachers;

''(8) be of sufficient intensity and duration (not to include 1-day or short-term workshops and conferences) to have a positive and lasting impact on the teacher's performance in the classroom;

''(9) be developed with extensive participation of teachers, principals, parents, and administrators of schools to be served under this subpart;

''(10) be designed to give teachers of limited English proficient children, and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to such children, including the appropriate use of curriculum and assessments;

''(11) to the extent appropriate, provide training for teachers and principals in the use of technology so that technology and its applications are effectively used in the classroom to improve teaching and learning in the curriculum and academic content areas in which the teachers provide instruction;

''(12) as a whole, be regularly evaluated for their impact on increased teacher effectiveness and improved student achievement, with the findings of such evaluations used to improve the quality of professional development; and

''(13) provide instruction in methods of teaching children with special needs.

''(b) PROFESSIONAL DEVELOPMENT ACTIVITIES.—Professional development activities under this subpart may include—

''(1) instruction in the use of data and assessments to inform and instruct classroom practice;

''(2) instruction in ways that teachers, principals, pupil services personnel, and school administrators may work more effectively with parents;

''(3) the forming of partnerships with institutions of higher education to establish school-based teacher training programs that provide prospective teachers and novice teachers with an opportunity to work under the guidance of experienced teachers and college faculty;

''(4) the creation of programs for paraprofessionals (assisting teachers employed by a local educational agency receiving assistance under this part) to obtain the education necessary for such paraprofessionals to become licensed and certified teachers; and

''(5) activities that provide follow-up training to teachers who have participated in professional development activities which are designed to ensure that the knowledge and skills learned by the teacher are implemented in the classroom.

''(c) ACCOUNTABILITY.—

''(1) IN GENERAL.—If, after any fiscal year, a State determines that the programs or activities funded by a local educational agency fail to meet the requirements of subsection (a), the State shall notify the agency that—

''(A) it may be subject to paragraph (2); and

''(B) technical assistance is available from the State to help the agency meet those requirements.

''(2) REQUIREMENT TO PROVIDE TEACHER OPPORTUNITY PAYMENTS.—A local educational agency that has been notified by a State for 2 consecutive years under paragraph (1) shall expend under section 2034 for the succeeding fiscal year a proportion of the amount the agency receives under this subpart that is equal to the proportion of the amount the agency received under this part for the preceding fiscal year that the agency used for professional development.

''SEC. 2034. TEACHER OPPORTUNITY PAYMENTS.

''(a) IN GENERAL.—A local educational agency receiving funds under this subpart may (or, in the case of a local educational agency described in section 2033(c)(2), shall) provide funds directly to a teacher or a group of teachers seeking opportunities to participate in a professional development activity of their choice that meets the requirements of section 2033(a) and is selected in consultation with the principal in order to coordinate such professional development with other reform efforts at the school.

''(b) NOTICE TO TEACHERS.—Local educational agencies distributing funds under this section shall establish and implement a timely process through which proper notice of availability of funds will be given to all teachers within schools identified by the agency and shall develop a process whereby teachers will have regular consultation with and be specifically recommended by principals to participate in such program by virtue of—

''(1) a teacher not being fully qualified to teach in the subject or subjects in which they teach; or

''(2) a teacher's need for additional assistance to ensure that the teacher's students make progress toward meeting challenging State academic content standards and student achievement standards.

''(c) SELECTION OF TEACHERS.—If adequate funding is not available to provide payments under this section to all teachers seeking such assistance or identified as needing such assistance pursuant to subsection (b), a local educational agency shall establish procedures for selecting teachers that give priority to teachers described in paragraph (1) or (2) of subsection (b).

''Subpart 4—Mid-Career Transitions to Teaching

''CHAPTER 1—TROOPS-TO-TEACHERS PROGRAM

''SEC. 2041. AUTHORIZATION OF TROOPS-TO-TEACHERS PROGRAM.

''(a) PROGRAM AUTHORIZED.—The Secretary may carry out a program (to be known as the 'Troops-to-Teachers Program')—

''(1) to assist eligible members and former members of the Armed Forces described in section 2042 to obtain certification or licensure as fully qualified elementary school teachers, secondary school teachers, or vocational or technical teachers; and

''(2) to facilitate the employment of such members in elementary schools or secondary schools or as vocational or technical teachers.

''(b) ADMINISTRATION OF PROGRAM.—The Secretary shall enter into a memorandum of agreement with the Secretary of Defense under which

the Secretary of Defense, acting through the Defense Activity for Non-Traditional Education Support of the Department of Defense, will perform the actual administration of the Program, other than section 2045. Using funds appropriated to the Secretary to carry out this chapter, the Secretary shall transfer to the Secretary of Defense such amounts as may be necessary to administer the Program pursuant to the memorandum of agreement.

''(c) INFORMATION REGARDING PROGRAM.—The Secretary shall provide to the Secretary of Defense, for distribution as part of preseparation counseling provided under section 1142 of title 10, United States Code, to members of the Armed Forces described in section 2042, information regarding the Troops-to-Teachers Program and applications to participate in the program.

''(d) PLACEMENT ASSISTANCE AND REFERRAL SERVICES.—As part of the Troops-to-Teachers Program, the Secretary may, with the agreement of the Secretary of Defense, provide placement assistance and referral services regarding employment opportunities with local educational agencies to members of the Armed Forces who are discharged or released from active duty under other than adverse conditions. Unless the member is also selected to participate in the Program under section 2042, a member receiving placement assistance and referral services under the authority of this subsection is not eligible for financial assistance under section 2043.

"SEC. 2042. RECRUITMENT AND SELECTION OF PROGRAM PARTICIPANTS.

''(a) ELIGIBLE MEMBERS.—The following members and former members of the Armed Forces are eligible for selection to participate in the Troops-to-Teachers Program:

''(1) Any member who—

''(A) on or after October 1, 1999, becomes entitled to retired or retainer pay in the manner provided in title 10 or title 14, United States Code; or

''(B) on or after the date of the enactment of the No Child Left Behind Act of 2001, has an approved date of voluntary retirement and, as of the date the member submits an application to participate in the Program, has one year or less of active duty remaining before retirement.

''(2) Any member who, on or after the date of the enactment of the No Child Left Behind Act of 2001—

''(A) is separated or released from active duty after six or more years of continuous active duty immediately before the separation or release; and

''(B) executes a reserve commitment agreement for a period of three years under subsection (e)(2).

''(3) Any member who, on or after the date of the enactment of the No Child Left Behind Act of 2001, is retired or separated for physical disability under chapter 61 of title 10, United States Code.

''(4) Any member who—

''(A) during the period beginning on October 1, 1990, and ending on September 30, 1999, was involuntarily discharged or released from active duty for purposes of a reduction of force after six or more years of continuous active duty immediately before the discharge or release; or

''(B) applied for the teacher placement program administered under section 1151 of title 10, United States Code, before its repeal, and who satisfied the eligibility criteria specified in subsection (c) of such section 1151.

''(b) SUBMISSION OF APPLICATIONS.—

''(1) FORM AND SUBMISSION.—Selection of eligible members and former members of the Armed Forces to participate in the Troops-to-Teachers Program shall be made on the basis of applications submitted to the Secretary within the time periods specified in paragraph (2). An application shall be in such form and contain such information as the Secretary may require.

''(2) TIME FOR SUBMISSION.—An application shall be considered to be submitted on a timely basis under paragraph (1) if—

''(A) in the case of a member or former member of the Armed Forces described in paragraph (1), (2), or (3) of subsection (a), the application is submitted not later than four years after the date on which the member is retired or separated or released from active duty, whichever applies to the member; or

''(B) in the case of a member or former member described in subsection (a)(4), the application is submitted not later than September 30, 2003.

''(c) SELECTION CRITERIA.—

''(1) ESTABLISHMENT.—Subject to paragraphs (2) and (3), the Secretary shall prescribe the criteria to be used to select eligible members and former members of the Armed Forces to participate in the Troops-to-Teachers Program.

''(2) EDUCATIONAL BACKGROUND.—If a member or former member of the Armed Forces described in paragraph (1), (2), or (3) of subsection (a) is applying for assistance for placement as an elementary or secondary school teacher, the Secretary shall require the member to have received a baccalaureate or advanced degree from an accredited institution of higher education. If such a member is applying for assistance for placement as a vocational or technical teacher, the Secretary shall require the member—

''(A) to have received the equivalent of one year of college from an accredited institution of higher education and have six or more years of military experience in a vocational or technical field; or

''(B) to otherwise meet the certification or licensure requirements for a vocational or technical teacher in the State in which the member seeks assistance for placement under the Program.

''(3) HONORABLE SERVICE.—A member or former member of the Armed Forces is eligible to participate in the Troops-to-Teachers Program only if the member's last period of service in the Armed Forces was characterized as honorable. If the member is selected to participate in the Program before the retirement of the member or the separation or release of the member from active duty, the member may continue to participate in the Program only if, upon the retirement or separation or release from active duty, the member's last period of service is characterized as honorable.

''(d) SELECTION PRIORITIES.—In selecting eligible members and former members of the Armed Forces to receive assistance for placement as elementary or secondary school teachers or vocational or technical teachers, the Secretary shall give priority to members who have educational or military experience in science, mathematics, special education, or vocational or technical subjects and agree to seek employment as science, mathematics, or special education teachers in elementary or secondary schools or in other schools under the jurisdiction of a local educational agency.

''(e) OTHER CONDITIONS ON SELECTION.—

''(1) SELECTION SUBJECT TO FUNDING.—The Secretary may not select an eligible member or former member of the Armed Forces to participate in the Troops-to-Teachers Program under this section and receive financial assistance under section 2043 unless the Secretary has sufficient appropriations for the Program available at the time of the selection to satisfy the obligations to be incurred by the United States under section 2043 with respect to the member.

''(2) RESERVE COMMITMENT AGREEMENT.—The Secretary may not select an eligible member or former member of the Armed Forces described in subsection (a)(2)(A) to participate in the Troops-to-Teachers Program under this section and receive financial assistance under section 2043 unless—

''(A) the Secretary notifies the Secretary concerned and the member that the Secretary has reserved a full stipend or bonus under section 2043 for the member; and

''(B) the member executes a written agreement with the Secretary concerned to serve as a member of the Selected Reserve of a reserve component of the Armed Forces for a period of three years (in addition to any other reserve commitment the member may have).

"SEC. 2043. PARTICIPATION AGREEMENT AND FINANCIAL ASSISTANCE.

''(a) PARTICIPATION AGREEMENT.—An eligible member or former member of the Armed Forces selected to participate in the Troops-to-Teachers Program under section 2042 and receive financial assistance under this section shall be required to enter into an agreement with the Secretary in which the member agrees—

''(1) to obtain, within such time as the Secretary may require, certification or licensure as a fully qualified elementary school teacher, secondary school teacher, or vocational or technical teacher; and

''(2) to accept an offer of full-time employment as a fully qualified elementary school teacher, secondary school teacher, or vocational or technical teacher for not less than three school years with a local educational agency or public charter school, to begin the school year after obtaining that certification or licensure.

''(b) VIOLATION OF PARTICIPATION AGREEMENT; EXCEPTIONS.—A participant in the Troops-to-Teachers Program shall not be considered to be in violation of the participation agreement entered into under subsection (a) during any period in which the participant—

''(1) is pursuing a full-time course of study related to the field of teaching at an institution of higher education;

''(2) is serving on active duty as a member of the Armed Forces;

''(3) is temporarily totally disabled for a period of time not to exceed three years as established by sworn affidavit of a qualified physician;

''(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

''(5) is seeking and unable to find full-time employment as a fully qualified teacher in an elementary or secondary school or as a vocational or technical teacher for a single period not to exceed 27 months; or

''(6) satisfies the provisions of additional reimbursement exceptions that may be prescribed by the Secretary.

''(c) STIPEND FOR PARTICIPANTS.—

''(1) STIPEND AUTHORIZED.—Subject to paragraph (2), the Secretary may pay to a participant in the Troops-to-Teachers Program selected under section 2042 a stipend in an amount up to $5,000.

''(2) LIMITATION.—The total number of stipends that may be paid under paragraph (1) in any fiscal year may not exceed 3,000.

''(d) BONUS FOR PARTICIPANTS.—

''(1) BONUS AUTHORIZED.—Subject to paragraph (2), the Secretary may, in lieu of paying a stipend under subsection (c), pay a bonus of $10,000 to a participant in the Troops-to-Teachers Program selected under section 2042 who agrees in the participation agreement under subsection (a) to accept full-time employment as a fully qualified elementary school teacher, secondary school teacher, or vocational or technical teacher for not less than three years in a high need school.

''(2) LIMITATION.—The total number of bonuses that may be paid under paragraph (1) in any fiscal year may not exceed 1,000.

''(3) HIGH NEED SCHOOL DEFINED.—For purposes of this subsection, the term 'high need school' means a public elementary school, public secondary school, or public charter school that meets one or more of the following criteria:

''(A) At least 50 percent of the students enrolled in the school were children counted under subsection (c) of section 1124 for purposes of making grants under such section to local educational agencies, when such counting was most recently performed.

''(B) The school has a large percentage of students who qualify for assistance under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

''(C) The school meets any other criteria established by the Secretary in consultation with the National Assessment Governing Board.

''(e) TREATMENT OF STIPEND AND BONUS.—A stipend or bonus paid under this section to a participant in the Troops-to-Teachers Program shall be taken into account in determining the eligibility of the participant for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

''(f) REIMBURSEMENT UNDER CERTAIN CIRCUMSTANCES.—

''(1) REIMBURSEMENT REQUIRED.—A participant in the Troops-to-Teachers Program who is paid a stipend or bonus under this section shall be required to repay the stipend or bonus under the following circumstances:

''(A) The participant fails to obtain teacher certification or licensure or employment as a fully qualified elementary school teacher, secondary school teacher, or vocational or technical teacher as required by the participation agreement under subsection (a).

''(B) The participant voluntarily leaves, or is terminated for cause, from employment as an elementary school teacher, secondary school teacher, or vocational or technical teacher during the three years of required service in violation of the participation agreement.

''(C) The participant executed a written agreement with the Secretary concerned under section 2042(e)(2) to serve as a member of a reserve component of the Armed Forces for a period of three years and fails to complete the required term of service.

''(2) AMOUNT OF REIMBURSEMENT.—A participant required to reimburse the Secretary for a stipend or bonus paid to the participant under this section shall pay an amount that bears the same ratio to the amount of the stipend or bonus as the unserved portion of required service bears to the three years of required service. Any amount owed by the participant shall bear interest at the rate equal to the highest rate being paid by the United States on the day on which the reimbursement is determined to be due for securities having maturities of ninety days or less and shall accrue from the day on which the participant is first notified of the amount due.

''(3) TREATMENT OF OBLIGATION.—The obligation to reimburse the Secretary under this subsection is, for all purposes, a debt owing the United States. A discharge in bankruptcy under title 11, United States Code, shall not release a participant from the obligation to reimburse the Secretary.

''(4) EXCEPTIONS TO REIMBURSEMENT REQUIREMENT.—A participant shall be excused from reimbursement under this subsection if the participant becomes permanently totally disabled as established by sworn affidavit of a qualified physician. The Secretary may also waive reimbursement in cases of extreme hardship to the participant, as determined by the Secretary.

''(g) RELATIONSHIP TO EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.—The receipt by a participant in the Troops-to-Teachers Program of a stipend or bonus under this section shall not reduce or otherwise affect the entitlement of the participant to any benefits under chapter 30 of title 38, United States Code, or chapter 1606 of title 10, United States Code.

''SEC. 2044. PARTICIPATION BY STATES.

''(a) DISCHARGE OF STATE ACTIVITIES THROUGH CONSORTIA OF STATES.—The Secretary may permit States participating in the Troops-to-Teachers Program to carry out activities authorized for such States under the Program through one or more consortia of such States.

''(b) ASSISTANCE TO STATES.—

''(1) GRANTS AUTHORIZED.—Subject to paragraph (2), the Secretary may make grants to States participating in the Troops-to-Teachers Program, or to consortia of such States, in order to permit such States or consortia of States to operate offices for purposes of recruiting eligible members and former members of the Armed Forces for participation in the Program and facilitating the employment of participants in the Program as elementary school teachers, secondary school teachers, and vocational or technical teachers.

''(2) LIMITATION.—The total amount of grants under paragraph (1) in any fiscal year may not exceed $4,000,000.

''SEC. 2045. SUPPORT OF INNOVATIVE PRE-RETIREMENT TEACHER CERTIFICATION PROGRAMS.

''(a) DEVELOPMENT, IMPLEMENTATION AND DEMONSTRATION.—The Secretary may enter into a memorandum of agreement with a State, an institution of higher education, or a consortia of States or institutions of higher education, to develop, implement, and demonstrate teacher certification programs for members of the Armed Forces described in section 2042(a)(1)(B) for the purpose of assisting such members to consider and prepare for a career as a fully qualified elementary school teacher, secondary school teacher, or vocational or technical teacher upon their retirement from the Armed Forces.

''(b) PROGRAM ELEMENTS.—A teacher certification program under subsection (a) must—

''(1) provide recognition of military experience and training as related to licensure or certification requirements;

''(2) provide courses of instruction that may be conducted on or near a military installation;

''(3) incorporate alternative approaches to achieve teacher certification, such as innovative methods to gaining field-based teaching experiences, and assessment of background and experience as related to skills, knowledge, and abilities required of elementary school teachers, secondary school teachers, or vocational or technical teachers;

''(4) provide for courses to also be delivered via distance education methods; and

''(5) address any additional requirements or specifications as established by the Secretary.

''(c) APPLICATION PROCEDURES.—A State or institution of higher education (or a consortia of States or institutions of higher education) that has a program leading to State approved teacher certification programs may submit a proposal to the Secretary for consideration under subsection (a). The Secretary shall give preference to proposals that provide for a sharing of the costs to carry out the teacher certification program.

''(d) CONTINUATION OF PROGRAMS.—The purpose of this section is to provide funding to develop, implement, and demonstrate teacher certification programs under subsection (a). Upon successful completion of the demonstration phase, the continued operation of the teacher certification programs shall not be the responsibility of the Secretary.

''(e) FUNDING LIMITATION.—The total amount obligated by the Secretary under this section in any fiscal year may not exceed $5,000,000.

''SEC. 2046. REPORTING REQUIREMENTS.

''(a) REPORT REQUIRED.—Not later than March 31 of each year, the Secretary (in consultation with the Secretary of Defense and the Secretary of Transportation) and the Comptroller General shall each submit to Congress a report on the effectiveness of the Troops-to-Teachers Program in the recruitment and retention of qualified personnel by local educational agencies and public charter schools.

''(b) ELEMENTS OF REPORT.—The report under subsection (a) shall include information on the following:

''(1) The number of participants in the Troops-to-Teachers Program.

''(2) The schools in which the participants are employed.

''(3) The grade levels at which the participants teach.

''(4) The subject matters taught by the participants.

''(5) The rates of retention of the participants by the local educational agencies and public charter schools employing the participants.

''(6) Such other matters as the Secretary or the Comptroller General, as the case may be, considers appropriate.

''(c) RECOMMENDATIONS.—The report of the Comptroller General under this section shall also include any recommendations of the Comptroller General regarding any means of improving the Troops-to-Teachers Program, including means of enhancing the recruitment and retention of participants in the Program.

''SEC. 2047. DEFINITIONS.

''For purposes of this chapter:

''(1) ARMED FORCES.—The term 'Armed Forces' means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

''(2) PROGRAM.—The term 'Program' means the Troops-to-Teachers Program authorized by this subpart.

''(3) RESERVE COMPONENT.—The term 'reserve component' means—

''(A) the Army National Guard of the United States;

''(B) the Army Reserve;

''(C) the Naval Reserve;

''(D) the Marine Corps Reserve;

''(E) the Air National Guard of the United States;

''(F) the Air Force Reserve; and

''(G) the Coast Guard Reserve.

''(4) SECRETARY CONCERNED.—The term 'Secretary concerned' means—

''(A) the Secretary of the Army, with respect to matters concerning a reserve component of the Army;

''(B) the Secretary of the Navy, with respect to matters concerning a reserve component of the Navy;

''(C) the Secretary of the Air Force, with respect to matters concerning a reserve component of the Air Force; and

''(D) the Secretary of Transportation, with respect to matters concerning the Coast Guard Reserve.

''CHAPTER 2—TRANSITION TO TEACHING

''SEC. 2048. PROFESSIONALS SEEKING TO CHANGE CAREERS.

''(a) PURPOSE.—The purpose of this section is to address the need of high-need local educational agencies for highly qualified teachers in particular subject areas, such as mathematics, science, foreign languages, bilingual education, and special education, needed by those agencies, following the model of the program under chapter 1, by recruiting, preparing, placing, and supporting career-changing professionals who have knowledge and experience that will help them become such teachers.

''(b) PROGRAM AUTHORIZED.—The Secretary may award grants, contracts, or cooperative agreements to institutions of higher education and public and private nonprofit agencies or organizations to carry out programs authorized by this section.

''(c) APPLICATION.—Each applicant that desires an award under subsection (b) shall submit an application to the Secretary containing such information as the Secretary requires, including—

''(1) a description of the target group of career-changing professionals upon which the applicant will focus its recruitment efforts in carrying out its program under this section, including a description of the characteristics of that target group that shows how the knowledge and experience of its members are relevant to meeting the purpose of this section;

''(2) a description of the training that program participants will receive and how that training will relate to their certification as teachers;

''(3) a description of how the applicant will collaborate, as needed, with other institutions, agencies, or organizations to recruit, train, place, support, and provide teacher induction programs to program participants under this section, including evidence of the commitment of those institutions, agencies, or organizations to the applicant's program;

''(4) a description of how the applicant will evaluate the progress and effectiveness of its program, including—

''(A) the program's goals and objectives;

''(B) the performance indicators the applicant will use to measure the program's progress; and

''(C) the outcome measures that will be used to determine the program's effectiveness; and

''(5) such other information and assurances as the Secretary may require.

''(d) USES OF FUNDS AND PERIOD OF SERVICE.—

''(1) AUTHORIZED ACTIVITIES.—Funds under this section may be used for—

''(A) recruiting program participants, including informing them of opportunities under the program and putting them in contact with other institutions, agencies, or organizations that would train, place, and support them;

''(B) training stipends and other financial incentives for program participants, not to exceed $5,000 per participant;

''(C) assisting institutions of higher education or other providers of teacher training to tailor their training to meet the particular needs of professionals who are changing their careers to teaching;

''(D) placement activities, including identifying high-need local educational agencies with a need for the particular skills and characteristics of the newly trained program participants and assisting those participants to obtain employment in those local educational agencies; and

''(E) post-placement induction or support activities for program participants.

''(2) PERIOD OF SERVICE.—A program participant in a program under this section who completes his or her training shall serve in a high-need local educational agency for at least 3 years.

''(3) REPAYMENT.—The Secretary shall establish such requirements as the Secretary determines appropriate to ensure that program participants who receive a training stipend or other financial incentive under paragraph (1)(B), but fail to complete their service obligation under paragraph (2), repay all or a portion of such stipend or other incentive.

''(e) EQUITABLE DISTRIBUTION.—To the extent practicable, the Secretary shall make awards under this section that support programs in different geographic regions of the United States.

''(f) DEFINITION.—As used in this section, the term 'program participants' means career-changing professionals who—

''(1) hold at least a baccalaureate degree;

''(2) demonstrate interest in, and commitment to, becoming a teacher; and

''(3) have knowledge and experience that are relevant to teaching a high-need subject area in a high-need local educational agency.

"Subpart 5—Funding

"SEC. 2051. AUTHORIZATIONS OF APPROPRIATIONS.

''(a) IN GENERAL.—For the purpose of carrying out this part, other than subpart 4, there are authorized to be appropriated $3,600,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.

''(b) SUBPART 4.—For the purpose of carrying out subpart 4, there are authorized to be appropriated $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.

"Subpart 6—General Provisions

"SEC. 2061. DEFINITIONS.

''For purposes of this part—

''(1) ARTS AND SCIENCES.—The term 'arts and sciences' means—

''(A) when referring to an organizational unit of an institution of higher education, any academic unit that offers one or more academic majors in disciplines or content areas corresponding to the academic subject matter areas in which teachers provide instruction; and

''(B) when referring to a specific academic subject matter area, the disciplines or content areas in which academic majors are offered by the arts and sciences organizational unit.

''(2) BEGINNING TEACHER.—The term 'beginning teacher' means an educator in a public school who has not yet been teaching 3 full school years.

''(3) MENTORING PROGRAM.—The term 'mentoring program' means to provide professional support and development, instruction, and guidance to beginning teachers, but does not include a teacher or individual who begins to work in a supervisory position.

''(4) PUBLICLY REPORT.—The term 'publicly report', when used with respect to the dissemination of information, means that the information is made widely available to the public, including parents and students, through such means as the Internet and major print and broadcast media outlets.''.

SEC. 202. NATIONAL WRITING PROJECT.

(a) TRANSFER AND REDESIGNATION.—Part K of title X (20 U.S.C. 8331 et seq.) is transferred and redesignated as part B of title II. Sections 10991 and 10992 are redesignated as sections 2101 and 2102, respectively.

(b) EVALUATION.—Section 2102(g) (as so redesignated) is amended—

(1) in paragraph (1), by striking ''14701.'' and inserting ''8651.''; and

(2) in paragraph (2), by striking ''1994'' and inserting ''2002''.

(c) REAUTHORIZATION.—Section 2102(i) (as so redesignated) is amended by striking ''$4,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years,'' and inserting ''such sums as may be necessary for fiscal year 2002 and the four succeeding fiscal years,''.

(d) CONTINUATION OF AWARDS.—Notwithstanding any other provision of this Act, any person or agency that was awarded a grant or contract under part K of title X (20 U.S.C. 8331 et seq.) prior to the date of the enactment of this Act shall continue to receive funds in accordance with the terms of such award until the date on which the award period terminates under such terms.

SEC. 203. CIVIC EDUCATION; TEACHER LIABILITY PROTECTION.

(a) IN GENERAL.—Title II, as amended by sections 201 and 202, is further amended by adding at the end the following:

"PART C—CIVIC EDUCATION

"SEC. 2201. SHORT TITLE.

''This part may be cited as the 'Education for Democracy Act'.

"SEC. 2202. FINDINGS.

''The Congress finds that—

''(1) college freshmen surveyed in 1999 by the Higher Education Research Institute at the University of California at Los Angeles demonstrated higher levels of disengagement, both academically and politically, than any previous entering class of students;

''(2) college freshmen in 1999 demonstrated the lowest levels of political interest in the 20-year history of surveys conducted by the Higher Education Research Institute at the University of California at Los Angeles;

''(3) United States secondary school students expressed relatively low levels of interest in politics and economics in a 1999 Harris survey;

''(4) the 32d Annual Phi Delta Kappa/Gallup Poll of 2000 indicated that preparing students to become responsible citizens was the most important purpose of public schools;

''(5) Americans surveyed by the Organization of Economic Cooperation and Development indicated that only 59 percent had confidence that schools have a major effect on the development of good citizenship;

''(6) teachers too often do not have sufficient expertise in the subjects that they teach, and 50 percent of all secondary school history students in America are being taught by teachers with neither a major nor a minor in history;

''(7) secondary school students correctly answered fewer than 50 percent of the questions on a national test of economic knowledge in a 1999 Harris survey;

''(8) the 1998 National Assessment of Educational Progress indicated that students have only superficial knowledge of, and lacked a depth of understanding regarding, civics;

''(9) civics and economic education are important not only to developing citizenship competencies in the United States but also are critical to supporting political stability and economic health in other democracies, particularly emerging democratic market economies;

''(10) more than 75 percent of Americans surveyed by the National Constitution Center in 1997 admitted that they knew only some or very little about the Constitution of the United States; and

''(11) the Constitution of the United States is too often viewed within the context of history and not as a living document that shapes current events.

"SEC. 2203. PURPOSE.

''It is the purpose of this part—

''(1) to improve the quality of civics and government education by educating students about the history and principles of the Constitution of the United States, including the Bill of Rights;

''(2) to foster civic competence and responsibility; and

''(3) to improve the quality of civic education and economic education through cooperative civic education and economic education exchange programs with emerging democracies.

"SEC. 2204. AUTHORITY.

''The Secretary may make grants to, or enter into contracts with—

''(1) the Center for Civic Education to carry out civic education activities in accordance with sections 2205 and 2206; and

''(2) the National Council on Economic Education to carry out economic education activities in accordance with section 2206.

"SEC. 2205. WE THE PEOPLE PROGRAM.

''(a) USE OF FUNDS.—The Center for Civic Education may use funds made available under grants or contracts under section 2204(1) only to carry out activities—

''(1) under the Citizen and the Constitution program in accordance with subsection (b); and

''(2) under the Project Citizen program in accordance with subsection (c).

''(b) CITIZEN AND THE CONSTITUTION PROGRAM.—

''(1) EDUCATIONAL ACTIVITIES.—The Center for Civic Education—

''(A) shall use funds made available under grants or contracts under section 2204(1)—

''(i) to continue and expand the educational activities of the program entitled the 'We the People . . . The Citizen and the Constitution' administered by the Center for Civic Education;

''(ii) to carry out activities to enhance student attainment of challenging academic content standards in civics and government;

''(iii) to provide a course of instruction on the basic principles of the Nation's constitutional democracy and the history of the Constitution of the United States, including the Bill of Rights;

''(iv) to provide, at the request of a participating school, school and community simulated congressional hearings following the course of instruction described in clause (iii); and

''(v) to provide an annual national competition of simulated congressional hearings for secondary school students who wish to participate in such a program; and

''(B) may use assistance made available under section 2204(1)—

''(i) to provide advanced sustained and ongoing training of teachers about the Constitution of the United States and the political system of the United States;

''(ii) to provide materials and methods of instruction, including teacher training, that utilize the latest advancements in educational technology; and

''(iii) to provide civic education materials and services to address specific problems such as the prevention of school violence and the abuse of drugs and alcohol.

''(2) AVAILABILITY OF PROGRAM.—As a condition of receipt of funds under grants or contracts under section 2204(1), the Secretary shall require the Center for Civic Education to make the education program authorized under this subsection available to public and private elementary schools and secondary schools, including Bureau-funded schools, in each of the 435 congressional districts, and in the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(c) PROJECT CITIZEN.—

''(1) EDUCATIONAL ACTIVITIES.—The Center for Civic Education—

''(A) shall use funds made available under grants or contracts under section 2204(1)—

''(i) to continue and expand the educational activities of the program entitled the 'We the People . . . Project Citizen' program administered by the Center;

''(ii) to carry out activities to enhance student attainment of challenging academic content standards in civics and government;

''(iii) to provide a course of instruction at the middle school level on the roles of State and local governments in the Federal system established by the Constitution of the United States; and

''(iv) to provide an annual national showcase or competition; and

''(B) may use funds made available under grants or contracts under section 2204(1)—

''(i) to provide optional school and community simulated State legislative hearings;

''(ii) to provide advanced sustained and ongoing training of teachers on the roles of State and local governments in the Federal system established by the Constitution of the United States;

''(iii) to provide materials and methods of instruction, including teacher training, that utilize the latest advancements in educational technology; and

''(iv) to provide civic education materials and services to address specific problems such as the prevention of school violence and the abuse of drugs and alcohol.

''(2) AVAILABILITY OF PROGRAM.—As a condition of receipt of funds under grants or contracts under section 2204(1), the Secretary shall require the Center for Civic Education to make the education program authorized under this subsection available to public and private middle schools, including Bureau-funded schools, in each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(d) BUREAU-FUNDED SCHOOL DEFINED.—In this section, the term 'Bureau-funded school' has the meaning given such term in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026).

"SEC. 2206. COOPERATIVE CIVIC EDUCATION AND ECONOMIC EDUCATION EXCHANGE PROGRAMS.

''(a) USE OF FUNDS.—The Center for Civic Education and the National Council on Economic Education may use funds made available under grants or contracts under section 2204(2) only to carry out cooperative education exchange programs that—

''(1) make available to educators from eligible countries exemplary curriculum and teacher training programs in civics and government education, and economics education, developed in the United States;

''(2) assist eligible countries in the adaptation, implementation, and institutionalization of programs described in paragraph (1);

''(3) create and implement programs for civics and government education, and economic education, for students that draw upon the experiences of the participating eligible countries;

''(4) provide means for the exchange of ideas and experiences in civics and government education, and economic education, among political, educational, governmental, and private sector leaders of participating eligible countries; and

''(5) provide support for—

''(A) independent research and evaluation to determine the effects of educational programs on students' development of the knowledge, skills, and traits of character essential for the preservation and improvement of constitutional democracy; and

''(B) effective participation in and the preservation and improvement of an efficient market economy.

''(b) ACTIVITIES.—In carrying out the cooperative education exchange programs assisted under this section, the Center for Civic Education and the National Council on Economic Education shall—

''(1) provide to the participants from eligible countries—

''(A) seminars on the basic principles of United States constitutional democracy and economic system, including seminars on the major governmental and economic institutions and systems in the United States, and visits to such institutions;

''(B) visits to school systems, institutions of higher education, and nonprofit organizations conducting exemplary programs in civics and government education, and economic education, in the United States;

''(C) translations and adaptations with respect to United States civics and government education, and economic education, curricular programs for students and teachers, and in the case of training programs for teachers translations and adaptations into forms useful in schools in eligible countries, and joint research projects in such areas; and

''(D) independent research and evaluation assistance—

''(i) to determine the effects of the cooperative education exchange programs on students' development of the knowledge, skills, and traits of character essential for the preservation and improvement of constitutional democracy; and

''(ii) to identify effective participation in and the preservation and improvement of an efficient market economy;

''(2) provide to the participants from the United States—

''(A) seminars on the histories, economies, and systems of government of eligible countries;

''(B) visits to school systems, institutions of higher education, and organizations conducting exemplary programs in civics and government education, and economic education, located in eligible countries;

''(C) assistance from educators and scholars in eligible countries in the development of curricular materials on the history, government, and economy of such countries that are useful in United States classrooms;

''(D) opportunities to provide onsite demonstrations of United States curricula and pedagogy for educational leaders in eligible countries; and

''(E) independent research and evaluation assistance to determine—

''(i) the effects of the cooperative education exchange programs assisted under this section on students' development of the knowledge, skills, and traits of character essential for the preservation and improvement of constitutional democracy; and

''(ii) effective participation in and improvement of an efficient market economy; and

''(3) assist participants from eligible countries and the United States to participate in international conferences on civics and government education, and economic education, for educational leaders, teacher trainers, scholars in related disciplines, and educational policymakers.

''(c) PARTICIPANTS.—The primary participants in the cooperative education exchange programs assisted under this section shall be educational leaders in the areas of civics and government education, and economic education, including teachers, curriculum and teacher training specialists, scholars in relevant disciplines, and educational policymakers, and government and private sector leaders from the United States and eligible countries.

''(d) CONSULTATION.—The Secretary may make a grant, or enter into a contract, under section 2204(2) only if the Secretary of State concurs with the Secretary that such grant, or contract, is consistent with the foreign policy of the United States.

''(e) AVOIDANCE OF DUPLICATION.—With the concurrence of the Secretary of State, the Secretary shall ensure that—

''(1) the activities carried out under the programs assisted under this section are not duplicative of other activities conducted in eligible countries; and

''(2) any institutions in eligible countries, with which the Center for Civic Education or the National Council on Economic Education may work in conducting such activities, are creditable.

''(f) ELIGIBLE COUNTRY DEFINED.—In this section, the term 'eligible country' means a Central European country, an Eastern European country, Lithuania, Latvia, Estonia, the independent states of the former Soviet Union as defined in section 3 of the FREEDOM Support Act (22 U.S.C. 5801), the Republic of Ireland, the province of Northern Ireland in the United Kingdom, and any developing country (as such term is defined in section 209(d) of the Education for the Deaf Act) if the Secretary, with the concurrence of the Secretary of State, determines that such developing country has a democratic form of government.

"SEC. 2207. FUNDING.

''(a) AUTHORIZATION OF APPROPRIATIONS.—

''(1) WE THE PEOPLE PROGRAM.—There are authorized to be appropriated to carry out sections 2204(1) and 2205 such sums as may be necessary for each of fiscal years 2002 through 2006.

''(2) COOPERATIVE CIVIC EDUCATION AND ECONOMIC EDUCATION EXCHANGE PROGRAMS.—There are authorized to be appropriated to carry out sections 2204(2) and 2206 such sums as may be necessary for each of fiscal years 2002 through 2006.

''(b) LIMITATION.—In each fiscal year, the Secretary may use not more than 50 percent of the amount appropriated under subsection (a)(2) for assistance for economic educational activities.

"PART D—TEACHER LIABILITY PROTECTION

"SEC. 2301. TEACHER IMMUNITY.

''(a) IMMUNITY.—Notwithstanding any other provision of law, no school board member of, or teacher or administrator in, a local educational agency that receives funds under this Act shall be liable for monetary damages in his or her personal capacity for an action that was taken in carrying out his or her official duties and intended to maintain school discipline, so long as that action was not prohibited under State or local law and did not constitute reckless or criminal misconduct.

''(b) LIMITATION.—The immunity established under subsection (a) shall apply only to liability arising under Federal law.''.

(b) CONTINUATION OF AWARDS.—Notwithstanding any other provision of this Act, any person or agency that was awarded a grant under part F of title X (20 U.S.C. 8141 et seq.) prior to the date of the enactment of this Act shall continue to receive funds in accordance with the terms of such award until the date on

which the award period terminates under such terms.

TITLE III—EDUCATION OF LIMITED ENGLISH PROFICIENT AND IMMIGRANT CHILDREN; INDIAN AND ALASKA NATIVE EDUCATION

PART A—EDUCATION OF LIMITED ENGLISH PROFICIENT AND IMMIGRANT CHILDREN

SEC. 301. PROGRAMS AUTHORIZED.

(a) TITLE HEADING.—The heading for title III is amended to read as follows:

"TITLE III—EDUCATION OF LIMITED ENGLISH PROFICIENT AND IMMIGRANT CHILDREN; INDIAN AND ALASKA NATIVE EDUCATION".

(b) SHORT TITLE.—Section 3101 (20 U.S.C. 6801) is repealed.

(c) LIMITATION ON AVAILABILITY OF CERTAIN FUNDS FOR SCHOOLS.—

(1) IN GENERAL.—Section 3601 (20 U.S.C. 7001)—

(A) is transferred to part B of title V (as amended by section 501) and inserted after section 5204 (as so amended);

(B) is redesignated as section 5205; and

(C) is amended by striking ''this title'' each place such term appears and inserting ''this part''.

(2) PART HEADING REPEAL.—The part heading for part F of title III is repealed.

(d) LIMITED ENGLISH PROFICIENT AND IMMIGRANT CHILDREN.—Parts A through E of title III (20 U.S.C. 6811 et seq.) are amended to read as follows:

"PART A—EDUCATION OF LIMITED ENGLISH PROFICIENT AND IMMIGRANT CHILDREN

"Subpart 1—English Language and Academic Instructional Programs

"SEC. 3101. SHORT TITLE.

''This subpart may be cited as the 'English Language Proficiency and Academic Achievement Act'.

"SEC. 3102. FINDINGS AND PURPOSES.

''(a) FINDINGS.—The Congress finds as follows:

''(1) English is the common language of the United States and every citizen and other person residing in the United States should have a command of the English language in order to develop to their full potential.

''(2) Limited English proficient children, including recent immigrant children, must overcome a number of challenges in receiving an education in order to participate fully in American society, including—

''(A) segregated educational programs;

''(B) disproportionate and improper placement in special education and other special programs due to the use of inappropriate evaluation procedures;

''(C) the limited English proficiency of their parents, which hinders the parents' ability to fully participate in the education of their children; and

''(D) a need for additional teachers and other staff who are professionally trained and qualified to serve such children.

''(3) States and local educational agencies need assistance in developing the capacity to provide programs of instruction that offer and provide an equal educational opportunity to children who need special assistance because English is not their dominant language.

''(4) Since 1979, the number of limited English proficient children attending school in the United States has more than doubled to greater than 4,000,000, and demographic trends indicate the population of limited English proficient children will continue to increase.

''(5) Native Americans, including native residents of the outlying areas, and Native American languages (as such terms are defined in section 103 of the Native American Languages Act) have a unique status under Federal law that requires special policies within the broad purposes of this part to serve the educational needs of language minority students in the United States.

''(6) Research, evaluation, and data collection capabilities in the field of instruction for limited English proficient children need to be strengthened so that educators and other staff teaching limited English proficient children in the classroom can better identify and promote programs, program implementation strategies, and instructional practices that result in the effective education of limited English proficient children.

''(7) The Federal Government has a special and continuing obligation to ensure that States and local educational agencies provide children of limited English proficiency the same educational opportunities afforded other children.

''(b) PURPOSES.—The purposes of this part are—

''(1) to help ensure that children who are limited English proficient, including recent immigrant children, attain English proficiency, develop high levels of academic attainment in English, and meet the same challenging State academic content standards and challenging State student academic achievement standards expected of all children;

''(2) to develop high-quality programs designed to assist local educational agencies in teaching limited English proficient children;

''(3) to assist local educational agencies to develop and enhance their capacity to provide high-quality instructional programs designed to prepare limited English proficient students, including recent immigrant students, to enter all-English instructional settings within 3 years; and

''(4) to provide State educational agencies and local educational agencies with the flexibility to implement instructional programs, tied to scientifically based reading research and sound research and theory on teaching limited English proficient children, that the agencies believe to be the most effective for teaching English.

"SEC. 3103. PARENTAL NOTIFICATION AND CONSENT FOR ENGLISH LANGUAGE INSTRUCTION.

''(a) NOTIFICATION.—If a local educational agency uses funds under this subpart to provide English language instruction to limited English proficient children, the agency shall inform a parent or the parents of a child participating in an English language instruction program for limited English proficient children assisted under this subpart of—

''(1) the reasons for the identification of the child as being in need of English language instruction;

''(2) the child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement;

''(3) how the English language instruction program will specifically help the child acquire English and meet age-appropriate standards for grade promotion and graduation;

''(4) what the specific exit requirements are for the program;

''(5) the expected rate of transition from the program into a classroom that is not tailored for limited English proficient children; and

''(6) the expected rate of graduation from high school for the program if funds under this subpart are used for children in secondary schools.

''(b) CONSENT.—

''(1) AGENCY REQUIREMENTS.—

''(A) INFORMED CONSENT.—For a child who has been identified as limited English proficient prior to the beginning of the school year, each local educational agency that receives funds under this subpart shall make a reasonable and substantial effort to obtain informed parental consent prior to the placement of a child in an English language instruction program for limited English proficient children funded under this subpart, if the program does not include classes which exclusively or almost exclusively use the English language in instruction.

''(B) WRITTEN CONSENT NOT OBTAINED.—

''(i) IN GENERAL.—If written consent is not obtained, the local educational agency shall maintain a written record that includes the date and the manner in which such informed consent was sought, including the specific efforts made to obtain such consent.

''(ii) PROOF OF EFFORT.—Notice, in an understandable form, of specific efforts made to obtain written consent and a copy of the written record described in clause (i) shall be mailed or delivered in writing to a parent or the parents of a child prior to placing the child in a program described in subparagraph (A), and shall include a final request for parental consent for such services. After such notice has been mailed or delivered in writing, the local educational agency shall provide appropriate educational services.

''(iii) SPECIAL RULE APPLICABLE DURING SCHOOL YEAR.—For those children who have not been identified as limited English proficient prior to the beginning of the school year, the local educational agency shall make a reasonable and substantial effort to obtain parental consent under this clause. For such children, the agency shall document, in writing, its specific efforts to obtain such consent prior to placing the child in a program described in subparagraph (A). After such documentation has been made, the local educational agency shall provide appropriate educational services to such child. The proof of documentation shall be mailed or delivered in writing to a parent or the parents of the child in a timely manner and shall include information on how to have their child immediately removed from the program upon their request. Nothing in this clause shall be construed as exempting a local educational agency from complying with the notification requirements of subsection (a) and the consent requirements of this paragraph.

''(2) PARENTAL RIGHTS.—A parent or the parents of a child participating in an English language instruction program for limited English proficient children assisted under this subpart—

''(A) shall select among methods of instruction, if more than one method is offered in the program; and

''(B) shall have the right to have their child immediately removed from the program upon their request.

''(c) RECEIPT OF INFORMATION.—A parent or the parents of a child identified for participation in an English language instruction program for limited English proficient children assisted under this subpart shall receive, in a manner and form understandable to the parent or parents, the information required by this subsection. At a minimum, the parent or parents shall receive—

''(1) timely information about English language instruction programs for limited English proficient children assisted under this part;

''(2) if a parent or the parents of a participating child so desire, notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from the parent or parents; and

''(3) procedural information for removing a child from a program for limited English proficient children.

''(d) BASIS FOR ADMISSION OR EXCLUSION.—Students shall not be admitted to, or excluded from, any federally assisted education program on the basis of a surname or language-minority status.

"SEC. 3104. TESTING OF LIMITED ENGLISH PROFICIENT CHILDREN.

''(a) IN GENERAL.—Assessments of limited English proficient children participating in programs funded under this subpart, to the extent practicable, shall be in the language and form most likely to yield accurate and reliable information on what such students know and can do in content areas.

''(b) SPECIAL RULE.—Notwithstanding subsection (a), in the case of an assessment of reading or language arts of any student who has attended school in the United States (excluding Puerto Rico) for 3 or more consecutive school years, the assessment shall be in the form of a test written in English, except that, if the entity administering the assessment determines, on a case-by-case individual basis, that assessments in another language or form would likely yield more accurate and reliable information on what such student knows and can do, the entity may assess such student in such language or form for 1 additional year.

''SEC. 3105. FORMULA GRANTS TO STATES.

''(a) IN GENERAL.—In the case of each State that in accordance with section 3107 submits to the Secretary an application for a fiscal year, the Secretary shall make a grant for the year to the State for the purposes specified in subsection (b). The grant shall consist of the allotment determined for the State under subsection (c).

''(b) PURPOSES OF GRANTS.—

''(1) REQUIRED EXPENDITURES.—The Secretary may make a grant under subsection (a) only if the State involved agrees that the State will expend at least 95 percent of its allotment under subsection (c) for the purpose of making subgrants to eligible entities to provide assistance to limited English proficient children in accordance with sections 3108 and 3109.

''(2) AUTHORIZED EXPENDITURES.—Subject to paragraph (3), a State that receives a grant under subsection (a) may expend not more than 5 percent of its allotment under subsection (c) for one or more of the following purposes:

''(A) Carrying out—

''(i) professional development activities, and other activities, that assist personnel in meeting State and local certification requirements for teaching limited English proficient children; and

''(ii) other activities that provide such personnel with the skills and knowledge necessary to educate limited English proficient children.

''(B) Providing scholarships and fellowships to students who agree to teach limited English proficient children once they graduate.

''(C) Planning, administration, and interagency coordination related to the subgrants referred to in paragraph (1).

''(D) Providing technical assistance and other forms of assistance to local educational agencies that—

''(i) educate limited English proficient children; and

''(ii) are not receiving a subgrant from a State under this subpart.

''(E) Providing bonuses to subgrantees whose performance has been exceptional in terms of the speed with which children enrolled in the subgrantee's programs and activities attain English language proficiency and meet challenging State academic content standards and challenging State student academic achievement standards.

''(3) LIMITATION ON ADMINISTRATIVE COSTS.—In carrying out paragraph (2), a State that receives a grant under subsection (a) may expend not more than 2 percent of its allotment under subsection (c) for the purposes described in paragraph (2)(C).

''(c) DETERMINATION OF ALLOTMENT AMOUNTS.—

''(1) RESERVATIONS.—From the amount appropriated under section 3110 to carry out this subpart for each fiscal year, the Secretary shall reserve—

''(A) .5 percent of such amount for payments to entities that are considered to be local educational agencies under section 3106(a) for activities approved by the Secretary;

''(B) .5 percent of such amount for payments to outlying areas, to be allotted in accordance with their respective needs for assistance under this subpart, as determined by the Secretary, for activities, approved by the Secretary, consistent with this part; and

''(C) ½ of 1 percent of such amount for evaluation of the programs under this part and for dissemination of best practices.

''(2) CONTINUATION AWARDS.—Before making awards to States under paragraph (3) for any fiscal year, the Secretary shall make continuation awards to recipients of grants under subpart 1 of part A of the Bilingual Education Act, as that Act was in effect on the day before the effective date of the No Child Left Behind Act of 2001, in order to allow such recipients to continue to receive funds in accordance with the terms of their grant until the date on which the grant period otherwise would have terminated if the No Child Left Behind Act of 2001 had not been enacted.

''(3) STATE ALLOTMENTS.—

''(A) IN GENERAL.—From the amount appropriated under section 3110 to carry out this subpart for each fiscal year that remains after carrying out paragraphs (1) and (2), the Secretary shall allot to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico an amount which bears the same ratio to such amount as the total number of children and youth who are limited English proficient and who reside in such State bears to the total number of such children and youth residing in all such States that, in accordance with section 3107, submit to the Secretary an application for the year.

''(B) REALLOTMENT.—

''(i) IN GENERAL.—If any State described in subparagraph (A) does not submit to the Secretary an application for a fiscal year, or submits an application (or any modification to an application) that the Secretary, after reasonable notice and opportunity for a hearing, determines does not satisfy the requirements of this subpart, the Secretary—

''(I) shall endeavor to make the State's allotment available on a competitive basis to specially qualified agencies within the State that satisfy the requirements applicable to eligible entities under section 3108 and any additional requirements that may be imposed by the Secretary; and

''(II) shall reallot any portion of such allotment remaining after the application of subclause (I) to the remaining States in accordance with subparagraph (A).

''(ii) REQUIREMENTS ON SPECIALLY QUALIFIED AGENCIES.—If a specially qualified agency receives funds under this subparagraph, the requirements of subsection (b) shall not apply to the agency. In lieu of those requirements, the specially qualified agency shall expend the funds for the authorized activities described in section 3108(b) and otherwise shall satisfy the requirements of section 3108.

''(C) SPECIAL RULE FOR PUERTO RICO.—The total amount allotted to Puerto Rico for any fiscal year under subparagraph (A) shall not exceed .5 percent of the total amount allotted to all States for that fiscal year.

''(4) USE OF DATA FOR DETERMINATIONS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), for the purpose of determining the number of children and youth who are limited English proficient and reside in a State and in all States for each fiscal year, the Secretary shall use the most recent satisfactory data available from the Bureau of the Census and the American Community Survey available from the Department of Commerce.

''(B) EXCEPTION.—If the data described in subparagraph (A) are more than 4 years old or unavailable, the Secretary shall use the most recent satisfactory data provided by the States, such as enrollment data and data that reflect the number of students taking the English proficiency assessments in the States.

''(5) NO REDUCTION PERMITTED BASED ON TEACHING METHOD.—The Secretary may not reduce a State's allotment based on the State's selection of any method of instruction as its preferred method of teaching the English language to children who are limited English proficient.

''SEC. 3106. NATIVE AMERICAN AND ALASKA NATIVE CHILDREN IN SCHOOL.

''(a) ELIGIBLE ENTITIES.—For the purpose of carrying out programs under this part for individuals served by elementary, secondary, and postsecondary schools operated predominately for Native American or Alaska Native children, the following shall be considered to be a local educational agency:

''(1) An Indian tribe.

''(2) A tribally sanctioned educational authority.

''(3) A Native Hawaiian or Native American Pacific Islander native language educational organization.

''(4) An elementary or secondary school that is operated or funded by the Bureau of Indian Affairs, or a consortium of such schools.

''(5) An elementary or secondary school operated under a contract with or grant from the Bureau of Indian Affairs, in consortium with another such school or a tribal or community organization.

''(6) An elementary or secondary school operated by the Bureau of Indian Affairs and an institution of higher education, in consortium with an elementary or secondary school operated under a contract with or grant from the Bureau of Indian Affairs or a tribal or community organization.

''(b) SUBMISSION OF APPLICATIONS FOR ASSISTANCE.—Notwithstanding any other provision of this part, an entity that is considered to be a local educational agency under subsection (a), and that desires to submit an application for Federal financial assistance under this subpart, shall submit the application to the Secretary. In all other respects, such an entity shall be eligible for a subgrant under this subpart on the same basis as any other local educational agency.

''SEC. 3107. APPLICATIONS BY STATES.

''For purposes of section 3105, an application submitted by a State for a grant under such section for a fiscal year is in accordance with this section if the application—

''(1) describes the process that the State will use in making competitive subgrants to eligible entities under section 3109(c);

''(2) contains an agreement that, in carrying out this subpart, the State will address the needs of school systems of all sizes and in all geographic areas, including rural and urban schools;

''(3) contains an agreement that competitive subgrants to eligible entities under section 3109(c) shall be of sufficient size and scope to allow such entities to carry out high quality education programs for limited English proficient children;

''(4) contains an agreement that the State will coordinate its programs and activities under this subpart with its other programs and activities under this Act and other Acts, as appropriate;

''(5) contains an agreement that the State—

''(A) shall monitor the progress of students enrolled in programs and activities receiving assistance under this subpart in attaining English proficiency and in attaining challenging State academic content standards and challenging State student academic achievement standards;

''(B) shall establish standards and benchmarks for English language development that are aligned with State academic content and achievement standards; and

''(C) will ensure that eligible entities comply with section 3104 to annually test children in English who have been in the United States for 3 or more consecutive years;

''(6) contains an assurance that the State will develop high-quality annual assessments to measure English language proficiency and require eligible entities receiving a subgrant under this subpart annually to assess the English proficiency of all children with limited English proficiency participating in a program funded under this subpart;

''(7) contains an agreement that the State will develop annual performance objectives for raising the level of English proficiency of each limited English proficient student, and that these objectives shall include percentage increases in performance on annual assessments in reading, writing, speaking, and listening comprehension as compared to the preceding school year; and

''(8) contains an agreement that the State will require eligible entities receiving a subgrant under this subpart to use the subgrant in ways that will build such recipient's capacity to continue to offer high-quality English language instruction and programs which assist limited English proficient children in attaining challenging State academic content standards and challenging State student academic achievement standards once assistance under this subpart is no longer available.

''SEC. 3108. SUBGRANTS TO ELIGIBLE ENTITIES.

''(a) PURPOSES OF SUBGRANTS.—A State may make a subgrant to an eligible entity from funds received by the State under this subpart only if the entity agrees to expend the funds to improve the education of limited English proficient children and their families, through the acquisition of English and the attainment of challenging State academic content standards and challenging State student academic achievement standards, using approaches and methodologies based on scientifically based reading research and sound research and theory on teaching limited English proficient children, by—

''(1) developing and implementing new English language and academic content instructional programs for children who are limited English proficient, including programs of early childhood education and kindergarten through 12th grade education;

''(2) carrying out highly focused, innovative, locally designed projects to expand or enhance existing English language and academic content instruction programs for limited English proficient children;

''(3) implementing, within an individual school, schoolwide programs for restructuring, reforming, and upgrading all relevant programs and operations relating to English language and academic content instruction for limited English proficient students; or

''(4) implementing, within the entire jurisdiction of a local educational agency, agencywide programs for restructuring, reforming, and upgrading all relevant programs and operations relating to English language and academic content instruction for limited English proficient students.

''(b) AUTHORIZED SUBGRANTEE ACTIVITIES.—

''(1) IN GENERAL.—Subject to paragraph (2), a State may make a subgrant to an eligible entity from funds received by the State under this subpart in order that the eligible entity may achieve one of the purposes described in subsection (a) by undertaking one or more of the following activities to improve the understanding, and use, of the English language, based on a child's learning skills and attainment of challenging State academic content standards and challenging State student academic achievement standards:

''(A) Upgrading program objectives and effective instructional strategies.

''(B) Improving the instruction program for limited English proficient students by identifying, acquiring, and upgrading curricula, instructional materials, educational software, and assessment procedures.

''(C) Providing—

''(i) tutorials and academic or vocational education for limited English proficient children; and

''(ii) intensified instruction.

''(D) Developing and implementing elementary or secondary school English language instructional programs that are coordinated with other relevant programs and services.

''(E) Providing professional development to classroom teachers, principals, administrators, and other school or community-based organizational personnel to improve the instruction and assessment of children who are limited English proficient children.

''(F) Improving the English language proficiency and academic performance of limited English proficient children.

''(G) Improving the instruction of limited English proficient children by providing for the acquisition or development of education technology or instructional materials, access to and participation in electronic networks for materials, training and communications, and incorporation of such resources in curricula and programs, such as those funded under this subpart.

''(H) Developing tutoring programs for limited English proficient children that provide early intervention and intensive instruction in order to improve academic achievement, to increase graduation rates among limited English proficient children, and to prepare students for transition as soon as possible into classrooms where instruction is not tailored for limited English proficient children.

''(I) Providing family literacy services and parent outreach and training activities to limited English proficient children and their families to improve their English language skills and assist parents in helping their children to improve their academic performance.

''(J) Other activities that are consistent with the purposes of this part.

''(2) MOVING CHILDREN OUT OF SPECIALIZED CLASSROOMS.—Any program or activity undertaken by an eligible entity using a subgrant from a State under this subpart shall be designed to assist students enrolled in the program or activity to attain English proficiency and meet challenging State academic content standards and challenging State student academic achievement standards as soon as possible, but not later than after 3 consecutive years of attendance in United States schools (excluding schools in Puerto Rico), and to move into a classroom where instruction is not tailored for limited English proficient children.

''(c) SELECTION OF METHOD OF INSTRUCTION.—To receive a subgrant from a State under this subpart, an eligible entity shall select one or more methods or forms of instruction to be used in the programs and activities undertaken by the entity to assist limited English proficient children to attain English proficiency and meet challenging State academic content standards and challenging State student academic achievement standards. Such selection shall be consistent with sections 3134 and 3135.

''(d) DURATION OF SUBGRANTS.—The duration of a competitive subgrant made by a State under section 3109(c) shall be determined by the State in its discretion.

''(e) APPLICATIONS BY ELIGIBLE ENTITIES.—

''(1) IN GENERAL.—To receive a subgrant from a State under this subpart, an eligible entity shall submit an application to the State at such time, in such form, and containing such information as the State may require.

''(2) REQUIRED DOCUMENTATION.—The application shall—

''(A) describe the programs and activities proposed to be developed, implemented, and administered under the subgrant;

''(B) describe how the eligible entity will use the subgrant funds to satisfy the requirement in subsection (b)(2); and

''(C) describe how the eligible entity, using the disaggregated results of the student assessments required under section 1111(b)(4) and other measures available, will annually review the progress of elementary and secondary schools within its jurisdiction, or served by it, to determine if such schools are making the adequate yearly progress necessary to ensure that limited English proficient students attending the schools will meet the State's proficient level of performance on the State assessment described in section 1111(b)(4), and will hold such schools accountable for making such progress.

''(3) REQUIREMENTS FOR APPROVAL.—The application shall contain assurances that—

''(A) the eligible entity will use qualified personnel who have appropriate training and professional credentials in teaching English to children who are limited English proficient, and who are proficient in English, including written and oral communication skills;

''(B) if the eligible entity includes one or more local educational agencies, each such agency is complying with section 3103(b) prior to, and throughout, each school year;

''(C) the eligible entity annually will assess the English proficiency of all children with limited English proficiency participating in programs funded under this subpart;

''(D) the eligible entity has based its proposal on scientifically based reading research and sound research and theory on teaching limited English proficient children;

''(E) the eligible entity has described in the application how students enrolled in the programs and activities proposed in the application will be proficient in English after 3 academic years of enrollment;

''(F) the eligible entity will ensure that programs will enable children to speak, read, write, and comprehend the English language and meet challenging State academic content standards and challenging State student academic achievement standards; and

''(G) the eligible entity is not in violation of any State law, including State constitutional law, regarding the education of limited English proficient children, consistent with sections 3134 and 3135.

''(4) QUALITY.—For the purposes of awarding competitive subgrants under section 3109(c), a State shall consider the quality of each application and ensure that it is of sufficient size and scope to meet the purposes of this subpart.

''SEC. 3109. DISTRIBUTION OF SUBGRANTS TO ELIGIBLE ENTITIES.

''(a) IN GENERAL.—A State shall expend at least 95 percent of its allotment under section 3105(c) each fiscal year for the purpose of making subgrants to eligible entities within the State that have approved applications, in accordance with subsections (b) and (c).

''(b) FORMULA SUBGRANTS.—

''(1) RESERVATION.—75 percent of the amount expended by a State for subgrants under this subpart shall be reserved for subgrants to eligible entities described in subsection (a) in which, during the fiscal year for which the subgrant is to be made, the number of limited English proficient children and youth who are enrolled in public and nonpublic elementary or secondary schools located in geographic areas under the jurisdiction of, or served by, such entities is equal to at least 500 students, or 3 percent of the total number of children and youth enrolled in such schools during such fiscal year, whichever is less.

''(2) ALLOTMENT.—From the amount reserved under paragraph (1), the State shall allot to each eligible entity described in such paragraph a percentage based on the ratio of—

''(A) the number of limited English proficient children and youth who are enrolled in public and nonpublic elementary or secondary schools located in geographic areas under the jurisdiction of, or served by, such entity during the fiscal year for which the allotment is to be made; to

''(B) the number of such children and youth in all such eligible entities.

''(3) REALLOTMENT.—Whenever a State determines that an allotment made to an eligible entity under this subsection for a fiscal year will not be used by the entity for the purpose for which it was made, the State shall, in accordance with such rules as it deems appropriate, reallot such amount, consistent with paragraph (2), to other eligible entities in the State for carrying out that purpose.

''(c) COMPETITIVE SUBGRANTS.—25 percent of the amount expended by a State for subgrants

under this subpart shall be reserved for competitive subgrants to eligible entities described in subsection (a) that the State determines—

''(1) have experienced significant increases, as compared to the previous 2 years, in the percentage or number of children and youth with limited English proficiency, including recent immigrant children, that have enrolled in public and nonpublic elementary or secondary schools in the geographic areas under the jurisdiction of, or served by, such entities during the fiscal year for which the subgrant is to be made; or

''(2) do not satisfy the requirements of subsection (b)(1) but have significant needs for programs under this subpart.

''SEC. 3110. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out this subpart, there are authorized to be appropriated $750,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

''Subpart 2—Administration

''SEC. 3121. EVALUATIONS.

''(a) IN GENERAL.—Each eligible entity that receives a subgrant from a State under subpart 1 shall provide the State, at the conclusion of every second fiscal year during which the subgrant is received, with an evaluation, in a form prescribed by the State, of—

''(1) the programs and activities conducted by the entity with funds received under subpart 1 during the 2 immediately preceding fiscal years;

''(2) the progress made by students in learning the English language and meeting challenging State academic content standards and challenging State student academic achievement standards;

''(3) the number and percentage of students in the programs and activities attaining English language proficiency by the end of each school year, as determined by a valid and reliable assessment of English proficiency; and

''(4) the progress made by students in meeting challenging State academic content standards and challenging State student academic achievement standards for each of the 2 years after such students are no longer receiving services under this part.

''(b) USE OF EVALUATION.—An evaluation provided by an eligible entity under subsection (a) shall be used by the entity and the State—

''(1) for improvement of programs and activities;

''(2) to determine the effectiveness of programs and activities in assisting children who are limited English proficient to attain English proficiency (as measured consistent with subsection (d)) and meet challenging State academic content standards and challenging State student academic achievement standards; and

''(3) in determining whether or not to continue funding for specific programs or projects.

''(c) EVALUATION COMPONENTS.—An evaluation provided by an eligible entity under subsection (a) shall include—

''(1) an evaluation of whether students enrolling in a program or activity conducted by the entity with funds received under subpart 1—

''(A) have attained English proficiency and are meeting challenging State academic content academic and challenging State student academic achievement standards; and

''(B) have achieved a working knowledge of the English language that is sufficient to permit them to perform, in English, in a classroom that is not tailored to limited English proficient children; and

''(2) such other information as the State may require.

''(d) EVALUATION MEASURES.—In prescribing the form of an evaluation provided by an entity under subsection (a), a State shall approve evaluation measures, as applicable, for use under subsection (c) that are designed to assess—

''(1) oral language proficiency in kindergarten;

''(2) oral language proficiency, including speaking and listening skills, in first grade;

''(3) both oral language proficiency, including speaking and listening skills, and reading and writing proficiency in grades 2 and higher; and

''(4) attainment of challenging State student academic achievement standards.

''SEC. 3122. REPORTING REQUIREMENTS.

''(a) STATES.—Based upon the evaluations provided to a State under section 3121, each State that receives a grant under subpart 1 shall prepare and submit every second year to the Secretary a report on programs and activities undertaken by the State under such subpart and the effectiveness of such programs and activities in improving the education provided to children who are limited English proficient.

''(b) SECRETARY.—Every second year, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on—

''(1) programs and activities undertaken by States under subpart 1 and the effectiveness of such programs and activities in improving the education provided to children who are limited English proficient;

''(2) the types of instructional programs used under subpart 1 to teach limited English proficient children;

''(3) the number of programs or projects, if any, that were terminated because they were not able to reach program goals;

''(4) the number of limited English proficient children served under subpart 1 who were transitioned out of special instructional programs funded under such subpart into classrooms where instruction is not tailored for limited English proficient children; and

''(5) other information gathered from the reports submitted under subsection (a).

''SEC. 3123. COORDINATION WITH RELATED PROGRAMS.

''In order to maximize Federal efforts aimed at serving the educational needs of children and youth of limited English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs serving language-minority and limited English proficient students that are administered by the Department and other agencies.

''Subpart 3—General Provisions

''SEC. 3131. DEFINITIONS.

''For purposes of this part:

''(1) CHILDREN AND YOUTH.—The term 'children and youth' means individuals aged 3 through 21.

''(2) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization of demonstrated effectiveness or Indian tribe or tribally sanctioned educational authority which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community. Such term includes a Native Hawaiian or Native American Pacific Islander native language educational organization.

''(3) ELIGIBLE ENTITY.—The term 'eligible entity' means—

''(A) one or more local educational agencies; or

''(B) one or more local educational agencies in collaboration with an institution of higher education, community-based organization, or State educational agency.

''(4) NATIVE HAWAIIAN OR NATIVE AMERICAN PACIFIC ISLANDER NATIVE LANGUAGE EDUCATIONAL ORGANIZATION.—The term 'Native Hawaiian or Native American Pacific Islander native language educational organization' means a nonprofit organization with a majority of its governing board and employees consisting of fluent speakers of the traditional Native American languages used in their educational programs and with not less than 5 years successful experience in providing educational services in traditional Native American languages.

''(5) NATIVE LANGUAGE.—The term 'native language', when used with reference to an individual who is limited English proficient, means the language normally used by such individual.

''(6) SPECIALLY QUALIFIED AGENCY.—The term 'specially qualified agency', when used with respect to a fiscal year, means an eligible entity located in a State that, for that year—

''(A) does not submit to the Secretary an application under sections 3105(a) and 3107; or

''(B) submits an application (or any modification to an application) that the Secretary, after reasonable notice and opportunity for a hearing, determines does not satisfy the requirements of subpart 1.

''(7) TRIBALLY SANCTIONED EDUCATIONAL AUTHORITY.—The term 'tribally sanctioned educational authority' means—

''(A) any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe; and

''(B) any nonprofit institution or organization that is—

''(i) chartered by the governing body of an Indian tribe to operate a school described in section 3106(a) or otherwise to oversee the delivery of educational services to members of the tribe; and

''(ii) approved by the Secretary for the purpose of carrying out programs under subpart 1 for individuals served by a school described in section 3106(a).

''SEC. 3132. RULES OF CONSTRUCTION.

''Nothing in subpart 1 shall be construed—

''(1) to prohibit a local educational agency from serving limited English proficient children and youth simultaneously with students with similar educational needs, in the same educational settings where appropriate;

''(2) to require a State or a local educational agency to establish, continue, or eliminate any particular type of instructional program for limited English proficient children; or

''(3) to limit the preservation or use of Native American languages as defined in the Native American Languages Act of 1990.

''SEC. 3133. LIMITATION ON FEDERAL REGULATIONS.

''The Secretary shall issue regulations under this part only to the extent that such regulations are necessary to ensure compliance with the specific requirements of this part.

''SEC. 3134. LEGAL AUTHORITY UNDER STATE LAW.

''Nothing in this part shall be construed to negate or supersede State law, or the legal authority under State law of any State agency, State entity, or State public official, over programs that are under the jurisdiction of the State agency, entity, or official.

''SEC. 3135. CIVIL RIGHTS.

''Nothing in this part shall be construed in a manner inconsistent with any Federal law guaranteeing a civil right.

''SEC. 3136. PROGRAMS FOR NATIVE AMERICANS AND PUERTO RICO.

''Programs authorized under subpart 1 that serve Native American children, Native Pacific Island children, and children in the Commonwealth of Puerto Rico, notwithstanding any other provision of subpart 1, may include programs of instruction, teacher training, curriculum development, evaluation, and testing designed for Native American children learning and studying Native American languages and children of limited Spanish proficiency, except that a primary outcome of programs serving such children shall be increased English proficiency among such children.''.

SEC. 302. CONFORMING AMENDMENT TO DEPARTMENT OF EDUCATION ORGANIZATION ACT.

(a) IN GENERAL.—

(1) RENAMING OF OFFICE.—The Department of Education Organization Act is amended by

striking ''Office of Bilingual Education and Minority Languages Affairs'' each place such term appears in the text and inserting ''Office of Educational Services for Limited English Proficient Children''.

(2) CONFORMING AMENDMENT.—Section 209 of the Department of Education Organization Act is amended by striking ''Director of Bilingual Education and Minority Languages Affairs,'' and inserting ''Director of Educational Services for Limited English Proficient Children,''.

(b) CLERICAL AMENDMENTS.—

(1) SECTION 209.—The section heading for section 209 of the Department of Education Organization Act is amended to read as follows:

''OFFICE OF EDUCATIONAL SERVICES FOR LIMITED ENGLISH PROFICIENT CHILDREN''.

(2) SECTION 216.—The section heading for section 216 of the Department of Education Organization Act is amended to read as follows:

''SEC. 216. OFFICE OF EDUCATIONAL SERVICES FOR LIMITED ENGLISH PROFICIENT CHILDREN.''.

(3) TABLE OF CONTENTS.—

(A) SECTION 209.—The table of contents of the Department of Education Organization Act is amended by amending the item relating to section 209 to read as follows:

''Sec. 209. Office of Educational Services for Limited English Proficient Children.''.

(B) SECTION 216.—The table of contents of the Department of Education Organization Act is amended by amending the item relating to section 216 to read as follows:

''Sec. 216. Office of Educational Services for Limited English Proficient Children.''.

PART B—INDIAN AND ALASKA NATIVE EDUCATION

SEC. 311. ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

(a) IN GENERAL.—Title III (as amended by section 301 of this Act) is further amended by adding at the end the following new part:

''PART B—INDIAN AND ALASKA NATIVE EDUCATION

''Subpart 1—Indian Education

''SEC. 3201. FINDINGS.

''Congress finds that—

''(1) the Federal Government has a special responsibility to ensure that educational programs for all American Indian and Alaska Native children and adults—

''(A) are based on high-quality, internationally competitive academic content standards and student academic achievement standards and build on Indian culture and the Indian community;

''(B) assist local educational agencies, Indian tribes, and other entities and individuals in providing Indian students the opportunity to achieve such standards; and

''(C) meet the unique educational and culturally related academic needs of American Indian and Alaska Native students;

''(2) since the date of the enactment of the initial Indian Education Act in 1972, the level of involvement of Indian parents in the planning, development, and implementation of educational programs that affect such parents and their children has increased significantly, and schools should continue to foster such involvement;

''(3) although the number of Indian teachers, administrators, and university professors has increased since 1972, teacher training programs are not recruiting, training, or retraining a sufficient number of Indian individuals as educators to meet the needs of a growing Indian student population in elementary, secondary, vocational, adult, and higher education;

''(4) the dropout rate for Indian students is unacceptably high; 9 percent of Indian students who were eighth graders in 1988 had dropped out of school by 1990;

''(5) during the period from 1980 to 1990, the percentage of Indian individuals living at or below the poverty level increased from 24 percent to 31 percent, and the readiness of Indian children to learn is hampered by the high incidence of poverty, unemployment, and health problems among Indian children and their families; and

''(6) research related specifically to the education of Indian children and adults is very limited, and much of the research is of poor quality or is focused on limited local or regional issues.

''SEC. 3202. PURPOSE.

''(a) PURPOSE.—It is the purpose of this subpart to support the efforts of local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities to meet the unique educational and culturally related academic needs of American Indians and Alaska Natives, so that such students can achieve to the same challenging State academic achievement standards expected of all other students.

''(b) PROGRAMS.—this subpart carries out the purpose described in subsection (a) by authorizing programs of direct assistance for—

''(1) meeting the unique educational and culturally related academic needs of American Indians and Alaska Natives;

''(2) the education of Indian children and adults;

''(3) the training of Indian persons as educators and counselors, and in other professions serving Indian people; and

''(4) research, evaluation, data collection, and technical assistance.

''CHAPTER 1—FORMULA GRANTS TO LOCAL EDUCATIONAL AGENCIES

''SEC. 3211. PURPOSE.

''It is the purpose of this chapter to support local educational agencies in their efforts to reform elementary and secondary school programs that serve Indian students in order to ensure that such programs—

''(1) are based on challenging State academic content standards and State student academic achievement standards that are used for all students; and

''(2) are designed to assist Indian students in meeting those standards and assist the Nation in reaching the National Education Goals.

''SEC. 3212. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

''(a) IN GENERAL.—

''(1) ENROLLMENT REQUIREMENTS.—A local educational agency shall be eligible for a grant under this chapter for any fiscal year if the number of Indian children eligible under section 3217 and who were enrolled in the schools of the agency, and to whom the agency provided free public education, during the preceding fiscal year—

''(A) was at least 10; or

''(B) constituted not less than 25 percent of the total number of individuals enrolled in the schools of such agency.

''(2) EXCLUSION.—The requirement of paragraph (1) shall not apply in Alaska, California, or Oklahoma, or with respect to any local educational agency located on, or in proximity to, a reservation.

''(b) INDIAN TRIBES.—

''(1) IN GENERAL.—If a local educational agency that is eligible for a grant under this chapter does not establish a parent committee under section 3214(c)(4) for such grant, an Indian tribe that represents not less than one-half of the eligible Indian children who are served by such local educational agency may apply for such grant.

''(2) SPECIAL RULE.—The Secretary shall treat each Indian tribe applying for a grant pursuant to paragraph (1) as if such Indian tribe were a local educational agency for purposes of this chapter, except that any such tribe is not subject to section 3214(c)(4), section 3218(c), or section 3219.

''SEC. 3213. AMOUNT OF GRANTS.

''(a) AMOUNT OF GRANT AWARDS.—

''(1) IN GENERAL.—Except as provided in subsection (b) and paragraph (2), the Secretary shall allocate to each local educational agency which has an approved application under this chapter an amount equal to the product of—

''(A) the number of Indian children who are eligible under section 3217 and served by such agency; and

''(B) the greater of—

''(i) the average per pupil expenditure of the State in which such agency is located; or

''(ii) 80 percent of the average per pupil expenditure in the United States.

''(2) REDUCTION.—The Secretary shall reduce the amount of each allocation determined under paragraph (1) in accordance with subsection (e).

''(b) MINIMUM GRANT.—

''(1) IN GENERAL.—Notwithstanding subsection (e), a local educational agency or an Indian tribe (as authorized under section 3212(b)) that is eligible for a grant under section 3212, and a school that is operated or supported by the Bureau of Indian Affairs that is eligible for a grant under subsection (d), that submits an application that is approved by the Secretary, shall, subject to appropriations, receive a grant under this chapter in an amount that is not less than $3,000.

''(2) CONSORTIA.—Local educational agencies may form a consortium for the purpose of obtaining grants under this chapter.

''(3) INCREASE.—The Secretary may increase the minimum grant under paragraph (1) to not more than $4,000 for all grantees if the Secretary determines such increase is necessary to ensure the quality of the programs provided.

''(c) DEFINITION.—For the purpose of this section, the term 'average per pupil expenditure of a State' means an amount equal to—

''(1) the sum of the aggregate current expenditures of all the local educational agencies in the State, plus any direct current expenditures by the State for the operation of such agencies, without regard to the sources of funds from which such local or State expenditures were made, during the second fiscal year preceding the fiscal year for which the computation is made; divided by

''(2) the aggregate number of children who were included in average daily attendance for whom such agencies provided free public education during such preceding fiscal year.

''(d) SCHOOLS OPERATED OR SUPPORTED BY THE BUREAU OF INDIAN AFFAIRS.—(1) Subject to subsection (e), in addition to the grants awarded under subsection (a), the Secretary shall allocate to the Secretary of the Interior an amount equal to the product of—

''(A) the total number of Indian children enrolled in schools that are operated by—

''(i) the Bureau of Indian Affairs; or

''(ii) an Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, for the children of that tribe under a contract with, or grant from, the Department of the Interior under the Indian Self-Determination Act or the Tribally Controlled Schools Act of 1988; and

''(B) the greater of—

''(i) the average per pupil expenditure of the State in which the school is located; or

''(ii) 80 percent of the average per pupil expenditure in the United States.

''(2) Any school described in paragraph (1)(A) that wishes to receive an allocation under this chapter shall submit an application in accordance with section 3214, and shall otherwise be treated as a local educational agency for the purpose of this chapter, except that such school shall not be subject to section 3214(c)(4), section 3218(c), or section 3219.

''(e) RATABLE REDUCTIONS.—If the sums appropriated for any fiscal year under section 3252(a) are insufficient to pay in full the amounts determined for local educational agencies under subsection (a)(1) and for the Secretary of the Interior under subsection (d), each of those amounts shall be ratably reduced.

"SEC. 3214. APPLICATIONS.

''(a) APPLICATION REQUIRED.—Each local educational agency that desires to receive a grant under this chapter shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(b) COMPREHENSIVE PROGRAM REQUIRED.—Each application submitted under subsection (a) shall include a comprehensive program for meeting the needs of Indian children served by the local educational agency, including the language and cultural needs of the children, that—

''(1) provides programs and activities to meet the culturally related academic needs of American Indian and Alaska Native students;

''(2)(A) is consistent with State and local plans under other provisions of this Act; and

''(B) includes academic content and student performance goals for such children, and benchmarks for attaining such goals, that are based on the challenging State standards under title I;

''(3) explains how Federal, State, and local programs, especially under title I, will meet the needs of such students;

''(4) demonstrates how funds made available under this chapter will be used for activities described in section 3215;

''(5) describes the professional development opportunities that will be provided, as needed, to ensure that—

''(A) teachers and other school professionals who are new to the Indian community are prepared to work with Indian children; and

''(B) all teachers who will be involved in programs assisted under this chapter have been properly trained to carry out such programs; and

''(6) describes how the local educational agency—

''(A) will periodically assess the progress of all Indian children enrolled in the schools of the local educational agency, including Indian children who do not participate in programs assisted under this chapter, in meeting the goals described in paragraph (2);

''(B) will provide the results of each assessment referred to in subparagraph (A) to—

''(i) the committee of parents described in subsection (c)(4); and

''(ii) the community served by the local educational agency; and

''(C) is responding to findings of any previous assessments that are similar to the assessments described in subparagraph (A).

''(c) ASSURANCES.—Each application submitted under subsection (a) shall include assurances that—

''(1) the local educational agency will use funds received under this chapter only to supplement the level of funds that, in the absence of the Federal funds made available under this chapter, such agency would make available for the education of Indian children, and not to supplant such funds;

''(2) the local educational agency will submit such reports to the Secretary, in such form and containing such information, as the Secretary may require to—

''(A) carry out the functions of the Secretary under this chapter; and

''(B) determine the extent to which funds provided to the local educational agency under this chapter are effective in improving the educational achievement of Indian students served by such agency;

''(3) the program for which assistance is sought—

''(A) is based on a comprehensive local assessment and prioritization of the unique educational and culturally related academic needs of the American Indian and Alaska Native students to whom the local educational agency is providing an education;

''(B) will use the best available talents and resources, including individuals from the Indian community; and

''(C) was developed by such agency in open consultation with parents of Indian children and teachers, and, if appropriate, Indian students from secondary schools, including public hearings held by such agency to provide the individuals described in this subparagraph a full opportunity to understand the program and to offer recommendations regarding the program; and

''(4) the local educational agency developed the program with the participation and written approval of a committee—

''(A) that is composed of, and selected by—

''(i) parents of Indian children in the local educational agency's schools and teachers; and

''(ii) if appropriate, Indian students attending secondary schools;

''(B) a majority of whose members are parents of Indian children;

''(C) that sets forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children, and representatives of the area, to be served;

''(D) with respect to an application describing a schoolwide program in accordance with section 3215(c), that has—

''(i) reviewed in a timely fashion the program; and

''(ii) determined that the program will not diminish the availability of culturally related activities for American Indian and Alaskan Native students; and

''(E) that has adopted reasonable bylaws for the conduct of the activities of the committee and abides by such bylaws.

"SEC. 3215. AUTHORIZED SERVICES AND ACTIVITIES.

''(a) GENERAL REQUIREMENTS.—Each local educational agency that receives a grant under this chapter shall use the grant funds, in a manner consistent with the purpose specified in section 3211, for services and activities that—

''(1) are designed to carry out the comprehensive program of the local educational agency for Indian students, and described in the application of the local educational agency submitted to the Secretary under section 3214(b);

''(2) are designed with special regard for the language and cultural needs of the Indian students; and

''(3) supplement and enrich the regular school program of such agency.

''(b) PARTICULAR ACTIVITIES.—The services and activities referred to in subsection (a) may include—

''(1) culturally related activities that support the program described in the application submitted by the local educational agency;

''(2) early childhood and family programs that emphasize school readiness;

''(3) enrichment programs that focus on problem solving and cognitive skills development and directly support the attainment of challenging State academic content standards and State student academic achievement standards;

''(4) integrated educational services in combination with other programs that meet the needs of Indian children and their families;

''(5) career preparation activities to enable Indian students to participate in programs such as the programs supported by the Carl D. Perkins Vocational and Technical Education Act of 1998, including programs for tech-prep, mentoring, and apprenticeship;

''(6) activities to educate individuals concerning substance abuse and to prevent substance abuse;

''(7) the acquisition of equipment, but only if the acquisition of the equipment is essential to meet the purposes described in section 3211; and

''(8) family literacy services.

''(c) SCHOOLWIDE PROGRAMS.—Notwithstanding any other provision of law, a local educational agency may use funds made available to such agency under this chapter to support a schoolwide program under section 1114 if—

''(1) the committee composed of parents established pursuant to section 3214(c)(4) approves the use of the funds for the schoolwide program; and

''(2) the schoolwide program is consistent with the purposes described in section 3211.

''(d) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds provided to a grantee under this chapter for any fiscal year may be used for administrative purposes.

"SEC. 3216. INTEGRATION OF SERVICES AUTHORIZED.

''(a) PLAN.—An entity receiving funds under this chapter may submit a plan to the Secretary for the integration of education and related services provided to Indian students.

''(b) COORDINATION OF PROGRAMS.—Upon the receipt of an acceptable plan, the Secretary, in cooperation with each Federal agency providing grants for the provision of education and related services to the applicant, shall authorize the applicant to coordinate, in accordance with such plan, its federally funded education and related services programs, or portions thereof, serving Indian students in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

''(c) PROGRAMS AFFECTED.—The funds that may be consolidated in a demonstration project under any such plan referred to in subsection (b) shall include funds for any Federal program exclusively serving Indian children or the funds reserved under any program to exclusively serve Indian children under which the applicant is eligible for receipt of funds under a statutory or administrative formula for the purposes of providing education and related services which would be used to serve Indian students.

''(d) PLAN REQUIREMENTS.—For a plan to be acceptable pursuant to subsection (b), it shall—

''(1) identify the programs or funding sources to be consolidated;

''(2) be consistent with the purposes of this section authorizing the services to be integrated in a demonstration project;

''(3) describe a comprehensive strategy which identifies the full range of potential educational opportunities and related services to be provided to assist Indian students to achieve the goals set forth in this chapter;

''(4) describe the way in which services are to be integrated and delivered and the results expected from the plan;

''(5) identify the projected expenditures under the plan in a single budget;

''(6) identify the local, State, or tribal agency or agencies to be involved in the delivery of the services integrated under the plan;

''(7) identify any statutory provisions, regulations, policies, or procedures that the applicant believes need to be waived in order to implement its plan;

''(8) set forth measures of student achievement and performance goals designed to be met within a specified period of time; and

''(9) be approved by a parent committee formed in accordance with section 3214(c)(4), if such a committee exists.

''(e) PLAN REVIEW.—Upon receipt of the plan from an eligible entity, the Secretary shall consult with the Secretary of each Federal department providing funds to be used to implement the plan, and with the entity submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal departmental regulations, policies, or procedures necessary to enable the applicant to implement its plan. Notwithstanding any other provision of law, the Secretary of the affected department or departments shall have the authority to waive any regulation, policy, or procedure promulgated by that department that has been so identified by the applicant or department, unless the Secretary of the affected department determines that such a waiver is inconsistent with the intent of this chapter or

those provisions of the statute from which the program involved derives its authority which are specifically applicable to Indian students.

''(f) PLAN APPROVAL.—Within 90 days after the receipt of an applicant's plan by the Secretary, the Secretary shall inform the applicant, in writing, of the Secretary's approval or disapproval of the plan. If the plan is disapproved, the applicant shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend its plan or to petition the Secretary to reconsider such disapproval.

''(g) RESPONSIBILITIES OF DEPARTMENT OF EDUCATION.—Not later than 180 days after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary of Education, the Secretary of the Interior, and the head of any other Federal department or agency identified by the Secretary of Education, shall enter into an interdepartmental memorandum of agreement providing for the implementation of the demonstration projects authorized under this section. The lead agency head for a demonstration program under this section shall be—

''(1) the Secretary of the Interior, in the case of applicant meeting the definition of contract or grant school under title XI of the Education Amendments of 1978; or

''(2) the Secretary of Education, in the case of any other applicant.

''(h) RESPONSIBILITIES OF LEAD AGENCY.—The responsibilities of the lead agency shall include—

''(1) the use of a single report format related to the plan for the individual project which shall be used by an eligible entity to report on the activities undertaken under the project;

''(2) the use of a single report format related to the projected expenditures for the individual project which shall be used by an eligible entity to report on all project expenditures;

''(3) the development of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

''(4) the provision of technical assistance to an eligible entity appropriate to the project, except that an eligible entity shall have the authority to accept or reject the plan for providing such technical assistance and the technical assistance provider.

''(i) REPORT REQUIREMENTS.—A single report format shall be developed by the Secretary, consistent with the requirements of this section. Such report format, together with records maintained on the consolidated program at the local level, shall contain such information as will allow a determination that the eligible entity has complied with the requirements incorporated in its approved plan, including the demonstration of student achievement, and will provide assurances to each Secretary that the eligible entity has complied with all directly applicable statutory requirements and with those directly applicable regulatory requirements which have not been waived.

''(j) NO REDUCTION IN AMOUNTS.—In no case shall the amount of Federal funds available to an eligible entity involved in any demonstration project be reduced as a result of the enactment of this section.

''(k) INTERAGENCY FUND TRANSFERS AUTHORIZED.—The Secretary is authorized to take such action as may be necessary to provide for an interagency transfer of funds otherwise available to an eligible entity in order to further the purposes of this section.

''(l) ADMINISTRATION OF FUNDS.—

''(1) IN GENERAL.—Program funds shall be administered in such a manner as to allow for a determination that funds from specific a program or programs are spent on allowable activities authorized under such program, except that the eligible entity shall determine the proportion of the funds granted which shall be allocated to such program.

''(2) SEPARATE RECORDS NOT REQUIRED.—Nothing in this section shall be construed as requiring the eligible entity to maintain separate records tracing any services or activities conducted under its approved plan to the individual programs under which funds were authorized, nor shall the eligible entity be required to allocate expenditures among such individual programs.

''(m) OVERAGE.—All administrative costs may be commingled and participating entities shall be entitled to the full amount of such costs (under each program or department's regulations), and no overage shall be counted for Federal audit purposes, provided that the overage is used for the purposes provided for under this section.

''(n) FISCAL ACCOUNTABILITY.—Nothing in this subpart shall be construed so as to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to the Single Audit Act of 1984.

''(o) REPORT ON STATUTORY OBSTACLES TO PROGRAM INTEGRATION.—

''(1) PRELIMINARY REPORT.—Not later than 2 years after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary of Education shall submit a preliminary report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives on the status of the implementation of the demonstration program authorized under this section.

''(2) FINAL REPORT.—Not later than 5 years after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary of Education shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives on the results of the implementation of the demonstration program authorized under this section. Such report shall identify statutory barriers to the ability of participants to integrate more effectively their education and related services to Indian students in a manner consistent with the purposes of this section.

''(p) DEFINITIONS.—For the purposes of this section, the term 'Secretary' means—

''(1) the Secretary of the Interior, in the case of applicant meeting the definition of contract or grant school under title XI of the Education Amendments of 1978; or

''(2) the Secretary of Education, in the case of any other applicant.

"SEC. 3217. STUDENT ELIGIBILITY FORMS.

''(a) IN GENERAL.—The Secretary shall require that, as part of an application for a grant under this chapter, each applicant shall maintain a file, with respect to each Indian child for whom the local educational agency provides a free public education, that contains a form that sets forth information establishing the status of the child as an Indian child eligible for assistance under this chapter and that otherwise meets the requirements of subsection (b).

''(b) FORMS.—

''(1) IN GENERAL.—The form described in subsection (a) shall include—

''(A) either—

''(i)(I) the name of the tribe or band of Indians (as described in section 3251(3)) with respect to which the child claims membership;

''(II) the enrollment number establishing the membership of the child (if readily available); and

''(III) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians; or

''(ii) if the child is not a member of a tribe or band of Indians, the name, the enrollment number (if readily available), and the organization (and address thereof) responsible for maintaining updated and accurate membership rolls of the tribe of any parent or grandparent of the child from whom the child claims eligibility;

''(B) a statement of whether the tribe or band of Indians with respect to which the child, parent, or grandparent of the child claims membership is federally recognized;

''(C) the name and address of the parent or legal guardian of the child;

''(D) a signature of the parent or legal guardian of the child that verifies the accuracy of the information supplied; and

''(E) any other information that the Secretary considers necessary to provide an accurate program profile.

''(2) MINIMUM INFORMATION.—In order for a child to be eligible to be counted for the purpose of computing the amount of a grant award made under section 3213, an eligibility form prepared pursuant to this section for a child shall include—

''(A) the name of the child;

''(B) the name of the tribe or band of Indians (as described in section 3251(3)) with respect to which the child claims eligibility; and

''(C) the dated signature of the parent or guardian of the child.

''(3) FAILURE.—The failure of an applicant to furnish any information described in this subsection other than the information described in paragraph (2) with respect to any child shall have no bearing on the determination of whether the child is an eligible Indian child for the purposes of determining the amount of a grant award made under section 3213.

''(c) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect a definition contained in section 3251.

''(d) FORMS AND STANDARDS OF PROOF.—The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985–1986 academic year to establish the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the forms and standards of proof used—

''(1) to establish such eligibility; and

''(2) to meet the requirements of subsection (a).

''(e) DOCUMENTATION.—For purposes of determining whether a child is eligible to be counted for the purpose of computing the amount of a grant under section 3213, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number for a member of such tribe or band. Nothing in subsection (b) shall be construed to require the furnishing of an enrollment number.

''(f) MONITORING AND EVALUATION REVIEW.—

''(1) IN GENERAL.—(A) For each fiscal year, in order to provide such information as is necessary to carry out the responsibility of the Secretary to provide technical assistance under this chapter, the Secretary shall conduct a monitoring and evaluation review of a sampling of the recipients of grants under this chapter. The sampling conducted under this subparagraph shall take into account the size of the local educational agency and the geographic location of such agency.

''(B) A local educational agency may not be held liable to the United States or be subject to any penalty, by reason of the findings of an audit that relates to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act.

''(2) FALSE INFORMATION.—Any local educational agency that provides false information in an application for a grant under this chapter shall—

''(A) be ineligible to apply for any other grant under this subpart; and

''(B) be liable to the United States for any funds that have not been expended.

''(3) EXCLUDED CHILDREN.—A student who provides false information for the form required

under subsection (a) shall not be counted for the purpose of computing the amount of a grant under section 3213.

''(g) TRIBAL GRANT AND CONTRACT SCHOOLS.—Notwithstanding any other provision of this section, in awarding funds under this chapter to a tribal school that receives a grant or contract from the Bureau of Indian Affairs, the Secretary shall use only one of the following, as selected by the school:

''(1) A count of the number of students in those schools certified by the Bureau.

''(2) A count of the number of students for whom the school has eligibility forms that comply with this section.

''(h) TIMING OF CHILD COUNTS.—For purposes of determining the number of children to be counted in calculating the amount of a local educational agency's grant under this chapter (other than in the case described in subsection (g)(1)), the local educational agency shall—

''(1) establish a date on, or a period not longer than 31 consecutive days during which, the agency counts those children, so long as that date or period occurs before the deadline established by the Secretary for submitting an application under section 3214; and

''(2) determine that each such child was enrolled, and receiving a free public education, in a school of the agency on that date or during that period, as the case may be.

"SEC. 3218. PAYMENTS.

''(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary shall pay to each local educational agency that submits an application that is approved by the Secretary under this chapter the amount determined under section 3213. The Secretary shall notify the local educational agency of the amount of the payment not later than June 1 of the year for which the Secretary makes the payment.

''(b) PAYMENTS TAKEN INTO ACCOUNT BY THE STATE.—The Secretary may not make a grant under this chapter to a local educational agency for a fiscal year if, for such fiscal year, the State in which the local educational agency is located takes into consideration payments made under this chapter in determining the eligibility of the local educational agency for State aid, or the amount of the State aid, with respect to the free public education of children during such fiscal year or the preceding fiscal year.

''(c) REDUCTION OF PAYMENT FOR FAILURE TO MAINTAIN FISCAL EFFORT.—

''(1) IN GENERAL.—The Secretary may not pay a local educational agency the full amount of a grant award determined under section 3213 for any fiscal year unless the State educational agency notifies the Secretary, and the Secretary determines that, with respect to the provision of free public education by the local educational agency for the preceding fiscal year, the combined fiscal effort of the local educational agency and the State, computed on either a per student or aggregate expenditure basis, was not less than 90 percent of the amount of the combined fiscal effort, computed on the same basis, for the second preceding fiscal year.

''(2) FAILURE TO MAINTAIN EFFORT.—If, for any fiscal year, the Secretary determines that a local educational agency failed to maintain the fiscal effort of such agency at the level specified in paragraph (1), the Secretary shall—

''(A) reduce the amount of the grant that would otherwise be made to such agency under this chapter in the exact proportion of such agency's failure to maintain its fiscal effort at such level; and

''(B) not use the reduced amount of the agency's expenditures for the preceding year to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1).

''(3) WAIVER.—(A) The Secretary may waive the requirement of paragraph (1), for not more than 1 year at a time, if the Secretary determines that the failure to comply with such requirement is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the agency's financial resources.

''(B) The Secretary shall not use the reduced amount of such agency's expenditures for the fiscal year preceding the fiscal year for which a waiver is granted to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1) in the absence of the waiver.

''(d) REALLOCATIONS.—The Secretary may reallocate, in a manner that the Secretary determines will best carry out the purpose of this chapter, any amounts that—

''(1) based on estimates made by local educational agencies or other information, the Secretary determines will not be needed by such agencies to carry out approved programs under this chapter; or

''(2) otherwise become available for reallocation under this chapter.

"SEC. 3219. STATE EDUCATIONAL AGENCY REVIEW.

''Before submitting an application to the Secretary under section 3214, a local educational agency shall submit the application to the State educational agency, which may comment on such application. If the State educational agency comments on the application, it shall comment on all applications submitted by local educational agencies in the State and shall provide those comments to the respective local educational agencies, with an opportunity to respond.

"CHAPTER 2—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

"SEC. 3221. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

''(a) PURPOSE.—

''(1) IN GENERAL.—It is the purpose of this section to support projects to develop, test, and demonstrate the effectiveness of services and programs to improve educational opportunities and achievement of Indian children.

''(2) COORDINATION.—The Secretary shall take such actions as are necessary to achieve the coordination of activities assisted under this chapter with—

''(A) other programs funded under this Act; and

''(B) other Federal programs operated for the benefit of American Indian and Alaska Native children.

''(b) ELIGIBLE ENTITIES.—For the purpose of this section, the term 'eligible entity' means a State educational agency, local educational agency, Indian tribe, Indian organization, federally supported elementary and secondary school for Indian students, Indian institution, including an Indian institution of higher education, or a consortium of such institutions.

''(c) GRANTS AUTHORIZED.—

''(1) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to carry out activities that meet the purpose specified in subsection (a)(1), including—

''(A) innovative programs related to the educational needs of educationally disadvantaged children;

''(B) educational services that are not available to such children in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in one or more of the core academic subjects of English, mathematics, science, foreign languages, art, history, and geography;

''(C) bilingual and bicultural programs and projects;

''(D) special health and nutrition services, and other related activities, that address the unique health, social, and psychological problems of Indian children;

''(E) special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or reenter school, and to increase the rate of secondary school graduation;

''(F) comprehensive guidance, counseling, and testing services;

''(G) early childhood and kindergarten programs, including family-based preschool programs that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

''(H) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to aid such students in the transition from secondary school to postsecondary education;

''(I) partnership projects between schools and local businesses for career preparation programs designed to provide Indian youth with the knowledge and skills such youth need to make an effective transition from school to a high-skill, high-wage career;

''(J) programs designed to encourage and assist Indian students to work toward, and gain entrance into, an institution of higher education;

''(K) family literacy services; or

''(L) other services that meet the purpose described in subsection (a)(1).

''(2) PROFESSIONAL DEVELOPMENT.—Professional development of teaching professionals and paraprofessional may be a part of any program assisted under this section.

''(d) GRANT REQUIREMENTS AND APPLICATIONS.—

''(1) GRANT REQUIREMENTS.—(A) The Secretary may make multiyear grants under this section for the planning, development, pilot operation, or demonstration of any activity described in subsection (c) for a period not to exceed 5 years.

''(B) In making multiyear grants under this section, the Secretary shall give priority to applications that present a plan for combining two or more of the activities described in subsection (c) over a period of more than 1 year.

''(C) The Secretary shall make a grant payment to an eligible entity after the initial year of the multiyear grant only if the Secretary determines that the eligible entity has made substantial progress in carrying out the activities assisted under the grant in accordance with the application submitted under paragraph (2) and any subsequent modifications to such application.

''(D)(i) In addition to awarding the multiyear grants described in subparagraph (A), the Secretary may award grants to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

''(ii) The Secretary may award a dissemination grant under this subparagraph if, prior to awarding the grant, the Secretary determines that the material or program to be disseminated has been adequately reviewed and has demonstrated—

''(I) educational merit; and

''(II) the ability to be replicated.

''(2) APPLICATION.—(A) Any eligible entity that desires to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

''(B) Each application submitted to the Secretary under subparagraph (A), other than an application for a dissemination grant under paragraph (1)(D), shall contain—

''(i) a description of how parents of Indian children and representatives of Indian tribes have been, and will be, involved in developing and implementing the activities for which assistance is sought;

''(ii) assurances that the applicant will participate, at the request of the Secretary, in any national evaluation of activities assisted under this section;

''(iii) information demonstrating that the proposed program is either a research-based program (which may be a research-based program that has been modified to be culturally appropriate for the students who will be served);

''(iv) a description of how the applicant will incorporate the proposed services into the ongoing school program once the grant period is over; and

''(v) such other assurances and information as the Secretary may reasonably require.

''(e) ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds provided to a grantee under this chapter for any fiscal year may be used for administrative purposes.

''SEC. 3222. PROFESSIONAL DEVELOPMENT FOR TEACHERS AND EDUCATION PROFESSIONALS.

''(a) PURPOSES.—The purposes of this section are—

''(1) to increase the number of qualified Indian individuals in teaching or other education professions that serve Indian people;

''(2) to provide training to qualified Indian individuals to enable such individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

''(3) to improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (2).

''(b) ELIGIBLE ENTITIES.—For the purpose of this section, the term 'eligible entity' means—

''(1) an institution of higher education, including an Indian institution of higher education;

''(2) a State or local educational agency, in consortium with an institution of higher education; and

''(3) an Indian tribe or organization, in consortium with an institution of higher education.

''(c) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants to eligible entities having applications approved under this section to enable such entities to carry out the activities described in subsection (d).

''(d) AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—Grant funds under this section shall be used to provide support and training for Indian individuals in a manner consistent with the purposes of this section. Such activities may include but are not limited to, continuing programs, symposia, workshops, conferences, and direct financial support.

''(2) SPECIAL RULES.—(A) For education personnel, the training received pursuant to a grant under this section may be inservice or preservice training.

''(B) For individuals who are being trained to enter any field other than teaching, the training received pursuant to a grant under this section shall be in a program that results in a graduate degree.

''(e) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information, as the Secretary may reasonably require.

''(f) SPECIAL RULE.—In making grants under this section, the Secretary—

''(1) shall consider the prior performance of the eligible entity; and

''(2) may not limit eligibility to receive a grant under this section on the basis of—

''(A) the number of previous grants the Secretary has awarded such entity; or

''(B) the length of any period during which such entity received such grants.

''(g) GRANT PERIOD.—Each grant under this section shall be awarded for a period of not more than 5 years.

''(h) SERVICE OBLIGATION.—

''(1) IN GENERAL.—The Secretary shall require, by regulation, that an individual who receives training pursuant to a grant made under this section—

''(A) perform work—

''(i) related to the training received under this section; and

''(ii) that benefits Indian people; or

''(B) repay all or a prorated part of the assistance received.

''(2) REPORTING.—The Secretary shall establish, by regulation, a reporting procedure under which a grant recipient under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning the compliance of such recipient with the work requirement under paragraph (1).

''CHAPTER 3—NATIONAL RESEARCH ACTIVITIES

''SEC. 3231. NATIONAL ACTIVITIES.

''(a) AUTHORIZED ACTIVITIES.—The Secretary may use funds made available under section 3252(b) for each fiscal year to—

''(1) conduct research related to effective approaches for the education of Indian children and adults;

''(2) evaluate federally assisted education programs from which Indian children and adults may benefit;

''(3) collect and analyze data on the educational status and needs of Indians; and

''(4) carry out other activities that are consistent with the purpose of this subpart.

''(b) ELIGIBILITY.—The Secretary may carry out any of the activities described in subsection (a) directly or through grants to, or contracts or cooperative agreements with Indian tribes, Indian organizations, State educational agencies, local educational agencies, institutions of higher education, including Indian institutions of higher education, and other public and private agencies and institutions.

''(c) COORDINATION.—Research activities supported under this section—

''(1) shall be carried out in consultation with the Office of Educational Research and Improvement to assure that such activities are coordinated with and enhance the research and development activities supported by the Office; and

''(2) may include collaborative research activities which are jointly funded and carried out by the Office of Indian Education Programs and the Office of Educational Research and Improvement.

''CHAPTER 4—FEDERAL ADMINISTRATION

''SEC. 3241. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.

''(a) MEMBERSHIP.—There is established a National Advisory Council on Indian Education (hereafter in this section referred to as the 'Council'), which shall—

''(1) consist of 15 Indian members, who shall be appointed by the President from lists of nominees furnished, from time-to-time, by Indian tribes and organizations; and

''(2) represent different geographic areas of the United States.

''(b) DUTIES.—The Council shall—

''(1) advise the Secretary concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under this subpart—

''(A) with respect to which the Secretary has jurisdiction; and

''(B)(i) that includes Indian children or adults as participants; or

''(ii) that may benefit Indian children or adults;

''(2) make recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs; and

''(3) submit to the Congress, not later than June 30 of each year, a report on the activities of the Council, including—

''(A) any recommendations that the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants, or that may benefit Indian children or adults; and

''(B) recommendations concerning the funding of any program described in subparagraph (A).

''SEC. 3242. PEER REVIEW.

''The Secretary may use a peer review process to review applications submitted to the Secretary under chapter 2 or 3.

''SEC. 3243. PREFERENCE FOR INDIAN APPLICANTS.

''In making grants under chapter 2 or 3, the Secretary shall give a preference to Indian tribes, organizations, and institutions of higher education under any program with respect to which Indian tribes, organizations, and institutions are eligible to apply for grants.

''SEC. 3244. MINIMUM GRANT CRITERIA.

''The Secretary may not approve an application for a grant under subpart 2 unless the application is for a grant that is—

''(1) of sufficient size, scope, and quality to achieve the purpose or objectives of such grant; and

''(2) based on relevant research findings.

''CHAPTER 5—DEFINITIONS; AUTHORIZATIONS OF APPROPRIATIONS

''SEC. 3251. DEFINITIONS.

''For the purposes of this subpart:

''(1) ADULT.—The term 'adult' means an individual who—

''(A) has attained the age of 16 years; or

''(B) has attained an age that is greater than the age of compulsory school attendance under an applicable State law.

''(2) FREE PUBLIC EDUCATION.—The term 'free public education' means education that is—

''(A) provided at public expense, under public supervision and direction, and without tuition charge; and

''(B) provided as elementary or secondary education in the applicable State or to preschool children.

''(3) INDIAN.—The term 'Indian' means an individual who is—

''(A) a member of an Indian tribe or band, as membership is defined by the tribe or band, including—

''(i) any tribe or band terminated since 1940; and

''(ii) any tribe or band recognized by the State in which the tribe or band resides;

''(B) a descendant, in the first or second degree, of an individual described in subparagraph (A);

''(C) considered by the Secretary of the Interior to be an Indian for any purpose;

''(D) an Eskimo, Aleut, or other Alaska Native; or

''(E) a member of an organized Indian group that received a grant under the Indian Education Act of 1988 as it was in effect the day preceding the date of the enactment of the Improving America's Schools Act of 1994.

''SEC. 3252. AUTHORIZATIONS OF APPROPRIATIONS.

''(a) CHAPTER 1.—For the purpose of carrying out chapter 1 of this subpart, there are authorized to be appropriated $100,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.

''(b) CHAPTERS 2 AND 3.—For the purpose of carrying out chapters 2 and 3 of this subpart, there are authorized to be appropriated $25,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2006.''.

(b) SAVINGS PROVISION.—Funds appropriated for part A of title IX of the Elementary and Secondary Education Act of 1965 (as in effect on the day before the date of the enactment of this Act) shall be available for use under subpart 1 of part B of title III of such Act, as added by this section.

SEC. 312. ALASKA NATIVE EDUCATION.

(a) IN GENERAL.—Part B of title III (as added by section 311 of this Act) is further amended by adding at the end the following new subpart:

''Subpart 2—Alaska Native Education

''SEC. 3301. SHORT TITLE.

''This subpart may be cited as the 'Alaska Native Educational Equity, Support, and Assistance Act'.

"SEC. 3302. FINDINGS.

''The Congress finds and declares:

''(1) The attainment of educational success is critical to the betterment of the conditions, long-term well-being and preservation of the culture of Alaska Natives.

''(2) It is the policy of the Federal Government to encourage the maximum participation by Alaska Natives in the planning and the management of Alaska Native education programs.

''(3) Alaska Native children enter and exit school with serious educational handicaps.

''(4) The educational achievement of Alaska Native children is far below national norms. In addition to low Native performance on standardized tests, Native student dropout rates are high, and Natives are significantly underrepresented among holders of baccalaureate degrees in the State of Alaska. As a result, Native students are being denied their opportunity to become full participants in society by grade school and high school educations that are condemning an entire generation to an underclass status and a life of limited choices.

''(5) The programs authorized herein, combined with expanded Head Start, infant learning and early childhood education programs, and parent education programs are essential if educational handicaps are to be overcome.

''(6) The sheer magnitude of the geographic barriers to be overcome in delivering educational services in rural and village Alaska should be addressed through the development and implementation of innovative, model programs in a variety of areas.

''(7) Congress finds that Native children should be afforded the opportunity to begin their formal education on a par with their non-Native peers. The Federal Government should lend support to efforts developed by and undertaken within the Alaska Native community to improve educational opportunity for all students.

"SEC. 3303. PURPOSE.

''It is the purpose of this subpart to—

''(1) recognize the unique educational needs of Alaska Natives;

''(2) authorize the development of supplemental educational programs to benefit Alaska Natives;

''(3) supplement existing programs and authorities in the area of education to further the purposes of this subpart; and

''(4) provide direction and guidance to appropriate Federal, State and local agencies to focus resources, including resources made available under this subpart, on meeting the educational needs of Alaska Natives.

"SEC. 3304. PROGRAM AUTHORIZED.

''(a) GENERAL AUTHORITY.—

''(1) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to, or enter into contracts with, Alaska Native organizations, educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, and consortia of such organizations and entities to carry out programs that meet the purpose of this subpart.

''(2) PERMISSIBLE ACTIVITIES.—Programs under this subpart may include—

''(A) the development and implementation of plans, methods, and strategies to improve the education of Alaska Natives;

''(B) the development of curricula and educational programs that address the educational needs of Alaska Native students, including—

''(i) curriculum materials that reflect the cultural diversity or the contributions of Alaska Natives;

''(ii) instructional programs that make use of Native Alaskan languages; and

''(iii) networks that introduce successful programs, materials, and techniques to urban and rural schools;

''(C) professional development activities for educators, including—

''(i) programs to prepare teachers to address the cultural diversity and unique needs of Alaska Native students;

''(ii) in-service programs to improve the ability of teachers to meet the unique needs of Alaska Native students; and

''(iii) recruiting and preparing teachers who are Alaska Natives, reside in communities with high concentrations of Alaska Native students, or are likely to succeed as teachers in isolated, rural communities and engage in cross-cultural instruction;

''(D) the development and operation of home instruction programs for Alaska Native preschool children, the purpose of which is to ensure the active involvement of parents in their children's education from the earliest ages;

''(E) family literacy services;

''(F) the development and operation of student enrichment programs in science and mathematics that—

''(i) are designed to prepare Alaska Native students from rural areas, who are preparing to enter high school, to excel in science and math; and

''(ii) provide appropriate support services to the families of such students that are needed to enable such students to benefit from the program;

''(G) research and data collection activities to determine the educational status and needs of Alaska Native children and adults;

''(H) other research and evaluation activities related to programs under this subpart; and

''(I) other activities, consistent with the purposes of this subpart, to meet the educational needs of Alaska Native children and adults.

''(3) HOME INSTRUCTION PROGRAMS.—Home instruction programs for Alaska Native preschool children under paragraph (2)(D) may include—

''(A) programs for parents and their infants, from prenatal through age three;

''(B) preschool programs; and

''(C) training, education, and support for parents in such areas as reading readiness, observation, story-telling, and critical thinking.

''(b) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 5 percent of funds provided to a grantee under this section for any fiscal year may be used for administrative purposes.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2006 to carry out this subpart.

"SEC. 3305. ADMINISTRATIVE PROVISIONS.

''(a) APPLICATION REQUIRED.—No grant may be made under this subpart, nor any contract be entered into under this subpart, unless an application is submitted to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this subpart.

''(b) APPLICATIONS.—State and local educational agencies may apply for an award under this subpart only as subpart of a consortium involving an Alaska Native organization. This consortium may include other eligible applicants.

''(c) CONSULTATION REQUIRED.—Each applicant for funding shall provide for ongoing advice from and consultation with representatives of the Alaska Native community.

''(d) LOCAL EDUCATIONAL AGENCY COORDINATION.—Each applicant for an award under this subpart shall inform each local educational agency serving students who would participate in the project about its application.

"SEC. 3306. DEFINITIONS.

''For purposes of this subpart—

''(1) the term 'Alaska Native' has the same meaning as the term 'Native' has in section 3(b) of the Alaska Native Claims Settlement Act; and

''(2) the term 'Alaska Native organization' means a federally recognized tribe, consortium of tribes, regional nonprofit Native association, and other Alaska Native organizations that—

''(A) has or commits to acquire expertise in the education of Alaska Natives; and

''(B) has Alaska Natives in substantive and policy-making positions within the organization.''.

(b) SAVINGS PROVISION.—Funds appropriated for part C of title IX of the Elementary and Secondary Education Act of 1965 (as in effect on the day before the date of the enactment of this Act) shall be available for use under subpart 2 of part B of title III of such Act, as added by this section.

SEC. 313. AMENDMENTS TO THE EDUCATION AMENDMENTS OF 1978.

Part B of title XI of the Education Amendments of 1978 (25 U.S.C. 2001 et seq.) is amended to read as follows:

"PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

"SEC. 1120. FINDING AND POLICY.

''(a) FINDING.—Congress finds and recognizes that the Federal Government has the sole responsibility for the operation and financial support of the Bureau of Indian Affairs funded school system that it has established on or near Indian reservations and Indian trust lands throughout the Nation for Indian children.

''(b) POLICY.—It is the policy of the United States to work in full cooperation with Indian tribes toward the goal of assuring that the programs of the Bureau of Indian Affairs funded school system are of the highest quality and meet the unique educational and cultural needs of Indian children.

"SEC. 1121. ACCREDITATION AND STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS.

''(a) PURPOSE.—The purpose of the standards implemented under this section shall be to afford Indian students being served by a school funded by the Bureau of Indian Affairs the same opportunities as all other students in the United States to achieve the same challenging State academic achievement standards expected of all students.

''(b) STUDIES AND SURVEYS RELATING TO STANDARDS.—Not later than 1 year after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary, in consultation with the Secretary of Education, consortia of education organizations, and Indian organizations and tribes, and making the fullest use possible of other existing studies, surveys, and plans, shall carry out by contract with an Indian organization, studies and surveys to establish and revise standards for the basic education of Indian children attending Bureau funded schools. Such studies and surveys shall take into account factors such as academic needs, local cultural differences, type and level of language skills, geographic isolation, and appropriate teacher-student ratios for such children, and shall be directed toward the attainment of equal educational opportunity for such children.

''(c) REVISION OF MINIMUM ACADEMIC STANDARDS.—

''(1) IN GENERAL.—Not later than 2 years after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary shall—

''(A) propose revisions to the minimum academic standards published in the Federal Register on September 9, 1995 (50 Fed. Reg. 174) for the basic education of Indian children attending Bureau funded schools in accordance with the purpose described in subsection (a) and the findings of the studies and surveys conducted under subsection (b);

''(B) publish such proposed revisions to such standards in the Federal Register for the purpose of receiving comments from the tribes, tribal school boards, Bureau funded schools, and other interested parties; and

''(C) consistent with the provisions of this section and section 1131, take such actions as are necessary to coordinate standards implemented

under this section with the Comprehensive School Reform Plan developed by the Bureau and—

''(i) with the standards of the improvement plans for the States in which any school operated by the Bureau of Indian Affairs is located; or

''(ii) in the case where schools operated by the Bureau are within the boundaries of reservation land of one tribe but within the boundaries of more than one State, with the standards of the State improvement plan of one such State selected by the tribe.

''(2) FURTHER REVISIONS.—Not later that 6 months after the close of the comment period, the Secretary shall establish final standards, distribute such standards to all tribes and publish such final standards in the Federal Register. The Secretary shall revise such standards periodically as necessary. Prior to any revision of such final standards, the Secretary shall distribute such proposed revision to all the tribes, and publish such proposed revision in the Federal Register, for the purpose of receiving comments from the tribes and other interested parties.

''(3) APPLICABILITY OF STANDARDS.—Except as provided in subsection (e), the final standards published under paragraph (2) shall apply to all Bureau funded schools not accredited under subsection (f), and may also serve as a model for educational programs for Indian children in public schools.

''(4) CONSIDERATIONS WHEN ESTABLISHING AND REVISING STANDARDS.—In establishing and revising such standards, the Secretary shall take into account the unique needs of Indian students and support and reinforcement of the specific cultural heritage of each tribe.

''(d) ALTERNATIVE OR MODIFIED STANDARDS.—The Secretary shall provide alternative or modified standards in lieu of the standards established under subsection (c), where necessary, so that the programs of each school are in compliance with the minimum accreditation standards required for schools in the State or region where the school is located.

''(e) WAIVER OF STANDARDS; ALTERNATIVE STANDARDS.—A tribal governing body, or the local school board so designated by the tribal governing body, shall have the local authority to waive, in part or in whole, the standards established under subsections (c) and (d) if such standards are deemed by such body to be inappropriate. The tribal governing body or designated school board shall, not later than 60 days after a waiver under this subsection, submit to the Secretary a proposal for alternative standards that take into account the specific needs of the tribe's children. Such alternative standards shall be established by the Secretary unless specifically rejected by the Secretary for good cause and in writing to the affected tribes or local school board, which rejection shall be final and not subject to review.

''(f) ACCREDITATION AND IMPLEMENTATION OF STANDARDS.—

''(1) DEADLINE FOR MEETING STANDARDS.—Not later the second academic year after publication of the standards, to the extent necessary funding is provided, all Bureau funded schools shall meet the standards established under subsections (c) and (d) or shall be accredited—

''(A) by a tribal accrediting body, if the accreditation standards of the tribal accrediting body have been accepted by formal action of the tribal governing body and are equal to or exceed the accreditation standards of the State or region in which the school is located;

''(B) by a regional accreditation agency; or

''(C) by State accreditation standards for the State in which it is located.

''(2) DETERMINATION OF STANDARDS TO BE APPLIED.—The accreditation type or standards applied for each school shall be determined by the school board of the school, in consultation with the Administrator of the school, provided that in the case where the School Board and the Administrator fail to agree on the type of accreditation and standards to apply, the decision of the school board with the approval of the tribal governing body shall be final.

''(3) ASSISTANCE TO SCHOOL BOARDS.—The Secretary, through contracts and grants, shall assist school boards of contract or grant schools in implementation of the standards established under subsections (c) and (d), if the school boards request that such standards, in part or in whole, be implemented.

''(4) FISCAL CONTROL AND FUND ACCOUNTING STANDARDS.—The Bureau shall, either directly or through contract with an Indian organization, establish a consistent system of reporting standards for fiscal control and fund accounting for all contract and grant schools. Such standards shall provide data comparable to those used by Bureau operated schools.

''(g) ANNUAL PLAN FOR MEETING OF STANDARDS.—Except as provided in subsections (e) and (f), the Secretary shall begin to implement the standards established under this section immediately upon the date of their establishment. On an annual basis, the Secretary shall submit to the appropriate committees of Congress, all Bureau funded schools, and the tribal governing bodies of such schools a detailed plan to bring all Bureau schools and contract or grant schools up to the level required by the applicable standards established under this section. Such plan shall include detailed information on the status of each school's educational program in relation to the applicable standards established under this section, specific cost estimates for meeting such standards at each school and specific timelines for bringing each school up to the level required by such standards.

''(h) CLOSURE OR CONSOLIDATION OF SCHOOLS.—

''(1) IN GENERAL.—Except as specifically required by statute, no school or peripheral dormitory operated by the Bureau on or after January 1, 1992, may be closed or consolidated or have its program substantially curtailed unless done according to the requirements of this subsection.

''(2) EXCEPTIONS.—This subsection shall not apply—

''(A) in those cases where the tribal governing body, or the local school board concerned (if so designated by the tribal governing body), requests closure or consolidation; or

''(B) when a temporary closure, consolidation, or substantial curtailment is required by plant conditions which constitute an immediate hazard to health and safety.

''(3) REGULATIONS.—The Secretary shall, by regulation, promulgate standards and procedures for the closure, transfer to another authority, consolidation, or substantial curtailment of Bureau schools, in accordance with the requirements of this subsection.

''(4) NOTICE.—Whenever closure, transfer to another authority, consolidation, or substantial curtailment of a school is under active consideration or review by any division of the Bureau or the Department of the Interior, the affected tribe, tribal governing body, and designated local school board, will be notified immediately, kept fully and currently informed, and afforded an opportunity to comment with respect to such consideration or review. When a formal decision is made to close, transfer to another authority, consolidate, or substantially curtail a school, the affected tribe, tribal governing body, and designated school board shall be notified at least 6 months prior to the end of the school year preceding the proposed closure date. Copies of any such notices and information shall be transmitted promptly to the appropriate committees of Congress and published in the Federal Register.

''(5) REPORT.—The Secretary shall make a report to the appropriate committees of Congress, the affected tribe, and the designated school board describing the process of the active consideration or review referred to in paragraph (4). The report shall include a study of the impact of such action on the student population, identify those students with particular educational and social needs, and ensure that alternative services are available to such students. Such report shall include the description of the consultation conducted between the potential service provider, current service provider, parents, tribal representatives and the tribe or tribes involved, and the Director of the Office of Indian Education Programs within the Bureau regarding such students.

''(6) LIMITATION ON CERTAIN ACTIONS.—No irrevocable action may be taken in furtherance of any such proposed school closure, transfer to another authority, consolidation, or substantial curtailment (including any action which would prejudice the personnel or programs of such school) prior to the end of the first full academic year after such report is made.

''(7) TRIBAL GOVERNING BODY APPROVAL REQUIRED FOR CERTAIN ACTIONS.—The Secretary may terminate, contract, transfer to any other authority, consolidate, or substantially curtail the operation or facilities of—

''(A) any Bureau funded school that is operated on or after of January 1, 1999;

''(B) any program of such a school that is operated on or after January 1, 1999; or

''(C) any school board of a school operated under a grant under the Tribally Controlled Schools Act of 1988,

only if the tribal governing body approves such action.

''(i) APPLICATION FOR CONTRACTS OR GRANTS FOR NON-BUREAU FUNDED SCHOOLS OR EXPANSION OF BUREAU FUNDED SCHOOLS.—

''(1) IN GENERAL.—(A)(i) The Secretary shall only consider the factors described in subparagraph (B) in reviewing—

''(I) applications from any tribe for the awarding of a contract or grant for a school that is not a Bureau funded school; and

''(II) applications from any tribe or school board of any Bureau funded school for—

''(aa) a school which is not a Bureau funded school; or

''(bb) the expansion of a Bureau funded school which would increase the amount of funds received by the Indian tribe or school board under section 1127.

''(ii) With respect to applications described in this subparagraph, the Secretary shall give consideration to all the factors described in subparagraph (B), but no such application shall be denied based primarily upon the geographic proximity of comparable public education.

''(B) With respect to applications described in subparagraph (A) the Secretary shall consider the following factors relating to the program and services that are the subject of the application:

''(i) The adequacy of the facilities or the potential to obtain or provide adequate facilities.

''(ii) Geographic and demographic factors in the affected areas.

''(iii) The adequacy of the applicant's program plans or, in the case of a Bureau funded school, of projected needs analysis done either by the tribe or the Bureau.

''(iv) Geographic proximity of comparable public education.

''(v) The stated needs of all affected parties, including students, families, tribal governments at both the central and local levels, and school organizations.

''(vi) Adequacy and comparability of programs already available.

''(vii) Consistency of available programs with tribal educational codes or tribal legislation on education.

''(viii) The history and success of these services for the proposed population to be served, as determined from all factors, including but not limited to standardized examination performance.

''(2) DETERMINATION ON APPLICATION.—(A) The Secretary shall make a determination of

whether to approve any application described in paragraph (1)(A) not later than 180 days after such application is submitted to the Secretary.

''(B) If the Secretary fails to make the determination with respect to an application by the date described in subparagraph (A), the application shall be treated a having been approved by the Secretary.

''(3) REQUIREMENTS FOR APPLICATIONS.—(A) Notwithstanding paragraph (2)(B), an application described in paragraph (1)(A) may be approved by the Secretary only if—

''(i) the application has been approved by the tribal governing body of the students served by (or to be served by) the school or program that is the subject of the application; and

''(ii) written evidence of such approval is submitted with the application.

''(B) Each application described in paragraph (1)(A) shall provide information concerning each of the factors described in paragraph (1)(B).

''(4) DENIAL OF APPLICATIONS.—Whenever the Secretary makes a determination to deny approval of any application described in paragraph (1)(A), the Secretary shall—

''(A) state the objections in writing to the applicant not later 180 days after the application is submitted to the Secretary;

''(B) provide assistance to the applicant to overcome stated objections; and

''(C) provide the applicant a hearing, under the same rules and regulations pertaining to the Indian Self-Determination and Education Assistance Act and an opportunity to appeal the objections raised by the Secretary.

''(5) EFFECTIVE DATE OF A SUBJECT APPLICATION.—(A) Except as otherwise provided in this paragraph, the action which is the subject of any application described in paragraph (1)(A) that is approved by the Secretary shall become effective at the beginning of the academic year following the fiscal year in which the application is approved, or at an earlier date determined by the Secretary.

''(B) If an application is treated as having been approved by the Secretary under paragraph (2)(B), the action that is the subject of the application shall become effective on the date that is 18 months after the date on which the application is submitted to the Secretary, or at an earlier date determined by the Secretary.

''(6) STATUTORY CONSTRUCTION.—Nothing in this section shall be read so as to preclude the expansion of grades and related facilities at a Bureau funded school where such expansion and the maintenance of such expansion is occasioned or paid for with non-Bureau funds.

''(j) GENERAL USE OF FUNDS.—Funds received by Bureau funded schools from the Bureau of Indian Affairs and under any program from the Department of Education or any other Federal agency for the purpose of providing education or related services may be used for schoolwide projects to improve the educational program for all Indian students.

''(k) STUDY ON ADEQUACY OF FUNDS AND FORMULAS.—The Comptroller General shall conduct a study, in consultation with Indian tribes and local school boards, to determine the adequacy of funding, and formulas used by the Bureau to determine funding, for programs operated by Bureau funded schools, taking into account unique circumstances applicable to Bureau funded schools, as well as expenditures for comparable purposes in public schools nationally. Upon completion of the study, the Secretary of the Interior shall take such action as necessary to ensure distribution of the findings of the study to all affected Indian tribes, local school boards, and associations of local school boards.

"SEC. 1122. NATIONAL CRITERIA FOR HOME-LIVING SITUATIONS.

''(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Education, Indian organizations and tribes, and Bureau funded schools, shall revise the national standards for home-living (dormitory) situations to include such factors as heating, lighting, cooling, adult-child ratios, needs for counselors (including special needs related to off-reservation home-living (dormitory) situations), therapeutic programs, space, and privacy. Such standards shall be implemented in Bureau operated schools, and shall serve as minimum standards for contract or grant schools. Once established, any revisions of such standards shall be developed according to the requirements established under section 1138A.

''(b) IMPLEMENTATION.—The Secretary shall implement the revised standards established under this section immediately upon their completion.

''(c) PLAN.—At the time of each annual budget submission for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress, the tribes, and the affected schools, and publish in the Federal Register, a detailed plan to bring all Bureau funded schools that provide home-living (dormitory) situations up to the standards established under this section. Such plan shall include a statement of the relative needs of each Bureau funded home-living (dormitory) school, projected future needs of each Bureau funded home-living (dormitory) school, detailed information on the status of each school in relation to the standards established under this section, specific cost estimates for meeting each standard for each such school, aggregate cost estimates for bringing all such schools into compliance with the criteria established under this section, and specific timelines for bringing each school into compliance with such standards.

''(d) WAIVER.—The criteria established under this section may be waived in the same manner as the standards provided under section 1121(c) may be waived.

''(e) CLOSURE FOR FAILURE TO MEET STANDARDS PROHIBITED.—No school in operation on or before January 1, 1987 (regardless of compliance or noncompliance with the criteria established under this section), may be closed, transferred to another authority, consolidated, or have its program substantially curtailed for failure to meet the criteria.

"SEC. 1123. CODIFICATION OF REGULATIONS.

''(a) PART 32 OF TITLE 25 OF CODE OF FEDERAL REGULATIONS.—The provisions of part 32 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, are incorporated into this Act and shall be treated as though such provisions are set forth in this subsection. Such provisions may be altered only by means of an Act of Congress. To the extent that such provisions of part 32 do not conform with this Act or any statutory provision of law enacted before November 1, 1978, the provisions of this Act and the provisions of such other statutory law shall govern.

''(b) REGULATION DEFINED.—For purposes of this part, the term 'regulation' means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by any officer or employee of the executive branch.

"SEC. 1124. SCHOOL BOUNDARIES.

''(a) ESTABLISHMENT BY SECRETARY.—The Secretary shall establish, by regulation, separate geographical attendance areas for each Bureau funded school.

''(b) ESTABLISHMENT BY TRIBAL BODY.—In any case where there is more than one Bureau funded school located on an Indian reservation, at the direction of the tribal governing body, the relevant school boards of the Bureau funded schools on the reservation may, by mutual consent, establish the relevant attendance areas for such schools, subject to the approval of the tribal governing body. Any such boundaries so established shall be accepted by the Secretary.

''(c) BOUNDARY REVISIONS.—

''(1) IN GENERAL.—On or after July 1, 2001, no geographical attendance area shall be revised or established with respect to any Bureau funded school unless the tribal governing body or the local school board concerned (if so designated by the tribal governing body) has been afforded—

''(A) at least 6 months notice of the intention of the Bureau to revise or establish such attendance area; and

''(B) the opportunity to propose alternative boundaries.

Any tribe may petition the Secretary for revision of existing attendance area boundaries. The Secretary shall accept such proposed alternative or revised boundaries unless the Secretary finds, after consultation with the affected tribe or tribes, that such revised boundaries do not reflect the needs of the Indian students to be served or do not provide adequate stability to all of the affected programs. The Secretary shall cause such revisions to be published in the Federal Register.

''(2) TRIBAL RESOLUTION DETERMINATION.—Nothing in this section shall be interpreted as denying a tribal governing body the authority, on a continuing basis, to adopt a tribal resolution allowing parents the choice of the Bureau funded school their children may attend, regardless of the attendance boundaries established under this section.

''(d) FUNDING RESTRICTIONS.—The Secretary shall not deny funding to a Bureau funded school for any eligible Indian student attending the school solely because that student's home or domicile is outside of the geographical attendance area established for that school under this section. No funding shall be made available without tribal authorization to enable a school to provide transportation for any student to or from the school and a location outside the approved attendance area of the school.

''(e) RESERVATION AS BOUNDARY.—In any case where there is only one Bureau funded program located on an Indian reservation, the attendance area for the program shall be the boundaries (established by treaty, agreement, legislation, court decisions, or executive decisions and as accepted by the tribe) of the reservation served, and those students residing near the reservation shall also receive services from such program.

''(f) OFF-RESERVATION HOME-LIVING (DORMITORY) SCHOOLS.—Notwithstanding any geographical attendance areas, attendance at off-reservation home-living (dormitory) schools shall include students requiring special emphasis programs to be implemented at each off-reservation home-living (dormitory) school. Such attendance shall be coordinated between education line officers, the family, and the referring and receiving programs.

"SEC. 1125. FACILITIES CONSTRUCTION.

''(a) COMPLIANCE WITH HEALTH AND SAFETY STANDARDS.—The Secretary shall immediately begin to bring all schools, dormitories, and other Indian education-related facilities operated by the Bureau or under contract or grant with the Bureau into compliance with all applicable tribal, Federal, or State health and safety standards, whichever provides greater protection (except that the tribal standards to be applied shall be no greater than any otherwise applicable Federal or State standards), with section 504 of the Rehabilitation Act of 1973, and with the Americans with Disabilities Act of 1990. Nothing in this section shall require termination of the operations of any facility which does not comply with such provisions and which is in use on the date of the enactment of the No Child Left Behind Act of 2001.

''(b) COMPLIANCE PLAN.—At the time that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all facilities covered under subsection (a) of this section into compliance with the standards referred to in subsection (a). Such plan shall include detailed information on the status of each facility's compliance with

such standards, specific cost estimates for meeting such standards at each school, and specific timelines for bringing each school into compliance with such standards.

''(c) CONSTRUCTION PRIORITIES.—

''(1) SYSTEM TO ESTABLISH PRIORITIES.—On an annual basis the Secretary shall submit to the appropriate committees of Congress and cause to be published in the Federal Register, the system used to establish priorities for replacement and construction projects for Bureau funded schools and home-living schools, including boarding schools and dormitories. At the time any budget request for education is presented, the Secretary shall publish in the Federal Register and submit with the budget request the current list of all Bureau funded school construction priorities.

''(2) LONG-TERM CONSTRUCTION AND REPLACEMENT LIST.—In addition to the plan submitted under subsection (b), the Secretary shall—

''(A) not later than 18 months after the date of the enactment of the No Child Left Behind Act of 2001, establish a long-term construction and replacement list for all Bureau funded schools;

''(B) using the list prepared under subparagraph (A), propose a list for the orderly replacement of all Bureau funded education-related facilities over a period of 40 years to enable planning and scheduling of budget requests;

''(C) cause the list prepared under subsection (B) to be published in the Federal Register and allow a period of not less than 120 days for public comment;

''(D) make such revisions to the list prepared under subparagraph (B) as are appropriate based on the comments received; and

''(E) cause the final list to be published in the Federal Register.

''(3) EFFECT ON OTHER LIST.—Nothing in this section shall be construed as interfering with or changing in any way the construction priority list as it exists on the date of the enactment of the No Child Left Behind Act of 2001.

''(d) HAZARDOUS CONDITION AT BUREAU SCHOOL.—

''(1) CLOSURE OR CONSOLIDATION.—A Bureau funded school may be closed or consolidated, and the programs of a Bureau funded school may be substantially curtailed by reason of plant conditions that constitute an immediate hazard to health and safety only if a health and safety officer of the Bureau determines that such conditions exist at the Bureau funded school.

''(2) INSPECTION.—(A) After making a determination described in paragraph (1), the Bureau health and safety officer shall conduct an inspection of the condition of such plant accompanied by an appropriate tribal, county, municipal, or State health and safety officer in order to determine whether conditions at such plant constitute an immediate hazard to health and safety. Such inspection shall be completed by not later than the date that is 30 days after the date on which the action described in paragraph (1) is taken. No further negative action may be taken unless the findings are concurred in by the second, non-Bureau of Indian Affairs inspector.

''(B) If the health and safety officer conducting the inspection of a plant required under subparagraph (A) determines that conditions at the plant do not constitute an immediate hazard to health and safety, any consolidation or curtailment that was made under paragraph (1) shall immediately cease and any school closed by reason of conditions at the plant shall be reopened immediately.

''(C) If a Bureau funded school is temporarily closed or consolidated or the programs of a Bureau funded school are substantially curtailed under this subsection and the Secretary determines that the closure, consolidation, or curtailment will exceed 1 year, the Secretary shall submit to the Congress, by not later than 6 months after the date on which the closure, consolidation, or curtailment was initiated, a report which sets forth the reasons for such temporary actions, the actions the Secretary is taking to eliminate the conditions that constitute the hazard, and an estimated date by which such actions will be concluded.

''(e) FUNDING REQUIREMENT.—

''(1) DISTRIBUTION OF FUNDS.—Beginning with the fiscal year following the year of the date of the enactment of the No Child Left Behind Act of 2001, all funds appropriated for the operations and maintenance of Bureau funded schools shall be distributed by formula to the schools. No funds from this account may be retained or segregated by the Bureau to pay for administrative or other costs of any facilities branch or office, at any level of the Bureau.

''(2) REQUIREMENTS FOR CERTAIN USES.—No funds shall be withheld from the distribution to the budget of any school operated under contract or grant by the Bureau for maintenance or any other facilities or road related purpose, unless such school has consented, as a modification to the contract or in writing for grants schools, to the withholding of such funds, including the amount thereof, the purpose for which the funds will be used, and the timeline for the services to be provided. The school may, at the end of any fiscal year, cancel an agreement under this paragraph upon giving the Bureau 30 days notice of its intent to do so.

''(f) NO REDUCTION IN FEDERAL FUNDING.—Nothing in this section shall be construed to diminish any Federal funding due to the receipt by the school of funding for facilities improvement or construction from a State or any other source.

"SEC. 1126. BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS.

''(a) FORMULATION AND ESTABLISHMENT OF POLICY AND PROCEDURE; SUPERVISION OF PROGRAMS AND EXPENDITURES.—The Secretary shall vest in the Assistant Secretary for Indian Affairs all functions with respect to formulation and establishment of policy and procedure and supervision of programs and expenditures of Federal funds for the purpose of Indian education administered by the Bureau. The Assistant Secretary shall carry out such functions through the Director of the Office of Indian Education Programs.

''(b) DIRECTION AND SUPERVISION OF PERSONNEL OPERATIONS.—Not later than 6 months after the date of the enactment of the No Child Left Behind Act of 2001, the Director of the Office of Indian Education Programs shall direct and supervise the operations of all personnel directly and substantially involved in the provision of education services by the Bureau, including school or institution custodial or maintenance personnel, facilities management, contracting, procurement, and finance personnel. The Assistant Secretary for Indian Affairs shall coordinate the transfer of functions relating to procurement, contracts, operation, and maintenance of schools and other support functions to the Director.

''(c) EVALUATION OF PROGRAMS; SERVICES AND SUPPORT FUNCTIONS; TECHNICAL AND COORDINATING ASSISTANCE.—Education personnel who are under the direction and supervision of the Director of the Office of Indian Education Programs in accordance with the first sentence of subsection (b) shall—

''(1) monitor and evaluate Bureau education programs;

''(2) provide all services and support functions for education programs with respect to personnel matters involving staffing actions and functions; and

''(3) provide technical and coordinating assistance in areas such as procurement, contracting, budgeting, personnel, curriculum, and operation and maintenance of school facilities.

''(d) CONSTRUCTION, IMPROVEMENT, OPERATION, AND MAINTENANCE OF FACILITIES.—

''(1) PLAN FOR CONSTRUCTION.—The Assistant Secretary shall submit in the annual budget a plan—

''(A) for school facilities to be constructed under section 1125(c);

''(B) for establishing priorities among projects and for the improvement and repair of educational facilities, which together shall form the basis for the distribution of appropriated funds; and

''(C) for capital improvements to be made over the five succeeding years.

''(2) PROGRAM FOR OPERATION AND MAINTENANCE.—

''(A) ESTABLISHMENT.—The Assistant Secretary shall establish a program, including the distribution of appropriated funds, for the operation and maintenance of education facilities. Such program shall include—

''(i) a method of computing the amount necessary for each educational facility;

''(ii) similar treatment of all Bureau funded schools;

''(iii) a notice of an allocation of appropriated funds from the Director of the Office of Indian Education Programs directly to the education line officers and appropriate school officials;

''(iv) a method for determining the need for, and priority of, facilities repair and maintenance projects, both major and minor. In making such determination, the Assistant Secretary shall cause to be conducted a series of meetings at the agency and area level with representatives of the Bureau funded schools in those areas and agencies to receive comment on the lists and prioritization of such projects; and

''(v) a system for the conduct of routine preventive maintenance.

''(B) LOCAL SUPERVISORS.—The appropriate education line officers shall make arrangements for the maintenance of education facilities with the local supervisors of the Bureau maintenance personnel. The local supervisors of Bureau maintenance personnel shall take appropriate action to implement the decisions made by the appropriate education line officers, except that no funds under this chapter may be authorized for expenditure unless such appropriate education line officer is assured that the necessary maintenance has been, or will be, provided in a reasonable manner.

''(3) IMPLEMENTATION.—The requirements of this subsection shall be implemented as soon as practicable after the date of the enactment of the No Child Left Behind Act of 2001.

''(e) ACCEPTANCE OF GIFTS AND BEQUESTS.—Notwithstanding any other provision of law, the Director shall promulgate guidelines for the establishment of mechanisms for the acceptance of gifts and bequests for the use and benefit of particular schools or designated Bureau operated education programs, including, where appropriate, the establishment and administration of trust funds. When a Bureau operated program is the beneficiary of such a gift or bequest, the Director shall make provisions for monitoring its use and shall report to the appropriate committees of Congress the amount and terms of such gift or bequest, the manner in which such gift or bequest shall be used, and any results achieved by such action.

''(f) FUNCTIONS CLARIFIED.—For the purpose of this section, the term 'functions' includes powers and duties.

"SEC. 1127. ALLOTMENT FORMULA.

''(a) FACTORS CONSIDERED; REVISION TO REFLECT STANDARDS.—

''(1) FORMULA.—The Secretary shall establish, by regulation adopted in accordance with section 1138A, a formula for determining the minimum annual amount of funds necessary to sustain each Bureau funded school. In establishing such formula, the Secretary shall consider—

''(A) the number of eligible Indian students served and total student population of the school;

''(B) special cost factors, such as—

''(i) the isolation of the school;

''(ii) the need for special staffing, transportation, or educational programs;

''(iii) food and housing costs;

''(iv) maintenance and repair costs associated with the physical condition of the educational facilities;

''(v) special transportation and other costs of isolated and small schools;

''(vi) the costs of home-living (dormitory) arrangements, where determined necessary by a tribal governing body or designated school board;

''(vii) costs associated with greater lengths of service by education personnel;

''(viii) the costs of therapeutic programs for students requiring such programs; and

''(ix) special costs for gifted and talented students;

''(C) the cost of providing academic services which are at least equivalent to those provided by public schools in the State in which the school is located; and

''(D) such other relevant factors as the Secretary determines are appropriate.

''(2) REVISION OF FORMULA.—Upon the establishment of the standards required in sections 1121 and 1122, the Secretary shall revise the formula established under this subsection to reflect the cost of funding such standards. Not later than January 1, 2003, the Secretary shall review the formula established under this section and shall take such steps as are necessary to increase the availability of counseling and therapeutic programs for students in off-reservation home-living (dormitory) schools and other Bureau operated residential facilities. Concurrent with such action, the Secretary shall review the standards established under section 1122 to be certain that adequate provision is made for parental notification regarding, and consent for, such counseling and therapeutic programs.

''(b) PRO RATA ALLOTMENT.—Notwithstanding any other provision of law, Federal funds appropriated for the general local operation of Bureau funded schools shall be allotted pro rata in accordance with the formula established under subsection (a).

''(c) ANNUAL ADJUSTMENT; RESERVATION OF AMOUNT FOR SCHOOL BOARD ACTIVITIES.—

''(1) ANNUAL ADJUSTMENT.—For fiscal year 2003, and for each subsequent fiscal year, the Secretary shall adjust the formula established under subsection (a) to ensure that the formula does the following:

''(A) Uses a weighted unit of 1.2 for each eligible Indian student enrolled in the seventh and eighth grades of the school in considering the number of eligible Indian students served by the school.

''(B) Considers a school with an enrollment of less than 50 eligible Indian students as having an average daily attendance of 50 eligible Indian students for purposes of implementing the adjustment factor for small schools.

''(C) Takes into account the provision of residential services on less than a 9-month basis at a school when the school board and supervisor of the school determine that a less than 9-month basis will be implemented for the school year involved.

''(D) Uses a weighted unit of 2.0 for each eligible Indian student that—

''(i) is gifted and talented; and

''(ii) is enrolled in the school on a full-time basis,

in considering the number of eligible Indian students served by the school.

''(E) Uses a weighted unit of 0.25 for each eligible Indian student who is enrolled in a year-long credit course in an Indian or Native language as part of the regular curriculum of a school, in considering the number of eligible Indian students served by such school. The adjustment required under this subparagraph shall be used for such school after—

''(i) the certification of the Indian or Native language curriculum by the school board of such school to the Secretary, together with an estimate of the number of full-time students expected to be enrolled in the curriculum in the second school year for which the certification is made; and

(ii) the funds appropriated for allotment under this section are designated by the appropriations Act appropriating such funds as the amount necessary to implement such adjustment at such school without reducing allotments made under this section to any school by virtue of such adjustment.

''(2) RESERVATION OF AMOUNT.—

''(A) IN GENERAL.—From the funds allotted in accordance with the formula established under subsection (a) for each Bureau school, the local school board of such school may reserve an amount which does not exceed the greater of—

''(i) $8,000; or

''(ii) the lesser of—

''(I) $15,000; or

''(II) 1 percent of such allotted funds,

for school board activities for such school, including (notwithstanding any other provision of law) meeting expenses and the cost of membership in, and support of, organizations engaged in activities on behalf of Indian education.

''(B) TRAINING.—Each school board shall see that each new member of the school board receives, within 12 months of the individual's assuming a position on the school board, 40 hours of training relevant to that individual's service on the board. Such training may include legal issues pertaining to schools funded by the Bureau, legal issues pertaining to school boards, ethics, and other topics deemed appropriate by the school board.

''(d) RESERVATION OF AMOUNT FOR EMERGENCIES.—The Secretary shall reserve from the funds available for distribution for each fiscal year under this section an amount which, in the aggregate, shall equal 1 percent of the funds available for such purpose for that fiscal year. Such funds shall be used, at the discretion of the Director of the Office of Indian Education Programs, to meet emergencies and unforeseen contingencies affecting the education programs funded under this section. Funds reserved under this subsection may only be expended for education services or programs, including emergency repairs of educational facilities, at a schoolsite (as defined by section 5204(c)(2) of the Tribally Controlled Schools Act of 1988). Funds reserved under this subsection shall remain available without fiscal year limitation until expended. However, the aggregate amount available from all fiscal years may not exceed 1 percent of the current year funds. Whenever, the Secretary makes funds available under this subsection, the Secretary shall report such action to the appropriate committees of Congress within the annual budget submission.

''(e) SUPPLEMENTAL APPROPRIATIONS.—Supplemental appropriations enacted to meet increased pay costs attributable to school level personnel shall be distributed under this section.

''(f) ELIGIBLE INDIAN STUDENT DEFINED.—For the purpose of this section, the term 'eligible Indian student' means a student who—

''(1) is a member of or is at least one-fourth degree Indian blood descendant of a member of an Indian tribe which is eligible for the special programs and services provided by the United States through the Bureau because of their status as Indians; and

''(2) resides on or near an Indian reservation or meets the criteria for attendance at a Bureau off-reservation home-living (dormitory) school.

''(g) TUITION.—

''(1) IN GENERAL.—An eligible Indian student may not be charged tuition for attendance at a Bureau school or contract or grant school. A student attending a Bureau school under paragraph (2)(C) may not be charged tuition for attendance at such a school.

''(2) ATTENDANCE OF NON-INDIAN STUDENTS AT BUREAU SCHOOLS.—The Secretary may permit the attendance at a Bureau school of a student who is not an eligible Indian student if—

''(A) the Secretary determines that the student's attendance will not adversely affect the school's program for eligible Indian students because of cost, overcrowding, or violation of standards or accreditation;

''(B) the school board consents;

''(C) the student is a dependent of a Bureau, Indian Health Service, or tribal government employee who lives on or near the schoolsite; or

''(D) a tuition is paid for the student that is not more than that charged by the nearest public school district for out-of-district students, and shall be in addition to the school's allocation under this section.

''(3) ATTENDANCE OF NON-INDIAN STUDENTS AT CONTRACT AND GRANT SCHOOLS.—The school board of a contract or grant school may permit students who are not eligible Indian students under this subsection to attend its contract school or grant school and any tuition collected for those students shall be in addition to funding received under this section.

''(h) FUNDS AVAILABLE WITHOUT FISCAL YEAR LIMITATION.—Notwithstanding any other provision of law, at the election of the school board of a Bureau school made at any time during the fiscal year, a portion equal to not more than 15 percent of the funds allocated with respect to a school under this section for any fiscal year shall remain available to the school for expenditure without fiscal year limitation. The Assistant Secretary shall take steps as may be necessary to implement this provision.

''(i) STUDENTS AT RICHFIELD DORMITORY, RICHFIELD, UTAH.—Tuition for out-of-State Indian students in home-living (dormitory) arrangements at the Richfield dormitory in Richfield, Utah, who attend Sevier County high schools in Richfield, Utah, shall be paid from the Indian school equalization program funds authorized in this section and section 1130 at a rate not to exceed the amounts per weighted student unit for that year for the instruction of such students. No additional administrative cost funds shall be added to the grant.

"SEC. 1128. ADMINISTRATIVE COST GRANTS.

''(a) GRANTS; EFFECT UPON APPROPRIATED AMOUNTS.—

''(1) GRANTS.—Subject to the availability of appropriated funds, the Secretary shall provide grants to each tribe or tribal organization operating a contract school or grant school in the amount determined under this section with respect to the tribe or tribal organization for the purpose of paying the administrative and indirect costs incurred in operating contract or grant schools, provided that no school operated as a stand-alone institution shall receive less than $200,000 per year for these purposes, in order to—

''(A) enable tribes and tribal organizations operating such schools, without reducing direct program services to the beneficiaries of the program, to provide all related administrative overhead services and operations necessary to meet the requirements of law and prudent management practice; and

''(B) carry out other necessary support functions which would otherwise be provided by the Secretary or other Federal officers or employees, from resources other than direct program funds, in support of comparable Bureau operated programs.

''(2) EFFECT UPON APPROPRIATED AMOUNTS.—Amounts appropriated to fund the grants provided under this section shall be in addition to, and shall not reduce, the amounts appropriated for the program being administered by the contract or grant school.

''(b) DETERMINATION OF GRANT AMOUNT.—

''(1) IN GENERAL.—The amount of the grant provided to each tribe or tribal organization under this section for each fiscal year shall be determined by applying the administrative cost percentage rate of the tribe or tribal organization to the aggregate of the Bureau elementary and secondary functions operated by the tribe

or tribal organization for which funds are received from or through the Bureau. The administrative cost percentage rate determined under subsection (c) does not apply to other programs operated by the tribe or tribal organization.

''(2) DIRECT COST BASE FUNDS.—The Secretary shall—

''(A) reduce the amount of the grant determined under paragraph (1) to the extent that payments for administrative costs are actually received by an Indian tribe or tribal organization under any Federal education program included in the direct cost base of the tribe or tribal organization; and

''(B) take such actions as may be necessary to be reimbursed by any other department or agency of the Federal Government for the portion of grants made under this section for the costs of administering any program for Indians that is funded by appropriations made to such other department or agency.

''(c) ADMINISTRATIVE COST PERCENTAGE RATE.—

''(1) IN GENERAL.—For purposes of this section, the administrative cost percentage rate for a contract or grant school for a fiscal year is equal to the percentage determined by dividing—

''(A) the sum of—

''(i) the amount equal to—

''(I) the direct cost base of the tribe or tribal organization for the fiscal year, multiplied by

''(II) the minimum base rate; plus

''(ii) the amount equal to—

''(I) the standard direct cost base; multiplied by

''(II) the maximum base rate; by

''(B) the sum of—

''(i) the direct cost base of the tribe or tribal organization for the fiscal year; plus

''(ii) the standard direct cost base.

''(2) ROUNDING.—The administrative cost percentage rate shall be determined to the 1/100 of a decimal point.

''(d) COMBINING FUNDS.—

''(1) IN GENERAL.—Funds received by a tribe or contract or grant school as grants under this section for tribal elementary or secondary educational programs may be combined by the tribe or contract or grant school into a single administrative cost account without the necessity of maintaining separate funding source accounting.

''(2) INDIRECT COST FUNDS.—Indirect cost funds for programs at the school which share common administrative services with tribal elementary or secondary educational programs may be included in the administrative cost account described in paragraph (1).

''(e) AVAILABILITY OF FUNDS.—Funds received as grants under this section with respect to tribal elementary or secondary education programs shall remain available to the contract or grant school without fiscal year limitation and without diminishing the amount of any grants otherwise payable to the school under this section for any fiscal year beginning after the fiscal year for which the grant is provided.

''(f) TREATMENT OF FUNDS.—Funds received as grants under this section for Bureau funded programs operated by a tribe or tribal organization under a contract or agreement shall not be taken into consideration for purposes of indirect cost underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived.

''(g) TREATMENT OF ENTITY OPERATING OTHER PROGRAMS.—In applying this section and section 105 of the Indian Self-Determination and Education Assistance Act with respect to an Indian tribe or tribal organization that—

''(1) receives funds under this section for administrative costs incurred in operating a contract or grant school or a school operated under the Tribally Controlled Schools Act of 1988; and

''(2) operates one or more other programs under a contract or grant provided under the Indian Self-Determination and Education Assistance Act,

the Secretary shall ensure that the Indian tribe or tribal organization is provided with the full amount of the administrative costs that are associated with operating the contract or grant school, and of the indirect costs, that are associated with all of such other programs, provided that funds appropriated for implementation of this section shall be used only to supply the amount of the grant required to be provided by this section.

''(h) DEFINITIONS.—For purposes of this section:

''(1) ADMINISTRATIVE COST.—(A) The term 'administrative cost' means the costs of necessary administrative functions which—

''(i) the tribe or tribal organization incurs as a result of operating a tribal elementary or secondary educational program;

''(ii) are not customarily paid by comparable Bureau operated programs out of direct program funds; and

''(iii) are either—

''(I) normally provided for comparable Bureau programs by Federal officials using resources other than Bureau direct program funds; or

''(II) are otherwise required of tribal self-determination program operators by law or prudent management practice.

''(B) The term 'administrative cost' may include—

''(i) contract or grant (or other agreement) administration;

''(ii) executive, policy, and corporate leadership and decisionmaking;

''(iii) program planning, development, and management;

''(iv) fiscal, personnel, property, and procurement management;

''(v) related office services and record keeping; and

''(vi) costs of necessary insurance, auditing, legal, safety and security services.

''(2) BUREAU ELEMENTARY AND SECONDARY FUNCTIONS.—The term 'Bureau elementary and secondary functions' means—

''(A) all functions funded at Bureau schools by the Office;

''(B) all programs—

''(i) funds for which are appropriated to other agencies of the Federal Government; and

''(ii) which are administered for the benefit of Indians through Bureau schools; and

''(C) all operation, maintenance, and repair funds for facilities and government quarters used in the operation or support of elementary and secondary education functions for the benefit of Indians, from whatever source derived.

''(3) DIRECT COST BASE.—(A) Except as otherwise provided in subparagraph (B), the direct cost base of a tribe or tribal organization for the fiscal year is the aggregate direct cost program funding for all tribal elementary or secondary educational programs operated by the tribe or tribal organization during—

''(i) the second fiscal year preceding such fiscal year; or

''(ii) if such programs have not been operated by the tribe or tribal organization during the two preceding fiscal years, the first fiscal year preceding such fiscal year.

''(B) In the case of Bureau elementary or secondary education functions which have not previously been operated by a tribe or tribal organization under contract, grant, or agreement with the Bureau, the direct cost base for the initial year shall be the projected aggregate direct cost program funding for all Bureau elementary and secondary functions to be operated by the tribe or tribal organization during that fiscal year.

''(4) MAXIMUM BASE RATE.—The term 'maximum base rate' means 50 percent.

''(5) MINIMUM BASE RATE.—The term 'minimum base rate' means 11 percent.

''(6) STANDARD DIRECT COST BASE.—The term 'standard direct cost base' means $600,000.

''(7) TRIBAL ELEMENTARY OR SECONDARY EDUCATIONAL PROGRAMS.—The term 'tribal elementary or secondary educational programs' means all Bureau elementary and secondary functions, together with any other Bureau programs or portions of programs (excluding funds for social services that are appropriated to agencies other than the Bureau and are expended through the Bureau, funds for major subcontracts, construction, and other major capital expenditures, and unexpended funds carried over from prior years) which share common administrative cost functions, that are operated directly by a tribe or tribal organization under a contract, grant, or agreement with the Bureau.

''(i) STUDIES FOR DETERMINATION OF FACTORS AFFECTING COSTS; BASE RATES LIMITS; STANDARD DIRECT COST BASE; REPORT TO CONGRESS.—

''(1) STUDIES.—Not later than 120 days after the date of the enactment of the No Child Left Behind Act of 2001, the Director of the Office of Indian Education Programs shall—

''(A) conduct such studies as may be needed to establish an empirical basis for determining relevant factors substantially affecting required administrative costs of tribal elementary and secondary education programs, using the formula set forth in subsection (c); and

''(B) conduct a study to determine—

''(i) a maximum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the smallest tribal elementary or secondary educational programs;

''(ii) a minimum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the largest tribal elementary or secondary educational programs; and

''(iii) a standard direct cost base which is the aggregate direct cost funding level for which the percentage determined under subsection (c) will—

''(I) be equal to the median between the maximum base rate and the minimum base rate; and

''(II) ensure that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of tribal elementary or secondary educational programs closest to the size of the program.

''(2) GUIDELINES.—The studies required under paragraph (1) shall—

''(A) be conducted in full consultation (in accordance with section 1131) with—

''(i) the tribes and tribal organizations that are affected by the application of the formula set forth in subsection (c); and

''(ii) all national and regional Indian organizations of which such tribes and tribal organizations are typically members;

''(B) be conducted onsite with a representative statistical sample of the tribal elementary or secondary educational programs under a contract entered into with a nationally reputable public accounting and business consulting firm;

''(C) take into account the availability of skilled labor; commodities, business and automatic data processing services, related Indian preference and Indian control of education requirements, and any other market factors found substantially to affect the administrative costs and efficiency of each such tribal elementary or secondary educational program studied in order to assure that all required administrative activities can reasonably be delivered in a cost effective manner for each such program, given an administrative cost allowance generated by the values, percentages, or other factors found in the studies to be relevant in such formula;

''(D) identify, and quantify in terms of percentages of direct program costs, any general factors arising from geographic isolation, or numbers of programs administered, independent of program size factors used to compute a base administrative cost percentage in such formula; and

''(E) identify any other incremental cost factors substantially affecting the costs of required

administrative cost functions at any of the tribal elementary or secondary educational programs studied and determine whether the factors are of general applicability to other such programs, and (if so) how the factors may effectively be incorporated into such formula.

''(3) CONSULTATION WITH INSPECTOR GENERAL.—In carrying out the studies required under this subsection, the Director shall obtain the input of, and afford an opportunity to participate to, the Inspector General of the Department of the Interior.

''(4) CONSIDERATION OF DELIVERY OF ADMINISTRATIVE SERVICES.—Determinations described in paragraph (2)(C) shall be based on what is practicable at each location studied, given prudent management practice, irrespective of whether required administrative services were actually or fully delivered at these sites, or whether other services were delivered instead, during the period of the study.

''(5) REPORT.—Upon completion of the studies conducted under paragraph (1), the Director shall submit to Congress a report on the findings of the studies, together with determinations based upon such studies that would affect the definitions set forth under subsection (e) that are used in the formula set forth in subsection (c).

''(6) PROJECTION OF COSTS.—The Secretary shall include in the Bureau's justification for each appropriations request beginning in the first fiscal year after the completion of the studies conducted under paragraph (1), a projection of the overall costs associated with the formula set forth in subsection (c) for all tribal elementary or secondary education programs which the Secretary expects to be funded in the fiscal year for which the appropriations are sought.

''(7) DETERMINATION OF PROGRAM SIZE.—For purposes of this subsection, the size of tribal elementary or secondary educational programs is determined by the aggregate direct cost program funding level for all Bureau funded programs which share common administrative cost functions.

''(j) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated such sums as necessary to carry out this section.

''(2) REDUCTIONS.—If the total amount of funds necessary to provide grants to tribes and tribal organizations in the amounts determined under subsection (b) for a fiscal year exceeds the amount of funds appropriated to carry out this section for such fiscal year, the Secretary shall reduce the amount of each grant determined under subsection (b) for such fiscal year by an amount that bears the same relationship to such excess as the amount of such grants determined under subsection (b) bears to the total of all grants determined under subsection (b) section for all tribes and tribal organizations for such fiscal year.

''(k) APPLICABILITY TO SCHOOLS OPERATING UNDER TRIBALLY CONTROLLED SCHOOLS ACT OF 1988.—The provisions of this section shall also apply to those schools operating under the Tribally Controlled Schools Act of 1988.

"SEC. 1129. DIVISION OF BUDGET ANALYSIS.

''(a) ESTABLISHMENT.—Not later than 12 months after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary shall establish within the Office of Indian Education Programs a Division of Budget Analysis (hereinafter referred to as the 'Division'). Such Division shall be under the direct supervision and control of the Director of the Office.

''(b) FUNCTIONS.—In consultation with the tribal governing bodies and tribal school boards, the Director of the Office, through the Division, shall conduct studies, surveys, or other activities to gather demographic information on Bureau funded schools and project the amount necessary to provide Indian students in such schools the educational program set forth in this part.

''(c) ANNUAL REPORTS.—Not later than the date that the Assistant Secretary for Indian Affairs makes the annual budget submission, for each fiscal year after the date of the enactment of the No Child Left Behind Act of 2001, the Director of the Office shall submit to the appropriate committees of Congress (including the Appropriations committees), all Bureau funded schools, and the tribal governing bodies of such schools, a report which shall contain—

''(1) projections, based upon the information gathered pursuant to subparagraph (b) and any other relevant information, of amounts necessary to provide Indian students in Bureau funded schools the educational program set forth in this part;

''(2) a description of the methods and formulas used to calculate the amounts projected pursuant to paragraph (1); and

''(3) such other information as the Director of the Office considers appropriate.

''(d) USE OF REPORTS.—The Director of the Office and the Assistant Secretary for Indian Affairs shall use the annual report required by subsection (c) when preparing their annual budget submissions.

"SEC. 1130. UNIFORM DIRECT FUNDING AND SUPPORT.

''(a) ESTABLISHMENT OF SYSTEM AND FORWARD FUNDING.—

''(1) IN GENERAL.—The Secretary shall establish, by regulation adopted in accordance with section 1138, a system for the direct funding and support of all Bureau funded schools. Such system shall allot funds in accordance with section 1127. All amounts appropriated for distribution under this section may be made available under paragraph (2).

''(2) TIMING FOR USE OF FUNDS.—(A) For the purposes of affording adequate notice of funding available pursuant to the allotments made under section 1127, amounts appropriated in an appropriations Act for any fiscal year shall become available for obligation by the affected schools on July 1 of the fiscal year in which such amounts are appropriated without further action by the Secretary, and shall remain available for obligation through the succeeding fiscal year.

''(B) The Secretary shall, on the basis of the amount appropriated in accordance with this paragraph—

''(i) publish, not later than July 1 of the fiscal year for which the funds are appropriated, allotments to each affected school made under section 1127 of 85 percent of such appropriation; and

''(ii) publish, not later than September 30 of such fiscal year, the allotments to be made under section 1127 of the remaining 15 percent of such appropriation, adjusted to reflect the actual student attendance.

''(3) LIMITATION.—(A) Notwithstanding any other provision of law or regulation, the supervisor of a Bureau funded school may expend an aggregate of not more than $50,000 of the amount allotted the school under section 1127 to acquire materials, supplies, equipment, services, operation, and maintenance for the school without competitive bidding if—

''(i) the cost for any single item purchased does not exceed $15,000;

''(ii) the school board approves the procurement;

''(iii) the supervisor certifies that the cost is fair and reasonable;

''(iv) the documents relating to the procurement executed by the supervisor or other school staff cite this paragraph as authority for the procurement; and

''(v) the transaction is documented in a journal maintained at the school clearly identifying when the transaction occurred, what was acquired and from whom, the price paid, the quantities acquired, and any other information the supervisor or school board considers relevant.

''(B) Not later than 6 months after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary shall cause to be sent to each supervisor of a Bureau operated program and school board chairperson, the education line officer or officers of each agency and area, and the Bureau Division in charge of procurement, at both the local and national levels, notice of this paragraph.

''(C) The Director shall be responsible for determining the application of this paragraph, including the authorization of specific individuals to carry out this paragraph, and shall be responsible for the provision of guidelines on the use of this paragraph and adequate training on such guidelines.

''(4) EFFECT OF SEQUESTRATION ORDER.—If a sequestration order issued under the Balanced Budget and Emergency Deficit Control Act of 1985 reduces the amount of funds available for allotment under section 1127 for any fiscal year by more than 7 percent of the amount of funds available for allotment under such section during the preceding fiscal year—

''(A) to fund allotments under section 1127, the Secretary, notwithstanding any other law, may use—

''(i) funds appropriated for the operation of any Bureau school that is closed or consolidated; and

''(ii) funds appropriated for any program that has been curtailed at any Bureau school; and

''(B) the Secretary may waive the application of the provisions of section 1121(h) with respect to the closure or consolidation of a school, or the curtailment of a program at a school, during such fiscal year if the funds described in clauses (i) and (ii) of subparagraph (A) with respect to such school are used to fund allotments made under section 1127 for such fiscal year.

''(b) LOCAL FINANCIAL PLANS FOR EXPENDITURE OF FUNDS.—

''(1) PLAN REQUIRED.—In the case of all Bureau operated schools, allotted funds shall be expended on the basis of local financial plans which ensure meeting the accreditation requirements or standards for the school established pursuant to section 1121 and which shall be prepared by the local school supervisor in active consultation with the local school board for each school. The local school board for each school shall have the authority to ratify, reject, or amend such financial plan, and expenditures thereunder, and, on its own determination or in response to the supervisor of the school, to revise such financial plan to meet needs not foreseen at the time of preparation of the financial plan.

''(2) The supervisor—

''(A) shall put into effect the decisions of the school board;

''(B) shall provide the appropriate local union representative of the education employees with copies of proposed draft financial plans and all amendments or modifications thereto, at the same time such copies are submitted to the local school board; and

''(C) may appeal any such action of the local school board to the appropriate education line officer of the Bureau agency by filing a written statement describing the action and the reasons the supervisor believes such action should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the appropriate education line officer may, for good cause, overturn the action of the local school board. The appropriate education line officer shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such action.

''(c) USE OF SELF-DETERMINATION GRANTS FUNDS.—Funds for self-determination grants under section 103(a)(2) of the Indian Self-Determination and Education Assistance Act shall not be used for providing technical assistance and training in the field of education by the

Bureau unless such services are provided in accordance with a plan, agreed to by the tribe or tribes affected and the Bureau, under which control of education programs is intended to be transferred to such tribe or tribes within a specific period of time negotiated under such agreement. The Secretary may approve applications for funding tribal divisions of education and development of tribal codes of education from funds appropriated pursuant to section 104(a) of such Act.

''(d) TECHNICAL ASSISTANCE AND TRAINING.—In the exercise of its authority under this section, a local school board may request technical assistance and training from the Secretary, and the Secretary shall, to the greatest extent possible, provide such services, and make appropriate provisions in the budget of the Office for such services.

''(e) SUMMER PROGRAM OF ACADEMIC AND SUPPORT SERVICES.—

''(1) IN GENERAL.—A financial plan under subsection (b) for a school may include, at the discretion of the local administrator and the school board of such school, a provision for a summer program of academic and support services for students of the school. Any such program may include activities related to the prevention of alcohol and substance abuse. The Assistant Secretary for Indian Affairs shall provide for the utilization of any such school facility during any summer in which such utilization is requested.

''(2) USE OF OTHER FUNDS.—Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934, and this Act may be used to augment the services provided in each summer program at the option, and under the control, of the tribe or Indian controlled school receiving such funds.

''(3) TECHNICAL ASSISTANCE AND PROGRAM COORDINATION.—The Assistant Secretary for Indian Affairs, acting through the Director of the Office, shall provide technical assistance and coordination for any program described in paragraph (1) and shall, to the extent possible, encourage the coordination of such programs with any other summer programs that might benefit Indian youth, regardless of the funding source or administrative entity of any such program.

''(f) COOPERATIVE AGREEMENTS.—

''(1) IN GENERAL.—From funds allotted to a Bureau school under section 1127, the Secretary shall, if specifically requested by the tribal governing body (as defined in section 1141), implement any cooperative agreement entered into between the tribe, the Bureau school board, and the local public school district which meets the requirements of paragraph (2) and involves the school. The tribe, the Bureau school board, and the local public school district shall determine the terms of the agreement. Such agreement may encompass coordination of all or any part of the following:

''(A) Academic program and curriculum, unless the Bureau school is currently accredited by a State or regional accrediting entity and would not continue to be so accredited.

''(B) Support services, including procurement and facilities maintenance.

''(C) Transportation.

''(2) EQUAL BENEFIT AND BURDEN.—Each agreement entered into pursuant to the authority provided in paragraph (1) shall confer a benefit upon the Bureau school commensurate with the burden assumed, though this requirement shall not be construed so as to require equal expenditures or an exchange of similar services.

''(g) PRODUCT OR RESULT OF STUDENT PROJECTS.—Notwithstanding any other provision of law, where there is agreement on action between the superintendent and the school board of a Bureau funded school, the product or result of a project conducted in whole or in major part by a student may be given to that student upon the completion of such project.

''(h) NOT CONSIDERED FEDERAL FUNDS FOR MATCHING REQUIREMENTS.—Notwithstanding any other provision of law, funds received by a Bureau funded school under this part shall not be considered Federal funds for the purposes of meeting a matching funds requirement for any Federal program.

''SEC. 1131. POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION.

''(a) FACILITATION OF INDIAN CONTROL.—It shall be the policy of the Secretary and the Bureau, in carrying out the functions of the Bureau, to facilitate tribal control of Indian affairs in all matters relating to education.

''(b) CONSULTATION WITH TRIBES.—

''(1) IN GENERAL.—All actions under this Act shall be done with active consultation with tribes.

''(2) REQUIREMENTS.—The consultation required under paragraph (1) means a process involving the open discussion and joint deliberation of all options with respect to potential issues or changes between the Bureau and all interested parties. During such discussions and joint deliberations, interested parties (including tribes and school officials) shall be given an opportunity to present issues including proposals regarding changes in current practices or programs which will be considered for future action by the Bureau. All interested parties shall be given an opportunity to participate and discuss the options presented or to present alternatives, with the views and concerns of the interested parties given effect unless the Secretary determines, from information available from or presented by the interested parties during one or more of the discussions and deliberations, that there is a substantial reason for another course of action. The Secretary shall submit to any Member of Congress, within 18 days of the receipt of a written request by such Member, a written explanation of any decision made by the Secretary which is not consistent with the views of the interested parties.

''SEC. 1132. INDIAN EDUCATION PERSONNEL.

''(a) IN GENERAL.—Chapter 51, subchapter III of chapter 53, and chapter 63 of title 5, United States Code, relating to classification, pay and leave, respectively, and the sections of such title relating to the appointment, promotion, hours of work, and removal of civil service employees, shall not apply to educators or to education positions (as defined in subsection (p)).

''(b) REGULATIONS.—Not later than 60 days after the date of the enactment of the No Child Left Behind Act of 2001, the Secretary shall prescribe regulations to carry out this section. Such regulations shall include—

''(1) the establishment of education positions;

''(2) the establishment of qualifications for educators and education personnel;

''(3) the fixing of basic compensation for educators and education positions;

''(4) the appointment of educators;

''(5) the discharge of educators;

''(6) the entitlement of educators to compensation;

''(7) the payment of compensation to educators;

''(8) the conditions of employment of educators;

''(9) the leave system for educators;

''(10) the annual leave and sick leave for educators; and

''(11) such matters as may be appropriate.

''(c) QUALIFICATIONS OF EDUCATORS.—

''(1) REQUIREMENTS.—In prescribing regulations to govern the qualifications of educators, the Secretary shall require—

''(A)(i) that lists of qualified and interviewed applicants for education positions be maintained in each agency and area office of the Bureau from among individuals who have applied at the agency or area level for an education position or who have applied at the national level and have indicated in such application an interest in working in certain areas or agencies; and

''(ii) that a list of qualified and interviewed applicants for education positions be maintained in the Office from among individuals who have applied at the national level for an education position and who have expressed interest in working in an education position anywhere in the United States;

''(B) that a local school board shall have the authority to waive on a case-by-case basis, any formal education or degree qualifications established by regulation pursuant to subsection (b)(2), in order for a tribal member to be hired in an education position to teach courses on tribal culture and language and that subject to subsection (e)(2), a determination by a school board that such a person be hired shall be instituted supervisor; and

''(C) that it shall not be a prerequisite to the employment of an individual in an education position at the local level that such individual's name appear on the national list maintained pursuant to subparagraph (A)(ii) or that such individual has applied at the national level for an education position.

''(2) EXCEPTION FOR CERTAIN TEMPORARY EMPLOYMENT.—The Secretary may authorize the temporary employment in an education position of an individual who has not met the certification standards established pursuant to regulations, if the Secretary determines that failure to do so would result in that position remaining vacant.

''(d) HIRING OF EDUCATORS.—

''(1) REQUIREMENTS.—In prescribing regulations to govern the appointment of educators, the Secretary shall require—

''(A)(i) that educators employed in a Bureau operated school (other than the supervisor of the school) shall be hired by the supervisor of the school. In cases where there are no qualified applicants available, such supervisor may consult the national list maintained pursuant to subsection (c)(1)(A)(ii);

''(ii) each school supervisor shall be hired by the education line officer of the agency office of the Bureau in which the school is located;

''(iii) educators employed in an agency office of the Bureau shall be hired by the superintendent for education of the agency office; and

''(iv) each education line officer and educators employed in the Office of the Director of Indian Education Programs shall be hired by the Director;

''(B) that before an individual is employed in an education position in a school by the supervisor of a school (or with respect to the position of supervisor, by the appropriate agency education line officer), the local school board for the school shall be consulted. A determination by such school board that such individual should or should not be so employed shall be instituted by the supervisor (or with respect to the position of supervisor, by the agency superintendent for education);

''(C) that before an individual may be employed in an education position at the agency level, the appropriate agency school board shall be consulted, and that a determination by such school board that such individual should or should not be employed shall be instituted by the agency superintendent for education; and

''(D) that before an individual may be employed in an education position in the Office of the Director (other than the position of Director), the national school boards representing all Bureau schools shall be consulted.

''(2) INFORMATION REGARDING APPLICATION AT NATIONAL LEVEL.—Any individual who applies at the local level for an education position shall state on such individual's application whether or not such individual has applied at the national level for an education position in the Bureau. If such individual is employed at the local level, such individual's name shall be immediately forwarded to the Secretary, who shall, as soon as practicable but in no event in more than 30 days, ascertain the accuracy of the statement made by such individual pursuant to

the first sentence of this paragraph. Notwithstanding subsection (e), if the individual's statement is found to have been false, such individual, at the Secretary's discretion, may be disciplined or discharged. If the individual has applied at the national level for an education position in the Bureau, the appointment of such individual at the local level shall be conditional for a period of 90 days, during which period the Secretary may appoint a more qualified individual (as determined by the Secretary) from the list maintained at the national level pursuant to subsection (c)(1)(A)(ii) to the position to which such individual was appointed.

''(3) STATUTORY CONSTRUCTION.—Except as expressly provided, nothing in this section shall be construed as conferring upon local school boards authority over, or control of, educators at Bureau funded schools or the authority to issue management decisions.

''(e) DISCHARGE AND CONDITIONS OF EMPLOYMENT OF EDUCATORS.—

''(1) REGULATIONS.—In prescribing regulations to govern the discharge and conditions of employment of educators, the Secretary shall require—

''(A) that procedures be established for the rapid and equitable resolution of grievances of educators;

''(B) that no educator may be discharged without notice of the reasons therefore and opportunity for a hearing under procedures that comport with the requirements of due process; and

''(C) that educators employed in Bureau schools be notified 30 days prior to the end of the school year whether their employment contract will be renewed for the following year.

''(2) PROCEDURES FOR DISCHARGE.—The supervisor of a Bureau school may discharge (subject to procedures established under paragraph (1)(B)) for cause (as determined under regulations prescribed by the Secretary) any educator employed in such school. Upon giving notice of proposed discharge to an educator, the supervisor involved shall immediately notify the local school board for the school of such action. A determination by the local school board that such educator shall not be discharged shall be followed by the supervisor. The supervisor shall have the right to appeal such action to the education line officer of the appropriate agency office of the Bureau. Upon such an appeal, the agency education line officer may, for good cause and in writing to the local school board, overturn the determination of the local school board with respect to the employment of such individual.

''(3) RECOMMENDATIONS OF SCHOOL BOARDS FOR DISCHARGE.—Each local school board for a Bureau school shall have the right—

''(A) to recommend to the supervisor of such school that an educator employed in the school be discharged; and

''(B) to recommend to the education line officer of the appropriate agency office of the Bureau and to the Director of the Office, that the supervisor of the school be discharged.

''(f) APPLICABILITY OF INDIAN PREFERENCE LAWS.—

''(1) IN GENERAL.—Notwithstanding any provision of the Indian preference laws, such laws shall not apply in the case of any personnel action under this section respecting an applicant or employee not entitled to Indian preference if each tribal organization concerned grants a written waiver of the application of such laws with respect to such personnel action and states that such waiver is necessary. This paragraph shall not relieve the Bureau's responsibility to issue timely and adequate announcements and advertisements concerning any such personnel action if such action is intended to fill a vacancy (no matter how such vacancy is created).

''(2) TRIBAL ORGANIZATION DEFINED.—For purposes of this subsection, the term 'tribal organization' means—

''(A) the recognized governing body of any Indian tribe, band, nation, pueblo, or other organized community, including a Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act); or

''(B) in connection with any personnel action referred to in this subsection, any local school board as defined in section 1141 which has been delegated by such governing body the authority to grant a waiver under this subsection with respect to personnel action.

''(3) INDIAN PREFERENCE LAW DEFINED.—The term 'Indian preference laws' means section 12 of the Act of June 18, 1934, or any other provision of law granting a preference to Indians in promotions and other personnel actions. Such term shall not include section 7(b) of the Indian Self-Determination and Education Assistance Act.

''(g) COMPENSATION OR ANNUAL SALARY.—

''(1) IN GENERAL.—(A) Except as otherwise provided in this section, the Secretary shall fix the basic compensation for educators and education positions at rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5, United States Code, is applicable or on the basis of the Federal Wage System schedule in effect for the locality, and for the comparable positions, the rates of compensation in effect for the senior executive service.

''(B) The Secretary shall establish the rate of basic compensation, or annual salary rates, for the positions of teachers and counselors (including dormitory counselors and home-living counselors) at the rates of basic compensation applicable (on the date of the enactment of the No Child Left Behind Act of 2001 and thereafter) to comparable positions in the overseas schools under the Defense Department Overseas Teachers Pay Act. The Secretary shall allow the local school boards authority to implement only the aspects of the Defense Department Overseas Teacher pay provisions that are considered essential for recruitment and retention. Implementation of such provisions shall not be construed to require the implementation of the Act in its entirety.

''(C)(i) Beginning with the fiscal year following the date of the enactment of the No Child Left Behind Act of 2001, each school board may set the rate of compensation or annual salary rate for teachers and counselors (including academic counselors) who are new hires at the school and who have not worked at the school on the date of implementation of this provision, at rates consistent with the rates paid for individuals in the same positions, with the same tenure and training, in any other school within whose boundaries the Bureau school lies. In instances where the adoption of such rates cause a reduction in the payment of compensation from that which was in effect for the fiscal year following the date of the enactment of the No Child Left Behind Act of 2001, the new rate may be applied to the compensation of employees of the school who worked at the school on of the date of the enactment of that Act by applying those rates to each contract renewal such that the reduction takes effect in three equal installments. Where adoption of such rates lead to an increase in the payment of compensation from that which was in effect for the fiscal year following the date of the enactment of the No Child Left Behind Act of 2001, the school board may make such rates applicable at the next contract renewal such that either—

''(I) the increase occurs in its entirety; or

''(II) the increase is applied in three equal installments.

''(ii) The establishment of rates of basic compensation and annual salary rates under subparagraphs (B) and (C) shall not preclude the use of regulations and procedures used by the Bureau prior to April 28, 1988, in making determinations regarding promotions and advancements through levels of pay that are based on the merit, education, experience, or tenure of the educator.

''(D) The establishment of rates of basic compensation and annual salary rates under subparagraphs (B) and (C) shall not affect the continued employment or compensation of an educator who was employed in an education position on October 31, 1979, and who did not make an election under subsection (p) is in effect on January 1, 1990.

''(2) POST-DIFFERENTIAL RATES.—(A) The Secretary may pay a post-differential rate not to exceed 25 percent of the rate of basic compensation, on the basis of conditions of environment or work which warrant additional pay as a recruitment and retention incentive.

''(B)(i) Upon the request of the supervisor and the local school board of a Bureau school, the Secretary shall grant the supervisor of the school authorization to provide one or more post-differentials under subparagraph (A) unless the Secretary determines for clear and convincing reasons (and advises the board in writing of those reasons) that certain of the requested post-differentials should be disapproved or decreased because there is no disparity of compensation for the involved employees or positions in the Bureau school, as compared with the nearest public school, that is either—

''(I) at least 5 percent; or

''(II) less than 5 percent and affects the recruitment or retention of employees at the school.

''(ii) A request under clause (i) shall be deemed granted at the end of the 60th day after the request is received in the Central Office of the Bureau unless before that time the request is approved, approved with modification, or disapproved by the Secretary.

''(iii) The Secretary or the supervisor of a Bureau school may discontinue or decrease a post-differential authorized under this subparagraph at the beginning of a school year if—

''(I) the local school board requests that such differential be discontinued or decreased; or

''(II) the Secretary or the supervisor determines for clear and convincing reasons (and advises the board in writing of those reasons) that there is no disparity of compensation that would affect the recruitment or retention of employees at the school after the differential is discontinued or decreased.

''(iv) On or before February 1 of each year, the Secretary shall submit to Congress a report describing the requests and grants of authority under this subparagraph during the previous year and listing the positions contracted under those grants of authority.

''(h) LIQUIDATION OF REMAINING LEAVE UPON TERMINATION.—Upon termination of employment with the Bureau, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except that leave earned or accrued under regulations prescribed pursuant to subsection (b)(10) of this section shall not be so liquidated.

''(i) TRANSFER OF REMAINING SICK LEAVE UPON TRANSFER, PROMOTION, OR REEMPLOYMENT.—In the case of any educator who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the regulations prescribed pursuant to subsection (b)(10) shall be transferred to such person's credit in the employing agency on an adjusted basis in accordance with regulations which shall be prescribed by the Office of Personnel Management.

''(j) INELIGIBILITY FOR EMPLOYMENT OF VOLUNTARILY TERMINATED EDUCATORS.—An educator who voluntarily terminates employment with the Bureau before the expiration of the existing employment contract between such educator and the Bureau shall not be eligible to be employed in another education position in the Bureau during the remainder of the term of such contract.

''(k) DUAL COMPENSATION.—In the case of any educator employed in an education position described in subsection (l)(1)(A) who—

''(1) is employed at the close of a school year;

''(2) agrees in writing to serve in such position for the next school year; and

''(3) is employed in another position during the recess period immediately preceding such next school year, or during such recess period receives additional compensation referred to in section 5533 of title 5, United States Code, relating to dual compensation,

shall not apply to such educator by reason of any such employment during a recess period for any receipt of additional compensation.

''(l) VOLUNTARY SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary may, subject to the approval of the local school board concerned, accept voluntary services on behalf of Bureau schools. Nothing in this part shall be construed to require Federal employees to work without compensation or to allow the use of volunteer services to displace or replace Federal employees. An individual providing volunteer services under this section is a Federal employee only for purposes of chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

''(m) PRORATION OF PAY.—

''(1) ELECTION OF EMPLOYEE.—Notwithstanding any other provision of law, including laws relating to dual compensation, the Secretary, at the election of the employee, shall prorate the salary of an employee employed in an education position for the academic school year over the entire 12-month period. Each educator employed for the academic school year shall annually elect to be paid on a 12-month basis or for those months while school is in session. No educator shall suffer a loss of pay or benefits, including benefits under unemployment or other Federal or federally assisted programs, because of such election.

''(2) CHANGE OF ELECTION.—During the course of such year the employee may change election once.

''(3) LUMP SUM PAYMENT.—That portion of the employee's pay which would be paid between academic school years may be paid in a lump sum at the election of the employee.

''(4) DEFINITIONS.—For purposes of this subsection, the terms 'educator' and 'education position' have the meanings contained in paragraphs (1) and (2) of subsection (o). This subsection applies to those individuals employed under the provisions of section 1132 of this title or title 5, United States Code.

''(n) EXTRACURRICULAR ACTIVITIES.—

''(1) STIPEND.—Notwithstanding any other provision of law, the Secretary may provide, for each Bureau area, a stipend in lieu of overtime premium pay or compensatory time off. Any employee of the Bureau who performs additional activities to provide services to students or otherwise support the school's academic and social programs may elect to be compensated for all such work on the basis of the stipend. Such stipend shall be paid as a supplement to the employee's base pay.

''(2) ELECTION NOT TO RECEIVE STIPEND.—If an employee elects not to be compensated through the stipend established by this subsection, the appropriate provisions of title 5, United States Code, shall apply.

''(3) APPLICABILITY OF SUBSECTION.—This subsection applies to all Bureau employees, whether employed under section 1132 of this title or title 5, United States Code.

''(o) DEFINITIONS.—For the purpose of this section—

''(1) EDUCATION POSITION.—The term 'education position' means a position in the Bureau the duties and responsibilities of which—

''(A) are performed on a school-year basis principally in a Bureau school and involve—

''(i) classroom or other instruction or the supervision or direction of classroom or other instruction;

''(ii) any activity (other than teaching) which requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education;

''(iii) any activity in or related to the field of education notwithstanding that academic credits in educational theory and practice are not a formal requirement for the conduct of such activity; or

''(iv) support services at, or associated with, the site of the school; or

''(B) are performed at the agency level of the Bureau and involve the implementation of education-related programs other than the position for agency superintendent for education.

''(2) EDUCATOR.—The term 'educator' means an individual whose services are required, or who is employed, in an education position.

''(p) COVERED INDIVIDUALS; ELECTION.—This section shall apply with respect to any educator hired after November 1, 1979 (and to any educator who elected for coverage under that provision after November 1, 1979) and to the position in which such individual is employed. The enactment of this section shall not affect the continued employment of an individual employed on October 31, 1979 in an education position, or such person's right to receive the compensation attached to such position.

"SEC. 1133. COMPUTERIZED MANAGEMENT INFORMATION SYSTEM.

''(a) ESTABLISHMENT OF SYSTEM.—Not later than July 1, 2003, the Secretary shall establish within the Office, a computerized management information system, which shall provide processing and information to the Office. The information provided shall include information regarding—

''(1) student enrollment;

''(2) curriculum;

''(3) staffing;

''(4) facilities;

''(5) community demographics;

''(6) student assessment information;

''(7) information on the administrative and program costs attributable to each Bureau program, divided into discreet elements;

''(8) relevant reports;

''(9) personnel records;

''(10) finance and payroll; and

''(11) such other items as the Secretary deems appropriate.

''(b) IMPLEMENTATION OF SYSTEM.—Not later than July 1, 2004, the Secretary shall complete implementation of such a system at each field office and Bureau funded school.

"SEC. 1134. UNIFORM EDUCATION PROCEDURES AND PRACTICES.

''The Secretary shall cause the various divisions of the Bureau to formulate uniform procedures and practices with respect to such concerns of those divisions as relate to education, and shall report such practices and procedures to the Congress.

"SEC. 1135. RECRUITMENT OF INDIAN EDUCATORS.

''The Secretary shall institute a policy for the recruitment of qualified Indian educators and a detailed plan to promote employees from within the Bureau. Such plan shall include opportunities for acquiring work experience prior to actual work assignment.

"SEC. 1136. BIENNIAL REPORT; AUDITS.

''(a) BIENNIAL REPORTS.—The Secretary shall submit to each appropriate committee of Congress, all Bureau funded schools, and the tribal governing bodies of such schools, a detailed biennial report on the state of education within the Bureau and any problems encountered in Indian education during the 2-year period covered by the report. Such report shall contain suggestions for the improvement of the Bureau educational system and for increasing tribal or local Indian control of such system. Such report shall also include the current status of tribally controlled community colleges. The annual budget submission for the Bureau's education programs shall include—

''(1) information on the funds provided to previously private schools under section 208 of the Indian Self-Determination and Education Assistance Act, and recommendations with respect to the future use of such funds;

''(2) the needs and costs of operations and maintenance of tribally controlled community colleges eligible for assistance under the Tribally Controlled Community College Assistance Act of 1978 and recommendations with respect to meeting such needs and costs; and

''(3) the plans required by sections 1121 (g), 1122(c), and 1125(b).

''(b) FINANCIAL AND COMPLIANCE AUDITS.—The Inspector General of the Department of the Interior shall establish a system to ensure that financial and compliance audits are conducted of each Bureau operated school at least once in every 3 years. Audits of Bureau schools shall be based upon the extent to which such school has complied with its local financial plan under section 1130.

"SEC. 1137. RIGHTS OF INDIAN STUDENTS.

''The Secretary shall prescribe such rules and regulations as are necessary to ensure the constitutional and civil rights of Indian students attending Bureau funded schools, including such students' right to privacy under the laws of the United States, such students' right to freedom of religion and expression, and such students' right to due process in connection with disciplinary actions, suspensions, and expulsions.

"SEC. 1138. REGULATIONS.

''(a) IN GENERAL.—The Secretary is authorized to issue only such regulations as are necessary to ensure compliance with the specific provision of this Act. The Secretary shall publish proposed regulations in the Federal Register, shall provide a period of not less than 90 days for public comment thereon, and shall place in parentheses after each regulatory section the citation to any statutory provision providing authority to promulgate such regulatory provision.

''(b) MISCELLANEOUS.—

''(1) CONSTRUCTION.—The provisions of this Act shall supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before the date of the enactment of this Act and the Secretary is authorized to repeal any regulation inconsistent with the provisions of this Act.

''(2) LEGAL AUTHORITY TO BE STATED.—Regulations issued to implement this Act shall contain, immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority upon which provision is based.

"SEC. 1138A. REGIONAL MEETINGS AND NEGOTIATED RULEMAKING.

''(a) MEETINGS.—

''(1) IN GENERAL.—The Secretary shall obtain tribal involvement in the development of proposed regulations under this part and the Tribally Controlled Schools Act of 1988. The Secretary shall obtain the advice of and recommendations from representatives of Indian tribes with Bureau funded schools on their reservations, Indian tribes whose children attend Bureau funded off-reservation boarding schools, school boards, administrators or employees of Bureau funded schools, and parents and teachers of students enrolled in Bureau funded schools.

''(2) ISSUES.—The Secretary shall provide for a comprehensive discussion and exchange of information concerning the implementation of this part and the Tribally Controlled Schools Act of 1988 through such mechanisms as regional meetings and electronic exchanges of information. The Secretary shall take into account the information received through such mechanisms in the

development of proposed regulations and shall publish a summary of such information in the Federal Register together with such proposed regulations.

''(b) DRAFT REGULATIONS.—

''(1) IN GENERAL.—After obtaining the advice and recommendations described in subsection (a)(1) and before publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations implementing this part and the Tribally Controlled Schools Act of 1988 and shall submit such regulations to a negotiated rulemaking process. Participants in the negotiations process shall be chosen by the Secretary from individuals nominated by the entities described in subsection (a)(1). To the maximum extent possible, the Secretary shall ensure that the tribal representative membership chosen pursuant to the preceding sentence reflects the proportionate share of students from tribes served by the Bureau funded school system. The negotiation process shall be conducted in a timely manner in order that the final regulations may issued by the Secretary no later than 18 months after the enactment of this section.

''(2) NOTIFICATION TO CONGRESS.—If draft regulations implementing this part and the Tribally Controlled Schools Act of 1988 are not issued in final form by the deadline provided in paragraph (1), the Secretary shall notify the appropriate committees of Congress of which draft regulations were not issued in final form by the deadline and the reason such final regulations were not issued.

''(3) EXPANSION OF NEGOTIATED RULEMAKING.—All regulations pertaining to this part and the Tribally Controlled Schools Act of 1988 that are promulgated after the date of the enactment of this subsection shall be subject to a negotiated rulemaking (including the selection of the regulations to be negotiated), unless the Secretary determines that applying such a requirement with respect to given regulations is impracticable, unnecessary, or contrary to the public interest (within the meaning of section 553(b)(3)(B) of title 5), and publishes the basis for such determination in the Federal Register at the same time as the proposed regulations in question are first published. All published proposed regulations shall conform to agreements resulting from such negotiated rulemaking unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants in that process why the Secretary has decided to depart from such agreements. Such negotiated rulemaking shall be conducted in accordance with the provisions of subsection (a), and the Secretary shall ensure that a clear and reliable record of agreements reached during the negotiation process is maintained.

''(c) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall apply to activities carried out under this section.

"SEC. 1139. EARLY CHILDHOOD DEVELOPMENT PROGRAM.

''(a) IN GENERAL.—The Secretary shall provide grants to tribes, tribal organizations, and consortia of tribes and tribal organizations to fund early childhood development programs that are operated by such tribes, organizations, or consortia.

''(b) AMOUNT OF GRANTS.—

''(1) IN GENERAL.—The total amount of the grants provided under subsection (a) with respect to each tribe, tribal organization, or consortium of tribes or tribal organizations for each fiscal year shall be equal to the amount which bears the same relationship to the total amount appropriated under the authority of subsection (g) for such fiscal year (less amounts provided under subsection (f)) as—

''(A) the total number of children under 6 years of age who are members of—

''(i) such tribe;

''(ii) the tribe that authorized such tribal organization; or

''(iii) any tribe that—

''(I) is a member of such consortium; or

''(II) authorizes any tribal organization that is a member of such consortium; bears to

''(B) the total number of all children under 6 years of age who are members of any tribe that—

''(i) is eligible to receive funds under subsection (a);

''(ii) is a member of a consortium that is eligible to receive such funds; or

''(iii) authorizes a tribal organization that is eligible to receive such funds.

''(2) LIMITATION.—No grant may be provided under subsection (a)—

''(A) to any tribe that has less than 500 members;

''(B) to any tribal organization which is authorized—

''(i) by only one tribe that has less than 500 members; or

''(ii) by one or more tribes that have a combined total membership of less than 500 members; or

''(C) to any consortium composed of tribes, or tribal organizations authorized by tribes, that have a combined total tribal membership of less than 500 members.

''(c) APPLICATION.

''(1) IN GENERAL.—A grant may be provided under subsection (a) to a tribe, tribal organization, or consortia of tribes and tribal organizations only if the tribe, organization, or consortia submits to the Secretary an application for the grant at such time and in such form as the Secretary shall prescribe.

''(2) CONTENTS.—Applications submitted under paragraph (1) shall set forth the early childhood development program that the applicant desires to operate.

''(d) REQUIREMENT OF PROGRAMS FUNDED.—The early childhood development programs that are funded by grants provided under subsection (a)—

''(1) shall coordinate existing programs and may provide services that meet identified needs of parents and children under 6 years of age which are not being met by existing programs, including—

''(A) prenatal care;

''(B) nutrition education;

''(C) health education and screening;

''(D) family literacy services;

''(E) educational testing; and

''(F) other educational services;

''(2) may include instruction in the language, art, and culture of the tribe; and

''(3) shall provide for periodic assessment of the program.

''(e) COORDINATION OF FAMILY LITERACY PROGRAMS.—Family literacy programs operated under this section and other family literacy programs operated by the Bureau of Indian Affairs shall be coordinated with family literacy programs for Indian children under part B of title I of the Elementary and Secondary Education Act of 1965 in order to avoid duplication and to encourage the dissemination of information on quality family literacy programs serving Indians.

''(f) ADMINISTRATIVE COSTS.—The Secretary shall, out of funds appropriated under subsection (g), include in the grants provided under subsection (a) amounts for administrative costs incurred by the tribe, tribal organization, or consortium of tribes in establishing and maintaining the early childhood development program.

''(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $10,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003, 2004, 2005, and 2006.

"SEC. 1140. TRIBAL DEPARTMENTS OR DIVISIONS OF EDUCATION.

''(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall provide grants and technical assistance to tribes for the development and operation of tribal departments of education for the purpose of planning and coordinating all educational programs of the tribe.

''(b) GRANTS.—Grants provided under this section shall—

''(1) be based on applications from the governing body of the tribe;

''(2) reflect factors such as geographic and population diversity;

''(3) facilitate tribal control in all matters relating to the education of Indian children on Indian reservations (and on former Indian reservations in Oklahoma);

''(4) provide for the development of coordinated educational programs on Indian reservations (and on former Indian reservations in Oklahoma) (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) by encouraging tribal administrative support of all Bureau funded educational programs as well as encouraging tribal cooperation and coordination with all educational programs receiving financial support from State agencies, other Federal agencies, or private entities;

''(5) provide for the development and enforcement of tribal educational codes, including tribal educational policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs; and

''(6) otherwise comply with regulations for grants under section 103(a) of the Indian Self-Determination and Educational Assistance Act that are in effect on the date that application for such grants are made.

''(c) PRIORITIES.—

''(1) IN GENERAL.—In making grants under this section, the Secretary shall give priority to any application that—

''(A) includes assurances from the majority of Bureau funded schools located within the boundaries of the reservation of the applicant that the tribal department of education to be funded under this section will provide coordinating services and technical assistance to all of such schools, including the submission to each applicable agency of a unified application for funding for all of such schools which provides that—

''(i) no administrative costs other than those attributable to the individual programs of such schools will be associated with the unified application; and

''(ii) the distribution of all funds received under the unified application will be equal to the amount of funds provided by the applicable agency to which each of such schools is entitled under law;

''(B) includes assurances from the tribal governing body that the tribal department of education funded under this section will administer all contracts or grants (except those covered by the other provisions of this title and the Tribally Controlled Community College Assistance Act of 1978) for education programs administered by the tribe and will coordinate all of the programs to the greatest extent possible;

''(C) includes assurances for the monitoring and auditing by or through the tribal department of education of all education programs for which funds are provided by contract or grant to ensure that the programs meet the requirements of law; and

''(D) provides a plan and schedule for—

''(i) the assumption over the term of the grant by the tribal department of education of all assets and functions of the Bureau agency office associated with the tribe, insofar as those responsibilities relate to education; and

''(ii) the termination by the Bureau of such operations and office at the time of such assumption,

except that when mutually agreeable between the tribal governing body and the Assistant Secretary, the period in which such assumption is

to occur may be modified, reduced, or extended after the initial year of the grant.

''(2) TIME PERIOD OF GRANT.—Subject to the availability of appropriated funds, grants provided under this section shall be provided for a period of 3 years and the grant may, if performance by the grantee is satisfactory to the Secretary, be renewed for additional 3-year terms.

''(d) TERMS, CONDITIONS, OR REQUIREMENTS.—The Secretary shall not impose any terms, conditions, or requirements on the provision of grants under this section that are not specified in this section.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $2,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003, 2004, 2005, and 2006.

"SEC. 1141. DEFINITIONS.

''For the purposes of this part, unless otherwise specified:

''(1) AGENCY SCHOOL BOARD.—The term 'agency school board' means a body, the members of which are appointed by all of the school boards of the schools located within an agency, including schools operated under contract or grant, and the number of such members shall be determined by the Secretary in consultation with the affected tribes, except that, in agencies serving a single school, the school board of such school shall fulfill these duties, and in agencies having schools or a school operated under contract or grant, one such member at least shall be from such a school.

''(2) BUREAU.—The term 'Bureau' means the Bureau of Indian Affairs of the Department of the Interior.

''(3) BUREAU FUNDED SCHOOL.—The term 'Bureau funded school' means—

''(A) a Bureau school;

''(B) a contract or grant school; or

''(C) a school for which assistance is provided under the Tribally Controlled Schools Act of 1988.

''(4) BUREAU SCHOOL.—The term 'Bureau school' means a Bureau operated elementary or secondary day or boarding school or a Bureau operated dormitory for students attending a school other than a Bureau school.

''(5) CONTRACT OR GRANT SCHOOL.—The term 'contract or grant school' means an elementary or secondary school or dormitory which receives financial assistance for its operation under a contract, grant or agreement with the Bureau under section 102, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act, or under the Tribally Controlled Schools Act of 1988.

''(6) EDUCATION LINE OFFICER.—The term 'education line officer' means education personnel under the supervision of the Director, whether located in the central, area, or agency offices.

''(7) FAMILY LITERACY SERVICES.—The term 'family literacy services' has the meaning given that term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

''(8) FINANCIAL PLAN.—The term 'financial plan' means a plan of services provided by each Bureau school.

''(9) INDIAN ORGANIZATION.—the term 'Indian organization' means any group, association, partnership, corporation, or other legal entity owned or controlled by a federally recognized Indian tribe or tribes, or a majority of whose members are members of federally recognized tribes.

''(10) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State, and includes any State agency which directly operates and maintains facilities for providing free public education.

''(11) LOCAL SCHOOL BOARD.—The term 'local school board', when used with respect to a Bureau school, means a body chosen in accordance with the laws of the tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that in schools serving a substantial number of students from different tribes, the members shall be appointed by the governing bodies of the tribes affected, and the number of such members shall be determined by the Secretary in consultation with the affected tribes.

''(12) OFFICE.—The term 'Office' means the Office of Indian Education Programs within the Bureau.

''(13) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(14) SUPERVISOR.—The term 'supervisor' means the individual in the position of ultimate authority at a Bureau school.

''(15) TRIBAL GOVERNING BODY.—The term 'tribal governing body' means, with respect to any school, the tribal governing body, or tribal governing bodies, that represent at least 90 percent of the students served by such school.

''(16) TRIBE.—The term 'tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.''.

SEC. 314. TRIBALLY CONTROLLED SCHOOLS ACT OF 1988.

Sections 5202 through 5212 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) are amended to read as follows:

"SEC. 5202. FINDINGS.

''Congress, after careful review of the Federal Government's historical and special legal relationship with, and resulting responsibilities to, Indians, finds that—

''(1) the Indian Self-Determination and Education Assistance Act, which was a product of the legitimate aspirations and a recognition of the inherent authority of Indian nations, was and is a crucial positive step towards tribal and community control;

''(2) the Bureau of Indian Affairs' administration and domination of the contracting process under such Act has not provided the full opportunity to develop leadership skills crucial to the realization of self-government and has denied Indians an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities;

''(3) Indians will never surrender their desire to control their relationships both among themselves and with non-Indian governments, organizations, and persons;

''(4) true self-determination in any society of people is dependent upon an educational process which will ensure the development of qualified people to fulfill meaningful leadership roles;

''(5) the Federal administration of education for Indian children has not effected the desired level of educational achievement or created the diverse opportunities and personal satisfaction that education can and should provide;

''(6) true local control requires the least possible Federal interference; and

''(7) the time has come to enhance the concepts made manifest in the Indian Self-Determination and Education Assistance Act.

"SEC. 5203. DECLARATION OF POLICY.

''(a) RECOGNITION.—Congress recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational services so as to render such services more responsive to the needs and desires of those communities.

''(b) COMMITMENT.—Congress declares its commitment to the maintenance of the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy for education which will deter further perpetuation of Federal bureaucratic domination of programs.

''(c) NATIONAL GOAL.—Congress declares that a major national goal of the United States is to provide the resources, processes, and structure which will enable tribes and local communities to effect the quantity and quality of educational services and opportunities which will permit Indian children to compete and excel in the life areas of their choice and to achieve the measure of self-determination essential to their social and economic well-being.

''(d) EDUCATIONAL NEEDS.—Congress affirms the reality of the special and unique educational needs of Indian peoples, including the need for programs to meet the linguistic and cultural aspirations of Indian tribes and communities. These may best be met through a grant process.

''(e) FEDERAL RELATIONS.—Congress declares its commitment to these policies and its support, to the full extent of its responsibility, for Federal relations with the Indian Nations.

''(f) TERMINATION.—Congress hereby repudiates and rejects House Resolution 108 of the 83d Congress and any policy of unilateral termination of Federal relations with any Indian Nation.

"SEC. 5204. GRANTS AUTHORIZED.

''(a) IN GENERAL.—

''(1) ELIGIBILITY.—The Secretary shall provide grants to Indian tribes, and tribal organizations that—

''(A) operate contract schools under title XI of the Education Amendments of 1978 and notify the Secretary of their election to operate the schools with assistance under this part rather than continuing as contract school;

''(B) operate other tribally controlled schools eligible for assistance under this part and submit applications (which are approved by their tribal governing bodies) to the Secretary for such grants; or

''(C) elect to assume operation of Bureau funded schools with the assistance under this part and submit applications (which are approved by their tribal governing bodies) to the Secretary for such grants.

''(2) DEPOSIT OF FUNDS.—Grants provided under this part shall be deposited into the general operating fund of the tribally controlled school with respect to which the grant is made.

''(3) USE OF FUNDS.—(A) Except as otherwise provided in this paragraph, grants provided under this part shall be used to defray, at the discretion of the school board of the tribally controlled school with respect to which the grant is provided, any expenditures for education related activities for which any funds that compose the grant may be used under the laws described in section 5205(a), including, but not limited to, expenditures for—

''(i) school operations, academic, educational, residential, guidance and counseling, and administrative purposes; and

''(ii) support services for the school, including transportation.

''(B) Grants provided under this part may, at the discretion of the school board of the tribally controlled school with respect to which such grant is provided, be used to defray operations and maintenance expenditures for the school if any funds for the operation and maintenance of the school are allocated to the school under the provisions of any of the laws described in section 5205(a).

''(b) LIMITATIONS.—

''(1) ONE GRANT PER TRIBE OR ORGANIZATION PER FISCAL YEAR.—Not more than one grant may be provided under this part with respect to any Indian tribe or tribal organization for any fiscal year.

''(2) NONSECTARIAN USE.—Funds provided under any grant made under this part may not be used in connection with religious worship or sectarian instruction.

''(3) ADMINISTRATIVE COSTS LIMITATION.—Funds provided under any grant under this part may not be expended for administrative costs (as defined in section 1128(h)(1) of the Education Amendments of 1978) in excess of the amount generated for such costs under section 1128 of such Act.

''(c) LIMITATION ON TRANSFER OF FUNDS AMONG SCHOOLSITES.—

''(1) IN GENERAL.—In the case of a grantee that operates schools at more than one schoolsite, the grantee may expend not more than the lesser of—

''(A) 10 percent of the funds allocated for such schoolsite under section 1128 of the Education Amendments of 1978; or

''(B) $400,000 of such funds, at any other schoolsite.

''(2) DEFINITION OF SCHOOLSITE.—For purposes of this subsection, the term 'schoolsite' means the physical location and the facilities of an elementary or secondary educational or residential program operated by, or under contract or grant with, the Bureau for which a discreet student count is identified under the funding formula established under section 1127 of the Education Amendments of 1978.

''(d) NO REQUIREMENT TO ACCEPT GRANTS.—Nothing in this part may be construed—

''(1) to require a tribe or tribal organization to apply for or accept; or

''(2) to allow any person to coerce any tribe or tribal organization to apply for, or accept,

a grant under this part to plan, conduct, and administer all of, or any portion of, any Bureau program. Such applications and the timing of such applications shall be strictly voluntary. Nothing in this part may be construed as allowing or requiring any grant with any entity other than the entity to which the grant is provided.

''(e) NO EFFECT ON FEDERAL RESPONSIBILITY.—Grants provided under this part shall not terminate, modify, suspend, or reduce the responsibility of the Federal Government to provide a program.

''(f) RETROCESSION.—

''(1) IN GENERAL.—Whenever a tribal governing body requests retrocession of any program for which assistance is provided under this part, such retrocession shall become effective upon a date specified by the Secretary that is not later than 120 days after the date on which the tribal governing body requests the retrocession. A later date as may be specified if mutually agreed upon by the Secretary and the tribal governing body. If such a program is retroceded, the Secretary shall provide to any Indian tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of funding provided under this part prior to the retrocession.

''(2) STATUS AFTER RETROCESSION.—The tribe requesting retrocession shall specify whether the retrocession is to status as a Bureau operated school or as a school operated under contract under title XI of the Education Amendments of 1978.

''(3) TRANSFER OF EQUIPMENT AND MATERIALS.—Except as otherwise determined by the Secretary, the tribe or tribal organization operating the program to be retroceded must transfer to the Secretary (or to the tribe or tribal organization which will operate the program as a contract school) the existing equipment and materials which were acquired—

''(A) with assistance under this part; or

''(B) upon assumption of operation of the program under this part if the school was a Bureau funded school under title XI of the Education Amendments of 1978 before receiving assistance under this part.

''(g) PROHIBITION OF TERMINATION FOR ADMINISTRATIVE CONVENIENCE.—Grants provided under this part may not be terminated, modified, suspended, or reduced solely for the convenience of the administering agency.

''SEC. 5205. COMPOSITION OF GRANTS.

''(a) IN GENERAL.—The grant provided under this part to an Indian tribe or tribal organization for any fiscal year shall consist of—

''(1) the total amount of funds allocated for such fiscal year under sections 1127 and 1128 of the Education Amendments of 1978 with respect to the tribally controlled schools eligible for assistance under this part which are operated by such Indian tribe or tribal organization, including, but not limited to, funds provided under such sections, or under any other provision of law, for transportation costs;

''(2) to the extent requested by such Indian tribe or tribal organization, the total amount of funds provided from operations and maintenance accounts and, notwithstanding section 105 of the Indian Self-Determination Act, or any other provision of law, other facilities accounts for such schools for such fiscal year (including but not limited to those referenced under section 1126(d) of the Education Amendments of 1978 or any other law); and

''(3) the total amount of funds that are allocated to such schools for such fiscal year under—

''(A) title I of the Elementary and Secondary Education Act of 1965;

''(B) the Individuals with Disabilities Education Act; and

''(C) any other Federal education law, that are allocated to such schools for such fiscal year.

''(b) SPECIAL RULES.—

''(1) IN GENERAL.—(A) Funds allocated to a tribally controlled school by reason of paragraph (1) or (2) of subsection (a) shall be subject to the provisions of this part and shall not be subject to any additional restriction, priority, or limitation that is imposed by the Bureau with respect to funds provided under—

''(i) title I of the Elementary and Secondary Education Act of 1965;

''(ii) the Individuals with Disabilities Education Act; or

''(iii) any Federal education law other than title XI of the Education Amendments of 1978.

''(B) Indian tribes and tribal organizations to which grants are provided under this part, and tribally controlled schools for which such grants are provided, shall not be subject to any requirements, obligations, restrictions, or limitations imposed by the Bureau that would otherwise apply solely by reason of the receipt of funds provided under any law referred to in clause (i), (ii), or (iii) of subparagraph (A).

''(2) SCHOOLS CONSIDERED CONTRACT SCHOOLS.—Tribally controlled schools for which grants are provided under this part shall be treated as contract schools for the purposes of allocation of funds under sections 1126(d), 1127, and 1128 of the Education Amendments of 1978.

''(3) SCHOOLS CONSIDERED BUREAU SCHOOLS.—Tribally controlled schools for which grants are provided under this chapter shall be treated as Bureau schools for the purposes of allocation of funds provided under—

''(A) title I of the Elementary and Secondary Education Act of 1965;

''(B) the Individuals with Disabilities Education Act; and

''(C) any other Federal education law, that are distributed through the Bureau.

''(4) ACCOUNTS; USE OF CERTAIN FUNDS.—(A) Notwithstanding section 5204(a)(2), with respect to funds from facilities improvement and repair, alteration and renovation (major or minor), health and safety, or new construction accounts included in the grant under section 5204(a), the grantee shall maintain a separate account for such funds. At the end of the period designated for the work covered by the funds received, the grantee shall submit to the Secretary a separate accounting of the work done and the funds expended to the Secretary. Funds received from these accounts may only be used for the purpose for which they were appropriated and for the work encompassed by the application or submission under which they were received.

''(B) Notwithstanding subparagraph (A), a school receiving a grant under this part for facilities improvement and repair may use such grant funds for new construction if the tribal government or other organization provides funding for the new construction equal to at least 25 percent of the total cost of such new construction.

''(C) Where the appropriations measure or the application submission does not stipulate a period for the work covered by the funds so designated, the Secretary and the grantee shall consult and determine such a period prior to the transfer of the funds. A period so determined may be extended upon mutual agreement of the Secretary and the grantee.

''(5) ENFORCEMENT OF REQUEST TO INCLUDE FUNDS.—If the Secretary fails to carry out a request made under subsection (a)(2) within 180 days of a request filed by an Indian tribe or tribal organization to include in such tribe or organization's grant the funds described in subsection (a)(2), the Secretary shall be deemed to have approved such request and the Secretary shall immediately amend the grant accordingly. Such tribe or organization may enforce its rights under subsection (a)(2) and this paragraph, including any denial or failure to act on such tribe or organization's request, pursuant to the disputes authority described in section 5209(e).

''SEC. 5206. ELIGIBILITY FOR GRANTS.

''(a) RULES.—

''(1) IN GENERAL.—A tribally controlled school is eligible for assistance under this part if the school—

''(A) on April 28, 1988, was a contract school under title XI of the Education Amendments of 1978 and the tribe or tribal organization operating the school submits to the Secretary a written notice of election to receive a grant under this part;

''(B) was a Bureau operated school under title XI of the Education Amendments of 1978 and has met the requirements of subsection (b);

''(C) is a school for which the Bureau has not provided funds, but which has met the requirements of subsection (c); or

''(D) is a school with respect to which an election has been made under paragraph (2) and which has met the requirements of subsection (b).

''(2) NEW SCHOOLS.—Any application which has been submitted under the Indian Self-Determination and Education Assistance Act by an Indian tribe for a school which is not in operation on the date of the enactment of the No Child Left Behind Act of 2001 shall be reviewed under the guidelines and regulations for applications submitted under the Indian Self-Determination and Education Assistance Act that were in effect at the time the application was submitted, unless the Indian tribe or tribal organization elects to have the application reviewed under the provisions of subsection (b).

''(b) ADDITIONAL REQUIREMENTS FOR BUREAU FUNDED SCHOOLS AND CERTAIN ELECTING SCHOOLS.—

''(1) BUREAU FUNDED SCHOOLS.—A school that was a Bureau funded school under title XI of the Education Amendments of 1978 on the date of the enactment of the No Child Left Behind Act of 2001, and any school with respect to which an election is made under subsection (a)(2), meets the requirements of this subsection if—

''(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting that the Secretary—

''(i) transfer operation of the school to the Indian tribe or tribal organization, if the Indian tribe or tribal organization is not already operating the school; and

''(ii) make a determination as to whether the school is eligible for assistance under this part; and

''(B) the Secretary makes a determination that the school is eligible for assistance under this part.

''(2) CERTAIN ELECTING SCHOOLS.—(A) By not later than the date that is 120 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine—

''(i) in the case of a school which is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization; and

''(ii) whether the school is eligible for assistance under this part.

''(B) In considering applications submitted under paragraph (1)(A), the Secretary—

''(i) shall transfer operation of the school to the Indian tribe or tribal organization, if the tribe or tribal organization is not already operating the school; and

''(ii) shall determine that the school is eligible for assistance under this part, unless the Secretary finds by clear and convincing evidence that the services to be provided by the Indian tribe or tribal organization will be deleterious to the welfare of the Indians served by the school.

''(C) In considering applications submitted under paragraph (1)(A), the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in operating the school with respect to—

''(i) equipment;

''(ii) bookkeeping and accounting procedures;

''(iii) ability to adequately manage a school; or

''(iv) adequately trained personnel.

''(c) ADDITIONAL REQUIREMENTS FOR A SCHOOL WHICH IS NOT A BUREAU FUNDED SCHOOL.—

''(1) IN GENERAL.—A school which is not a Bureau funded school under title XI of the Education Amendments of 1978 meets the requirements of this subsection if—

''(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting a determination by the Secretary as to whether the school is eligible for assistance under this part; and

''(B) the Secretary makes a determination that a school is eligible for assistance under this part.

''(2) DEADLINE FOR DETERMINATION BY SECRETARY.—(A) By not later than the date that is 180 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine whether the school is eligible for assistance under this part.

''(B) In making the determination under subparagraph (A), the Secretary shall give equal consideration to each of the following factors:

''(i) with respect to the applicant's proposal—

''(I) the adequacy of facilities or the potential to obtain or provide adequate facilities;

''(II) geographic and demographic factors in the affected areas;

''(III) adequacy of the applicant's program plans;

''(IV) geographic proximity of comparable public education; and

''(V) the needs as expressed by all affected parties, including but not limited to students, families, tribal governments at both the central and local levels, and school organizations; and

''(ii) with respect to all education services already available—

''(I) geographic and demographic factors in the affected areas;

''(II) adequacy and comparability of programs already available;

''(III) consistency of available programs with tribal education codes or tribal legislation on education; and

''(IV) the history and success of these services for the proposed population to be served, as determined from all factors including, if relevant, standardized examination performance.

''(C) The Secretary may not make a determination under this paragraph that is primarily based upon the geographic proximity of comparable public education.

''(D) Applications submitted under paragraph (1)(A) shall include information on the factors described in subparagraph (B)(i), but the applicant may also provide the Secretary such information relative to the factors described in subparagraph (B)(ii) as the applicant considers appropriate.

''(E) If the Secretary fails to make a determination under subparagraph (A) with respect to an application within 180 days after the date on which the Secretary received the application, the Secretary shall be treated as having made a determination that the tribally controlled school is eligible for assistance under the title and the grant shall become effective 18 months after the date on which the Secretary received the application, or on an earlier date, at the Secretary's discretion.

''(d) FILING OF APPLICATIONS AND REPORTS.—

''(1) IN GENERAL.—All applications and reports submitted to the Secretary under this part, and any amendments to such applications or reports, shall be filed with the education line officer designated by the Director of the Office of Indian Education Programs of the Bureau of Indian Affairs. The date on which such filing occurs shall, for purposes of this part, be treated as the date on which the application or amendment was submitted to the Secretary.

''(2) SUPPORTING DOCUMENTATION.—Any application that is submitted under this chapter shall be accompanied by a document indicating the action taken by the tribal governing body in authorizing such application.

''(e) EFFECTIVE DATE FOR APPROVED APPLICATIONS.—Except as provided by subsection (c)(2)(E), a grant provided under this part, and any transfer of the operation of a Bureau school made under subsection (b), shall become effective beginning the academic year succeeding the fiscal year in which the application for the grant or transfer is made, or at an earlier date determined by the Secretary.

''(f) DENIAL OF APPLICATIONS.—

''(1) IN GENERAL.—Whenever the Secretary refuses to approve a grant under this chapter, to transfer operation of a Bureau school under subsection (b), or determines that a school is not eligible for assistance under this part, the Secretary shall—

''(A) state the objections in writing to the tribe or tribal organization within the allotted time;

''(B) provide assistance to the tribe or tribal organization to overcome all stated objections.

''(C) at the request of the tribe or tribal organization, provide the tribe or tribal organization a hearing on the record under the same rules and regulations that apply under the Indian Self-Determination and Education Assistance Act; and

''(D) provide an opportunity to appeal the objection raised.

''(2) TIMELINE FOR RECONSIDERATION OF AMENDED APPLICATIONS.—The Secretary shall reconsider any amended application submitted under this part within 60 days after the amended application is submitted to the Secretary.

''(g) REPORT.—The Bureau shall submit an annual report to the Congress on all applications received, and actions taken (including the costs associated with such actions), under this section at the same time that the President is required to submit to Congress the budget under section 1105 of title 31, United States Code.

''SEC. 5207. DURATION OF ELIGIBILITY DETERMINATION.

''(a) IN GENERAL.—If the Secretary determines that a tribally controlled school is eligible for assistance under this part, the eligibility determination shall remain in effect until the determination is revoked by the Secretary, and the requirements of subsection (b) or (c) of section 5206, if applicable, shall be considered to have been met with respect to such school until the eligibility determination is revoked by the Secretary.

''(b) ANNUAL REPORTS.—

''(1) IN GENERAL.—Each recipient of a grant provided under this part shall complete an annual report which shall be limited to—

''(A) an annual financial statement reporting revenue and expenditures as defined by the cost accounting established by the grantee;

''(B) an annual financial audit conducted pursuant to the standards of the Single Audit Act of 1984;

''(C) an annual submission to the Secretary of the number of students served and a brief description of programs offered under the grant; and

''(D) a program evaluation conducted by an impartial evaluation review team, to be based on the standards established for purposes of subsection (c)(1)(A)(ii).

''(2) EVALUATION REVIEW TEAMS.—Where appropriate, other tribally controlled schools and representatives of tribally controlled community colleges shall make up members of the evaluation review teams.

''(3) EVALUATIONS.—In the case of a school which is accredited, evaluations will be conducted at intervals under the terms of accreditation.

''(4) SUBMISSION OF REPORT.—

''(A) TO TRIBALLY GOVERNING BODY.—Upon completion of the report required under paragraph (a), the recipient of the grant shall send (via first class mail, return receipt requested) a copy of such annual report to the tribal governing body (as defined in section 1132(f) of the Education Amendments of 1978) of the tribally controlled school.

''(B) TO SECRETARY.—Not later than 30 days after receiving written confirmation that the tribal governing body has received the report send pursuant to subsection (A), the recipient of the grant shall send a copy of the report to the Secretary.

''(c) REVOCATION OF ELIGIBILITY.—

''(1) IN GENERAL.—(A) The Secretary shall not revoke a determination that a school is eligible for assistance under this part if—

''(i) the Indian tribe or tribal organization submits the reports required under subsection (b) with respect to the school; and

''(ii) at least one of the following subclauses applies with respect to the school:

''(I) The school is certified or accredited by a State or regional accrediting association or is a candidate in good standing for such accreditation under the rules of the State or regional accrediting association, showing that credits achieved by the students within the education programs are, or will be, accepted at grade level by a State certified or regionally accredited institution.

''(II) A determination made by the Secretary that there is a reasonable expectation that the accreditation described in subclause (I), or the candidacy in good standing for such accreditation, will be reached by the school within 3 years and that the program offered by the school is beneficial to the Indian students.

''(III) The school is accredited by a tribal department of education if such accreditation is accepted by a generally recognized regional or State accreditation agency.

''(IV) The schools accept the standards promulgated under section 1121 of the Education Amendments of 1978 and an evaluation of performance is conducted under this section in conformance with the regulations pertaining to Bureau operated schools by an impartial evaluator chosen by the grantee, but no grantee shall be required to comply with these standards to a higher degree than a comparable Bureau operated school.

''(V) A positive evaluation of the school is conducted by an impartial evaluator agreed upon by the Secretary and the grantee every 2

years under standards adopted by the contractor under a contract for a school entered into under the Indian Self-Determination and Education Assistance Act (or revisions of such standards agreed to by the Secretary and the grantee) prior to the date of the enactment of this Act. If the Secretary and the grantee other than the tribal governing body fail to agree on such an evaluator, the tribal governing body shall choose the evaluator or perform the evaluation. If the Secretary and a grantee which is the tribal governing body fail to agree on such an evaluator, this subclause shall not apply.

''(B) The choice of standards employed for the purpose of subparagraph (A)(ii) shall be consistent with section 1121(e) of the Education Amendments of 1978.

''(2) NOTICE REQUIREMENTS FOR REVOCATION.—The Secretary shall not revoke a determination that a school is eligible for assistance under this part, or reassume control of a school that was a Bureau school prior to approval of an application submitted under section 5206(b)(1)(A) until the Secretary—

''(A) provides notice to the tribally controlled school and the tribal governing body (within the meaning of section 1141(14) of the Education Amendments of 1978) of the tribally controlled school which states—

''(i) the specific deficiencies that led to the revocation or resumption determination; and

''(ii) the actions that are needed to remedy such deficiencies; and

''(B) affords such authority an opportunity to effect the remedial actions.

''(3) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical assistance as is practicable to effect such remedial actions. Such notice and technical assistance shall be in addition to a hearing and appeal to be conducted pursuant to the regulations described in section 5206(f)(1)(C).

''(d) APPLICABILITY OF SECTION PURSUANT TO ELECTION UNDER SECTION 5209(b).—With respect to a tribally controlled school which receives assistance under this part pursuant to an election made under section 5209(b)—

''(1) subsection (b) of this section shall apply; and

''(2) the Secretary may not revoke eligibility for assistance under this part except in conformance with subsection (c) of this section.

"SEC. 5208. PAYMENT OF GRANTS; INVESTMENT OF FUNDS.

''(a) PAYMENTS.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in two payments, of which—

''(A) the first payment shall be made not later than July 15 of each year in an amount equal to 85 percent of the amount which the grantee was entitled to receive during the preceding academic year; and

''(B) the second payment, consisting of the remainder to which the grantee is entitled for the academic year, shall be made not later than December 1 of each year.

''(2) NEWLY FUNDED SCHOOLS.—For any school for which no payment under this part was made from Bureau funds in the preceding academic year, full payment of the amount computed for the first academic year of eligibility under this part shall be made not later than December 1 of the academic year.

''(3) LATE FUNDING.—With regard to funds for grantees that become available for obligation on October 1 of the fiscal year for which such funds are appropriated, the Secretary shall make payments to grantees not later than December 1 of the fiscal year.

''(4) APPLICABILITY OF CERTAIN TITLE 31 PROVISIONS.—The provisions of chapter 39 of Title 31, United States Code, shall apply to the payments required to be made by paragraphs (1), (2), and (3).

''(5) RESTRICTIONS.—Paragraphs (1), (2), and (3) shall be subject to any restriction on amounts of payments under this part that are imposed by a continuing resolution or other Act appropriating the funds involved.

''(b) INVESTMENT OF FUNDS.—

''(1) TREATMENT OF INTEREST AND INVESTMENT INCOME.—Notwithstanding any other provision of law, any interest or investment income that accrues to any funds provided under this part after such funds are paid to the Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this part shall be the property of the Indian tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law. Such interest income shall be spent on behalf of the school.

''(2) PERMISSIBLE INVESTMENTS.—Funds provided under this part may be invested by the Indian tribe or tribal organization before such funds are expended for the purposes of this part so long as such funds are—

''(A) invested by the Indian tribe or tribal organization only in obligations of the United States, or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States, or securities that are guaranteed or insured by the United States; or

''(B) deposited only into accounts that are insure by and agency or instrumentality of the United States, or are fully collateralized to ensure protection of the funds, even in the event of a bank failure.

''(c) RECOVERIES.—For the purposes of underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived, funds received under this part shall not be taken into consideration.

"SEC. 5209. APPLICATION WITH RESPECT TO INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

''(a) CERTAIN PROVISIONS TO APPLY TO GRANTS.—The following provisions of the Indian Self-Determination and Education Assistance Act (and any subsequent revisions thereto or renumbering thereof), shall apply to grants provided under this part:

''(1) Section 5(f) (relating to single agency audit).

''(2) Section 6 (relating to criminal activities; penalties).

''(3) Section 7 (relating to wage and labor standards).

''(4) Section 104 (relating to retention of Federal employee coverage).

''(5) Section 105(f) (relating to Federal property).

''(6) Section 105(k) (relating to access to Federal sources of supply).

''(7) Section 105(l) (relating to lease of facility used for administration and delivery of services).

''(8) Section 106(e) (relating to limitation on remedies relating to cost allowances).

''(9) Section 106(i) (relating to use of funds for matching or cost participation requirements).

''(10) Section 106(j) (relating to allowable uses of funds).

''(11) Section 108(c) (Model Agreements provisions (1)(a)(5) (relating to limitations of costs), (1)(a)(7) (relating to records and monitoring), (1)(a)(8) (relating to property), and (a)(1)(9) (relating to availability of funds).

''(12) Section 109 (relating to reassumption).

''(13) Section 111 (relating to sovereign immunity and trusteeship rights unaffected).

''(b) ELECTION FOR GRANT IN LIEU OF CONTRACT.—

''(1) IN GENERAL.—Contractors for activities to which this part applies who have entered into a contract under the Indian Self-Determination and Education Assistance Act that is in effect upon the date of the enactment of the No Child Left Behind Act of 2001 may, by giving notice to the Secretary, elect to have the provisions of this part apply to such activity in lieu of such contract.

''(2) EFFECTIVE DATE OF ELECTION.—Any election made under paragraph (1) shall take effect on the later of—

''(A) October 1 of the fiscal year succeeding the fiscal year in which such election is made; or

''(B) 60 days after the date of such election.

''(3) EXCEPTION.—In any case in which the 60-day period referred to in paragraph (2)(B) is less than 60 days before the beginning of the succeeding fiscal year, such election shall not take effect until the fiscal year after the fiscal year succeeding the election.

''(c) NO DUPLICATION.—No funds may be provided under any contract entered into under the Indian Self-Determination and Education Assistance Act to pay any expenses incurred in providing any program or services if a grant has been made under this part to pay such expenses.

''(d) TRANSFERS AND CARRYOVERS.—

''(1) BUILDINGS, EQUIPMENT, SUPPLIES, MATERIALS.—A tribe or tribal organization assuming the operation of—

''(A) a Bureau school with assistance under this part shall be entitled to the transfer or use of buildings, equipment, supplies, and materials to the same extent as if it were contracting under the Indian Self-Determination and Education Assistance Act; or

''(B) a contract school with assistance under this part shall be entitled to the transfer or use of buildings, equipment, supplies and materials that were used in the operation of the contract school to the same extent as if it were contracting under the Indian Self-Determination and Education Assistance Act.

''(2) FUNDS.—Any tribe or tribal organization which assumes operation of a Bureau school with assistance under this part and any tribe or tribal organization which elects to operate a school with assistance under this part rather that to continue as a contract school shall be entitled to any funds which would carryover from the previous fiscal year as if such school were operated as a contract school.

''(e) EXCEPTIONS, PROBLEMS, AND DISPUTES.—Any exception or problem cited in an audit conducted pursuant to section 5207(b)(2), any dispute regarding a grant authorized to be made pursuant to this part or any amendment to such grant, and any dispute involving an administrative cost grant under section 1128 of the Education Amendments of 1978 shall be administered under the provisions governing such exceptions, problems, or disputes in the case of contracts under the Indian Self-Determination and Education Assistance Act of 1975. The Equal Access to Justice Act shall apply to administrative appeals filed after September 8, 1988, by grantees regarding a grant under this part, including an administrative cost grant.

"SEC. 5210. ROLE OF THE DIRECTOR.

''Applications for grants under this part, and all application modifications, shall be reviewed and approved by personnel under the direction and control of the Director of the Office of Indian Education Programs. Required reports shall be submitted to education personnel under the direction and control of the Director of such Office.

"SEC. 5211. REGULATIONS.

''The Secretary is authorized to issue regulations relating to the discharge of duties specifically assigned to the Secretary by this part. In all other matters relating to the details of planning, development, implementing, and evaluating grants under this part, the Secretary shall not issue regulations. Regulations issued pursuant to this part shall not have the standing of a Federal statute for the purposes of judicial review.

"SEC. 5212. THE TRIBALLY CONTROLLED GRANT SCHOOL ENDOWMENT PROGRAM.

''(a) IN GENERAL.—

''(1) TRUST FUNDS.—Each school receiving grants under this part may establish, at a Federally insured banking and savings institution, a trust fund for the purposes of this section.

''(2) AUTHORITY OF SCHOOLS REGARDING TRUST FUNDS.—The school may provide—

''(A) for the deposit into the trust fund, only funds from non-Federal sources, except that the interest on funds received from grants under this part may be used for this purpose;

''(B) for the deposit in the account of any earnings on funds deposited in the account; and

''(C) for the sole use of the school any noncash, in-kind contributions of real or personal property, such property may at any time be converted to cash.

''(b) INTEREST.—Interest from the fund established under subsection (a) may periodically be withdrawn and used, at the discretion of the school, to defray any expenses associated with the operation of the school.

''SEC. 5213. DEFINITIONS.

''For the purposes of this part:

''(1) BUREAU.—The term 'Bureau' means the Bureau of Indian Affairs of the Department of the Interior.

''(2) ELIGIBLE INDIAN STUDENT.—The term 'eligible Indian student' has the meaning of such term in section 1127(f) of the Education Amendments of 1978.

''(3) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including Alaska Native Village or regional corporations (as defined in or established pursuant to the Alaskan Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

''(4) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

''(5) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(6) TRIBAL ORGANIZATION.—(A) The term 'tribal organization' means—

''(i) the recognized governing body of any Indian tribe; or

''(ii) any legally established organization of Indians which—

''(I) is controlled, sanctioned, or chartered by such governing body or is democratically elected by the adult members of the Indian community to be served by such organization; and

''(II) includes the maximum participation of Indians in all phases of its activities.

''(B) In any case in which a grant is provided under this part to an organization to provide services benefiting more than one Indian tribe, the approval of the governing bodies of Indian tribes representing 80 percent of those students attending the tribally controlled school shall be considered a sufficient tribal authorization for such grant.

''(7) TRIBALLY CONTROLLED SCHOOL.—The term 'tribally controlled school' means a school operated by a tribe or a tribal organization, enrolling students in kindergarten through grade 12, including preschools, which is not a local educational agency and which is not directly administered by the Bureau of Indian Affairs.''.

TITLE IV—PROMOTING INFORMED PARENTAL CHOICE AND INNOVATIVE PROGRAMS

PART A—INNOVATIVE PROGRAMS

SEC. 401. INNOVATIVE PROGRAMS.

Title IV is amended to read as follows:

''TITLE IV—PROMOTING INFORMED PARENTAL CHOICE AND INNOVATIVE PROGRAMS

''PART A—INNOVATIVE PROGRAMS

''Subpart 1—State and Local Innovative Programs

''SEC. 4101. FINDINGS AND STATEMENT OF PURPOSE.

''(a) FINDINGS.—Congress finds that this subpart—

''(1) provides flexibility to meet local needs;

''(2) promotes local and State education reforms;

''(3) contributes to the improvement of academic achievement for all students;

''(4) provides funding for critical activities; and

''(5) provides services for private school students.

''(b) STATEMENT OF PURPOSE.—It is the purpose of programs under this subpart—

''(1) to provide funding to enable States and local educational agencies to implement promising educational reform programs and school improvement initiatives based on scientifically based research;

''(2) to provide a continuing source of innovation and educational improvement, including support for library services and instructional and media materials; and

''(3) to meet the educational needs of all students, including at-risk youth.

''(c) STATE AND LOCAL RESPONSIBILITY.—

''(1) IN GENERAL.—The States shall have the basic responsibility for the administration of funds made available under this subpart, but such administration shall be carried out with a minimum of paperwork.

''(2) DESIGN AND IMPLEMENTATION.—Notwithstanding paragraph (1), local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel shall be mainly responsible for the design and implementation of programs assisted under this subpart, because such agencies and individuals have the most direct contact with students and are most likely to be able to design programs to meet the educational needs of students in their own school districts.

''CHAPTER 1—STATE AND LOCAL PROGRAMS

''SEC. 4111. ALLOCATION TO STATES.

''(a) RESERVATIONS.—From the sums appropriated to carry out this subpart for each fiscal year, the Secretary shall reserve not more than 1 percent for payments to outlying areas to be allotted in accordance with their respective needs.

''(b) ALLOCATION OF REMAINDER.—From the remainder of such sums, the Secretary shall allocate, and make available in accordance with this subpart, to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to ½ of 1 percent of such remainder.

''SEC. 4112. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

''(a) DISTRIBUTION RULE.—

''(1) IN GENERAL.—Subject to paragraph (2), from the sums made available each year to carry out this subpart, the State shall distribute not less than 85 percent to local educational agencies within such State according to the relative enrollments in public and private, nonprofit schools within the jurisdictions of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per-pupil allocations to local educational agencies that have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

''(A) children living in areas with high concentrations of economically disadvantaged families;

''(B) children from economically disadvantaged families; and

''(C) children living in sparsely populated areas.

''(2) EXCEPTION.—100 percent of any amount by which the funds paid to a State under this subpart for a fiscal year exceed the amount of such funds paid to the State for fiscal year 2001 shall be distributed to local educational agencies and used locally for innovative assistance described in section 4131(b).

''(3) LIMITATION ON USE OF FUNDS FOR ADMINISTRATION.—In each fiscal year, a State may use not more than 25 percent of the funds available for State programs under this subpart for State administration under section 4121.

''(b) CALCULATION OF ENROLLMENTS.—

''(1) IN GENERAL.—The calculation of relative enrollments under subsection (a)(1) shall be on the basis of the total of—

''(A) the number of children enrolled in public schools; and

''(B) the number of children enrolled in private, nonprofit schools whose parents would like their children to participate in programs or projects assisted under this subpart, for the fiscal year preceding the fiscal year for which the determination is made.

''(2) CONSTRUCTION.—Nothing in this subsection shall diminish the responsibility of each local educational agency to contact, on an annual basis, appropriate officials from private nonprofit schools within the areas served by such agencies in order to determine whether such schools desire that their children participate in programs assisted under this chapter.

''(3) ADJUSTMENTS.—

''(A) IN GENERAL.—Relative enrollments calculated under subsection (a)(1) shall be adjusted, in accordance with criteria approved by the Secretary under subparagraph (B), to provide higher per-pupil allocations only to local educational agencies that serve the greatest numbers or percentages of—

''(i) children living in areas with high concentrations of economically disadvantaged families;

''(ii) children from economically disadvantaged families; or

''(iii) children living in sparsely populated areas.

''(B) CRITERIA.—The Secretary shall review criteria submitted by a State for adjusting allocations under paragraph (1) and shall approve such criteria only if the Secretary determines that such criteria are reasonably calculated to produce an adjusted allocation that reflects the relative needs of the State's local educational agencies based on the factors set forth in subparagraph (A).

''(c) PAYMENT OF ALLOCATIONS.—

''(1) DISTRIBUTION.—From the funds paid to a State under this subpart for a fiscal year, a State shall distribute to each eligible local educational agency that has submitted an application as required in section 4133 the amount of such local educational agency's allocation, as determined under subsection (a).

''(2) ADDITIONAL FUNDS.—

''(A) IN GENERAL.—Additional funds resulting from higher per-pupil allocations provided to a local educational agency on the basis of adjusted enrollments of children described in subsection (a)(1) may, in the discretion of the local educational agency, be allocated for expenditures to provide services for children enrolled in public and private, nonprofit schools in direct proportion to the number of children described in subsection (a)(1) and enrolled in such schools within the local educational agency.

''(B) ELECTION.—In any fiscal year, any local educational agency that elects to allocate such additional funds in the manner described in subparagraph (A) shall allocate all additional funds to schools within the local educational agency in such manner.

''(C) CONSTRUCTION.—Subparagraphs (A) and (B) may not be construed to require any school

to limit the use of the additional funds described in subparagraph (A) to the provision of services to specific students or categories of students.

"CHAPTER 2—STATE PROGRAMS

"SEC. 4121. STATE USE OF FUNDS.

''A State may use funds made available for State use under this subpart only for—

''(1) State administration of programs under this subpart including—

''(A) supervision of the allocation of funds to local educational agencies;

''(B) planning, supervision, and processing of State funds; and

''(C) monitoring and evaluation of programs and activities under this subpart;

''(2) support for planning, designing, and initial implementation of charter schools as described in part B;

''(3) statewide education reform and school improvement activities and technical assistance and direct grants to local educational agencies which assist such agencies under section 4131; and

''(4) support for arrangements that provide for independent analysis to measure and report on school district achievement.

"SEC. 4122. STATE APPLICATIONS.

''(a) APPLICATION REQUIREMENTS.—If a State seeks to receive assistance under this subpart, the individual, entity, or agency responsible for public elementary and secondary education policy under the State constitution or State law shall submit to the Secretary an application that—

''(1) provides for an annual statewide summary of how assistance under this subpart is contributing toward improving student achievement or improving the quality of education for students;

''(2) provides information setting forth the allocation of such funds required to implement section 4142;

''(3) provides that the State will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this section);

''(4) provides assurance that, apart from technical and advisory assistance and monitoring compliance with this subpart, the State has not exercised and will not exercise any influence in the decisionmaking processes of local educational agencies as to the expenditure made pursuant to an application under section 4133;

''(5) contains assurances that there is compliance with the specific requirements of this subpart; and

''(6) provides for timely public notice and public dissemination of the information provided under paragraph (2).

''(b) STATEWIDE SUMMARY.—The statewide summary referred to in subsection (a)(1) shall be submitted to the Secretary and shall be derived from the evaluation information submitted by local educational agencies to the State under section 4133(a)(2)(H). The format and content of such summary shall be in the discretion of the State and may include statistical measures such as the number of students served by each type of innovative assistance described in section 4131(b), including the number of teachers trained.

''(c) PERIOD OF APPLICATION.—An application filed by the State under subsection (a) shall be for a period not to exceed 3 years, and may be amended annually as may be necessary to reflect changes without filing a new application.

''(d) AUDIT LIMITATION.—Each local educational agency receiving less than an average of $5,000 under this subpart may not be audited more frequently than once every 5 years.

"CHAPTER 3—LOCAL INNOVATIVE EDUCATION PROGRAMS

"SEC. 4131. USE OF FUNDS.

''(a) IN GENERAL.—Funds made available to local educational agencies under section 4112 shall be used for innovative assistance programs described in subsection (b).

''(b) INNOVATIVE ASSISTANCE.—The innovative assistance programs referred to in subsection (a) may include—

''(1) professional development activities and the hiring of teachers, including activities carried out in accordance with title II, that give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State or local academic content standards and student achievement standards;

''(2) technology related to the implementation of school-based reform programs, including professional development to assist teachers, and other school officials, regarding how to use effectively such equipment and software;

''(3) programs for the development or acquisition and use of instructional and educational materials, including library services and materials (including media materials), academic assessments, reference materials, computer software and hardware for instructional use, and other curricular materials that are tied to high academic standards, that will be used to improve student achievement, and that are part of an overall education reform program;

''(4) promising education reform projects, including effective schools and magnet schools;

''(5) programs to improve the academic skills of disadvantaged elementary and secondary school students and to prevent students from dropping out of school;

''(6) programs to combat illiteracy;

''(7) programs to provide for the educational needs of gifted and talented children;

''(8) planning, designing, and initial implementation of charter schools as described in part B;

''(9) school improvement programs or activities under sections 1116 and 1117;

''(10) community service programs that use qualified school personnel to train and mobilize young people to measurably strengthen their communities through nonviolence, responsibility, compassion, respect, and moral courage;

''(11) activities to promote consumer, economic, and personal finance education, such as disseminating and encouraging the best practices for teaching the basic principles of economics and promoting the concept of achieving financial literacy through the teaching of personal financial management skills (including the basic principles involved with earning, spending, saving, and investing);

''(12) activities to promote, implement, or expand public school choice;

''(13) programs to hire and support school nurses;

''(14) expanding and improving school-based mental health services, including early identification of drug use and violence, assessment, and direct individual or group counseling services provided to students, parents, and school personnel by qualified school based mental health services personnel; and

''(15) alternative educational programs for those students who have been expelled or suspended from their regular educational setting, including programs to assist students to reenter the regular educational setting upon return from treatment or alternative educational programs.

"SEC. 4132. ADMINISTRATIVE AUTHORITY.

''In order to conduct the activities authorized by this subpart, each State or local educational agency may use funds made available under this subpart to make grants to, and to enter into contracts with, local educational agencies, institutions of higher education, libraries, museums, and other public and private nonprofit agencies, organizations, and institutions, including religious organizations.

"SEC. 4133. LOCAL APPLICATIONS.

''(a) CERTIFICATION.—

''(1) IN GENERAL.—A local educational agency or a consortium of such agencies may receive an allocation of funds under this subpart for any year for which the agency or consortium submits an application under this section that is certified by the State to meet the requirements of this section.

''(2) CONTENTS OF APPLICATION.—The State shall certify each application that—

''(A) describes locally identified needs relative to the purposes of this subpart and to the innovative assistance described in section 4131(b);

''(B) based on the needs identified in subparagraph (A), sets forth the planned allocation of funds among innovative assistance programs described in section 4131 and describes the programs, projects, and activities designed to carry out such innovative assistance programs that the local educational agency intends to support;

''(C) contains information setting forth the allocation of such funds required to implement section 4142;

''(D) describes how assistance under this subpart will contribute to improving student academic achievement;

''(E) provides assurances of compliance with the provisions of this subpart, including the participation of children enrolled in private, nonprofit schools in accordance with section 4142;

''(F) provides assurance that the local educational agency will keep such records, and provide such information to the State as may be reasonably required for fiscal audit and program evaluation, consistent with the responsibilities of the State under this subpart;

''(G) provides in the allocation of funds for the assistance authorized by this subpart, and in the design, planning, and implementation of such programs, for systematic consultation with parents of children attending elementary and secondary schools in the area served by the local educational agency, with teachers and administrative personnel in such schools, and with other groups involved in the implementation of this subpart (such as librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency; and

''(H) provides assurance that—

''(i) programs, services, and activities will be evaluated annually;

''(ii) such evaluation will be used to determine and implement appropriate changes in program services and activities for the subsequent year;

''(iii) such evaluation will describe how assistance under this subpart contributed toward improving student academic achievement; and

''(iv) such evaluation will be submitted to the State in the time and manner requested by the State.

''(b) TIME PERIOD TO WHICH APPLICATION RELATES.—An application submitted by a local educational agency under subsection (a) may seek allocations under this part for a period of time not to exceed 3 fiscal years and may be amended annually as may be necessary to reflect changes without the filing of a new application.

''(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—

''(1) IN GENERAL.—Subject to the limitations and requirements of this subpart, a local educational agency shall have complete discretion in determining how funds made available under this chapter will be divided among programs and activities described in section 4131.

''(2) LIMITATION.—In exercising the discretion described in paragraph (1), a local educational agency shall ensure that expenditures under this chapter carry out the purposes of this subpart and are used to meet the educational needs within the schools of such local educational agency.

"CHAPTER 4—GENERAL PROVISIONS

"SEC. 4141. MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY.

''(a) MAINTENANCE OF EFFORT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a State is entitled to receive its full

allocation of funds under this subpart for any fiscal year only if the Secretary determines that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the fiscal year that is 2 fiscal years before the fiscal year for which the determination is made.

''(2) REDUCTION OF FUNDS.—The Secretary shall reduce the amount of the allocation of funds under this subpart in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

''(3) WAIVER.—The Secretary may waive, for 1 fiscal year only, the requirements of this section if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

''(b) FEDERAL FUNDS SUPPLEMENTARY.—A State or local educational agency may use and allocate funds received under this subpart only to supplement and, to the extent practical, to increase the level of funds that would, in the absence of Federal funds made available under this subpart, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

''SEC. 4142. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

''(a) PARTICIPATION ON EQUITABLE BASIS.—

''(1) IN GENERAL.—To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this subpart or which serves the area in which a program or project assisted under this subpart is located, who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State from funds made available for State use, such agency, after consultation with appropriate private school officials—

''(A) shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment, including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair or minor remodeling of public facilities as may be necessary for their provision (consistent with subsection (c) of this section); or

''(B) if such services, materials, and equipment are not feasible or necessary in 1 or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this subpart.

''(2) OTHER PROVISIONS FOR SERVICES.—If no program or project is carried out under paragraph (1) in the school district of a local educational agency, the State shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in such district are provided with services and materials to the extent that would have occurred if the local educational agency had received funds under this subpart.

''(3) APPLICATION OF REQUIREMENTS.—The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this subpart by a State or local educational agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

''(b) EQUAL EXPENDITURES.—

''(1) IN GENERAL.—Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this subpart for children enrolled in the public schools of the local educational agency.

''(2) CONCENTRATED PROGRAMS.—Taking into account the needs of the individual children and other factors which relate to the expenditures referred to in paragraph (1), and when funds available to a local educational agency under this subpart are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

''(c) ADMINISTRATIVE RULES.—

''(1) FUNDS AND PROPERTY.—The control of funds provided under this subpart, and title to materials, equipment, and property repaired, remodeled, or constructed with such funds, shall be in a public agency for the uses and purposes provided in this subpart, and a public agency shall administer such funds and property.

''(2) PROVISION OF SERVICES.—The provision of services pursuant to this subpart shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this subpart shall not be commingled with State or local funds.

''(d) WAIVER.—

''(1) STATE PROHIBITION WAIVER.—If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

''(2) FAILURE TO COMPLY.—If the Secretary determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, the Secretary may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

''(e) WITHHOLDING OF ALLOCATION.—Pending final resolution of any investigation or complaint that could result in a waiver under subsection (d)(1) or (d)(2), the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of services to be provided by the Secretary under such subsection.

''(f) TERM OF DETERMINATIONS.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

''(g) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this subpart.

''(h) REVIEW.—

''(1) WRITTEN OBJECTIONS.—The Secretary shall not take any final action under this section until the State and the local educational agency affected by such action have had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why that action should not be taken.

''(2) COURT ACTION.—If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), such agency may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code.

''(3) REMAND TO SECRETARY.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

''(4) COURT REVIEW.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

''(i) PRIOR DETERMINATION.—Any bypass determination by the Secretary under chapter 2 of title I of this Act (as such chapter was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall, to the extent consistent with the purposes of this title, apply to programs under this title.

''SEC. 4143. FEDERAL ADMINISTRATION.

''(a) TECHNICAL ASSISTANCE.—The Secretary, upon request, shall provide technical assistance to States and local educational agencies under this subpart.

''(b) RULEMAKING.—The Secretary shall issue regulations under this subpart only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this subpart.

''(c) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding any other provision of law, unless expressly in limitation of this subsection, funds appropriated in any fiscal year to carry out activities under this subpart shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

''SEC. 4144. DEFINITIONS.

''In this subpart, the following definitions apply:

''(1) SCHOOL-AGE POPULATION.—The term 'school-age population' means the population aged 5 through 17.

''(2) STATE.—The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''SEC. 4145. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this subpart $450,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.

"Subpart 2—Arts Education

"SEC. 4151. ASSISTANCE FOR ARTS EDUCATION.

''(a) FINDINGS.—The Congress finds that—

''(1) every student can benefit from an education in the arts;

''(2) a growing body of research indicates that education in the arts may provide cognitive benefits and bolster academic achievement, beginning at an early age and continuing through secondary school;

''(3) qualified arts teachers and a sequential curriculum are the basis and core for substantive arts education for students;

''(4) the arts should be taught according to rigorous academic standards under arts education programs that provide mechanisms under which educators are accountable to parents, school officials, and the community;

''(5) opportunities to participate in the arts have enabled individuals with disabilities of all ages to participate more fully in school and community activities; and

''(6) arts education is a valuable part of the elementary and secondary school curriculum.

''(b) PURPOSES.—The purposes of this subpart are to—

''(1) support systemic education reform by strengthening arts education as an integral part of the elementary and secondary school curriculum; and

''(2) help ensure that all students meet challenging State academic content standards and challenging State student academic achievement standards in the arts.

''(c) AUTHORITY.—In accordance with this subpart, the Secretary may make grants to, or enter into contracts or cooperative agreements with, eligible entities described in subsection (d).

''(d) ELIGIBLE ENTITIES.—The Secretary may make assistance available under subsection (c) to each of the following entities:

''(1) States.

''(2) Local educational agencies.

''(3) Institutions of higher education.

''(4) Museums or other cultural institutions.

''(5) Any other public or private agencies, institutions, and organizations.

''(e) USE OF FUNDS.—Assistance made available under this subpart may be used only for—

''(1) research on arts education;

''(2) planning, developing, acquiring, expanding, improving, or disseminating model school-based arts education programs;

''(3) the development of model State arts education assessments based on State academic standards;

''(4) the development and implementation of curriculum frameworks for arts education;

''(5) the development of model inservice professional development programs for arts educators and other instructional staff;

''(6) supporting collaborative activities with Federal agencies or institutions, arts educators, and organizations representing the arts, including State and local arts agencies involved in arts education;

''(7) supporting model projects or programs in the performing arts for children and youth or programs which assure the participation in mainstream settings in arts and education programs of individuals with disabilities through arrangements made with organizations such as the John F. Kennedy Center for the Performing Arts and VSA arts;

''(8) supporting model projects or programs to integrate arts education into the regular elementary and secondary school curriculum; or

''(9) other activities that further the purposes of this subpart.

''(f) CONDITIONS.—As conditions of receiving assistance made available under this subpart, the Secretary shall require each entity receiving such assistance—

''(1) to coordinate, to the extent practicable, each project or program carried out with such assistance with appropriate activities of public or private cultural agencies, institutions, and organizations, including museums, arts education associations, libraries, and theaters; and

''(2) to use such assistance only to supplement and not to supplant any other assistance or funds made available from non-Federal sources for the activities assisted under this subpart.

''(g) CONSULTATION.—In carrying out this part, the Secretary shall consult with Federal agencies or institutions, arts educators (including professional arts education associations), and organizations representing the arts including State and local arts agencies involved in arts education.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subpart such sums as may be necessary for each of fiscal years 2002 through 2006.

"Subpart 3—Gifted and Talented Children

"SEC. 4161. SHORT TITLE.

''This subpart may be cited as the 'Jacob K. Javits Gifted and Talented Students Education Act of 2001'.

"SEC. 4162. FINDINGS AND PURPOSE.

''(a) FINDINGS.—Congress finds the following:

''(1) While the families and communities of some gifted and talented students can provide private educational programs with appropriately trained staff to supplement public educational offerings, most gifted and talented students, especially those from inner cities, rural communities, or low-income families, must rely on the services and personnel available in public schools. In order to ensure that there are equal educational opportunities for all gifted and talented students in the United States, the public schools should provide gifted and talented education programs carried out by qualified professionals.

''(2) Due to the wide dispersal of students who are gifted and talented and the national interest in a well-educated populace, it is the Federal Government that can most effectively and appropriately conduct scientifically based research and development to ensure that there is a national capacity to educate students who are gifted and talented in the 21st century.

''(3) Many State and local educational agencies lack the specialized resources and trained personnel necessary to consistently plan and implement effective programs for the identification of gifted and talented students and for the provision of educational services and programs appropriate for the needs of such students.

''(4) Because gifted and talented students are generally more advanced academically, are generally able to learn more quickly, and generally study in more depth and complexity than others their age, they require educational opportunities and experiences that are different from those usually available to other students.

''(5) A typical elementary school student who is academically gifted and talented has already mastered 35 to 50 percent of the content to be learned in several subjects in any school year before that year begins. Without an advanced and challenging curriculum, such a student may lose motivation and develop poor study habits that are difficult to break.

''(6) Classes in elementary and secondary schools in the United States consist of students with a wide variety of traits, characteristics, and needs. Although most teachers receive some training to meet the needs of students with limited English proficiency, students with disabilities, and students from diverse cultural and racial backgrounds, few receive training to meet the needs of students who are gifted and talented.

''(b) PURPOSE.—The purpose of this subpart is to initiate a coordinated program of scientifically based research, demonstration projects, innovative strategies, and similar activities designed to build and enhance the ability of elementary and secondary schools nationwide to meet the special educational needs of gifted and talented students.

"SEC. 4163. RULE OF CONSTRUCTION.

Nothing in this subpart shall be construed to prohibit a recipient of funds under this subpart from serving gifted and talented students simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"SEC. 4164. AUTHORIZED PROGRAMS.

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) IN GENERAL.—From the sums available to carry out this subpart in any fiscal year, the Secretary (after consultation with experts in the field of the education of gifted and talented students) shall make grants to, or enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, other public agencies, and other private agencies and organizations (including Indian tribes and Indian organizations (as such terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) and Native Hawaiian organizations) to assist such agencies, institutions, and organizations in carrying out programs or projects authorized by this subpart that are designed to meet the educational needs of gifted and talented students, including the training of personnel in the education of gifted and talented students and in the use, where appropriate, of gifted and talented services, materials, and methods for all students.

''(2) APPLICATION.—

''(A) IN GENERAL.—Each entity seeking assistance under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(B) CONTENTS.—Each application submitted under this paragraph shall describe how—

''(i) the proposed gifted and talented services, materials, and methods can be adapted, if appropriate, for use by all students; and

''(ii) the proposed programs can be evaluated.

''(b) USE OF FUNDS.—Programs and projects assisted under this section may include each of the following:

''(1) Conducting—

''(A) scientifically based research on methods and techniques for identifying and teaching gifted and talented students, and for using gifted and talented programs and methods to serve all students; and

''(B) program evaluations, surveys, and the collection, analysis, and development of information needed to accomplish the purpose of this subpart.

''(2) Professional development (including fellowships) for personnel (including leadership personnel) involved in the education of gifted and talented students.

''(3) Establishment and operation of model projects and exemplary programs for serving gifted and talented students, including innovative methods for identifying and educating students who may not be served by traditional gifted and talented programs, including summer programs, mentoring programs, service learning programs, and cooperative programs involving business, industry, and education.

''(4) Implementing innovative strategies, such as cooperative learning, peer tutoring, and service learning.

''(5) Programs of technical assistance and information dissemination, including assistance and information with respect to how gifted and talented programs and methods, where appropriate, may be adapted for use by all students.

''(c) ESTABLISHMENT OF NATIONAL CENTER.—

''(1) IN GENERAL.—The Secretary (after consultation with experts in the field of the education of gifted and talented students) shall establish a National Center for Research and Development in the Education of Gifted and Talented Children and Youth through grants to or contracts with one or more institutions of higher education or State educational agencies, or a combination or consortium of such institutions

and agencies and other public or private agencies and organizations, for the purpose of carrying out activities described in paragraph (1) of subsection (b).

''(2) DIRECTOR.—The National Center established under paragraph (1) shall be headed by a Director. The Secretary may authorize the Director to carry out such functions of the National Center as may be agreed upon through arrangements with institutions of higher education, State or local educational agencies, or other public or private agencies and organizations.

''(d) LIMITATION.—Not more than 30 percent of the funds available in any fiscal year to carry out the programs and projects authorized by this section may be used to conduct activities pursuant to subsection (b)(1) or subsection (c).

''(e) COORDINATION.—Scientifically based research activities supported under this subpart—

''(1) shall be carried out in consultation with the Office of Educational Research and Improvement to ensure that such activities are coordinated with and enhance the research and development activities supported by such Office; and

''(2) may include collaborative scientifically based research activities which are jointly funded and carried out with such Office.

''SEC. 4165. PROGRAM PRIORITIES.

''(a) GENERAL PRIORITY.—In carrying out this subpart, the Secretary shall give highest priority to programs and projects designed to develop new information that—

''(1) improves the capability of schools to plan, conduct, and improve programs to identify and serve gifted and talented students; and

''(2) assists schools in the identification of, and provision of services to, gifted and talented students who may not be identified and served through traditional assessment methods (including economically disadvantaged individuals, individuals of limited English proficiency, and individuals with disabilities).

''(b) SERVICE PRIORITY.—In approving applications for assistance under section 4164(a)(2), the Secretary shall ensure that in each fiscal year not less than 50 percent of the applications approved under such section address the priority described in subsection (a)(2) of this section.

''SEC. 4166. GENERAL PROVISIONS.

''(a) PARTICIPATION OF PRIVATE SCHOOL CHILDREN AND TEACHERS.—In making grants and entering into contracts under this subpart, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary and secondary schools, including the participation of teachers and other personnel in professional development programs serving such children.

''(b) REVIEW, DISSEMINATION, AND EVALUATION.—The Secretary shall—

''(1) use a peer review process in reviewing applications under this subpart;

''(2) ensure that information on the activities and results of programs and projects funded under this subpart is disseminated to appropriate State and local educational agencies and other appropriate organizations, including nonprofit private organizations; and

''(3) evaluate the effectiveness of programs under this subpart in accordance with section 8651, both in terms of the impact on students traditionally served in separate gifted and talented programs and on other students, and submit the results of such evaluation to the Congress not later than 2 years after the date of the enactment of the No Child Left Behind Act of 2001.

''(c) PROGRAM OPERATIONS.—The Secretary shall ensure that the programs under this subpart are administered within the Department by a person who has recognized professional qualifications and experience in the field of the education of gifted and talented students and who shall—

''(1) administer and coordinate the programs authorized under this subpart;

''(2) serve as a focal point of national leadership and information on the educational needs of gifted and talented students and the availability of educational services and programs designed to meet such needs; and

''(3) assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities which reflect the needs of gifted and talented students.

''SEC. 4167. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this subpart such sums as may be necessary for each of fiscal years 2002 through 2006.''.

SEC. 402. CONTINUATION OF AWARDS.

Notwithstanding any other provision of this Act, any person or agency that was awarded a grant under part B or D of title X (20 U.S.C. 8031 et seq., 8091 et seq.) prior to the date of the enactment of this Act shall continue to receive funds in accordance with the terms of such award until the date on which the award period terminates under such terms.

PART B—PUBLIC CHARTER SCHOOLS

SEC. 411. PUBLIC CHARTER SCHOOLS.

Title IV, as amended by section 401, is further amended by adding at the end the following:

''PART B—PUBLIC CHARTER SCHOOLS

''SEC. 4201. FINDINGS AND PURPOSE.

''(a) FINDINGS.—The Congress finds that—

''(1) enhancement of parent and student choices among public schools can assist in promoting comprehensive educational reform and give more students the opportunity to meet challenging State academic content standards and State student academic achievement standards, if sufficiently diverse and high-quality choices, and genuine opportunities to take advantage of such choices, are available to all students;

''(2) useful examples of such choices can come from States and communities that experiment with methods of offering teachers and other educators, parents, and other members of the public the opportunity to design and implement new public schools and to transform existing public schools;

''(3) charter schools are a mechanism for testing a variety of educational approaches and should, therefore, be exempted from restrictive rules and regulations if the leadership of such schools commits to attaining specific and ambitious educational results for educationally disadvantaged students consistent with challenging State academic content standards and State student academic achievement standards for all students;

''(4) charter schools can embody the necessary mixture of enhanced choice, exemption from restrictive regulations, and a focus on learning gains;

''(5) charter schools, including charter schools that are schools-within-schools, can help reduce school size, and this reduction can have a significant effect on student achievement;

''(6) the Federal Government should test, evaluate, and disseminate information on a variety of charter school models in order to help demonstrate the benefits of this promising educational reform; and

''(7) there is a strong documented need for cash-flow assistance to charter schools that are starting up, because State and local operating revenue streams are not immediately available.

''(b) PURPOSE.—It is the purpose of this part to increase national understanding of the charter schools model by—

''(1) providing financial assistance for the planning, program design and initial implementation of charter schools;

''(2) evaluating the effects of such schools, including the effects on students, student achievement, staff, and parents; and

''(3) expanding the number of high-quality charter schools available to students across the Nation.

''SEC. 4202. PROGRAM AUTHORIZED.

''(a) IN GENERAL.—The Secretary may award grants to State educational agencies having applications approved pursuant to section 4203 to enable such agencies to conduct a charter school grant program in accordance with this part.

''(b) SPECIAL RULE.—If a State educational agency elects not to participate in the program authorized by this part or does not have an application approved under section 4203, the Secretary may award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 4203(c).

''(c) PROGRAM PERIODS.—

''(1) GRANTS TO STATES.—Grants awarded to State educational agencies under this part shall be awarded for a period of not more than 3 years.

''(2) GRANTS TO ELIGIBLE APPLICANTS.—Grants awarded by the Secretary to eligible applicants or subgrants awarded by State educational agencies to eligible applicants under this part shall be awarded for a period of not more than 3 years, of which the eligible applicant may use—

''(A) not more than 18 months for planning and program design;

''(B) not more than 2 years for the initial implementation of a charter school; and

''(C) not more than 2 years to carry out dissemination activities described in section 4204(f)(6)(B).

''(d) LIMITATION.—A charter school may not receive—

''(1) more than one grant for activities described in subparagraphs (A) and (B) of subsection (c)(2); or

''(2) more than one grant for activities under subparagraph (C) of subsection (c)(2).

''(e) PRIORITY TREATMENT..—

''(1) IN GENERAL.—In awarding grants under this part from any funds appropriated under section 4211, the Secretary shall give priority to States to the extent that the States meet the criteria described in paragraph (2) and one or more of the criteria described in subparagraph (A), (B), or (C) of paragraph (3).

''(2) REVIEW AND EVALUATION PRIORITY CRITERIA.—The criteria referred to in paragraph (1) is that the State provides for periodic review and evaluation by the authorized public chartering agency of each charter school, at least once every 5 years unless required more frequently by State law, to determine whether the charter school is meeting the terms of the school's charter, and is meeting or exceeding the academic performance requirements and goals for charter schools as set forth under State law or the school's charter.

''(3) PRIORITY CRITERIA.—The criteria referred to in paragraph (1) are the following:

''(A) The State has demonstrated progress, in increasing the number of high quality charter schools that are held accountable in the terms of the schools' charters for meeting clear and measurable objectives for the educational progress of the students attending the schools, in the period prior to the period for which a State educational agency or eligible applicant applies for a grant under this part.

''(B) The State—

''(i) provides for one authorized public chartering agency that is not a local educational agency, such as a State chartering board, for each individual or entity seeking to operate a charter school pursuant to such State law; or

''(ii) in the case of a State in which local educational agencies are the only authorized public chartering agencies, allows for an appeals process for the denial of an application for a charter school.

''(C) The State ensures that each charter school has a high degree of autonomy over the charter school's budgets and expenditures.

''(f) AMOUNT CRITERIA.—In determining the amount of a grant to be awarded under this part to a State educational agency, the Secretary shall take into consideration the number

of charter schools that are operating, or are approved to open, in the State.

"SEC. 4203. APPLICATIONS.

''(a) APPLICATIONS FROM STATE AGENCIES.—Each State educational agency desiring a grant from the Secretary under this part shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

''(b) CONTENTS OF A STATE EDUCATIONAL AGENCY APPLICATION.—Each application submitted pursuant to subsection (a) shall—

''(1) describe the objectives of the State educational agency's charter school grant program and how such objectives will be fulfilled, including steps taken by the State educational agency to inform teachers, parents, and communities of the State educational agency's charter school grant program; and

''(2) describe how the State educational agency—

''(A) will inform each charter school in the State regarding—

''(i) Federal funds that the charter school is eligible to receive; and

''(ii) Federal programs in which the charter school may participate;

''(B) will ensure that each charter school in the State receives the charter school's commensurate share of Federal education funds that are allocated by formula each year, including during the first year of operation of the charter school; and

''(C) will disseminate best or promising practices of charter schools to each local educational agency in the State; and

''(3) contain assurances that the State educational agency will require each eligible applicant desiring to receive a subgrant to submit an application to the State educational agency containing—

''(A) a description of the educational program to be implemented by the proposed charter school, including—

''(i) how the program will enable all students to meet challenging State student academic achievement standards;

''(ii) the grade levels or ages of children to be served; and

''(iii) the curriculum and instructional practices to be used;

''(B) a description of how the charter school will be managed;

''(C) a description of—

''(i) the objectives of the charter school; and

''(ii) the methods by which the charter school will determine its progress toward achieving those objectives;

''(D) a description of the administrative relationship between the charter school and the authorized public chartering agency;

''(E) a description of how parents and other members of the community will be involved in the planning, program design and implementation of the charter school;

''(F) a description of how the authorized public chartering agency will provide for continued operation of the school once the Federal grant has expired, if such agency determines that the school has met the objectives described in subparagraph (C)(i);

''(G) a request and justification for waivers of any Federal statutory or regulatory provisions that the applicant believes are necessary for the successful operation of the charter school, and a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school;

''(H) a description of how the subgrant funds or grant funds, as appropriate, will be used, including a description of how such funds will be used in conjunction with other Federal programs administered by the Secretary;

''(I) a description of how students in the community will be—

''(i) informed about the charter school; and

''(ii) given an equal opportunity to attend the charter school;

''(J) an assurance that the eligible applicant will annually provide the Secretary and the State educational agency such information as may be required to determine if the charter school is making satisfactory progress toward achieving the objectives described in subparagraph (C)(i);

''(K) an assurance that the applicant will cooperate with the Secretary and the State educational agency in evaluating the program assisted under this part;

''(L) a description of how a charter school that is considered a local educational agency under State law, or a local educational agency in which a charter school is located, will comply with sections 613(a)(5) and 613(e)(1)(B) of the Individuals with Disabilities Education Act;

''(M) if the eligible applicant desires to use subgrant funds for dissemination activities under section 4202(c)(2)(C), a description of those activities and how those activities will involve charter schools and other public schools, local educational agencies, developers, and potential developers; and

''(N) such other information and assurances as the Secretary and the State educational agency may require.

''(c) CONTENTS OF ELIGIBLE APPLICANT APPLICATION.—Each eligible applicant desiring a grant pursuant to section 4202(b) shall submit an application to the State educational agency or Secretary, respectively, at such time, in such manner, and accompanied by such information as the State educational agency or Secretary, respectively, may reasonably require.

''(d) CONTENTS OF APPLICATION.—Each application submitted pursuant to subsection (c) shall contain—

''(1) the information and assurances described in subparagraphs (A) through (N) of subsection (b)(3), except that for purposes of this subsection subparagraphs (J), (K), and (N) of such subsection shall be applied by striking 'and the State educational agency' each place such term appears;

''(2) assurances that the State educational agency—

''(A) will grant, or will obtain, waivers of State statutory or regulatory requirements; and

''(B) will assist each subgrantee in the State in receiving a waiver under section 4204(e); and

''(3) assurances that the eligible applicant has provided its authorized public chartering authority timely notice, and a copy, of the application, except that the State educational agency (or the Secretary, in the case of an application submitted to the Secretary) may waive this requirement in the case of an application for a precharter planning grant or subgrant if the authorized public chartering authority to which a charter school proposal will be submitted has not been determined at the time the grant or subgrant application is submitted.

"SEC. 4204. ADMINISTRATION.

''(a) SELECTION CRITERIA FOR STATE EDUCATIONAL AGENCIES.—The Secretary shall award grants to State educational agencies under this part on the basis of the quality of the applications submitted under section 4203(b), after taking into consideration such factors as—

''(1) the contribution that the charter schools grant program will make to assisting educationally disadvantaged and other students to achieving State academic content standards and State student academic achievement standards and, in general, a State's education improvement plan;

''(2) the degree of flexibility afforded by the State educational agency to charter schools under the State's charter schools law;

''(3) the ambitiousness of the objectives for the State charter school grant program;

''(4) the quality of the strategy for assessing achievement of those objectives;

''(5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students;

''(6) the number of high quality charter schools created under this part in the State; and

''(7) in the case of State educational agencies that propose to use grant funds to support dissemination activities under section 4202(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student academic achievement.

''(b) SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.—The Secretary shall award grants to eligible applicants under this part on the basis of the quality of the applications submitted under section 4203(c), after taking into consideration such factors as—

''(1) the quality of the proposed curriculum and instructional practices;

''(2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school;

''(3) the extent of community support for the application;

''(4) the ambitiousness of the objectives for the charter school;

''(5) the quality of the strategy for assessing achievement of those objectives;

''(6) the likelihood that the charter school will meet those objectives and improve educational results for students; and

''(7) in the case of an eligible applicant that proposes to use grant funds to support dissemination activities under section 4202(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student achievement.

''(c) PEER REVIEW.—The Secretary, and each State educational agency receiving a grant under this part, shall use a peer review process to review applications for assistance under this part.

''(d) DIVERSITY OF PROJECTS.—The Secretary and each State educational agency receiving a grant under this part, shall award subgrants under this part in a manner that, to the extent possible, ensures that such grants and subgrants—

''(1) are distributed throughout different areas of the Nation and each State, including urban and rural areas; and

''(2) will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.

''(e) WAIVERS.—The Secretary may waive any statutory or regulatory requirement over which the Secretary exercises administrative authority except any such requirement relating to the elements of a charter school described in section 4210(1), if—

''(1) the waiver is requested in an approved application under this part; and

''(2) the Secretary determines that granting such a waiver will promote the purpose of this part.

''(f) USE OF FUNDS.—

''(1) STATE EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under this part shall use such grant funds to award subgrants to one or more eligible applicants in the State to enable such applicant to plan and implement a charter school in accordance with this part, except that the State educational agency may reserve not more than 10 percent of the grant funds to support dissemination activities described in paragraph (6).

''(2) ELIGIBLE APPLICANTS.—Each eligible applicant receiving funds from the Secretary or a State educational agency shall use such funds to plan and implement a charter school, or to disseminate information about the charter school and successful practices in the charter school, in accordance with this part.

''(3) ALLOWABLE ACTIVITIES.—An eligible applicant receiving a grant or subgrant under this part may use the grant or subgrant funds only for—

''(A) post-award planning and design of the educational program, which may include—

''(i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and

''(ii) professional development of teachers and other staff who will work in the charter school; and

''(B) initial implementation of the charter school, which may include—

''(i) informing the community about the school;

''(ii) acquiring necessary equipment and educational materials and supplies;

''(iii) acquiring or developing curriculum materials; and

''(iv) other initial operational costs that cannot be met from State or local sources.

''(4) ADMINISTRATIVE EXPENSES.—Each State educational agency receiving a grant pursuant to this part may reserve not more than 5 percent of such grant funds for administrative expenses associated with the charter school grant program assisted under this part. A local educational agency may not deduct funds for administrative fees or expenses from a subgrant awarded to an eligible applicant.

''(5) REVOLVING LOAN FUNDS.—Each State educational agency receiving a grant pursuant to this part may reserve not more than 10 percent of the grant amount for the establishment of a revolving loan fund. Such fund may be used to make loans to eligible applicants that have received a subgrant under this part, under such terms as may be determined by the State educational agency, for the initial operation of the charter school grant program of such recipient until such time as the recipient begins receiving ongoing operational support from State or local financing sources.

''(6) DISSEMINATION.—

''(A) IN GENERAL.—A charter school may apply for funds under this part, whether or not the charter school has applied for or received funds under this part for planning, program design, or implementation, to carry out the activities described in subparagraph (B) if the charter school has been in operation for at least 3 consecutive years and has demonstrated overall success, including—

''(i) substantial progress in improving student academic achievement;

''(ii) high levels of parent satisfaction; and

''(iii) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

''(B) ACTIVITIES.—A charter school described in subparagraph (A) may use funds reserved under paragraph (1) to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school, through such activities as—

''(i) assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;

''(ii) developing partnerships with other public schools, including charter schools, designed to improve student academic achievement in each of the schools participating in the partnership;

''(iii) developing curriculum materials, academic assessments, and other materials that promote increased student academic achievement and are based on successful practices within the assisting charter school; and

''(iv) conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student academic achievement in other schools.

''(g) TRIBALLY CONTROLLED SCHOOLS.—Each State that receives a grant under this part and designates a tribally controlled school as a charter school shall not consider payments to a school under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507) in determining—

''(1) the eligibility of the school to receive any other Federal, State, or local aid; or

''(2) the amount of such aid.

"SEC. 4205. NATIONAL ACTIVITIES.

''(a) IN GENERAL.—The Secretary shall reserve for each fiscal year the greater of 5 percent or $5,000,000 of the amount appropriated to carry out this part, except that in no fiscal year shall the total amount so reserved exceed $8,000,000, to carry out the following activities:

''(1) To provide charter schools, either directly or through State educational agencies, with—

''(A) information regarding—

''(i) Federal funds that charter schools are eligible to receive; and

''(ii) other Federal programs in which charter schools may participate; and

''(B) assistance in applying for Federal education funds that are allocated by formula, including assistance with filing deadlines and submission of applications.

''(2) To provide for other evaluations or studies that include the evaluation of the impact of charter schools on student academic achievement, including information regarding—

''(A) students attending charter schools reported on the basis of race, age, disability, gender, limited English proficiency, and previous enrollment in public school; and

''(B) the professional qualifications of teachers within a charter school and the turnover of the teaching force.

''(3) To provide—

''(A) information to applicants for assistance under this part;

''(B) assistance to applicants for assistance under this part with the preparation of applications under section 4203;

''(C) assistance in the planning and startup of charter schools;

''(D) training and technical assistance to existing charter schools; and

''(E) for the dissemination to other public schools of best or promising practices in charter schools.

''(4) To provide (including through the use of one or more contracts that use a competitive bidding process) for the collection of information regarding the financial resources available to charter schools, including access to private capital, and to widely disseminate to charter schools any such relevant information and model descriptions of successful programs.

''(b) CONSTRUCTION.—Nothing in this section shall be construed to require charter schools to collect any data described in subsection (a).

"SEC. 4206. FEDERAL FORMULA ALLOCATION DURING FIRST YEAR AND FOR SUCCESSIVE ENROLLMENT EXPANSIONS.

''(a) IN GENERAL.—For purposes of the allocation to schools by the States or their agencies of funds under part A of title I, and any other Federal funds which the Secretary allocates to States on a formula basis, the Secretary and each State educational agency shall take such measures as are necessary to ensure that every charter school receives the Federal funding for which the charter school is eligible not later than 5 months after the charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in that charter school are not fully and completely determined until that charter school actually opens. The measures similarly shall ensure that every charter school expanding its enrollment in any subsequent year of operation receives the Federal funding for which the charter school is eligible not later than 5 months after such expansion.

''(b) ADJUSTMENT AND LATE OPENINGS.—

''(1) IN GENERAL.—The measures described in subsection (a) shall include provision for appropriate adjustments, through recovery of funds or reduction of payments for the succeeding year, in cases where payments made to a charter school on the basis of estimated or projected enrollment data exceed the amounts that the school is eligible to receive on the basis of actual or final enrollment data.

''(2) RULE.—For charter schools that first open after November 1 of any academic year, the State, in accordance with guidance provided by the Secretary and applicable Federal statutes and regulations, shall ensure that such charter schools that are eligible for the funds described in subsection (a) for such academic year have a full and fair opportunity to receive those funds during the charter schools' first year of operation.

"SEC. 4207. SOLICITATION OF INPUT FROM CHARTER SCHOOL OPERATORS.

''To the extent practicable, the Secretary shall ensure that administrators, teachers, and other individuals directly involved in the operation of charter schools are consulted in the development of any rules or regulations required to implement this part, as well as in the development of any rules or regulations relevant to charter schools that are required to implement part A of title I, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), or any other program administered by the Secretary that provides education funds to charter schools or regulates the activities of charter schools.

"SEC. 4208. RECORDS TRANSFER.

''State educational agencies and local educational agencies, to the extent practicable, shall ensure that a student's records and, if applicable, a student's individualized education program as defined in section 602(11) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(11)), are transferred to a charter school upon the transfer of the student to the charter school, to another public school upon the transfer of the student from a charter school to another public school, and to a private school upon the transfer of the student from a charter or public school to the private school (with the written consent of a parent of the student), in accordance with applicable State law.

"SEC. 4209. PAPERWORK REDUCTION.

''To the extent practicable, the Secretary and each authorized public chartering agency shall ensure that implementation of this part results in a minimum of paperwork for any eligible applicant or charter school.

"SEC. 4210. DEFINITIONS.

''As used in this part:

''(1) The term 'charter school' means a public school that—

''(A) in accordance with a specific State statute authorizing the granting of charters to schools, is exempted from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

''(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

''(C) operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

''(D) provides a program of elementary or secondary education, or both;

''(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

''(F) does not charge tuition;

''(G) complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and part B of the Individuals with Disabilities Education Act;

''(H) is a school to which parents choose to send their children, and that admits students on the basis of a lottery, or in another nondiscriminatory manner consistent with State law, if more students apply for admission than can be accommodated;

''(I) agrees to comply with the same Federal and State audit requirements as do other elementary and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

''(J) meets all applicable Federal, State, and local health and safety requirements;

''(K) operates in accordance with State law; and

''(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student academic achievement will be measured in charter schools pursuant to State academic assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

''(2) The term 'developer' means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out.

''(3) The term 'eligible applicant' means a developer that has—

''(A) applied to an authorized public chartering authority; and

''(B) provided adequate and timely notice to that authority under section 4203(d)(3).

''(4) The term 'authorized public chartering agency' means a State educational agency, local educational agency, or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a charter school.

''SEC. 4211. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out this part, there are authorized to be appropriated $225,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.''.

SEC. 412. CONTINUATION OF AWARDS.

Notwithstanding any other provision of this Act, any person or agency that was awarded a grant or subgrant under subpart 1 of part C of title X (20 U.S.C. 8061 et seq.) prior to the date of the enactment of this Act shall continue to receive funds in accordance with the terms of such award until the date on which the award period terminates under such terms.

PART C—MAGNET SCHOOLS ASSISTANCE; WOMEN'S EDUCATIONAL EQUITY

SEC. 421. MAGNET SCHOOLS ASSISTANCE.

Title IV, as amended by sections 401 and 411, is further amended by adding at the end the following:

''PART C—MAGNET SCHOOLS ASSISTANCE; WOMEN'S EDUCATIONAL EQUITY

''Subpart 1—Magnet Schools Assistance

''SEC. 4301. FINDINGS.

''The Congress finds as follows:

''(1) Magnet schools are a significant part of the Nation's efforts to achieve voluntary desegregation in our schools.

''(2) The use of magnet schools has increased dramatically since the inception of the magnet schools assistance program under this Act, with approximately 2,000,000 students nationwide attending such schools, of whom more than 65 percent are non-white.

''(3) Magnet schools offer a wide range of distinctive programs that have served as models for school improvement efforts.

''(4) It is in the best interests of the United States—

''(A) to continue the Federal Government's support of local educational agencies that are implementing court-ordered desegregation plans and local educational agencies that are voluntarily seeking to foster meaningful interaction among students of different racial and ethnic backgrounds, beginning at the earliest stage of such students' education;

''(B) to ensure that all students have equitable access to a quality education that will prepare them to function well in a highly competitive economy;

''(C) to maximize the ability of local educational agencies to plan, develop, implement, and continue effective and innovative magnet schools that contribute to State and local systemic reform; and

''(D) to ensure that grant recipients provide adequate data that demonstrate an ability to improve student academic achievement.

''SEC. 4302. STATEMENT OF PURPOSE.

''The purpose of this part is to assist in the desegregation of schools served by local educational agencies by providing financial assistance to eligible local educational agencies for—

''(1) the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority students;

''(2) the development and implementation of magnet school projects that will assist local educational agencies in achieving systemic reforms and providing all students the opportunity to meet challenging State academic content standards and student academic achievement standards;

''(3) the development and design of innovative educational methods and practices that promote diversity and increase choices in public elementary and secondary schools and educational programs; and

''(4) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational and technical skills of students attending such schools.

''SEC. 4303. PROGRAM AUTHORIZED.

''The Secretary, in accordance with this part, is authorized to make grants to eligible local educational agencies, and consortia of such agencies where appropriate, to carry out the purpose of this part for magnet schools that are—

''(1) part of an approved desegregation plan; and

''(2) designed to bring students from different social, economic, ethnic, and racial backgrounds together.

''SEC. 4304. DEFINITION.

''For the purpose of this part, the term 'magnet school' means a public elementary or secondary school or public elementary or secondary education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

''SEC. 4305. ELIGIBILITY.

''A local educational agency, or consortium of such agencies where appropriate, is eligible to receive assistance under this part to carry out the purpose of this part if such agency or consortium—

''(1) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, that requires the desegregation of minority-group-segregated children or faculty in the elementary and secondary schools of such agency; or

''(2) without having been required to do so, has adopted and is implementing, or will, if assistance is made available to such local educational agency or consortium of such agencies under this part, adopt and implement a plan that has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority-group-segregated children or faculty in such schools.

''SEC. 4306. APPLICATIONS AND REQUIREMENTS.

''(a) APPLICATIONS.—An eligible local educational agency, or consortium of such agencies, desiring to receive assistance under this part shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

''(b) INFORMATION AND ASSURANCES.—Each such application shall include—

''(1) a description of—

''(A) how assistance made available under this part will be used to promote desegregation, including how the proposed magnet school project will increase interaction among students of different social, economic, ethnic, and racial backgrounds;

''(B) the manner and extent to which the magnet school project will increase student academic achievement in the instructional area or areas offered by the school;

''(C) how an applicant will continue the magnet school project after assistance under this part is no longer available, including, if applicable, an explanation of why magnet schools established or supported by the applicant with funds under this part cannot be continued without the use of funds under this part;

''(D) how funds under this part will be used to improve student academic performance for all students attending the magnet schools; and

''(E) the criteria to be used in selecting students to attend the proposed magnet school projects; and

''(2) assurances that the applicant will—

''(A) use funds under this part for the purpose specified in section 4302;

''(B) employ fully qualified teachers in the courses of instruction assisted under this part;

''(C) not engage in discrimination based on race, religion, color, national origin, sex, or disability in—

''(i) the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility;

''(ii) the assignment of students to schools, or to courses of instruction within the school, of such agency, except to carry out the approved plan; and

''(iii) designing or operating extracurricular activities for students;

''(D) carry out a high-quality education program that will encourage greater parental decisionmaking and involvement; and

''(E) give students residing in the local attendance area of the proposed magnet school projects equitable consideration for placement in those projects.

''SEC. 4307. PRIORITY.

''In approving applications under this part, the Secretary shall give priority to applicants that—

''(1) demonstrate the greatest need for assistance, based on the expense or difficulty of effectively carrying out an approved desegregation plan and the projects for which assistance is sought;

''(2) propose to carry out new magnet school projects, or significantly revise existing magnet school projects; and

''(3) propose to select students to attend magnet school projects by methods such as lottery, rather than through academic examination.

''SEC. 4308. USE OF FUNDS.

''(a) IN GENERAL.—Grant funds made available under this part may be used by an eligible local educational agency or consortium of such agencies—

''(1) for planning and promotional activities directly related to the development, expansion, continuation, or enhancement of academic programs and services offered at magnet schools;

''(2) for the acquisition of books, materials, and equipment, including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools;

''(3) for the payment, or subsidization of the compensation, of elementary and secondary school teachers who are fully qualified, and instructional staff where applicable, who are necessary for the conduct of programs in magnet schools;

''(4) with respect to a magnet school program offered to less than the entire student population of a school, for instructional activities that—

''(A) are designed to make available the special curriculum that is offered by the magnet school project to students who are enrolled in the school but who are not enrolled in the magnet school program; and

''(B) further the purpose of this part; and

''(5) for activities, which may include professional development, that will build the recipient's capacity to operate magnet school programs once the grant period has ended.

''(b) SPECIAL RULE.—Grant funds under this part may be used in accordance with paragraphs (2) and (3) of subsection (a) only if the activities described in such paragraphs are directly related to improving the students' academic performance based on the State's challenging academic content standards and student academic achievement standards or directly related to improving the students' reading skills or knowledge of mathematics, science, history, geography, English, foreign languages, art, or music, or to improving vocational and technical skills.

"SEC. 4309. PROHIBITIONS.

''(a) TRANSPORTATION.—Grants under this part may not be used for transportation or any activity that does not augment academic improvement.

''(b) PLANNING.—A local educational agency shall not expend funds under this part after the third year that such agency receives funds under this part for such project.

"SEC. 4310. LIMITATIONS.

''(a) DURATION OF AWARDS.—A grant under this part shall be awarded for a period that shall not exceed three fiscal years.

''(b) LIMITATION ON PLANNING FUNDS.—A local educational agency may expend for planning not more than 50 percent of the funds received under this part for the first year of the project, 15 percent of such funds for the second such year, and 10 percent of such funds for the third such year.

''(c) AMOUNT.—No local educational agency or consortium awarded a grant under this part shall receive more than $4,000,000 under this part in any one fiscal year.

''(d) TIMING.—To the extent practicable, the Secretary shall award grants for any fiscal year under this part not later than July 1 of the applicable fiscal year.

"SEC. 4311. EVALUATIONS.

''(a) RESERVATION.—The Secretary may reserve not more than 2 percent of the funds appropriated under section 4312(a) for any fiscal year to carry out evaluations, technical assistance, and dissemination projects with respect to magnet school projects and programs assisted under this part.

''(b) CONTENTS.—Each evaluation described in subsection (a), at a minimum, shall address—

''(1) how and the extent to which magnet school programs lead to educational quality and improvement;

''(2) the extent to which magnet school programs enhance student access to quality education;

''(3) the extent to which magnet school programs lead to the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority students; and

''(4) the extent to which magnet school programs differ from other school programs in terms of the organizational characteristics and resource allocations of such magnet school programs.

"SEC. 4312. AUTHORIZATION OF APPROPRIATIONS; RESERVATION.

''(a) AUTHORIZATION.—For the purpose of carrying out this part, there are authorized to be appropriated $125,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

''(b) AVAILABILITY OF FUNDS FOR GRANTS TO AGENCIES NOT PREVIOUSLY ASSISTED.—In any fiscal year for which the amount appropriated pursuant to subsection (a) exceeds $75,000,000, the Secretary shall give priority to using such amounts in excess of $75,000,000 to award grants to local educational agencies or consortia of such agencies that did not receive a grant under this part in the preceding fiscal year.''.

SEC. 422. WOMEN'S EDUCATIONAL EQUITY.

(a) TRANSFER AND REDESIGNATION.—Part B of title V (20 U.S.C. 7231 et seq.) is transferred and redesignated as subpart 2 of part C of title IV. Sections 5201 through 5208 are redesignated as sections 4321 through 4328, respectively.

(b) REPORT.—Section 4326 (as so redesignated) is amended by striking ''January 1, 1999,'' and inserting ''January 1, 2005,''.

(c) EVALUATION AND DISSEMINATION.—Section 4327(a) (as so redesignated) is amended—

(1) by striking ''14701,'' and inserting ''8651,''; and

(2) by striking ''January 1, 1998.'' and inserting ''January 1, 2004.''.

(d) REAUTHORIZATION.—Section 4328 (as so redesignated) is amended by striking ''$5,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years,'' and inserting ''$3,000,000 for fiscal year 2002 and such sums as may be necessary for each of the four succeeding fiscal years,''.

(e) OTHER CONFORMING AMENDMENTS.—

(1) SHORT TITLE.—Section 4321(a) (as so redesignated) is amended to read as follows:

''(a) SHORT TITLE.—This subpart may be cited as the 'Women's Educational Equity Act of 2001'.''.

(2) REFERENCES.—Subpart 2 of part C of title IV (as so redesignated) is amended—

(A) by striking ''this part'' each place such term appears and inserting ''this subpart''; and

(B) by striking ''5203(b)'' each place such term appears and inserting ''4423(b)''.

SEC. 423. CONTINUATION OF AWARDS.

Notwithstanding any other provision of this Act, any person or agency that was awarded a grant under part A of title V (20 U.S.C. 7201 et seq.), or a grant, contract, or cooperative agreement under part B of such title (20 U.S.C. 7231 et seq.), prior to the date of the enactment of this Act shall continue to receive funds in accordance with the terms of such award until the date on which the award period terminates under such terms.

TITLE V—21ST CENTURY SCHOOLS

SEC. 501. SAFE SCHOOLS.

Title V, except part B (which is transferred and redesignated as subpart 2 of part C of title IV by section 422(a) of this Act) is amended to read as follows:

"TITLE V—21ST CENTURY SCHOOLS

"PART A—SUPPORTING VIOLENCE AND DRUG PREVENTION AND ACADEMIC ENRICHMENT

"SEC. 5001. SHORT TITLE.

''This part may be cited as the '21st Century Schools Act of 2001'.

"SEC. 5002. PURPOSE.

''The purpose of this part is to support programs that prevent the use of illegal drugs, prevent violence, provide quality before and after school activities and supervision for school age youth, involve parents and communities, and are coordinated with related Federal, State, and community efforts and resources to foster a safe and drug-free learning environment in which students increase their academic achievement, through the provision of Federal assistance to—

''(1) States for grants to local educational agencies and consortia of such agencies to establish, operate, and improve local programs of drug and violence prevention in elementary and secondary schools;

''(2) States for grants to local educational agencies, community-based organizations, and other public entities and private organizations, for before and after school programs for youth; and

''(3) States and public and private nonprofit and for-profit organizations to conduct training, demonstrations, and evaluations.

"SEC. 5003. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated—

''(1) $475,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 4 succeeding fiscal years, for State grants under subpart 1;

''(2) $900,000,000 for fiscal year 2002, and such sums as may be necessary for each of the four succeeding fiscal years, for State grants under subpart 2; and

''(3) $60,000,000 for fiscal year 2002, and for each of the 4 succeeding fiscal years, for national programs under subpart 3.

"Subpart 1—Safe Schools

"SEC. 5111. RESERVATIONS AND ALLOTMENTS.

''(a) RESERVATIONS.—From the amount made available under section 5003(1) to carry out this subpart for each fiscal year, the Secretary—

''(1) shall reserve 1 percent or $4,750,000 (whichever is greater) of such amount for grants to Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with the Secretary's determination of their respective needs and to carry out programs described in this subpart;

''(2) shall reserve 1 percent or $4,750,000 (whichever is greater) of such amount for the Secretary of the Interior to carry out programs described in this subpart for Indian youth;

''(3) shall reserve 0.2 percent of such amount for Native Hawaiians to be used to carry out programs described in this subpart;

''(4) notwithstanding section 3 of the Leave No Child Behind Act of 2001, shall reserve an amount necessary to make continuation grants to grantees under part I of title X of this Act (under the terms of those grants), as such part existed on the day before the effective date of the Leave No Child Behind Act of 2001; and

''(5) notwithstanding section 3 of the Leave No Child Behind Act of 2001, shall reserve an amount necessary to make continuation grants to grantees under the Safe Schools/Healthy Students initiative (under the terms of those grants), as it existed on the day before the date of the effective date of the Leave No Child Behind Act of 2001.

''(b) STATE ALLOTMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary, for each fiscal year, shall allocate among the States—

''(A) one-half of the remainder not reserved under subsection (a) according to the ratio between the school-aged population of each State and the school-aged population of all the States; and

''(B) one-half of such remainder according to the ratio between the amount each State received under part A of title I for the preceding year and the sum of such amounts received by all the States.

''(2) MINIMUM.—For any fiscal year, no State shall be allotted under this subsection an amount that is less than one-half of 1 percent of the total amount allotted to all the States under this subsection.

''(c) REALLOTMENT OF UNUSED FUNDS.—If any State does not apply for an allotment under this subpart for a fiscal year, the Secretary shall reallot the amount of the State's allotment to the remaining States in accordance with this section.

''(d) DEFINITION.—For the purposes of this section, the term 'Native Hawaiian' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

"SEC. 5112. RESERVATION OF STATE FUNDS FOR SAFE SCHOOLS.

''(a) STATE RESERVATION FOR THE GOVERNOR.—

''(1) IN GENERAL.—The chief executive officer of a State may reserve not more than 20 percent of the total amount allocated to a State under section 5111(b) for each fiscal year to award competitive grants and contracts to local educational agencies, community-based organizations, and other public entities and private organizations for programs or activities to support community efforts that complement activities of local educational agencies described in section 5115. Such officer shall award grants based on—

''(A) the quality of the activity or program proposed; and

''(B) how the program or activity is aligned with the appropriate principles of effectiveness described in section 5114(a).

''(2) SPECIAL CONSIDERATION.—In awarding funds under subparagraph (A), a chief executive officer shall give special consideration to grantees that pursue a comprehensive approach to drug and violence prevention by providing and incorporating mental health services in their programs.

''(3) ADMINISTRATIVE COSTS.—The chief executive officer of a State may use not more than 1 percent of the amount described in subparagraph (A) for the administrative costs incurred in carrying out the duties of such officer under this section.

''(b) STATE FUNDS.—

''(1) ADDITIONAL RESERVATIONS.—Each State shall reserve an amount equal to the total amount allotted to a State under section 5111(b), less the amount reserved under subsection (a) and paragraphs (2) and (3) of this subsection, for each fiscal year for its local educational agencies.

''(2) STATE ACTIVITIES.—A State may use not more than 4 percent of the total amount available under subsection (a) for State activities described in subsection (c).

''(3) STATE ADMINISTRATION.—A State may use not more than 1 percent of the amount made available under subsection (a) for the administrative costs of carrying out its responsibilities under this subpart.

''(c) ACTIVITIES.—

''(1) IN GENERAL.—A State shall use a portion of the funds described in subsection (b)(2), either directly, or through grants and contracts, to plan, develop, and implement capacity building, technical assistance, evaluation, program improvement services, and coordination activities for local educational agencies, community-based organizations, other public entities, and private organizations that are designed to support the implementation of programs and activities under this subpart.

''(2) DATA COLLECTION.—

''(A) STATISTICS.—A State may use a portion of the funds, not to exceed 20 percent, described in subsection (b)(2), either directly or through grants and contracts, to establish and implement a statewide system of collecting data regarding statistics on—

''(i) truancy rates; and

''(ii) the frequency, seriousness, and incidence of violence and drug related offenses resulting in suspensions and expulsion in elementary and secondary schools in States.

''(B) COMPILATION OF STATISTICS.—The statistics shall be compiled in accordance with definitions as determined in the State criminal code, but shall not identify victims of crimes or persons accused of crimes. The collected data shall include, incident reports by school officials, anonymous student surveys, and anonymous teacher surveys.

''(C) REPORTING.—Such data and statistics shall be reported to the public and shall be reported on a school-by-school basis.

''(D) LIMITATION.—Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices with respect to crimes on school property or school security.

''(3) SAFE SCHOOLS.—The State shall establish and implement a statewide policy requiring that students attending persistently dangerous public elementary and secondary schools, as determined by the State, or who become a victim of a violent criminal offense, as defined by State law, while in or on the grounds of a public elementary school or secondary school that the student attends, be allowed to attend a safe public elementary or secondary school, within the local educational agency, including a public charter school and allowing payment of reasonable transportation costs and tuition costs for such students.

''SEC. 5113. STATE APPLICATION.

''(a) IN GENERAL.—In order to receive an allotment under section 5111 for any fiscal year, a State shall submit to the Secretary, at such time as the Secretary may require, an application that—

''(1) describes the activities to be funded under section 5112(c);

''(2) describes how activities funded under this subpart will support State academic achievement standards in accordance with section 1111;

''(3) describes how funds under this subpart will be coordinated with programs under this Act, and other programs, as appropriate, in accordance with the provisions of section 8306;

''(4) provides an assurance that the application was developed in consultation and coordination with appropriate State officials and others, including the chief executive officer, the chief State school officer, the head of the State alcohol and drug abuse agency, the heads of the State health and mental health agencies, the head of the State criminal justice planning agency, the head of the State child welfare agency, the head of the State board of education, or their designees, and representatives of parents, students, and community-based organizations;

''(5) provides an assurance that the State will cooperate with, and assist, the Secretary in conducting data collection as required by section 5116(a);

''(6) provides an assurance that the local educational agencies in the State will comply with the provisions of section 8503 pertaining to the participation of private school children and teachers in the programs and activities under this subpart;

''(7) provides an assurance that funds under this subpart will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this subpart, be made available for programs and activities authorized under this subpart, and in no case supplant such State, local, and other non-Federal funds;

''(8) describes the results of the State's needs and resources assessment for violence and illegal drug use prevention which shall be based on the results of on-going evaluation (which may include data on the incidence and prevalence, age of onset, perception of health risk and perception of social disapproval of violence and illegal drug use by youth in schools and communities and the prevalence of risk and protective factors or other scientifically based research variables in the school and community);

''(9)(A) provides a statement of the State's performance measures for drug and violence prevention programs and activities to be funded under this part that shall be developed in consultation between the State and local officials and that consist of—

''(i) performance indicators for drug and violence prevention programs and activities; and

''(ii) levels of performance for each performance indicator;

''(B) a description of the procedures the State will use for assessing and publicly reporting progress toward meeting those performance measures; and

''(C) a plan for monitoring the implementation of, and providing technical assistance regarding, the activities and programs conducted by local educational agencies, community-based organizations, other public entities, and private organizations under this subpart;

''(10) provides an assurance that the State will consult with a representative sample of local educational agencies in the development of the definition of 'persistently dangerous school' for the purposes of section 5112(c)(3);

''(11) provides a description of how the State defines 'persistently dangerous school' for the purposes of section 5112(c)(3); and

''(12) provides an assurance that the State application will be available for public review after submission of the application.

''(b) GENERAL APPROVAL.—A State application submitted pursuant to subsection (a) shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 90-day period beginning on the date that the Secretary receives the application, that the application is in violation of this subpart.

''(c) DISAPPROVAL.—The Secretary shall not finally disapprove a State application, except after giving the State notice and opportunity for a hearing.

''SEC. 5114. FORMULA GRANT PROGRAM.

''(a) IN GENERAL.—

''(1) FUNDS TO LOCAL EDUCATIONAL AGENCIES.—A State shall provide the amount made available to the State under this subpart, less the amounts reserved under sections 5111 and 5112 to local educational agencies for drug and violence prevention and education as follows:

''(A) 60 percent of such amount based on the relative amount such agencies received under part A of title I for the preceding fiscal year.

''(B) 40 percent of such amount to local educational agencies based on the relative enrollments in public and private nonprofit elementary and secondary schools within the boundaries of such agencies.

''(2) ADMINISTRATIVE COSTS.—Of the amount received under paragraph (1), a local educational agency may use not more than 1 percent for the administrative costs of carrying out its responsibilities under this subpart.

''(3) RETURN OF FUNDS TO STATE; REALLOCATION.—

''(A) RETURN.—Except as provided in subparagraph (B), upon the expiration of the 1-year period beginning on the date that a local educational agency receives its allocation—

''(i) such agency shall return to the State any funds from such allocation that remain unobligated; and

''(ii) the State shall reallocate any such amount to local educational agencies that have submitted plans for using such amount for programs or activities on a timely basis.

''(B) CARRYOVER.—In any fiscal year, a local educational agency, may retain for obligation in the succeeding fiscal year—

''(i) an amount equal to not more than 25 percent of the allocation it received under this subpart for such fiscal year; or

''(ii) upon a demonstration of good cause by such agency and approval by the State, an amount that exceeds 25 percent of such allocation.

''(b) ELIGIBILITY.—To be eligible to receive a subgrant under this subpart, a local educational agency desiring a subgrant shall submit an application to the State. Such an application shall be amended, as necessary, to reflect changes in the activities and programs of the local educational agency.

''(c) DEVELOPMENT.—

''(1) CONSULTATION.—

''(A) IN GENERAL.—A local educational agency shall develop its application through timely and meaningful consultation with State and local government representatives, representatives of schools to be served, school personnel, and community organizations with relevant and demonstrated expertise in drug and violence prevention activities, students and parents.

''(B) CONTINUED CONSULTATION.—On an ongoing basis, the local educational agency shall

consult with such representatives and organizations in order to seek advice regarding how best to coordinate such agency's activities under this subpart with other related strategies, programs, and activities being conducted in the community.

''(2) DESIGN AND DEVELOPMENT.—To ensure timely and meaningful consultation, a local educational agency at the initial stages of design and development of a program or activity shall consult, in accordance with this subsection, with appropriate entities and persons on issues regarding the design and development of the program or activity, including efforts to meet the principles of effectiveness described in section 5115(a).

''(d) CONTENTS OF APPLICATIONS.—

''(1) IN GENERAL.—An application submitted by a local educational agency under this section shall contain—

''(A) an assurance that the activities or programs to be funded support State academic achievement goals in accordance with section 1111;

''(B) a detailed explanation of the local educational agency's comprehensive plan for drug and violence prevention, which shall include a description of—

''(i) how the plan will be coordinated with programs under this Act, other Federal, State, and local programs for drug and violence prevention, in accordance with the provisions of section 8306;

''(ii) the local educational agency's performance measures for drug and violence prevention programs and activities, that shall consist of—

''(I) performance indicators for drug and violence prevention programs and activities; and

''(II) levels of performance for each performance indicator;

''(iii) how such agency will assess and publicly report progress toward attaining its performance measures;

''(iv) the drug and violence prevention activity or program to be funded, including how the activity or program will meet the principles of effectiveness described in section 5115(a), and the means of evaluating such activity or program; and

''(v) how the services will be targeted to schools and students with the greatest need;

''(C) a certification that a meaningful assessment has been conducted to determine community needs (including consultation with community leaders, businesses, and school officials), available resources and capacity in the public and private sector (which may include an analysis based on data reasonably available at the time on the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence by youth in schools and communities, prevalence of risk and protective factors, buffers or assets, or other scientifically based research variables in the school and community), the findings of such assessments;

''(D) an assurance that funds under this subpart will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this subpart, be made available for programs and activities authorized under this subpart, and in no case supplant such State, local, and other non-Federal funds;

''(E) a description of the mechanisms used to provide effective notice to the community of an intention to submit an application under this title;

''(F) an assurance that drug prevention programs supported under this part convey a clear and consistent message that the illegal use of drugs is wrong and harmful;

''(G) an assurance that the local educational agency has established and implemented a student code of conduct policy that clearly states responsibilities of students, teachers, and administrators in maintaining a classroom environment that allows a teacher to communicate effectively with all students in the class, that allows all students in the class to learn, has consequences that are fair and appropriate for violations, and is enforced equitably;

''(H) an assurance that the application and any waiver request will be available for public review after submission of the application; and

''(I) such other information and assurances as the State may reasonably require.

''(2) GENERAL APPROVAL.—A local educational agency's application submitted to the State under this subpart shall be deemed to be approved by the State unless the State makes a written determination, prior to the expiration of the 90-day period beginning on the date that the State receives the application, that the application is in violation of this subpart.

''(3) DISAPPROVAL.—The State shall not finally disapprove a local educational agency application, except after giving such agency notice and an opportunity for a hearing.

"SEC. 5115. AUTHORIZED ACTIVITIES.

''(a) PRINCIPLES OF EFFECTIVENESS.—

''(1) IN GENERAL.—For a program or activity developed pursuant to this subpart to meet the principles of effectiveness, such program or activity shall—

''(A) be based upon an assessment of objective data regarding the incidence of violence and illegal drug use in the elementary and secondary schools and communities to be served, including an objective analysis of the current conditions and consequences regarding violence and illegal drug use, including delinquency and serious discipline problems, among students who attend such schools (including private school students who participate in the drug and violence prevention program) that is based on ongoing local assessment or evaluation activities;

''(B) be based upon an established set of performance measures aimed at ensuring that the elementary and secondary schools and communities to be served by the program have a drug-free, safe, and orderly learning environment; and

''(C) be based upon scientifically based research that provides evidence that the program to be used will reduce violence and illegal drug use.

''(2) PERIODIC EVALUATION.—The program or activity shall undergo a periodic evaluation to assess its progress toward reducing violence and illegal drug use in schools to be served based on performance measures described in section 5114(d)(1)(B)(ii) The results shall be used to refine, improve, and strengthen the program, and to refine the performance measures. The results shall also be made available to the public upon request, with public notice of such availability provided.

''(3) WAIVER.—A local educational agency may apply to the State for a waiver of the requirement of paragraph (1)(C) to allow innovative activities or programs that demonstrate substantial likelihood of success.

''(b) LOCAL EDUCATIONAL AGENCY ACTIVITIES.—

''(1) PROGRAM REQUIREMENTS.—A local educational agency shall use funds made available under section 5114 to develop, implement, and evaluate comprehensive programs and activities, which are coordinated with other school and community-based services and programs, that shall—

''(A) support State academic achievement goals in accordance with section 1111;

''(B) be consistent with the principles of effectiveness described in subsection (a);

''(C) be designed to—

''(i) prevent or reduce violence and illegal drug use, delinquency, serious discipline problems, and poor academic achievement and illegal drug use; and

''(ii) create a well disciplined environment conducive to learning, which includes consultation between teachers, principals, and other school personnel to identify early warning signs of drug use and violence and to provide behavioral interventions as part of classroom management efforts; and

''(D) include activities to promote the involvement of parents in the activity or program, to promote coordination with community groups and coalitions, and government agencies, and to distribute information about the local educational agency's needs, goals, and programs under this subpart.

''(2) AUTHORIZED ACTIVITIES.—Each local educational agency or consortium of such agencies, that receives a subgrant under this subpart may use such funds to carry out activities, such as—

''(A) developmentally appropriate drug and violence prevention programs in both elementary and secondary schools that incorporate a variety of prevention strategies and activities, which may include—

''(i) teaching students that most people do not use illegal drugs;

''(ii) teaching students to recognize social and peer pressure to use illegal drugs and the skills for resisting illegal drug use;

''(iii) teaching students about the dangers of emerging drugs;

''(iv) engaging students in the learning process;

''(v) incorporating activities in secondary schools that reinforce prevention activities implemented in elementary schools; and

''(vi) involving families and communities in setting clear expectations against violence and illegal drug use and enforcing appropriate consequences for violence and illegal drug use;

''(B) training of school personnel and parents in youth drug and violence prevention, including training in early identification, intervention, and prevention of threatening behavior;

''(C) community-wide strategies for reducing violence and illegal drug use, and illegal gang activity;

''(D) to the extent that expenditures do not exceed 20 percent of the amount made available to a local educational agency under this subpart, law enforcement and security activities, including—

''(i) acquisition and installation of metal detectors;

''(ii) hiring and training of security personnel, that are related to youth drug and violence prevention;

''(iii) reporting of criminal offenses on school property; and

''(iv) development of comprehensive school security assessments;

''(E) expanding and improving school-based mental health services, including early identification of violence and illegal drug use, assessment, and direct individual or group counseling services provided to students, parents, and school personnel by qualified school based mental health services personnel;

''(F) establishing and maintaining peer mediation programs that include educating and training peer mediators and a designated faculty supervisor and purchasing necessary materials to facilitate training and the mediation process;

''(G) alternative education programs or services that reduce the need for suspensions or expulsions or programs or services for students who have been expelled or suspended from the regular educational settings, including programs or services to assist students to reenter the regular education setting upon return from treatment or alternative education programs;

''(H) counseling, mentoring, and referral services, and other student assistance practices and programs, including assistance provided by qualified school based mental health services personnel and the training of teachers by school-based mental health service providers in appropriate identification and intervention techniques for students, at risk of violent behavior and drug use;

''(I) activities that reduce truancy;

''(J) age appropriate, developmentally based violence prevention and education programs

that address the legal, health, personal, and social consequences of illegal drug use and violent and disruptive behavior and that include activities designed to help students develop a sense of individual responsibility and respect for the rights of others, and to resolve conflicts without violence;

''(K) providing guidance to students that encourages students to seek advice for anxiety, threats of violence, or actual violence and to confide in a trusted adult regarding an uncomfortable or threatening situation;

''(L) the development of educational programs that prevent school based crime, including preventing crimes motivated by hate that result in acts of physical violence at school and any programs or published materials that address school based crime shall not recommend or require any action that abridges or infringes upon the constitutionally protected rights of free speech, religion, and equal protection of students, their parents, or legal guardians;

''(M) testing students for illegal drug use or conducting student locker searches for illegal drugs or drug paraphernalia consistent with the 4th amendment to the Constitution;

''(N) emergency intervention services following traumatic crisis events, such as a shooting, major accident, or a drug-related incident, that has disrupted the learning environment;

''(O) establishing and implementing a system for transferring suspension and expulsion records by a local educational agency to any public or private elementary or secondary school;

''(P) allowing students attending a persistently dangerous public elementary or secondary school, as determined by the State, or who become a victim of a violent criminal offense, as defined by State law, while in or on the grounds of a public elementary school or secondary school that the student attends, to attend a safe public elementary or secondary school, within the local educational agency, including a public charter school, and allowing payment of reasonable transportation costs and tuition costs for such students;

''(Q) the development and implementation of character education and training programs that reflect values, that take into account the views of parents or guardians of the student for whom the program is intended, which may include honesty, citizenship, courage, justice, respect, personal responsibility, and trustworthiness;

''(R) establishing and maintaining a school violence hotline;

''(S) activities to ensure students' safe travel to and from school, including pedestrian and bicycle safety education; and

''(T) the evaluation of any of the activities authorized under this subsection and the collection of any data required by this part.

''SEC. 5116. EVALUATION AND REPORTING.

''(a) DATA COLLECTION.—

''(1) IN GENERAL.—The National Center for Education Statistics shall report, and when appropriate, collect data to determine the frequency, seriousness, and incidence of illegal drug use and violence by youth in schools and communities in the States, using if appropriate, data submitted by the States pursuant to subsection (b).

''(2) REPORT.—The Secretary shall submit to the Congress a report on the data collected under this subsection.

''(b) STATE REPORT.—

''(1) IN GENERAL.—Not later than October 1, 2004, and every third year thereafter, the chief executive officer of a State, in consultation with the State educational agency, shall submit to the Secretary a report on the implementation and effectiveness of State and local programs under this subpart.

''(2) SPECIAL RULE.—The report required by this subsection shall be—

''(A) based on the State's ongoing evaluation activities, and shall include data on the prevalence of violence and illegal drug use by youth in schools and communities; and

''(B) made available to the public upon request, with public notice of such availability provided.

''(c) LOCAL EDUCATIONAL AGENCY REPORT.—Each local educational agency receiving funds under this subpart shall submit to the State such information, and at such intervals as the State reasonably requires to complete the State report required by subsection (b), information on the prevalence of violence and illegal drug use by youth in the schools and the community and the progress of the local educational agency toward meeting its performance measures. The report shall be made available to the public upon request, with public notice of such availability provided.

''Subpart 2—21st Century Schools

''SEC. 5121. STATE ALLOTMENTS FOR 21ST CENTURY SCHOOLS.

''(a) STATE ALLOTMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), from the amount made available under section 5003(2) to carry out this subpart for each fiscal year, the Secretary shall allocate among the States—

''(A) one-half of such amount according to the ratio between the school-aged population of each State and the school-aged population of all the States; and

''(B) one-half of such amount according to the ratio between the amount each State received under part A of title I for the preceding year and the sum of such amounts received by all the States.

''(2) MINIMUM.—For any fiscal year, no State shall be allotted under this subsection an amount that is less than one-half of 1 percent of the total amount allotted to all the States under this subsection.

''(b) REALLOTMENT OF UNUSED FUNDS.—If any State does not apply for an allotment under this subpart for a fiscal year, the Secretary shall reallot the amount of the State's allotment to the remaining States in accordance with this section.

''(c) STATE FUNDS.—

''(1) IN GENERAL.—Each State that receives a grant under this subpart shall reserve an amount equal to the amount allotted to such State under subsection (a), less the amount reserved under paragraphs (2) and (3) of this subsection, for each fiscal year for its local educational agencies.

''(2) STATE ADMINISTRATION.—A State may use not more than 1 percent of the amount made available under subsection (a) for the administrative costs of carrying out its responsibilities under this subpart.

''(3) STATE ACTIVITIES.—A State may use not more than 4 percent of the amount made available under subsection (a) for the following activities:

''(A) Monitoring and evaluation of programs and activities assisted under this subpart.

''(B) Providing capacity building, training, and technical assistance under this subpart.

''SEC. 5122. STATE APPLICATION.

''(a) IN GENERAL.—In order to receive an allotment under section 5121(a) for any fiscal year, a State shall submit to the Secretary, at such time as the Secretary may require, an application that—

''(1) designates the State educational agency as the agency responsible for the administration and supervision of programs assisted under this subpart;

''(2) describes the competitive procedures and criteria the State will use to ensure that grants under this subpart will support quality extended learning opportunities;

''(3) an assurance that the program will primarily target schools eligible for schoolwide programs under section 1114;

''(4) describes the steps the State will take to ensure that programs implement effective strategies, including providing ongoing technical assistance and training, evaluation, and dissemination of promising practices;

''(5) describe how activities funded under this subpart will support State academic achievement goals in accordance with section 1111;

''(6) describe how funds under this subpart will be coordinated with programs under this Act, and other programs; as appropriate, in accordance with the provisions of section 8306;

''(7) provides an assurance that funds under this subpart will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this subpart, be made available for programs and activities authorized under this subpart; and in no case supplant such State, local, and other non-Federal funds:

''(8) provides an assurance that the application was developed in consultation and coordination with appropriate State officials, including the chief State school officer, the heads of the State health and mental health agencies or their designees, representatives of teachers, parents, students, the business community, and community-based organizations, including religious organizations;

''(9) describes the results of the State's needs and resources assessment for before and after school activities, which shall be based on the results of on-going State evaluation activities;

''(10) describes how the State will evaluate the effectiveness of programs and activities carried out under this subpart which shall include at a minimum—

''(A) a description of the performance indicators and performance measures that will be used to evaluate programs and activities; and

''(B) public dissemination of the evaluations of programs and activities carried out under this subpart; and

''(11) provides for timely public notice of intent to file application and an assurance that the application will be available for public review after submission of the application.

''(b) GENERAL APPROVAL.—A State application submitted pursuant to subsection (a) shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 90-day period beginning on the date that the Secretary receives the application, that the application is in violation of this subpart.

''(c) DISAPPROVAL.—The Secretary shall not finally disapprove a State application, except after giving the State notice and opportunity for a hearing.

''SEC. 5123. COMPETITIVE GRANT PROGRAM.

''(a) IN GENERAL.—A State that receives funds under this subpart shall provide the amount made available under section 5121 to eligible entities for 21st century community learning programs in accordance with this subpart.

''(b) ELIGIBILITY.—

''(1) IN GENERAL.—To be eligible to receive a subgrant under this subpart, an eligible entity desiring a subgrant shall submit an application to the State that contains—

''(A) a description of the before and after school activity to be funded including—

''(i) an assurance that the program will take place in a safe and easily accessible facility;

''(ii) a description of how students participating in the center will travel safely to and from the community learning center and back home; and

''(iii) a description of how the eligible applicant will disseminate information about the project (including its location) to the community in a manner that is understandable and accessible.

''(B) a description of how the activity is expected to improve student academic performance;

''(C) a description of how the activity will meet the principles of effectiveness described in section 5124;

''(D) an assurance that the program will primarily target students who attend schools eligible for schoolwide programs under section 1114;

''(E) provides an assurance that funds under this subpart will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this subpart, be made available for programs and activities authorized under this subpart; and in no case supplant such State, local, and other non-Federal funds;

''(F) a description of the partnership with local educational agency, a community-based organization, and another public entity or private organization, if appropriate;

''(G) a certification that a meaningful assessment has been conducted to determine community needs, available resources and capacity in the findings of such assessments, and a description of the mechanisms used to provide effective notice to the community of an intention to submit an application under this subpart;

''(H) a description of the applicants experience, or promise of success, in providing educational or related activities that will compliment and enhance the student's academic achievement;

''(I) an assurance that the applicant will develop a plan to continue the activity after funding under this subpart ends;

''(J) an assurance that the application and any waiver request will be available for public review after submission of the application; and

''(K) such other information and assurances as the State may reasonably require.

''(2) ELIGIBLE ENTITY.—An eligible entity under this subpart is a local educational agency, community-based organization, and other public entity or private organization or a consortium of two or more of such groups.

''(c) PEER REVIEW.—In reviewing local applications under this section, a State shall use a peer review process or other methods of assuring the quality of such applications.

''(d) GEOGRAPHIC DIVERSITY.—To the extent practicable, a State shall distribute funds equitably among geographic areas within the State.

''(e) DURATION OF AWARDS.—Grants under this subpart may be awarded for a period of not less than 3 years and not more than 5 years.

''(f) AMOUNT OF AWARDS.—A grant awarded under this subpart may not be made in an amount of less than $50,000.

''(g) PRIORITY.—In making awards under this subpart, the State shall give priority to applications submitted by applicants proposing to target services to students who attend schools that have been identified as in need of improvement under section 1116.

''(h) PERMISSIVE LOCAL MATCH.—

''(1) IN GENERAL.—A State may require an eligible entity to match funds awarded under this subpart, except that such match may not exceed the amount of the grant award.

''(2) SLIDING SCALE.—The amount of a match under paragraph (1) shall be established based on a sliding fee scale that takes into account—

''(A) the relative poverty of the population to be targeted by the eligible entity; and

''(B) the ability of the eligible entity to obtain such matching funds.

''(3) CONSIDERATION.—Notwithstanding this subsection, a State shall not consider an eligible entity's ability to match funds when determining which eligible entities will receive subgrants under this subpart.

''SEC. 5124. LOCAL ACTIVITIES.

''(a) PRINCIPLES OF EFFECTIVENESS.—

''(1) IN GENERAL.—For a program or activity developed pursuant to this subpart to meet the principles of effectiveness, such program or activity shall—

''(A) be based upon an assessment of objective data regarding the need for before and after school programs and activities in such schools and communities;

''(B) be based upon an established set of performance measures aimed at ensuring the availability of quality extended learning opportunities; and

''(C) if appropriate, be based upon scientifically based research that provides evidence that the program will help students meet State and local performance standards to be used.

''(2) PERIODIC EVALUATION.—The program or activity shall undergo a periodic evaluation to assess its progress toward achieving its goal of providing quality extended learning opportunities. The results shall be used to refine, improve, and strengthen the program, and to refine the performance measures. The results shall also be made available to the public upon request, with public notice of such availability provided.

''(3) WAIVER.—A local educational agency may apply to the State for a waiver of the requirement of paragraph (1)(C) to allow innovative activities or programs that demonstrate substantial likelihood of success.

''(b) SERVICES.—Each eligible entity that receives a subgrant under this subpart shall use such funds to establish or expand activities in community learning centers that—

''(1) provide quality extended learning opportunities to help students, particularly students who attend low-performing schools, to meet State and local student performance standards in the core academic subjects, such as reading and mathematics; and

''(2) provide students with additional activities, such as drug and violence prevention programs, art and music programs, technology education programs, recreational activity, and character education programs that are linked to, and reinforce, the regular academic program of schools those students attend.

''(c) AUTHORIZED ACTIVITIES.—Each eligible entity that receives a subgrant under this subpart may use such funds to carry out activities, such as—

''(1) before and after school activities that advance student achievement, including—

''(A) remedial education activities and academic enrichment learning programs, including providing additional assistance to students in order to allow them to improve their academic achievement;

''(B) math and science education activities;

''(C) arts and music education activities;

''(D) entrepreneurial education programs;

''(E) tutoring services (including those provided by senior citizen volunteers) and mentoring programs;

''(F) recreational activities;

''(G) telecommunications and technology education programs;

''(H) expanded library service hours;

''(I) programs that promote parental involvement; and

''(J) programs that provide assistance to students who have been truant, suspended, or expelled to allow them to improve their academic achievement; and

''(2) establishing or enhancing programs or initiatives that improve academic achievement.

''(d) DEFINITION.—For the purpose of this section, a 'community learning center' is an entity that assists students to meet State and local content and student performance standards in core academic subjects, such as reading and mathematics, by providing them with quality extended learning opportunities and related activities (such as drug and violence-prevention programs, art and music programs, recreational programs, technology education programs, and character education programs) that are linked to, and reinforce, the regular academic program of schools attended by the students served and is operated by a local educational agency, community-based organization, other public entity or private organization or a consortium of two or more such groups. Community learning centers shall operate outside school hours, such as before or after school or when school is not in session.

''Subpart 3—National Programs

''SEC. 5131. FEDERAL ACTIVITIES.

''(a) PROGRAM AUTHORIZED.—

''(1) IN GENERAL.—From funds made available to carry out this part under section 5003(3), the Secretary, in consultation with the Secretary of Health and Human Services, the Director of the Office of National Drug Control Policy, and the Attorney General, shall evaluate the effectiveness of programs and activities that prevent violence and the illegal use of drugs by youth, that promote safety and discipline for students in elementary and secondary schools, and that provide before and after school supervision and academic enrichment, based on the needs reported by States and local educational agencies.

''(2) COORDINATION.—The Secretary shall carry out activities described in paragraph (1) directly, or through grants, contracts, or cooperative agreements with public and private nonprofit and for-profit organizations, and individuals, or through agreements with other Federal agencies, and shall coordinate such activities with other appropriate Federal activities.

''(3) PROGRAMS.—Activities described in paragraph (1) may include—

''(A) demonstrations and rigorous scientifically based evaluations of innovative approaches to drug and violence prevention and before and after school activities based on needs reported by State and local educational agencies;

''(B) the provision of information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 501(d)(16) of the Public Health Service Act;

''(C) the provision of information on violence prevention and school safety to the Attorney General for dissemination; and

''(D) continuing technical assistance to chief executive officers, State agencies, and local educational agencies to build capacity to develop and implement high-quality, effective programs consistent with the principles of effectiveness.

''(b) PEER REVIEW.—The Secretary shall use a peer review process in reviewing applications for funds under this section.

''Subpart 4—Gun Possession

''SEC. 5141. GUN-FREE SCHOOL REQUIREMENTS.

''(a) REQUIREMENTS.—

''(1) STATE LAW.—Each State receiving funds under this Act shall—

''(A) have in effect a State law requiring each local educational agency to expel from school for a period of not less than one year a student who is determined to have possessed a firearm in or at a school or on school grounds under the jurisdiction of a local educational agency in that State, except that such State law shall allow the chief administering officer of such local educational agency to modify such expulsion requirement for a student on a case-by-case basis; and

''(B) require each local educational agency to adopt a policy requiring each elementary and secondary school to refer to the criminal justice or juvenile delinquency system any student who possesses a firearm in school.

''(2) CONSTRUCTION.—Nothing in this part shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such student's regular school setting from providing educational services to such student in an alternative setting.

''(b) REPORT TO STATE.—Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under this Act shall provide to the State, in the application requesting such assistance—

''(1) an assurance that such local educational agency is in compliance with the requirements of subsection (a); and

''(2) a description of the circumstances surrounding incidents of possessions and any expulsions imposed under the State law required by subsection (a)(1), including—

''(A) the name of the school concerned;

''(B) the number of students expelled from such school for firearm possession; and

''(C) the type of firearm concerned.

''(c) SPECIAL RULE.—The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act.

''(d) DEFINITIONS.—For the purpose of this subpart—

''(1) the term 'firearm' has the same meaning given to such term under section 921(a)(3) of title 18, United States Code; and

''(2) the term 'school' does not include a home school, regardless of whether a home school is treated as a private school under State law.

"Subpart 5—General Provisions

"SEC. 5151. DEFINITIONS.

''For the purposes of this part, the following terms have the following meanings:

''(1) BEFORE AND AFTER SCHOOL ACTIVITIES.—The term 'before and after school activities' means academic, recreational, and enrichment activities for school-age youth outside of the regular school hours or school year.

''(2) CONTROLLED SUBSTANCE.—The term 'controlled substance' means a drug or other substance identified under Schedule I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

''(3) DRUG.—The term 'drug' includes controlled substances; the illegal use of alcohol and tobacco; and the harmful, abusive, or addictive use of substances, including inhalants and anabolic steroids.

''(4) DRUG AND VIOLENCE PREVENTION.—The term 'drug and violence prevention' means—

''(A) with respect to drugs, prevention, early intervention, rehabilitation referral, or education related to the illegal use of drugs; and

''(B) with respect to violence, the promotion of school safety, such that students and school personnel are free from violent and disruptive acts, on school premises, going to and from school, and at school-sponsored activities, through the creation and maintenance of a school environment that is free of weapons and fosters individual responsibility and respect for the rights of others.

''(5) NONPROFIT.—The term 'nonprofit,' as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

''(6) SCHOOL-AGED POPULATION.—The term 'school-aged population' means the population aged 5 through 17, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

''(7) SCHOOL BASED MENTAL HEALTH SERVICES PROVIDER.—The term 'school based mental health services provider' includes a State licensed or State certified school counselor, school psychologist, school social worker, or other State licensed or certified mental health professional qualified under State law to provide such services to children and adolescents.

''(8) SCHOOL PERSONNEL.—The term 'school personnel' includes teachers, principals, administrators, guidance counselors, social workers, psychologists, nurses, librarians, and other support staff who are employed by a school or who perform services for the school on a contractual basis.

''(9) STATE.—The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 5152. MESSAGE AND MATERIALS.

''(a) 'WRONG AND HARMFUL' MESSAGE.—Drug prevention programs supported under this title shall convey a clear and consistent message that the illegal use of drugs is wrong and harmful.

''(b) CURRICULUM.—The Secretary shall not prescribe the use of specific curricula for programs supported under this part.

"SEC. 5153. PARENTAL CONSENT.

''Upon receipt of written notification from the parents or legal guardians of a student, the local educational agency shall withdraw such student from any program or activity funded under this title. The local educational agency shall make reasonable efforts to inform parents or legal guardians of the content of such programs or activities funded under this title, other than classroom instruction.

"SEC. 5154. PROHIBITED USES OF FUNDS.

''No funds under this part may be used for—

''(1) construction (except for minor remodeling needed to accomplish the purposes of this part); or

''(2) medical services, drug treatment or rehabilitation, except for pupil services or referral to treatment for students who are victims of, or witnesses to, use of drugs or crime.

"PART B—ENHANCING EDUCATION THROUGH TECHNOLOGY

"SEC. 5201. SHORT TITLE.

''This part may be cited as the 'Enhancing Education Through Technology Act of 2001'.

"SEC. 5202. PURPOSES.

''The purposes of this part are as follows:

''(1) To provide assistance to States and localities for implementing innovative technology initiatives that lead to increased student academic achievement and that may be evaluated for effectiveness and replicated if successful.

''(2) To encourage the establishment or expansion of initiatives, including those involving public-private partnerships, designed to increase access to technology, particularly in high-need local educational agencies.

''(3) To assist States and localities in the acquisition, development, interconnection, implementation, improvement, and maintenance of an effective educational technology infrastructure in a manner that expands access to technology for students (particularly for disadvantaged students) and teachers.

''(4) To promote initiatives that provide school teachers, principals, and administrators with the capacity to effectively integrate technology into curriculum that is aligned with challenging State academic content and student academic achievement standards, through such means as high quality professional development programs.

''(5) To enhance the ongoing professional development of teachers, principals, and administrators by providing constant access to updated research in teaching and learning via electronic means.

''(6) To support the development of electronic networks and other innovative methods, such as distance learning, of delivering challenging courses and curricula for students who would otherwise not have access to such courses and curricula, particularly in geographically remote regions.

''(7) To support the rigorous evaluation of programs funded under this part, particularly the impact of such initiatives on student academic performance, and ensure that timely information on the results of such evaluations is widely accessible through electronic means.

''(8) To support local efforts for the use of technology to promote parent and family involvement in education and communication among students, parents, teachers, principals, and administrators.

"SEC. 5203. AUTHORIZATION OF APPROPRIATIONS; FUNDING RULE.

''(a) IN GENERAL.—There are authorized to be appropriated—

''(1) to carry out subparts 1 and 2 of this part—

''(A) $1,000,000,000 for fiscal year 2002; and

''(B) such sums as may be necessary for each of fiscal years 2003 through 2006; and

''(2) to carry out subpart 3 of this part—

''(A) $24,500,000 for fiscal year 2002; and

''(B) such sums as may be necessary for each of fiscal years 2003 through 2006.

''(b) ALLOCATION OF FUNDS BETWEEN NATIONAL AND STATE AND LOCAL INITIATIVES.—The amount of funds made available under subsection (a) shall be allocated as follows:

''(1) Not less than 95 percent shall be made available for State and local technology initiatives under subpart 1.

''(2) Not more than 5 percent may be made available for activities of the Secretary under subpart 2, of which not more than $15,000,000 may be used for the study required by section 5221(a)(1).

"SEC. 5204. DEFINITIONS.

''In this part:

''(1) The term 'distance learning' means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications.

''(2) The term 'eligible local entity' means—

''(A) a high-need local educational agency; or

''(B) an eligible local partnership.

''(3) The term 'eligible local partnership' means a partnership that includes at least one high-need local educational agency and at least one—

''(A) local educational agency that can demonstrate that teachers in schools served by that agency are effectively integrating technology and proven teaching practices into instruction, based on scientifically based research, that result in improvement in—

''(i) classroom instruction in the core academic subject areas; and

''(ii) the preparation of students to meet challenging State academic content and student academic achievement standards;

''(B) institution of higher education that is in full compliance with the reporting requirements of section 207(f) of the Higher Education Act of 1965 (20 U.S.C. 1027(f)) and that has not been identified by its State as low-performing under section 208 of such Act (20 U.S.C. 1028);

''(C) for-profit business or organization that develops, designs, manufactures, or produces technology products or services, or has substantial expertise in the application of technology; or

''(D) public or private nonprofit organization with demonstrated experience in the application of educational technology.

''(4) The term 'high-need local educational agency' means a local educational agency that—

''(A) is among the local educational agencies in the State with the highest numbers or percentages of children from families with incomes below the poverty line, as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2));

''(B) includes one or more schools identified under section 1116; and

''(C) has a substantial need for assistance in acquiring and using technology.

"Subpart 1—State and Local Technology for Success Grants

"SEC. 5211. DETERMINATION OF AMOUNT OF STATE ALLOTMENT.

''(a) IN GENERAL.—Except as otherwise provided in this subpart, each State shall be eligible to receive a grant under this subpart for a fiscal year in an allotment determined as follows:

''(1) 50 percent shall bear the same relationship to the amount made available under section 5203(b)(1) for such year as the amount such State received under part A for title I for such year bears to the amount received for such year under such part by all States.

''(2) 50 percent shall be determined on the basis of the State's relative population of individuals age 5 through 17, as determined by the Secretary on the basis of the most recent satisfactory data.

''(b) RESERVATION OF FUNDS FOR BUREAU OF INDIAN AFFAIRS AND OUTLYING AREAS.—Of the amount made available to carry out this subpart under section 5203(b)(1) for a fiscal year—

''(1) the Secretary shall reserve ½ of 1 percent for the Secretary of the Interior for programs under this subpart for schools operated or funded by the Bureau of Indian Affairs; and

''(2) the Secretary shall reserve ½ of 1 percent to provide assistance under this subpart to the outlying areas.

''(c) MINIMUM ALLOTMENT.—The amount of any State's allotment under subsection (a) for any fiscal year may not be less than ½ of 1 percent of the amount made available under section 5203(b)(1) for such year.

''(d) REALLOTMENT OF UNUSED FUNDS.—If any State does not apply for an allotment under this subpart for a fiscal year, or does not use its entire allotment for that fiscal year, the Secretary shall reallot the amount of the State's allotment, or the unused portion thereof, to the remaining States in accordance with this section.

''SEC. 5212. USE OF ALLOTMENT BY STATE.

''(a) IN GENERAL.—Of the amount provided to a State from its allotment under section 5211—

''(1) the State may use not more than 5 percent to carry out activities under section 5215; and

''(2) subject to subsection (b), not less than 95 percent shall be distributed by the State as follows:

''(A) 60 percent of such amount shall—

''(i) be awarded to local educational agencies that have submitted applications to the State under section 5214 (which, in the case of a local educational agency that is an eligible local entity, may be combined with an application for funds awarded under subparagraph (B)), in an amount that bears the same relationship to the amount made available under section 5211(a) for such year as the amount such local educational agency received under part A of title I for such year bears to the amount received for such year under such part by all local educational agencies within the State; and

''(ii) be used for the activities described in section 5216.

''(B) 40 percent of such amount shall be awarded through a State-determined competitive process to eligible local entities that have submitted applications to the State under section 5214 (which, in the case of an eligible local entity that is a local educational agency, may be combined with an application for funds provided under subparagraph (A)), to be used to carry out activities consistent with activities described in section 5216.

''(b) CONTINUATION OF AWARDS.—Notwithstanding section 3 of the No Child Left Behind Act of 2001, a State shall make continuation awards on multiyear grants awarded by the State under section 3132(a)(2) (as in effect on the day preceding the date of enactment of such Act) from the funds described in subsection (a)(2) for the shorter of—

''(1) the duration of the original grant period; or

''(2) two years after the date of enactment of such Act.

''SEC. 5213. STATE APPLICATIONS.

''(a) IN GENERAL.—To be eligible to receive a grant under this subpart, a State shall submit an application to the Secretary containing a new or updated statewide, long-range strategic educational technology plan (which shall consider the educational technology needs of local educational agencies), and such other information as the Secretary may reasonably require, at such time and in such manner as the Secretary may specify.

''(b) CONTENTS.—Each State application submitted under this section shall include the following:

''(1) A description of how the State will use funds provided under this subpart to improve the academic achievement of all students and to improve the capacity of all teachers to provide instruction in the State through the use of education technology.

''(2) A description of the State's goals for using advanced technology to improve student achievement aligned to challenging State academic content and student academic achievement standards.

''(3) A description of how the State will take steps (including through public and private partnerships) to ensure that all students and teachers in the State, particularly those residing or teaching in districts served by high-need local educational agencies, will have increased access to educational technology.

''(4) A description of—

''(A) how the State will ensure that ongoing integration of technology into instructional strategies and school curricula in all schools in the State so that technology will be fully integrated into those schools by December 31, 2006; and

''(B) the process and accountability measures the State will use for the evaluation of such integration, including whether such integration—

''(i) has increased the ability of teachers to teach effectively; and

''(ii) has enabled students to meet challenging State academic content and student academic achievement standards.

''(5) A description of how the State will encourage the development and utilization of innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology and distance learning, particularly for those areas of the State that would not otherwise have access to such courses and curricula due to geographical isolation or insufficient resources.

''(6) An assurance that financial assistance provided under this subpart shall supplement, not supplant, State and local funds.

''(7) A description of how the State will ensure that every teacher and principal within a school funded under this subpart will be computer-literate and proficient (as determined by the State) by December 31, 2006.

''(8) A description of how the State will ensure that each grant under section 5212(a)(2)(B) to an eligible local applicant is of sufficient duration, size, scope, and quality to carry out the purposes of this part effectively.

''(9) A description of how the State educational agency will provide technical assistance to eligible local applicants, and its capacity for providing such assistance, including developing public and private partnerships under this part.

''(c) DEEMED APPROVAL.—A State application submitted to the Secretary under this section shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 90-day period that begins on the date the Secretary receives the complete application, that the application does not reasonably meet the purposes of this subpart.

''(d) DISAPPROVAL.—The Secretary may issue a final disapproval of a State's application under this subpart only after giving the State notice and an opportunity for a hearing.

''(e) DISSEMINATION OF INFORMATION ON STATE APPLICATIONS.—The Secretary shall make information on State applications under this subpart widely available to schools and the general public, including through dissemination on the Internet, in a timely and user-friendly manner.

''SEC. 5214. LOCAL APPLICATIONS.

''(a) IN GENERAL.—An applicant seeking to receive funds from a State under this subpart shall submit to the State an application containing a new or updated long-range local strategic educational technology plan consistent with the objectives of the statewide education technology plan described in section 5213(a), and such other information as the State may reasonably require, at such time, and in such manner as the State may specify.

''(b) CONTENTS OF LOCAL APPLICATION.—Each local application described in this section shall include the following:

''(1) A description of how the applicant will use Federal funds provided under this subpart to improve the academic achievement of all students and to improve the capacity of all teachers to provide instruction through the use of education technology.

''(2) A description of the applicant's specific goals for using advanced technology to improve student achievement aligned to challenging State academic content and student academic achievement standards.

''(3) A description of—

''(A) how the applicant will take steps to ensure that all students and teachers in schools served by the local educational agency (particularly those in high-poverty and high-need schools) have increased access to educational technology; and

''(B) how such technology will be used to improve the academic achievement for such students.

''(4) A description of how the applicant will promote—

''(A) the utilization of teaching strategies and curricula, based on scientifically based research, which effectively integrate technology into instruction, leading to improvements in student academic achievement as measured by challenging State academic content and student academic achievement standards; and

''(B) sustained and intensive, high-quality professional development consistent with section 2033 (as applicable), based on scientifically based research, which increases teacher and principal capacity to create improved learning environments through the integration of technology into instruction through proven strategies and improved content as described in subparagraph (A).

''(5) A description of how the applicant will integrate technology across the curriculum and a time line for such integration, including a description of how the applicant will make effective use of new and emerging technologies and teaching practices that are linked to such emerging technologies to provide challenging content and improved classroom instruction.

''(6) A description of how the applicant will coordinate education technology activities funded under this subpart, including professional development, with any such activities provided under other Federal, State, and local programs, including those authorized under title I, title II, title IV, and the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) and the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.).

''(7) A description of the accountability measures and process the applicant will use for the evaluation of the extent to which funds provided under this subpart were effective in integrating technology into school curriculum, increasing the ability of teachers to teach, and enabling students to meet challenging State academic content and student academic achievement standards.

''(8) A description of how the applicant will encourage the development and utilization of innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology and distance learning, particularly for those areas that would not otherwise have access to such courses and curricula due to geographical isolation or insufficient resources.

''(9) A description of what steps the applicant has taken, or will take, to comply with section 5205(a)(1).

''(10) If requested by the State—

''(A) a description of how the applicant will use funds provided under this subpart in a manner that is consistent with any statewide education technology priorities that may be established by the State consistent with this subpart; and

''(B) an assurance that any technology obtained with funds provided under this subpart will have compatibility and interconnectivity

with technology obtained with funds provided previously under title III (as in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001), as appropriate.

"SEC. 5215. STATE ACTIVITIES.

''(a) IN GENERAL.—From funds made available under section 5212(a)(1), a State shall carry out activities and assist local efforts to carry out the purposes of this subpart, which may include the following activities:

''(1) Developing, or assisting applicants in the development and utilization of, innovative strategies to deliver rigorous academic programs through the use of technology and distance learning, and providing other technical assistance to such applicants throughout the State, with a priority to high-need local educational agencies.

''(2) Establishing or supporting public-private initiatives, such as interest-free or reduced-cost loans for the acquisition of educational technology for high-need local educational agencies and students attending schools served by such agencies.

''(3) Assisting applicants in providing sustained and intensive, high-quality professional development based on scientifically based research in the integration of advanced technologies (including emerging technologies) into curriculum and in using those technologies to create new learning environments, including training in the use of technology to—

''(A) access data and resources to develop curricula and instructional materials;

''(B) enable teachers—

''(i) to use the Internet to communicate with parents, other teachers, principals, and administrators; and

''(ii) to retrieve Internet-based learning resources; and

''(C) lead to improvements in classroom instruction in the core academic subject areas, which effectively prepare students to meet challenging State academic content and student academic achievement standards.

''(4) Assisting applicants in providing all students (including students with disabilities and students with limited English proficiency) and teachers with access to educational technology.

''(5) Establishing or expanding access to technology in areas served by high-need local educational agencies, with special emphasis on access provided through technology centers in partnership with libraries and with the support of the private sector.

''(6) Developing enhanced performance measurement systems to determine the effectiveness of education technology programs funded under this subpart, particularly in determining the extent to which education technology funded under this subpart has been successfully integrated into teaching strategies and school curriculum, has increased the ability of teachers to teach, and has enabled students to meet challenging State academic content and student academic achievement standards.

''(7) Collaborating with other States on distance learning, including making advanced courses available to students who would otherwise not have access to such courses.

''(b) LIMITATION ON ADMINISTRATIVE COSTS.—Of the 5 percent of the State's allotment under section 5211 which may be used to carry out activities under this section, not more than 40 percent may be used by the State for administrative costs.

"SEC. 5216. LOCAL ACTIVITIES.

''(a) PROFESSIONAL DEVELOPMENT.—A recipient of funds made available under section 5212(a)(2)(A) shall use not less than 20 percent of such funds to provide sustained and intensive, high-quality professional development, consistent with section 2033 (as applicable), based on scientifically based research in the integration of advanced technologies (including emerging technologies) into curriculum and in using those technologies to create new learning environments, including professional development in the use of technology to—

''(1) access data and resources to develop curricula and instructional materials;

''(2) enable teachers—

''(i) to use the Internet to communicate with parents, other teachers, principals, and administrators; and

''(ii) to retrieve Internet-based learning resources; and

''(3) lead to improvements in classroom instruction in the core academic subject areas, which effectively prepare students to meet challenging State academic content and student academic achievement standards.

''(b) WAIVER.—Subsection (a) does not apply to a recipient of funds under section 5212(a)(2)(A) that demonstrates, to the satisfaction of the State, that such recipient already provides sustained and intensive, high-quality professional development based on scientifically based research in the integration of technology (including emerging technologies) into the curriculum.

''(c) OTHER ACTIVITIES.—In addition to the activities described in subsection (a), a recipient of funds distributed by a State under section 5212(a)(2)(A) shall use such funds to carry out other activities consistent with this subpart, which may include the following:

''(1) Adapting or expanding existing and new applications of technology to enable teachers to increase student academic achievement through the use of teaching practices and advanced technologies that are based on scientifically based research and are designed to prepare students to meet challenging State academic content and student academic achievement standards, and for developing and utilizing innovative strategies to deliver rigorous academic programs.

''(2) Expanding, acquiring, implementing, applying, and maintaining education technology as a means to improve the academic achievement of all students.

''(3) The establishment or expansion of initiatives, particularly those involving public-private partnerships, designed to increase access to technology for students and teachers, with special emphasis on the access of high-need local educational agencies to technology.

''(4) Using technology to promote parent and family involvement, and support communications between students, parents, and teachers.

''(5) Acquiring proven and effective curricula that include integrated technology and are designed to help students achieve challenging State academic content and student academic achievement standards.

''(6) Using technology to collect, manage, and analyze data to inform school improvement efforts.

''(7) Implementing enhanced performance measurement systems to determine the effectiveness of education technology programs funded under this subpart, particularly in determining the extent to which education technology funded under this subpart has been successfully integrated into teaching strategies and school curriculum, has increased the ability of teachers to teach, and has enabled students to meet challenging State academic content and student academic achievement standards.

''(8) Preparing one or more teachers in elementary and secondary schools as technology leaders who are provided with the means to serve as experts and train other teachers in the effective use of technology.

''(9) Establishing or expanding access to technology in areas served by high-need local educational agencies, with special emphasis for access provided through technology centers in partnership with libraries and with the support of the private sector.

"Subpart 2—National Technology Activities

"SEC. 5221. NATIONAL ACTIVITIES.

''(a) IN GENERAL.—Using funds made available under section 5203(b)(2), the Secretary—

''(1) shall—

''(A) conduct an independent, long-term study, utilizing scientifically based research methods and control groups, on the effect of educational technology on improving student academic achievement;

''(B) include in the study an identification of uses of educational technology (including how teachers can integrate technology into the curricula) that have a measurable positive impact on student achievement;

''(C) establish an independent review panel to advise the Secretary on methodological and other issues that arise in conducting this long-term study; and

''(D) submit to the Congress interim reports, when appropriate, and a final report, to be submitted not later than 6 months before the end of fiscal year 2006, on the findings of the study;

''(2) may fund national technology initiatives that are supported by scientifically based research and utilize technology in education, through the competitive award of grants or contracts, pursuant to a peer review process, to States, local educational agencies, eligible local entities, institutions of higher education, public agencies, and private nonprofit or for-profit agencies; and

''(3) may provide technical assistance (directly or through the competitive award of grants or contracts) to States, local educational agencies, and other recipients of funds under this part in order to assist such States, local educational agencies, and other recipients to achieve the purposes of this part.

''(b) NATIONAL TECHNOLOGY INITIATIVES.—

''(1) USE OF FUNDS.—In funding national technology initiatives under subsection (a)(2), the Secretary—

''(A) shall place a priority on projects that—

''(i) develop innovative models using electronic networks or other forms of distance learning to provide challenging courses that are otherwise not readily available to students in a particular school district, particularly in rural areas; or

''(ii) increase access to technology to students served by high-need local educational agencies; and

''(B) shall, in order to identify effective uses of educational technology that have a measurable positive impact on student achievement and as specified in paragraph (3)—

''(i) develop tools and provide resources and support, including technical assistance, for recipients of funds under subsection (a)(2) to effectively evaluate their activities; and

''(ii) disseminate the evaluations made under paragraph (2)(A)(ii).

''(2) REQUIREMENTS FOR RECIPIENTS OF FUNDS.—

''(A) APPLICATION.—In order to receive a grant or contract under subsection (a)(2), an entity shall submit an application to the Secretary (at such time and in such form as the Secretary may require), and shall include in the application—

''(i) a description of the project proposed to be carried out with the grant or contract and how it would carry out the purposes of subsection (a)(2); and

''(ii) a detailed plan for an independent evaluation, supported by scientifically based research principles, of the project to determine the impact on the academic achievement of students served under such project, as measured by challenging State academic content and student academic achievement standards.

''(B) NON-FEDERAL SHARE.—

''(i) IN GENERAL.—Subject to clauses (ii) and (iii), the Secretary may require any recipient of a grant or contract under subsection (a)(2) to share in the cost of the activities assisted under such grant or contract, which may be in the form of cash or in-kind contributions, fairly valued.

''(ii) INCREASE.—The Secretary may increase the non-Federal share required of a recipient of

a grant or contract under subsection (a)(2) after the first year such recipient receives funds under such grant or contract.

''(iii) MAXIMUM.—The non-Federal share required under this subsection may not exceed 50 percent of the cost of the activities assisted under a grant or contract under this subpart.

''(iv) NOTICE.—The Secretary shall publish, in the Federal Register, the non-Federal share required under this subparagraph.

''(3) EVALUATION AND DISSEMINATION.—The Secretary shall make information on each project funded with a grant or contract under subsection (a)(2) widely available to schools and the general public, including through dissemination on the Internet, in a timely and user-friendly manner. This information shall, at a minimum, include—

''(A) upon the awarding of such a grant or contract under subsection (a)(2), the identification of the grant or contract recipient, the amount of the grant or contract, the stated goals of the grant or contract, the methods by which the grant or contract will be evaluated in meeting such stated goals, and the timeline for meeting such goals;

''(B) not later than 3 months after the completion of the first year of the project period, information on the progress of the grant or contract recipient in carrying out the grant or contract, including a detailed description of the use of the funds provided, the extent to which the stated goals have been reached, and the results (or progress of) the evaluation of the project; and

''(C) not later than 3 months after the completion of the second year of the project period (and updated thereafter as appropriate), a followup to the information described in subparagraph (B).

"Subpart 3—Ready to Learn, Ready to Teach

"SEC. 5231. READY TO LEARN TELEVISION.

''(a) PROGRAM AUTHORIZED.—

''(1) IN GENERAL.—The Secretary shall award grants to or enter into contracts or cooperative agreements with eligible entities described in paragraph (3) to—

''(A) develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents in order to facilitate student academic achievement;

''(B) facilitate the development (directly or through contracts with producers of children and family educational television programming) of educational programming for preschool and elementary school children and accompanying support materials and services that directly promote the effective use of such programming;

''(C) facilitate the development of programming and digital content especially designed for nationwide distribution over digital broadcasting channels and the Internet, containing Ready to Learn-based children's programming and resources for parents and caregivers;

''(D) enable such entities to contract with other entities (such as public telecommunications entities) so that programs under this section are disseminated and distributed by the most appropriate distribution technologies to the widest possible audience appropriate to be served by the programming; and

''(E) develop and disseminate training and support materials, including interactive programs and programs adaptable to distance learning technologies which are designed to—

''(i) promote school readiness; and

''(ii) promote the effective use of programming developed under subparagraphs (B) and (C) among parents, Head Start providers, Even Start and providers of family literacy services, child care providers, early childhood development personnel, and elementary school teachers, public libraries, and after school program personnel caring for preschool and elementary school children.

''(2) AVAILABILITY.—In making grants, contracts, or cooperative agreements under this subsection, the Secretary shall ensure that recipients increase the effective use of the programming under this section by making it widely available with support materials, as appropriate, to young children, their parents, child care workers, Head Start providers, Even Start and providers of family literacy services.

''(3) ELIGIBLE ENTITIES DESCRIBED.—In this section, an 'eligible entity' means a nonprofit entity (including a public telecommunications entity) which is able—

''(A) to demonstrate a capacity for the development and national distribution of educational and instructional television programming of high quality which is accessible by a large majority of disadvantaged preschool and elementary school children; and

''(B) to demonstrate—

''(i) a capacity to contract with the producers of children's television programming for the purpose of developing educational television programming of high quality which is accessible by a large majority of disadvantaged preschool and elementary school children, and

''(ii) consistent with the entity's mission and nonprofit nature, a capacity to negotiate such contracts in a manner which returns to the entity an appropriate share of any ancillary income from sales of any program-related products.

''(4) CAP ON ADMINISTRATIVE COSTS.—An entity receiving a grant, contract, or cooperative agreement from the Secretary under this subsection may not use more than 5 percent of the amounts received under the grant, contract, or cooperative agreement for the expenses of administering the grant, contract, or cooperative agreement.

''(5) COORDINATION OF ACTIVITIES.—An entity receiving a grant, contract, or cooperative agreement from the Secretary under this subsection shall work with the Secretary and the Secretary of Health and Human Services to—

''(A) maximize the utilization by preschool and elementary school children of the programming under this section and to make such programming widely available to federally funded programs serving such populations; and

''(B) coordinate with Federal programs that have major training components for early childhood development (including Head Start, Even Start, family literacy services, and State training activities funded under the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.)) regarding the availability and utilization of materials developed with funds provided under this section to enhance parent and child care provider skills in early childhood development and education.

''(b) APPLICATIONS.—Any entity desiring a grant, contract, or cooperative agreement under subsection (a) shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

''(c) REPORT AND EVALUATION..—

''(1) ANNUAL REPORT BY GRANT RECIPIENTS TO SECRETARY.—Each entity receiving funds under this section shall prepare and submit to the Secretary an annual report which contains such information as the Secretary may require. At a minimum, the report shall describe the program activities undertaken with funds received under this section, including information regarding—

''(A) the programming that has been developed directly or indirectly by the entity and the target population of the programs developed;

''(B) the support and training materials that have been developed to accompany the programming and the method by which such materials are distributed to consumers and users of the programming;

''(C) the means by which the programming has been distributed, including the distance learning technologies that have been utilized to make programming available and the geographic distribution achieved through such technologies; and

''(D) the initiatives undertaken by the entity to develop public-private partnerships to secure non-Federal support for the development and distribution and broadcast of educational and instructional programming.

''(2) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the relevant committees of Congress a biannual report on the activities funded and carried out under this section, and shall include in the report—

''(A) a summary of the programming developed using funds provided under this section; and

''(B) a description of the training materials developed using funds provided under this section, the manner in which outreach has been conducted to inform parents and child care providers of the availability of such materials, and the manner in which such materials have been distributed.

''(d) FUNDING RULE.—Not less than 60 percent of the amounts authorized to be appropriated under section 5233 for any fiscal year shall be used to carry out subparagraphs (B) and (C) of subsection (a)(1).

"SEC. 5232. TELECOMMUNICATIONS PROGRAM.

''(a) IN GENERAL.—The Secretary may carry out any of the following activities:

''(1) Awarding grants to a nonprofit telecommunications entity (or a partnership of such entities) for the purpose of carrying out a national telecommunications-based program to improve the teaching of core academic subjects and to assist elementary and secondary school teachers in preparing all students to achieve State academic content standards.

''(2) Awarding grants to or entering into contracts or cooperative agreements with a local public telecommunications entity to develop, produce, and distribute educational and instructional video programming which is designed for use by elementary and secondary school students, created for or adaptable to State academic content standards, and capable of distribution through digital broadcasting and school digital networks.

''(b) APPLICATIONS.—

''(1) IN GENERAL.—Any telecommunications entity or partnership of such entities desiring a grant under this section shall submit an application to the Secretary.

''(2) SPECIFIC REQUIREMENTS FOR NATIONAL TELECOMMUNICATIONS-BASED PROGRAM.—Each application for a grant under subsection (a)(1) shall—

''(A) demonstrate that the applicant will use the existing publicly funded telecommunications infrastructure, the Internet, and school digital networks (where available) to deliver video, voice, and data in an integrated service to train teachers in the use of materials and learning technologies for achieving State academic content standards;

''(B) assure that the program for which assistance is sought will be conducted in cooperation with States as appropriate, local educational agencies, and State or local nonprofit public telecommunications entities;

''(C) assure that a significant portion of the benefits available for elementary and secondary schools from the program for which assistance is sought will be available to schools of local educational agencies which have a high percentage of children counted for the purpose of part A of title I; and

''(D) contain such additional assurances as the Secretary may reasonably require.

''(c) APPROVAL OF APPLICATIONS; NUMBER OF DEMONSTRATION SITES.—In approving applications under this section, the Secretary shall assure that—

''(1) the national telecommunications-based program under subsection (a)(1) is conducted at elementary and secondary school sites in at least 15 States; and

''(2) grants under subsection (a)(2) are awarded on a competitive basis and for a period of 3 years to entities which—

''(A) enter into multiyear collaborative arrangements for content development with State

educational agencies, local educational agencies, institutions of higher education, businesses, or other agencies and organizations, and

''(B) contribute non-Federal matching funds (including funds provided for transitions to digital broadcasting as well as in-kind contributions) to the activities assisted with the grant in an amount not less than 100 percent of the amount of the grant.

''PART C—CHARACTER EDUCATION

''SEC. 5301. CHARACTER EDUCATION PROGRAM.

''(a) PROGRAM AUTHORIZED.—

''(1) IN GENERAL.—The Secretary may make grants to State educational agencies, local educational agencies, or consortia of such agencies for the design and implementation of character education programs that—

''(A) can be integrated into State academic content standards for the core academic subjects; and

''(B) can be carried out in conjunction with other educational reform efforts.

''(2) DURATION.—Each grant under this section shall be made for a period not to exceed 5 years, of which the grant recipient may not use more than 1 year for planning and program design.

''(b) CONTRACTS UNDER PROGRAM.—

''(1) EVALUATION.—Each agency or consortium receiving assistance under this section may contract with outside sources, including institutions of higher education and private and nonprofit organizations (including religious organizations), for the purposes of—

''(A) evaluating the program for which the assistance is made available;

''(B) measuring the integration of such program into the curriculum and teaching methods of schools where the program is carried out; and

''(C) measuring the success of such program in fostering the elements of character selected by the recipient under subsection (c)(1).

''(2) MATERIALS AND PROGRAM DEVELOPMENT.—Each agency or consortium receiving assistance under this section may contract with outside sources, including institutions of higher education and private and nonprofit organizations (including religious organizations), for assistance in—

''(A) developing secular curricula, materials, teacher training, and other activities related to character education; and

''(B) integrating secular character education into the curriculum and teaching methods of schools where the program is carried out.

''(c) ELEMENTS OF CHARACTER.—

''(1) SELECTION.—

''(A) IN GENERAL.—Each agency or consortium receiving assistance under this section may select the elements of character that will be taught under the program for which the assistance is made available.

''(B) CONSIDERATION OF VIEWS.—In selecting elements of character under paragraph (1), the agency or consortium shall consider the views of the parents or guardians of the students to be taught under the program.

''(2) EXAMPLE ELEMENTS.—Elements of character selected under this subsection may include any of the following:

''(A) Trustworthiness.

''(B) Respect.

''(C) Responsibility.

''(D) Fairness.

''(E) Caring.

''(F) Citizenship.

''(G) Giving.

''(d) APPLICATION.—

''(1) IN GENERAL.—Each agency or consortium seeking assistance under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

''(2) REQUIRED INFORMATION.—Each application for assistance under this section shall include information that—

''(A) demonstrates that the program for which the assistance is sought has clear goals and objectives that are based on scientifically based research;

''(B) describes the activities that will be carried out with the assistance and how such activities will meet the goals and objectives described in paragraph (1); and

''(C) describes how the program for which the assistance is sought will be linked to other efforts to improve educational achievement, including—

''(i) broader educational reforms that are being instituted by the applicant or its partners; and

''(ii) applicable State academic content standards for student achievement.

''(e) SELECTION OF RECIPIENTS.—

''(1) PEER REVIEW.—

''(A) IN GENERAL.—In selecting agencies or consortia to receive assistance under this section from among the applicants for such assistance, the Secretary shall use a peer review process that includes the participation of experts in the field of character education.

''(B) USE OF FUNDS.—The Secretary may use funds appropriated under this section for the cost of carrying out peer reviews under this paragraph.

''(2) SELECTION CRITERIA.—Each selection under paragraph (1) shall be made on the basis of the quality of the application submitted, taking into consideration such factors as—

''(A) the extent of parental, student, and community involvement in the program; and

''(B) the likelihood that the goals of the program will be realistically achieved.

''(3) EQUITABLE DISTRIBUTION.—In making selections under this subsection, the Secretary shall ensure, to the extent practicable under paragraph (2), that the programs assisted under this section are equitably distributed among the geographic regions of the United States, and among urban, suburban, and rural areas.

''(f) EVALUATIONS.—

''(1) IN GENERAL.—As a condition of receiving assistance under this section, the Secretary shall require each agency or consortium receiving such assistance to transmit to the Secretary, not later than 5 years after such receipt, a report containing an evaluation of each program assisted.

''(2) ATTAINMENT OF GOALS AND OBJECTIVES.—In conducting an evaluation referred to in paragraph (1), each agency or consortium shall evaluate the degree to which each program for which assistance was made available attained the goals and objectives for the program as described in the application for assistance submitted under subsection (d).

''(3) DISSEMINATION.—The Secretary shall—

''(A) make each evaluation received under this subsection publicly available; and

''(B) provide public notice (through such means as the Internet, the media, and public agencies) of the availability of each such evaluation after it is received by the Secretary.

''(g) MATCHING FUNDS.—As a condition of receiving assistance under this section, the Secretary may require that each agency or consortium receiving such assistance provide matching funds from non-Federal sources.

''SEC. 5302. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part $25,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.''.

''PART D—ELEMENTARY AND SECONDARY SCHOOL COUNSELING PROGRAMS

''SEC. 5401. ELEMENTARY AND SECONDARY SCHOOL COUNSELING PROGRAMS.

''(a) FINDINGS.—Congress finds as follows:

''(1) The Surgeon General reported in January 2001 that 1 in 10 children suffer from mental illnesses severe enough to impair development and fewer than 1 in 5 children get treatment for mental illnesses.

''(2) The Surgeon General reported that the burden of suffering by children with mental health needs and their families has created a health crisis in this country. Growing numbers of children are suffering needlessly because their emotional, behavioral, and developmental needs are not being met by the very institutions and systems that were created to take care of them.

''(3) As a result of the concern about the failure of the healthcare system to reach children and adolescents with mental illnesses, there is currently great interest in developing new models for the delivery of mental health and counseling services that can reach underserved groups efficiently.

''(4) Schools are a sensible point of intervention because of their central position in many children's lives and development, especially when families are unable to assume a leading role.

''(5) School-based mental health and counseling services allow for the identification of children in need of treatment much earlier in their development.

''(6) Establishing mental health and counseling services in schools provides access to underserved youth with or at risk of emotional or behavioral problems.

''(7) The Surgeon General's 2000 report on youth violence concludes that effective treatment can divert a significant proportion of delinquent and violent youths from future violence and crime.

''(8) Mental health and counseling services can play an important role in violence prevention on all levels, including preventing problem behaviors from developing; identifying and serving specific, at-risk populations; and reducing the deleterious effects of violence on victims and witnesses.

''(9) An evaluation of the model program for the elementary school counseling demonstration program established pursuant to this section prior to the date of enactment of the Elementary and Secondary Counseling Improvement Act of 2001 found that the number of referrals to the principal's office decreased by nearly half, the use of force, weapons, and threatening of others also decreased, school suspensions were reduced, and students felt safer.

''(10) The report produced by the Institute of Medicine, 'Schools and Health: Our Nation's Investment', recommended a student-to-school counselor ratio of 250:1, student-to-school psychologist ratio of 1000:1, and a student-to-school social worker ratio of 800:1. The United States average student-to-counselor ratio is 551:1. Ratios for school psychologists and school social workers also exceed the recommended levels.

''(b) GRANTS AUTHORIZED.—

''(1) IN GENERAL.—The Secretary may use funds provided under this section to award grants to local educational agencies to enable such agencies to establish or expand elementary and secondary school counseling programs which meet the requirements of subsection (c).

''(2) PRIORITY.—In awarding grants under this section, the Secretary shall give special consideration to applications describing programs which—

''(A) demonstrate the greatest need for new or additional counseling services among children in the schools served by the applicant, in part, by providing information on current ratios of students to school counselors, students to school social workers, and students to school psychologists;

''(B) propose the most promising and innovative approaches for initiating or expanding school counseling; and

''(C) show the greatest potential for replication and dissemination.

''(3) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall ensure an equitable geographic distribution among the regions of the United States and among urban, suburban, and rural local educational agencies.

''(4) DURATION.—A grant under this section shall be awarded for a period not to exceed 3 years.

''(5) MAXIMUM GRANT.—A grant awarded under this program shall not exceed $400,000 for any fiscal year.

''(6) SUPPLEMENT.—Assistance made available under this section shall be used to supplement, and may not supplant, other Federal, State, or local funds used for providing school-based counseling and mental health services to students.

''(c) REQUIREMENTS FOR COUNSELING PROGRAMS.—Each program funded under this section shall—

''(1) be comprehensive in addressing the counseling and educational needs of all students;

''(2) use a developmental, preventive approach to counseling;

''(3) increase the range, availability, quantity, and quality of counseling services in the elementary and secondary schools of the local educational agency;

''(4) expand counseling services through qualified school counselors, school psychologists, school social workers, and child and adolescent psychiatrists;

''(5) use innovative approaches to increase children's understanding of peer and family relationships, work and self, decisionmaking, or academic and career planning, or to improve peer interaction;

''(6) provide counseling services in settings that meet the range of needs of students;

''(7) include inservice training, including training for teachers in appropriate identification and intervention techniques for disciplining and teaching students at risk of violent behavior, by school counselors, school psychologists, school social workers, and child and adolescent psychiatrists;

''(8) involve parents of participating students in the design, implementation, and evaluation of a counseling program;

''(9) involve community groups, social service agencies, or other public or private entities in collaborative efforts to enhance the program;

''(10) evaluate annually the effectiveness and outcomes of the counseling services and activities assisted under this section;

''(11) ensure a team approach to school counseling in the elementary and secondary schools of the local educational agency by working toward ratios recommended by the American School Health Association of one school counselor to 250 students, one school social worker to 800 students, and one school psychologist to 1,000 students; and

''(12) ensure that school counselors, school psychologists, school social workers, or child and adolescent psychiatrists paid from funds made available under this section spend a majority of their time at the school in activities directly related to the counseling process.

''(d) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 3 percent of the amounts made available under this section in any fiscal year may be used for administrative costs to carry out this section.

''(e) DEFINITIONS.—For purposes of this section—

''(1) the term 'school counselor' means an individual who has documented competence in counseling children and adolescents in a school setting and who—

''(A) possesses State licensure or certification granted by an independent professional regulatory authority;

''(B) in the absence of such State licensure or certification, possesses national certification in school counseling or a specialty of counseling granted by an independent professional organization; or

''(C) holds a minimum of a master's degree in school counseling from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs or the equivalent;

''(2) the term 'school psychologist' means an individual who—

''(A) possesses a minimum of 60 graduate semester hours in school psychology from an institution of higher education and has completed 1,200 clock hours in a supervised school psychology internship, of which 600 hours shall be in the school setting;

''(B) possesses State licensure or certification in the State in which the individual works; or

''(C) in the absence of such State licensure or certification, possesses national certification by the National School Psychology Certification Board;

''(3) the term 'school social worker' means an individual who—

''(A) holds a master's degree in social work from a program accredited by the Council on Social Work Education; and

''(B) is licensed or certified by the State in which services are provided; or

''(C) in the absence of such State licensure or certification, possesses a national credential or certification as a 'school social work specialist' granted by an independent professional organization; and

''(4) the term 'child and adolescent psychiatrist' means an individual who—

''(A) possesses State medical licensure; and

''(B) has completed residency training programs in general and child and adolescent psychiatry.

''(f) REPORT.—Not later than 1 year after assistance is made available under this section, the Secretary shall make publicly available the information from applicants regarding the ratios of students to school counselors, students to school social workers, and students to school psychologists.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2002 through 2006.

"PART E—MENTORING PROGRAMS

"SEC. 5501. DEFINITIONS.

''In this part, the following definitions apply:

''(1) CHILD WITH GREATEST NEED.—The term 'child with greatest need' means a child at risk of educational failure, dropping out of school, or involvement in criminal or delinquent activities, or that has lack of strong positive adult role models.

''(2) MENTOR.—The term 'mentor' means an individual who works with a child to provide a positive role model for the child, to establish a supportive relationship with the child, and to provide the child with academic assistance and exposure to new experiences and examples of opportunity that enhance the ability of the child to become a responsible adult.

''(3) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"SEC. 5502. PURPOSES.

''The purposes of this part are to make assistance available to promote mentoring programs for children with greatest need—

''(1) to assist such children in receiving support and guidance from a caring adult;

''(2) to improve the academic performance of such children;

''(3) to improve interpersonal relationships between such children and their peers, teachers, other adults, and family members;

''(4) to reduce the dropout rate of such children; and

''(5) to reduce juvenile delinquency and involvement in gangs by such children.

"SEC. 5503. GRANT PROGRAM.

''(a) IN GENERAL.—In accordance with this section, the Secretary may make grants to eligible entities to assist such entities in establishing and supporting mentoring programs and activities that—

''(1) are designed to link children with greatest need (particularly such children living in rural areas, high crime areas, or troubled home environments, or such children experiencing educational failure) with responsible adults, who—

''(A) have received training and support in mentoring;

''(B) have been screened using appropriate reference checks, child and domestic abuse record checks, and criminal background checks; and

''(C) are interested in working with youth; and

''(2) are intended to achieve 1 or more of the following goals:

''(A) Provide general guidance to children with greatest need.

''(B) Promote personal and social responsibility among children with greatest need.

''(C) Increase participation by children with greatest need in, and enhance their ability to benefit from, elementary and secondary education.

''(D) Discourage illegal use of drugs and alcohol, violence, use of dangerous weapons, promiscuous behavior, and other criminal, harmful, or potentially harmful activity by children with greatest need.

''(E) Encourage children with greatest need to participate in community service and community activities.

''(F) Encourage children with greatest need to set goals for themselves or to plan for their futures, including encouraging such children to make graduation from secondary school a goal and to make plans for postsecondary education or training.

''(G) Discourage involvement of children with greatest need in gangs.

''(b) ELIGIBLE ENTITIES.—Each of the following is an entity eligible to receive a grant under subsection (a):

''(1) A local educational agency.

''(2) A nonprofit, community-based organization.

''(3) A partnership between an agency referred to in paragraph (1) and an organization referred to in paragraph (2).

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—Each entity receiving a grant under this section shall use the grant funds for activities that establish or implement a mentoring program, including—

''(A) hiring of mentoring coordinators and support staff;

''(B) providing for the professional development of mentoring coordinators and support staff;

''(C) recruitment, screening, and training of adult mentors;

''(D) reimbursement of schools, if appropriate, for the use of school materials or supplies in carrying out the program;

''(E) dissemination of outreach materials;

''(F) evaluation of the program using scientifically based methods; and

''(G) such other activities as the Secretary may reasonably prescribe by rule.

''(2) PROHIBITED USES.—Notwithstanding paragraph (1), an entity receiving a grant under this section may not use the grant funds—

''(A) to directly compensate mentors;

''(B) to obtain educational or other materials or equipment that would otherwise be used in the ordinary course of the entity's operations;

''(C) to support litigation of any kind; or

''(D) for any other purpose reasonably prohibited by the Secretary by rule.

''(d) TERM OF GRANT.—Each grant made under this section shall be available for expenditure for a period of 3 years.

''(e) APPLICATION.—Each eligible entity seeking a grant under this section shall submit to the Secretary an application that includes—

''(1) a description of the mentoring plan the applicant proposes to carry out with such grant;

''(2) information on the children expected to be served by the mentoring program for which such grant is sought;

''(3) a description of the mechanism that applicant will use to match children with mentors based on the needs of the children;

''(4) an assurance that no mentor will be assigned to mentor so many children that the assignment would undermine either the mentor's ability to be an effective mentor or the mentor's ability to establish a close relationship (a one-on-one relationship, where practicable) with each mentored child;

''(5) an assurance that mentoring programs will provide children with a variety of experiences and support, including—

''(A) emotional support;

''(B) academic assistance; and

''(C) exposure to experiences that children might not otherwise encounter on their own;

''(6) an assurance that mentoring programs will be monitored to ensure that each child assigned a mentor benefits from that assignment and that there will be a provision for the assignment of a new mentor if the relationship between the original mentor is not beneficial to the child;

''(7) information on the method by which mentors and children will be recruited to the mentor program;

''(8) information on the method by which prospective mentors will be screened;

''(9) information on the training that will be provided to mentors; and

''(10) information on the system that the applicant will use to manage and monitor information relating to the program's reference checks, child and domestic abuse record checks, and criminal background checks and to its procedure for matching children with mentors.

''(f) SELECTION.—

''(1) COMPETITIVE BASIS.—In accordance with this subsection, the Secretary shall select grant recipients from among qualified applicants on a competitive basis.

''(2) PRIORITY.—In selecting grant recipients under paragraph (1), the Secretary shall give priority to each applicant that—

''(A) serves children with greatest need living in rural areas, high crime areas, or troubled home environments, or who attend schools with violence problems;

''(B) provides background screening of mentors, training of mentors, and technical assistance in carrying out mentoring programs;

''(C) proposes a mentoring program under which each mentor will be assigned to not more children than the mentor can serve effectively; or

''(D) proposes a school-based mentoring program.

''(3) OTHER CONSIDERATIONS.—In selecting grant recipients under paragraph (1), the Secretary shall also consider—

''(A) the degree to which the location of the programs proposed by each applicant contributes to a fair distribution of programs with respect to urban and rural locations;

''(B) the quality of the mentoring programs proposed by each applicant, including—

''(i) the resources, if any, the applicant will dedicate to providing children with opportunities for job training or postsecondary education;

''(ii) the degree to which parents, teachers, community-based organizations, and the local community have participated, or will participate, in the design and implementation of the applicant's mentoring program;

''(iii) the degree to which the applicant can ensure that mentors will develop longstanding relationships with the children they mentor;

''(iv) the degree to which the applicant will serve children with greatest need in the 4th, 5th, 6th, 7th, and 8th grades; and

''(v) the degree to which the program will continue to serve children from the 4th grade through graduation from secondary school; and

''(C) the capability of each applicant to effectively implement its mentoring program.

''(4) GRANT TO EACH STATE.—Notwithstanding any other provision of this subsection, in selecting grant recipients under paragraph (1), the Secretary shall select not less than 1 grant recipient from each State for which there is a qualified applicant.

''(g) MODEL SCREENING GUIDELINES.—

''(1) IN GENERAL.—Based on model screening guidelines developed by the Office of Juvenile Programs of the Department of Justice, the Secretary shall develop and distribute to program participants specific model guidelines for the screening of mentors who seek to participate in programs to be assisted under this part.

''(2) BACKGROUND CHECKS.—The guidelines developed under this subsection shall include, at a minimum, a requirement that potential mentors be subject to reference checks, child and domestic abuse record checks, and criminal background checks.

"SEC. 5504. STUDY BY GENERAL ACCOUNTING OFFICE.

''(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study to identify successful school-based mentoring programs, and the elements, policies, or procedures of such programs that can be replicated.

''(b) REPORT.—Not later than 3 years after the date of enactment of the Mentoring for Success Act, the Comptroller General shall submit a report to the Secretary and Congress containing the results of the study conducted under this section.

''(c) USE OF INFORMATION.—The Secretary shall use information contained in the report referred to in subsection (b)—

''(1) to improve the quality of existing mentoring programs assisted under this part and other mentoring programs assisted under this Act; and

''(2) to develop models for new programs to be assisted or carried out under this Act.

"SEC. 5505. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out section 5503 $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.''.

TITLE VI—IMPACT AID PROGRAM

SEC. 601. PAYMENTS UNDER SECTION 8002 WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.

(a) FOUNDATION PAYMENTS FOR PRE-1995 RECIPIENTS.—Section 8002(h)(1) (20 U.S.C. 7702(h)(1)) is amended—

(1) in subparagraph (A), by striking ''and was eligible to receive a payment under section 2 of the Act of September 30, 1950'' and inserting ''and that filed, or has been determined pursuant to statute to have filed a timely application, and met, or has been determined pursuant to statute to meet, the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950''; and

(2) in subparagraph (B), by striking ''(or if the local educational agency was not eligible to receive a payment under such section 2 for fiscal year 1994'' and inserting ''(or if the local educational agency did not meet, or has not been determined pursuant to statute to meet, the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950 for fiscal year 1994''.

(b) PAYMENTS FOR 1995 RECIPIENTS.—Section 8002(h)(2) (20 U.S.C. 7702(h)(2)) is amended—

(1) in subparagraph (A), by adding at the end before the period '', or whose application for fiscal year 1995 was determined pursuant to statute to be timely filed for purposes of payments for subsequent fiscal years''; and

(2) in subparagraph (B)(ii), by striking ''for each local educational agency that received a payment under this section for fiscal year 1995'' and inserting ''for each local educational agency described in subparagraph (A)''.

(c) REMAINING FUNDS.—Section 8002(h)(4)(B) (20 U.S.C. 7702(h)(4)(B)) is amended—

(1) by striking ''(in the same manner as percentage shares are determined for local educational agencies under paragraph (2)(B)(ii))'' and inserting ''(by dividing the maximum amount that the agency is eligible to receive under subsection (b) by the total of the maximum amounts for all such agencies)''; and

(2) by striking '', except that for the purpose of calculating a local educational agency's assessed value of the Federal property'' and inserting '', except that, for purposes of calculating a local educational agency's maximum amount under subsection (b)''.

(d) APPLICATION FOR PAYMENT.—Notwithstanding any other provision of law, the Secretary shall treat as timely filed an application under section 8002 (20 U.S.C. 7702) from Academy School District 20, Colorado, for a payment for fiscal year 1999, and shall process that application from funds appropriated for that section for fiscal year 2001.

SEC. 602. CALCULATION OF PAYMENT UNDER SECTION 8003 FOR SMALL LOCAL EDUCATIONAL AGENCIES.

Section 8003(b)(3)(B)(iv) (20 U.S.C. 7703(b)(3)(B)(iv)) is amended by inserting after ''of the State in which the agency is located'' the following: ''or less than the average per pupil expenditure of all the States''.

SEC. 603. CONSTRUCTION.

(a) SCHOOL FACILITY EMERGENCY AND MODERNIZATION GRANTS.—Section 8007(b) (20 U.S.C. 7707(b)) is amended to read as follows:

''(b) SCHOOL FACILITY EMERGENCY AND MODERNIZATION GRANTS AUTHORIZED.—

''(1) IN GENERAL.—From 60 percent of the amount appropriated for each fiscal year under section 8014(e), the Secretary—

''(A) shall award emergency grants in accordance with this subsection to eligible local educational agencies to enable the agencies to carry out emergency repairs of school facilities; and

''(B) shall award modernization grants in accordance with this subsection to eligible local educational agencies to enable the agencies to carry out the modernization of school facilities.

''(2) PRIORITY.—In approving applications from local educational agencies for emergency grants and modernization grants under this subsection, the Secretary shall give priority to applications for emergency grants and, among such applications for emergency grants, shall give priority to those applications of local educational agencies based on the severity of the emergency.

''(3) ELIGIBILITY REQUIREMENTS.—

''(A) EMERGENCY GRANTS.—A local educational agency is eligible to receive an emergency grant under this subsection only if—

''(i) the agency (or in the case of a local educational agency that does not have the authority to tax or issue bonds, the agency's fiscal agent)—

''(I) has no practical capacity to issue bonds;

''(II) has minimal capacity to issue bonds and is at 75 percent of the agency's limit of bonded indebtedness; or

''(III) does not meet the requirements of subclauses (I) and (II) but is eligible to receive funds under section 8003(b)(2) for the fiscal year; and

''(ii) the agency is eligible to receive assistance under subsection (a) for the fiscal year and has a school facility emergency, as determined by the Secretary, that poses a health or safety hazard to the students and school personnel assigned to the school facility.

''(B) MODERNIZATION GRANTS.—A local educational agency is eligible to receive a modernization grant under this subsection only if—

''(i) the agency (or in the case of a local educational agency that does not have the authority to tax or issue bonds, the agency's fiscal agent) meets the requirements of subclause (I), (II), or (III) of subparagraph (A)(i);

''(ii) the agency is eligible to receive assistance under section 8002 for the fiscal year and has an assessed value of real property per student that may be taxed for school purposes that is less

than the average of the assessed value of real property per student that may be taxed for school purposes in the State in which the local educational agency is located; and

''(iii) the agency has facility needs resulting from actions of the Federal Government, such as enrollment increases due to the expansion of Federal activities, housing privatization, or the acquisition of Federal property.

''(C) RULE OF CONSTRUCTION.—For purposes of subparagraph (A)(i), a local educational agency—

''(i) has no practical capacity to issue bonds if the total assessed value of real property that may be taxed for school purposes is less than $25,000,000; and

''(ii) has minimal capacity to issue bonds if the total assessed value of real property that may be taxed for school purposes is not less than $25,000,000 but not more than $50,000,000.

''(4) AWARD CRITERIA.—In awarding emergency grants and modernization grants under this subsection, the Secretary shall consider the following factors:

''(A) The ability of the local educational agency to respond to the emergency, or to pay for the modernization project, as the case may be, as measured by—

''(i) the agency's level of bonded indebtedness;

''(ii) the assessed value of real property per student that may be taxed for school purposes compared to the average of the assessed value of real property per student that may be taxed for school purposes in the State in which the agency is located;

''(iii) the agency's total tax rate for school purposes (or, if applicable, for capital expenditures) compared to the average total tax rate for school purposes (or the average capital expenditure tax rate, if applicable) in the State in which the agency is located; and

''(iv) funds that are available to the agency, from any other source, including section 8007(a), that may be used for capital expenditures.

''(B) The percentage of property in the agency that is nontaxable due to the presence of the Federal Government.

''(C) The number and percentages of children described in subparagraphs (A), (B), (C), and (D) of section 8003(a)(1) served in the school facility with the emergency or served in the school facility proposed for modernization, as the case may be.

''(D) In the case of an emergency grant, the severity of the emergency, as measured by the threat that the condition of the school facility poses to the health, safety, and well-being of students.

''(E) In the case of a modernization grant—

''(i) the severity of the need for modernization, as measured by such factors as—

''(I) overcrowding, as evidenced by the use of portable classrooms; or

''(II) the agency's inability to maximize the use of technology or offer a curriculum in accordance with contemporary State standards due to the physical limitations of the current school facility; and

''(ii) the age of the school facility proposed for modernization.

''(5) OTHER AWARD PROVISIONS.—

''(A) GENERAL PROVISIONS.—

''(i) LIMITATIONS ON AMOUNT OF FUNDS.—

''(I) IN GENERAL.—The amount of funds provided under an emergency grant or a modernization grant awarded under this subsection to a local educational agency that meets the requirements of subclause (II) or (III) of paragraph (3)(A)(i)—

''(aa) shall not exceed 50 percent of the total cost of the project to be assisted under this subsection; and

''(bb) shall not exceed $3,000,000 during any 5-year period.

''(II) IN-KIND CONTRIBUTIONS.—A local educational agency may use in-kind contributions to meet the matching requirement of subclause (I)(aa).

''(ii) PROHIBITIONS ON USE OF FUNDS.—A local educational agency may not use funds provided under an emergency grant or modernization grant awarded under this subsection for—

''(I) a project for a school facility for which the agency does not have full title or other interest; or

''(II) stadiums or other facilities primarily used for athletic contests, exhibitions, or other events for which admission is charged to the general public.

''(iii) SUPPLEMENT NOT SUPPLANT.—A local educational agency shall use funds provided under an emergency grant or modernization grant awarded under this subsection only to supplement the amount of funds that would, in the absence of the Federal funds provided under the grant, be made available from non-Federal sources to carry out emergency repairs of school facilities or to carry out the modernization of school facilities, as the case may be, and not to supplant such funds.

''(B) EMERGENCY GRANTS.—

''(i) PROHIBITION ON USE OF FUNDS.—A local educational agency that is awarded an emergency grant under this subsection may not use amounts under the grant for the complete or partial replacement of an existing school facility unless such replacement is less expensive or more cost-effective to correct the identified emergency.

''(ii) CARRY-OVER OF CERTAIN APPLICATIONS.—In the case of a local educational agency that applies for an emergency grant under this subsection for a fiscal year and does not receive the grant for the fiscal year, the Secretary—

''(I) shall, upon the request of the agency, treat the application as an application for an emergency grant under this subsection for the subsequent fiscal year in accordance with the priority requirements of paragraph (2); and

''(II) shall allow the agency to amend or otherwise update the application, as appropriate.

''(6) APPLICATION.—A local educational agency that desires to receive an emergency grant or a modernization grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall contain the following:

''(A) The information described in clauses (i) through (iv) of paragraph (4)(A) and subparagraphs (B) and (C) of paragraph (4).

''(B) In the case of an application for an emergency grant—

''(i) a description of the school facility deficiency that poses a health or safety hazard to the occupants of the facility and a description of how the deficiency will be repaired; and

''(ii) a signed statement from an appropriate local official certifying that a deficiency in the school facility threatens the health or safety of the occupants of the facility or that prevents the use of all or a portion of the building.

''(C) In the case of an application for a modernization grant—

''(i) an explanation of the need for the school facility modernization project; and

''(ii) the date on which original construction of the facility to be modernized was completed.

''(D) A description of the project for which a grant under this subsection would be used, including a cost estimate for the project.

''(E) A description of the interest in, or authority over, the school facility involved, such as an ownership interest or a lease arrangement.

''(F) Such other information and assurances as the Secretary may reasonably require.

''(7) REPORT.—

''(A) IN GENERAL.—Not later than January 1 of each year, the Secretary shall prepare and submit to the appropriate congressional committees a report that contains a justification for each grant awarded under this subsection for the prior fiscal year.

''(B) DEFINITION.—In this paragraph, the term 'appropriate congressional committees' means—

''(i) the Committee on Appropriations and the Committee on Education and the Workforce of the House of Representatives; and

''(ii) the Committee on Appropriations and the Committee on Health, Education, Labor and Pensions of the Senate.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 8014(e) (20 U.S.C. 7714(e)) is amended by striking ''for each of the three succeeding fiscal years'' and inserting ''for fiscal year 2001, $150,000,000 for fiscal year 2002, and such sums as may be necessary for each of the four succeeding fiscal years''.

SEC. 604. STATE CONSIDERATION OF PAYMENTS IN PROVIDING STATE AID.

Section 8009(b)(1) (20 U.S.C. 7709(b)(1)) is amended by inserting after ''section 8003(a)(2)(B)'' the following: ''and, with respect to a local educational agency that receives a payment under section 8003(b)(2), the amount in excess of the amount that the agency would receive if the agency were deemed to be an agency eligible to receive a payment under section 8003(b)(1) and not section 8003(b)(2)''.

SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

Section 8014 (20 U.S.C. 7714) is amended by striking ''three succeeding fiscal years'' each place it appears and inserting ''six succeeding fiscal years''.

SEC. 606. REPEAL OF EXISTING TITLE VI; TRANSFER AND REDESIGNATION OF PROGRAM.

(a) REPEAL OF EXISTING TITLE VI.—Title VI (20 U.S.C. 7301 et seq.) is repealed.

(b) TRANSFER AND REDESIGNATION OF PROGRAM.—(1) Title VIII (20 U.S.C. 7701 et seq.)—

(A) is transferred from the current placement of the title and inserted after title V; and

(B) is redesignated as title VI.

(2) Title VI (as redesignated by paragraph (1)(B)) is amended—

(A) by redesignating sections 8001 through 8005 (20 U.S.C. 7701–7705) as sections 6001 through 6005, respectively; and

(B) by redesignating sections 8007 through 8014 (20 U.S.C. 7707–7714) as sections 6006 through 6013, respectively.

(c) CONFORMING AMENDMENTS.—(1) Title VI (as redesignated by subsection (b)) is amended by striking ''8002'', ''8003'', ''8004'', ''8005'', ''8008'', ''8009'', ''8011'', ''8013'', and ''8014'' each place such terms appear and inserting ''6002'', ''6003'', ''6004'', ''6005'', ''6007'', ''6008'', ''6010'', ''6012'', and ''6013'', respectively.

*(2) Section 6005 (as redesignated by subsection (b)) is amended in the heading by striking ''**8002 and 8003**'' and inserting ''**6002 and 6003**''.*

(3) Section 6009(c)(1) (as redesignated by subsection (b)) is amended in the heading by striking ''8003'' and inserting ''6003''.

(d) SAVINGS PROVISION.—Funds appropriated for title VIII of the Elementary and Secondary Education Act of 1965 (as in effect on the day before the date of the enactment of this Act) shall be available for use under title VI of such Act, as added by this section.

TITLE VII—ACCOUNTABILITY

SEC. 701. FLEXIBILITY AND ACCOUNTABILITY.

Title VII is amended to read as follows:

''TITLE VII—FLEXIBILITY AND ACCOUNTABILITY

''PART A—STATE ACCOUNTABILITY FOR IMPROVING ACADEMIC ACHIEVEMENT

''SEC. 7101. STATE FINANCIAL AWARDS.

''(a) IN GENERAL.—Beginning in the 2002–2003 school year, the Secretary shall make in accordance with this section financial awards, to be known as 'Achievement in Education Awards', to States that have made significant progress in improving educational achievement.

''(b) CRITERIA OF PROGRESS.—For the purposes of subsection (a), the Secretary shall judge progress using each of the following criteria, giving the greatest weight to the criterion described in paragraph (1):

''(1) The progress of the State's students from economically disadvantaged families and students from racial and ethnic minority groups—

''(A) on the assessments administered by the State under section 1111; and

''(B) beginning in the 2003–2004 school year, on assessments of 4th and 8th grade reading and mathematics under—

''(i) the State assessments carried out as part of the National Assessment of Educational Progress under section 411 of the National Education Statistics Act of 1994 (20 U.S.C. 9010); or

''(ii) an assessment selected by the State that—

''(I) is administered annually;

''(II) yields high quality data that are valid and reliable;

''(III) meets widely recognized professional and technical standards, including specific and rigorous test security procedures;

''(IV) is developed by an entity independent from each State and local government agency in the State in a manner that protects against any conflict of interest ;

''(V) has no test questions that are identical to the test questions used by the assessment used to meet the State assessment requirements under section 1111;

''(VI) provides results in such a form that they may be expressed in terms of achievement levels that are consistent with the achievement levels (basic, proficient, and advanced) set forth in section 1111;

''(VII) provides results in such a form that they may be disaggregated, at a minimum, according to income level and major racial and ethnic group; and

''(VIII) is administered to all students or to a representative sample of students in the 4th and 8th grades statewide, with a sample size that is sufficiently large to produce statistically significant estimates of statewide student achievement.

''(2) The overall improvement in the achievement of all of the State's students, as measured by—

''(A) the assessments administered by the State under section 1111; and

''(B) beginning in the 2003–2004 school year, the assessments described in paragraph (1)(B).

''(3) The progress of the State in improving the English proficiency of students who enter school with limited English proficiency.

''(c) OTHER CONSIDERATIONS.—In judging a State's progress under subsection (a), the Secretary may also consider—

''(1) the progress of the State in increasing the percentage of students who graduate from secondary schools; and

''(2) the progress of the State in increasing the percentage of students who take advanced coursework (such as Advanced Placement or International Baccalaureate courses) and who pass the exams associated with such coursework.

''(d) AMOUNT.—The Secretary shall determine the amount of an award under subsection (a) based on—

''(1) the school-age population of the State; and

''(2) the degree of progress shown by a State with respect to the criteria set forth in subsections (b) and (c).

''(e) USE OF FUNDS.—

''(1) IN GENERAL.—A State receiving a financial award under this section shall use the proceeds of such award only to make financial awards to public elementary and secondary schools in the State that have made the most significant progress with respect to the criteria described in subsection (b).

''(2) USE BY SCHOOLS.—In consultation with the school's teachers, the principal of each elementary or secondary school that receives a financial award from a State under this section shall use the proceeds of such award at the school for any educational purpose permitted under State law.

''(3) RESPONSIBLE STATE AGENCY.—The State educational agency for each State shall be the agency responsible for making awards under this subsection.

''(f) PEER REVIEW.—In selecting States for awards under subsection (a), the Secretary shall use a peer-review process.

''(g) COSTS OF INDEPENDENT ASSESSMENTS.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall make grants to States to offset the costs of administering assessments administered by the States to meet the requirements of (b)(1)(B)(ii).

''(2) LIMITATIONS.—Grants made by the Secretary in any year to a State under paragraph (1)—

''(A) may be awarded only to offset the costs of a single administration of an assessment described in such paragraph in the State for that year; and

''(B) may not exceed the costs of administering in the State for that year the State assessments that would be carried out under the National Assessment of Educational Progress described in subsection (b)(1)(B).

''(3) ALLOCATION.—The Secretary may determine the appropriate methodology of allocating grants to States under this subsection.

"SEC. 7102. STATE SANCTIONS.

''(a) FAILURE TO MAKE PROGRESS.—

''(1) LOSS OF ADMINISTRATIVE FUNDS.—The Secretary shall reduce, by 30 percent, the amount of funding that a State may reserve for State administration under the State formula grant programs authorized by this Act if the Secretary determines that, for 2 consecutive years—

''(A) the State's students from economically disadvantaged families and students from racial and ethnic minority groups failed to make adequate yearly progress on the assessments administered by the State under section 1111; and

''(B) the State's students from economically disadvantaged families and students from racial and ethnic minority groups failed to make measurable progress in reading and mathematics, as measured by the 4th and 8th grade assessments described in subsection (b)(1)(B).

''(2) FURTHER REDUCTIONS.—In each of the first 2 years after the years described in paragraph (1), the Secretary may increase the reduction described in such paragraph by any amount not more than a total of an additional 45 percent.

''(b) OTHER FAILURES.—In addition to any action taken under subsection (a)(1) or (a)(2), the Secretary shall reduce, by 20 percent, the amount of funding that a State may reserve for State administration under the State formula grant programs authorized by this Act if the Secretary determines that, for 2 consecutive years, the State failed to make adequate yearly progress—

''(1) with respect to the achievement of children with limited English proficiency under section 1111(b)(2)(C)(iii)(II)(dd); or

''(2) with respect to the acquisition of English language proficiency by children with limited English proficiency under section 1111(b)(2)(C)(iii)(III).

''(c) USE OF FUNDS FOR IMPROVEMENT.—

''(1) IN GENERAL.—The Secretary shall require that any funds reduced under this section be allocated by the State to local educational agencies in the State for school improvement purposes described in section 1116.

''(2) TREATMENT OF FUNDS.—Funds described in paragraph (1) shall not count toward the amounts that are required to be reserved by a State for school improvement under section 1003.

"SEC. 7103. DEVELOPMENT OF STATE STANDARDS AND ASSESSMENTS.

''(a) IN GENERAL.—The Secretary shall make financial awards to States to enable the States—

''(1) to pay the costs of the development of the additional State assessments and standards required by section 1111(b), including the costs of working in voluntary partnerships with other States, at the sole discretion of each such State, in developing such assessments and standards if a State chooses to do so; and

''(2) if a State has developed the assessments and standards referred to in paragraph (1), to administer such assessments or to carry out other activities described in this title and other activities related to ensuring accountability for results in the State's schools and local educational agencies, such as—

''(A) developing academic content and achievement standards and aligned assessments in other subjects not required by Section 1111;

''(B) developing assessments of English language proficiency necessary to comply with section 1111(b)(7);

''(C) assuring the continued validity and reliability of State assessments;

''(D) refining State assessments to ensure their continued alignment with the State's academic content standards and to improve the alignment of curricula and instruction materials;

''(E) providing for multiple measures to increase the reliability and validity of student and school classifications;

''(F) strengthening the capacity of local educational agencies and schools to provide all students the opportunity to increase educational achievement;

''(G) expanding the range of accommodations available to students with limited English proficiency and students with disabilities to improve the rates of inclusion of such students; and

''(H) improving the dissemination of information on student achievement and school performance to parents and the community.

''(b) BONUSES.—The Secretary shall make a one-time bonus payment to each State that completes the development of the assessments described in subsection (a) ahead of the deadline set forth in section 1111.

"SEC. 7104. FUNDING.

''(a) AUTHORIZATION OF APPROPRIATIONS.—

''(1) AWARDS AND BONUS PAYMENTS.—For the purposes of making awards under section 7101 and bonus payments under section 7103(b), there are authorized to be appropriated $40,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.

''(2) GRANTS FOR INDEPENDENT ASSESSMENTS; ADMINISTRATION OF STATE ASSESSMENTS UNDER NAEP.—For the purposes of making grants to offset the costs of independent assessments under section 7101(g) and for the purposes of administering the State assessments carried out under the National Assessment of Educational Progress referred to in section 7101(b)(1)(B)(i), there are authorized to be appropriated to the Secretary $69,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.

''(3) DEVELOPMENT AND ADMINISTRATION OF STATE STANDARDS AND ASSESSMENTS.—For the purposes of carrying out subsection 7103(a), there are authorized to be appropriated $400,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003 through 2005.

''(b) ALLOCATION OF APPROPRIATED FUNDS.—From each of the amounts appropriated under subsection (a), the Secretary shall allocate to the States—

''(1) 50 percent based on the relative number of children aged 5 to 17 in each State; and

''(2) 50 percent allocated equally among the States.

''PART B—FUNDING FLEXIBILITY FOR STATE AND LOCAL EDUCATIONAL AGENCIES

"SEC. 7201. SHORT TITLE.

''This part may be cited as the 'State and Local Transferability Act'.

"SEC. 7202. PURPOSE.

''The purpose of this part is to allow States and local educational agencies the flexibility—

''(1) to target Federal funds to Federal programs that most effectively address the unique needs of States and localities; and

''(2) to transfer Federal funds allocated to other activities to allocations for activities authorized under title I programs.

"SEC. 7203. TRANSFERABILITY OF FUNDS.

''(a) TRANSFERS BY STATES.—

''(1) IN GENERAL.—In accordance with this part, a State may transfer up 50 percent of the nonadministrative State funds allocated to the State for use for State-level activities under each of the following provisions to 1 or more of the State's allocations under any other of such provisions:

''(A) Part A of Title II.

''(B) Subpart 1 of part A of title IV.

''(C) Part A or B of title V.

''(2) SUPPLEMENTAL FUNDS FOR TITLE I.—In accordance with this part, a State may transfer any funds allocated to the State under a provision listed in paragraph (1) to its allocation under title I.

''(b) TRANSFERS BY LOCAL EDUCATIONAL AGENCIES.—

''(1) AUTHORITY TO TRANSFER FUNDS.—

''(A) IN GENERAL.—In accordance with this part, a local educational agency (except a local educational agency identified for improvement under section 1116(c)(2) or subject to corrective action under section 1116(c)(9)) may transfer not more than 50 percent of the funds allocated to it under each of the provisions listed in paragraph (2) for a fiscal year to 1 or more of its allocations for such fiscal year under any other provision listed in paragraph (2).

''(B) AGENCIES IDENTIFIED FOR IMPROVEMENT.—A local educational agency identified for improvement under section 1116(c)(2) may transfer in accordance with this part not more than 30 percent of the funds allocated to it under each of the provisions listed in paragraph (2)—

''(i) to its allocation for school improvement under section 1003;

''(ii) to any other allocation if such transferred funds are used only for local educational agency improvement activities consistent with section 1116(d).

''(C) SUPPLEMENTAL FUNDS FOR TITLE I.—In accordance with this part, a local educational agency may transfer funds allocated to such agency under a provision listed in paragraph (2) to its allocation under title I.

''(2) APPLICABLE PROVISIONS.—A local educational agency may transfer funds under subparagraph (A) or (B) from allocations made under each of the following provisions:

''(A) Title II.

''(B) Subpart 1 of Part A of title IV.

''(C) Part A of title V or section 5212(2)(A).

''(c) NO TRANSFER OF TITLE I FUNDS.—A State or a local educational agency may not transfer under this part to any other program any funds allocated to it under title I.

''(d) MODIFICATION OF PLANS AND APPLICATIONS; NOTIFICATION.—

''(1) STATE TRANSFERS.—Each State that makes a transfer of funds under this section shall—

''(A) modify to account for such transfer each State plan, or application submitted by the State, to which such funds relate;

''(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the Secretary; and

''(C) not later than 30 days before the effective date of such transfer, notify the Secretary of such transfer.

''(2) LOCAL TRANSFERS.—Each local educational agency that makes a transfer under this section shall—

''(A) modify to account for such transfer each local plan, or application submitted by the agency, to which such funds relate;

''(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the State; and

''(C) not later than 30 days before the effective date of such transfer, notify the State of such transfer.

''(e) APPLICABLE RULES.—

''(1) IN GENERAL.—Except as otherwise provided in this part, funds transferred under this section are subject to each of the rules and requirements applicable to the funds allocated by the Secretary under the provision to which the transferred funds are transferred.

''(2) CONSULTATION.—Each State educational agency or local educational agency that transfers funds under this section shall conduct consultations in accordance with section 8503(c), if such transfer transfers funds from a program that provides for the participation of students, teachers, or other educational personnel, from private schools.''.

TITLE VIII—GENERAL PROVISIONS

SEC. 801. GENERAL PROVISIONS.

The Elementary and Secondary Education Act of 1965, as amended by this Act, is further amended by adding at the end of title VII the following:

"TITLE VIII—GENERAL PROVISIONS

''PART A—DEFINITIONS

"SEC. 8101. DEFINITIONS.

''Except as otherwise provided, for the purposes of this Act, the following terms have the following meanings:

''(1) Average daily attendance—

''(A) Except as provided otherwise by State law or this paragraph, the term 'average daily attendance' means—

''(i) the aggregate number of days of attendance of all students during a school year; divided by

''(ii) the number of days school is in session during such school year.

''(B) The Secretary shall permit the conversion of average daily membership (or other similar data) to average daily attendance for local educational agencies in States that provide State aid to local educational agencies on the basis of average daily membership or such other data.

''(C) If the local educational agency in which a child resides makes a tuition or other payment for the free public education of the child in a school located in another school district, the Secretary shall, for purposes of this Act—

''(i) consider the child to be in attendance at a school of the agency making such payment; and

''(ii) not consider the child to be in attendance at a school of the agency receiving such payment.

''(D) If a local educational agency makes a tuition payment to a private school or to a public school of another local educational agency for a child with disabilities, as defined in paragraph (5), the Secretary shall, for the purposes of this Act, consider such child to be in attendance at a school of the agency making such payment.

''(2) AVERAGE PER-PUPIL EXPENDITURE.—The term 'average per-pupil expenditure' means, in the case of a State or of the United States—

''(A) without regard to the source of funds—

''(i) the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State or, in the case of the United States for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

''(ii) any direct current expenditures by the State for the operation of such agencies; divided by

''(B) the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

''(3) BEGINNING TEACHER.—The term 'beginning teacher' means an educator in a public school who has been teaching less than a total of 3 complete school years.

''(4) CHILD.—The term 'child' means any person within the age limits for which the State provides free public education.

''(5) CHILD WITH DISABILITY.—The term 'child with a disability' means a child—

''(A) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (hereinafter referred to as 'emotional disturbance'), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

''(B) who, by reason thereof, needs special education and related services.

''(6) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a public or private nonprofit organization of demonstrated effectiveness that—

''(A) is representative of a community or significant segments of a community; and

''(B) provides educational or related services to individuals in the community.

''(7) CONSOLIDATED LOCAL APPLICATION.—The term 'consolidated local application' means an application submitted by a local educational agency pursuant to section 14305.

''(8) CONSOLIDATED LOCAL PLAN.—The term 'consolidated local plan' means a plan submitted by a local educational agency pursuant to section 14305.

''(9) CONSOLIDATED STATE APPLICATION.—The term 'consolidated State application' means an application submitted by a State educational agency pursuant to section 14302.

''(10) CONSOLIDATED STATE PLAN.—The term 'consolidated State plan' means a plan submitted by a State educational agency pursuant to section 14302.

''(11) COUNTY.—The term 'county' means one of the divisions of a State used by the Secretary of Commerce in compiling and reporting data regarding counties.

''(12) COVERED PROGRAM.—The term 'covered program' means each of the programs authorized by—

''(A) part A of title I;

''(B) part B of title I;

''(C) part C of title I;

''(D) part D of title I;

''(E) part F of title I;

''(F) part G of title I;

''(G) part A of title II;

''(H) part A of title III;

''(I) part A of title V;

''(J) part B of title V; and

''(K) part A of title IV:

''(13) CURRENT EXPENDITURES.—The term 'current expenditures' means expenditures for free public education—

''(A) including expenditures for administration, instruction, attendance, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities; but

''(B) not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds received under title I and part A of title IV.

''(14) DEPARTMENT.—The term 'Department' means the Department of Education.

''(15) EDUCATIONAL SERVICE AGENCY.—The term 'educational service agency' means a regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local educational agencies.

''(16) EFFECTIVE SCHOOLS PROGRAM.—The term 'effective schools program' means a school-based program that may encompass preschool through secondary school levels and that has the objectives of—

''(A) promoting school-level planning, instructional improvement, and staff development;

''(B) increasing the academic achievement levels of all children and particularly educationally disadvantaged children; and

''(C) achieving as ongoing conditions in the school the following factors identified through scientifically based research as distinguishing effective from ineffective schools:

''(i) Strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving.

''(ii) Emphasis on the acquisition of basic and advanced academic skills.

''(iii) A safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement.

''(iv) Continuous review of students and programs to evaluate the effects of instruction.

''(17) ELEMENTARY SCHOOL.—The term 'elementary school' means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

''(18) ESSENTIAL COMPONENTS OF READING INSTRUCTION.—The term 'essential components of reading instruction' means explicit and systematic instruction in—

''(A) phonemic awareness;

''(B) phonics;

''(C) vocabulary development;

''(D) reading fluency; and

''(E) reading comprehension strategies.

''(19) FAMILY LITERACY SERVICES.—The term 'family literacy services' means services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

''(A) Interactive literacy activities between parents and their children.

''(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

''(C) Parent literacy training that leads to economic self-sufficiency.

''(D) An age-appropriate education to prepare children for success in school and life experiences.

''(20) FREE PUBLIC EDUCATION.—The term 'free public education' means education that is provided—

''(A) at public expense, under public supervision and direction, and without tuition charge; and

''(B) as elementary or secondary school education as determined under applicable State law, except that such term does not include any education provided beyond grade 12.

''(21) FULLY QUALIFIED.—The term 'fully qualified'—

''(A) when used with respect to a public elementary or secondary school teacher means that the teacher has obtained State certification as a teacher (including certification obtained through alternative routes to certification) or passed the State teacher licensing exam and holds a license to teach in such State, except that when used with respect to any teacher teaching in a public charter school, means that the teacher meets the requirements set forth in the State's public charter school law; and

''(B) when used with respect to—

''(i) an elementary school teacher, means that the teacher holds a bachelor's degree and demonstrates knowledge and teaching skills in reading, writing, mathematics, science, and other areas of the elementary school curriculum; and

''(ii) a middle or secondary school teacher, means that the teacher holds a bachelor's degree and demonstrates a high level of competency in all subject areas in which he or she teaches through—

''(I) a passing level of performance on a rigorous State or local academic subject areas test; or

''(II) completion of an academic major in each of the subject areas in which he or she provides instruction.

''(22) GIFTED AND TALENTED.—The term 'gifted and talented', when used with respect to students, children or youth, means students, children or youth who give evidence of high performance capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities.

''(23) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given that term in section 101 of the Higher Education Act of 1965.

''(24) LIMITED ENGLISH PROFICIENT STUDENT.—The term 'limited English proficient student' means an individual aged 5 through 17 enrolled in an elementary school or secondary school—

''(A) who—

''(i) was not born in the United States or whose native language is a language other than English;

''(ii)(I) is a Native American or Alaska Native, or a native resident of the outlying areas; and

''(II) comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or

''(iii) is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

''(B) who has sufficient difficulty speaking, reading, writing, or understanding the English language, and whose difficulties may deny the individual—

''(i) the ability to meet the State's proficient level of performance on State assessments described in section 1111(b)(4) in core academic subjects; or

''(ii) the opportunity to participate fully in society.

''(25) LOCAL EDUCATIONAL AGENCY.—(A) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

''(B) The term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

''(C) The term includes an elementary or secondary school funded by the Bureau of Indian Affairs but only to the extent that such inclusion makes such school eligible for programs for which specific eligibility is not provided to such school in another provision of law and such school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that such school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

''(D) The term includes educational service agencies and consortia of such agencies.

''(26) MENTORING.—The term 'mentoring' means a program in which an adult works with a child or youth on a 1-to-1 basis, establishing a supportive relationship, providing academic assistance, and introducing the child or youth to new experiences that enhance the child or youth's ability to excel in school and become a responsible citizen.

''(27) NATIVE AMERICAN AND NATIVE AMERICAN LANGUAGE.—The terms 'Native American' and 'Native American language' shall have the same meaning given such terms in section 103 of the Native American Languages Act of 1990.

''(28) OTHER STAFF.—The term 'other staff' means pupil services personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

''(29) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and through fiscal year 2003 and for the purpose of any discretionary grant program, includes the freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(30) PARENT.—The term 'parent' includes a legal guardian, or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare).

''(31) PUPIL SERVICES PERSONNEL; PUPIL SERVICES.—(A) The term 'pupil services personnel' means school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services (including related services as such term is defined in section 602(22) of the Individuals with Disabilities Education Act) as part of a comprehensive program to meet student needs.

''(B) The term 'pupil services' means the services provided by pupil services personnel.

''(32) READING.—The term 'reading' means a complex system of deriving meaning from print that requires all of the following:

''(A) Skills and knowledge to understand how phonemes, or speech sounds are connected in print.

''(B) Ability to decode unfamiliar words.

''(C) Ability to read fluently.

''(D) Sufficient background information and vocabulary to foster reading comprehensions.

''(E) Development of appropriate active strategies to construct meaning from print.

''(F) Development and maintenance of a motivation to read.

''(33) RIGOROUS DIAGNOSTIC READING AND SCREENING ASSESSMENT TOOLS.—The term 'rigorous diagnostic reading and screening assessment tools' means a diagnostic reading assessment that—

''(A) is valid, reliable, and grounded on scientifically based reading research;

''(B) measures progress in developing phonemic awareness and phonics skills, vocabulary, reading fluency, and reading comprehension;

''(C) identifies students who may be at risk for reading failure or who are having difficulty reading; and

''(D) are used to improve instruction.

''(34) SCIENTIFICALLY BASED RESEARCH.—The term 'scientifically based research'—

''(A) means the application of rigorous, systematic, and objective procedures to obtain valid knowledge relevant to education activities and programs; and

''(B) shall include research that—

''(i) employs systematic, empirical methods that draw on observation or experiment;

''(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

''(iii) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations;

''(iv) is evaluated using randomized experiments in which individuals, entities, programs, or activities are randomly assigned to different variations (including a control condition) to compare the relative effects of the variations; and

''(v) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

''(35) SECONDARY SCHOOL.—The term 'secondary school' means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that such term does not include any education beyond grade 12.

''(36) SECRETARY.—The term 'Secretary' means the Secretary of Education.

''(37) STATE.—The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

''(38) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' means the agency primarily responsible for the State supervision of public elementary and secondary schools.

''(39) TECHNOLOGY.—The term 'technology' means the latest state-of-the-art technology products and services.

"SEC. 8102. APPLICABILITY OF TITLE.

''Parts B, C, D, and E of this title do not apply to title VI of this Act.

"SEC. 8103. APPLICABILITY TO BUREAU OF INDIAN AFFAIRS OPERATED SCHOOLS.

''For purposes of any competitive program under this Act, a consortia of schools operated by the Bureau of Indian Affairs, a school operated under a contract or grant with the Bureau of Indian Affairs in consortia with another contract or grant school or tribal or community organization, or a Bureau of Indian Affairs school in consortia with an institution of higher education, a contract or grant school and tribal or community organization shall be given the same consideration as a local educational agency.

''PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

"SEC. 8201. CONSOLIDATION OF STATE ADMINISTRATIVE FUNDS FOR ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

''(a) CONSOLIDATION OF ADMINISTRATIVE FUNDS.—

''(1) IN GENERAL.—A State educational agency may consolidate the amounts specifically made available to such agency for State administration under one or more of the programs under paragraph (2) if such State educational agency can demonstrate that the majority of such agency's resources are derived from non-Federal sources.

''(2) APPLICABILITY.—This section applies to any program under this Act under which funds are authorized to be used for administration, and such other programs as the Secretary may designate.

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—A State educational agency shall use the amount available under this section for the administration of the programs included in the consolidation under subsection (a).

''(2) ADDITIONAL USES.—A State educational agency may also use funds available under this section for administrative activities designed to enhance the effective and coordinated use of funds under programs included in the consolidation under subsection (a), such as—

''(A) the coordination of such programs with other Federal and non-Federal programs;

''(B) the establishment and operation of peer-review mechanisms under this Act;

''(C) the administration of this title;

''(D) the dissemination of information regarding model programs and practices;

''(E) technical assistance under any program under this Act;

''(F) State level activities designed to carry out this title;

''(G) training personnel engaged in audit and other monitoring activities; and

''(H) implementation of the Cooperative Audit Resolution and Oversight Initiative of the Department of Education.

''(c) RECORDS.—A State educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of programs included in the consolidation under subsection (a).

''(d) REVIEW.—To determine the effectiveness of State administration under this section, the Secretary may periodically review the performance of State educational agencies in using consolidated administrative funds under this section and take such steps as the Secretary finds appropriate to ensure the effectiveness of such administration.

''(e) UNUSED ADMINISTRATIVE FUNDS.—If a State educational agency does not use all of the funds available to such agency under this section for administration, such agency may use such funds during the applicable period of availability as funds available under one or more programs included in the consolidation under subsection (a).

"SEC. 8202. SINGLE LOCAL EDUCATIONAL AGENCY STATES.

''A State educational agency that also serves as a local educational agency, in such agency's applications or plans under this Act, shall describe how such agency will eliminate duplication in the conduct of administrative functions.

"SEC. 8203. CONSOLIDATION OF FUNDS FOR LOCAL ADMINISTRATION.

''(a) GENERAL AUTHORITY.—In accordance with regulations of the Secretary and for any fiscal year, a local educational agency, with the approval of its State educational agency, may consolidate and use for the administration of one or more programs under this Act (or such other programs as the Secretary shall designate) not more than the percentage, established in each such program, of the total available for the local educational agency under such programs.

''(b) STATE PROCEDURES.—Within one-year from the date of enactment of the No Child Left Behind Act of 2001, a State educational agency shall, in collaboration with local educational agencies in the State, establish procedures for responding to requests from local educational agencies to consolidate administrative funds under subsection (a) and for establishing limitations on the amount of funds under such programs that may be used for administration on a consolidated basis.

''(c) CONDITIONS.—A local educational agency that consolidates administrative funds under this section for any fiscal year shall not use any other funds under the programs included in the consolidation for administration for that fiscal year.

''(d) USES OF ADMINISTRATIVE FUNDS.—A local educational agency that consolidates administrative funds under this section may use such consolidated funds for the administration of such programs and for uses, at the school district and school levels, comparable to those described in section 8201(b)(2).

''(e) RECORDS.—A local educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of such programs included in the consolidation.

"SEC. 8204. CONSOLIDATED SET-ASIDE FOR DEPARTMENT OF THE INTERIOR FUNDS.

''(a) GENERAL AUTHORITY.—

''(1) TRANSFER.—The Secretary shall transfer to the Department of the Interior, as a consolidated amount for covered programs, the Indian education programs under subpart 1 of part B of title III, and the education for homeless children and youth program under subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act, the amounts allotted to the Department of the Interior under those programs.

''(2) AGREEMENT.—(A) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of the programs specified in paragraph (1), for the distribution and use of those program funds under terms that the Secretary determines best meet the purposes of those programs.

''(B) The agreement shall—

''(i) set forth the plans of the Secretary of the Interior for the use of the amount transferred and the performance measures to assess program effectiveness, including measurable goals and objectives; and

''(ii) be developed in consultation with Indian tribes.

''(b) ADMINISTRATION.—The Department of the Interior may use not more than 1.5 percent of the funds consolidated under this section for such department's costs related to the administration of the funds transferred under this section.

''PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

"SEC. 8301. PURPOSE.

''The purposes of this part are to improve teaching and learning through greater coordination between programs and to provide greater flexibility to State and local authorities by allowing the consolidation of State and local plans, applications, and reporting.

"SEC. 8302. OPTIONAL CONSOLIDATED STATE PLANS OR APPLICATIONS.

''(a) GENERAL AUTHORITY.—

''(1) SIMPLIFICATION.—In order to simplify application requirements and reduce the burden for States under this Act, the Secretary, in accordance with subsection (b), shall establish procedures and criteria under which a State educational agency, in consultation with the State's Governor, may submit a consolidated State plan or a consolidated State application meeting the requirements of this section for—

''(A) any programs under this Act in which the State participates; and

''(B) such other programs as the Secretary may designate.

''(2) CONSOLIDATED APPLICATIONS AND PLANS.—A State educational agency, in consultation with the State's Governor, that submits a consolidated State plan or a consolidated State application under this section shall not be required to submit a separate State plan or application for a program included in the consolidated State plan or application.

''(b) COLLABORATION.—

''(1) IN GENERAL.—In establishing criteria and procedures under this section, the Secretary shall collaborate with Governors, State educational agencies and, as appropriate, with other State agencies, local educational agencies, public and private nonprofit agencies, organizations, and institutions, private schools, and representatives of parents, students, and teachers.

''(2) CONTENTS.—Through the collaborative process described in paragraph (1), the Secretary shall establish, for each program under the Act to which this section applies, the descriptions, information, assurances, and other material required to be included in a consolidated State plan or consolidated State application.

''(3) NECESSARY MATERIALS.—The Secretary shall require only descriptions, information, assurances, and other materials that are absolutely necessary for the consideration of the consolidated State plan or consolidated State application.

"SEC. 8303. CONSOLIDATED REPORTING.

''In order to simplify reporting requirements and reduce reporting burdens, the Secretary shall establish procedures and criteria under which a State educational agency, in consultation with the State's Governor, may submit a consolidated State annual report. Such report shall contain information about the programs included in the report, including the State's performance under those programs, and other matters as the Secretary determines, such as monitoring activities. Such a report shall take the place of separate individual annual reports for the programs subject to it.

"SEC. 8304. GENERAL APPLICABILITY OF STATE EDUCATIONAL AGENCY ASSURANCES.

''(a) ASSURANCES.—A State educational agency, in consultation with the State's Governor, that submits a consolidated State plan or consolidated State application under this Act, whether separately or under section 8302, shall

have on file with the Secretary a single set of assurances, applicable to each program for which such plan or application is submitted, that provides that—

''(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

''(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency, in a nonprofit private agency, institution, or organization, or in an Indian tribe if the law authorizing the program provides for assistance to such entities; and

''(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing law;

''(3) the State will adopt and use proper methods of administering each such program, including—

''(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program;

''(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation; and

''(C) the adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of such programs;

''(4) the State will cooperate in carrying out any evaluation of each such program conducted by or for the Secretary or other Federal officials;

''(5) the State will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each such program;

''(6) the State will—

''(A) make reports to the Secretary as may be necessary to enable the Secretary to perform the Secretary's duties under each such program; and

''(B) maintain such records, provide such information to the Secretary, and afford access to the records as the Secretary may find necessary to carry out the Secretary's duties; and

''(7) before the plan or application was submitted to the Secretary, the State has afforded a reasonable opportunity for public comment on the plan or application and has considered such comment.

''(b) GEPA PROVISION.—Section 441 of the General Education Provisions Act shall not apply to programs under this Act.

''SEC. 8305. CONSOLIDATED LOCAL PLANS OR APPLICATIONS.

''(a) GENERAL AUTHORITY.—A local educational agency receiving funds under more than one program under this Act may submit plans or applications to the Governor and State educational agency under such programs on a consolidated basis.

''(b) REQUIRED CONSOLIDATED PLANS OR APPLICATIONS.—A State that has an approved consolidated State plan or application under section 8302 may require local educational agencies in the State receiving funds under more than one program included in the consolidated State plan or consolidated State application to submit consolidated local plans or applications under such programs, but may not require such agencies to submit separate plans.

''(c) COLLABORATION.—A Governor and State educational agency shall collaborate with local educational agencies in the State in establishing procedures for the submission of the consolidated State plans or consolidated State applications under this section.

''(d) NECESSARY MATERIALS.—The State shall require only descriptions, information, assurances, and other material that are absolutely necessary for the consideration of the local educational agency plan or application.

''SEC. 8306. OTHER GENERAL ASSURANCES.

''(a) ASSURANCES.—Any applicant other than a State that submits a plan or application under this Act, shall have on file with the State a single set of assurances, applicable to each program for which a plan or application is submitted, that provides that—

''(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

''(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to such entities; and

''(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing statutes;

''(3) the applicant will adopt and use proper methods of administering each such program, including—

''(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and

''(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation;

''(4) the applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary or other Federal officials;

''(5) the applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to such applicant under each such program;

''(6) the applicant will—

''(A) make reports to the Governor and State educational agency and the Secretary as may be necessary to enable such agency and the Secretary to perform their duties under each such program; and

''(B) maintain such records, provide such information, and afford access to the records as the Governor and State educational agency or the Secretary may find necessary to carry out the State's or the Secretary's duties; and

''(7) before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and has considered such comment.

''(b) GEPA PROVISION.—Section 442 of the General Education Provisions Act shall not apply to programs under this Act.

''PART D—WAIVERS

''SEC. 8401. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

''(a) IN GENERAL.—Except as provided in subsection (c), the Secretary may waive any statutory or regulatory requirement of this Act or the Carl D. Perkins Vocational and Technical Education Act of 1998 for a State educational agency, local educational agency, Indian tribe, or school through a local educational agency, that—

''(1) receives funds under a program authorized by this Act; and

''(2) requests a waiver under subsection (b).

''(b) REQUEST FOR WAIVER.—

''(1) IN GENERAL.—A State educational agency, local educational agency, or Indian tribe which desires a waiver shall submit a waiver application to the Secretary that—

''(A) indicates each Federal program affected and each statutory or regulatory requirement requested to be waived;

''(B) describes the purpose and overall expected results of waiving each such requirement;

''(C) describes, for each school year, specific, measurable, educational goals for the State educational agency and for each local educational agency, Indian tribe, or school that would be affected by the waiver; and

''(D) explains why the waiver will assist the State educational agency and each affected local educational agency, Indian tribe, or school in reaching such goals.

''(2) ADDITIONAL INFORMATION.—Such requests—

''(A) may provide for waivers of requirements applicable to State educational agencies, local educational agencies, Indian tribes, and schools; and

''(B) shall be developed and submitted—

''(i)(I) by local educational agencies (on behalf of such agencies and schools) to State educational agencies; and

''(II) by State educational agencies (on behalf of, and based upon the requests of, local educational agencies) to the Secretary; or

''(ii) by Indian tribes (on behalf of schools operated by such tribes) to the Secretary.

''(3) GENERAL REQUIREMENTS.—

''(A) In the case of a waiver request submitted by a State educational agency acting in its own behalf, the State educational agency shall—

''(i) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

''(ii) submit the comments to the Secretary; and

''(iii) provide notice and information to the public regarding the waiver request in the manner that the applying agency customarily provides similar notices and information to the public.

''(B) In the case of a waiver request submitted by a local educational agency that receives funds under this Act—

''(i) such request shall be reviewed by the State educational agency and be accompanied by the comments, if any, of such State educational agency; and

''(ii) notice and information regarding the waiver request shall be provided to the public by the agency requesting the waiver in the manner that such agency customarily provides similar notices and information to the public.

''(c) RESTRICTIONS.—The Secretary shall not waive under this section any statutory or regulatory requirements relating to—

''(1) the allocation or distribution of funds to States, local educational agencies, or other recipients of funds under this Act;

''(2) maintenance of effort;

''(3) comparability of services;

''(4) use of Federal funds to supplement, not supplant, non-Federal funds;

''(5) equitable participation of private school students and teachers;

''(6) parental participation and involvement;

''(7) applicable civil rights requirements;

''(8) the requirement for a charter school under part B of title IV; or

''(9) the prohibitions regarding—

''(A) State aid in section 8502;

''(B) use of funds for religious worship or instruction in section 8507; and

''(C) activities in section 8513.

''(d) DURATION AND EXTENSION OF WAIVER.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the duration of a waiver approved by the Secretary under this section may be for a period not to exceed 5 years.

''(2) EXTENSION.—The Secretary may extend the period described in paragraph (1) if the Secretary determines that—

''(A) the waiver has been effective in enabling the State or affected recipients to carry out the activities for which the waiver was requested and the waiver has contributed to improved student performance; and

''(B) such extension is in the public interest.

''(e) REPORTS.—

''(1) LOCAL WAIVER.—A local educational agency that receives a waiver under this section shall at the end of the second year for which a waiver is received under this section, and each subsequent year, submit a report to the State educational agency that—

''(A) describes the uses of such waiver by such agency or by schools;

''(B) describes how schools continued to provide assistance to the same populations served by the programs for which waivers are requested; and

''(C) evaluates the progress of such agency and of schools in improving the quality of instruction or the academic performance of students.

''(2) STATE WAIVER.—A State educational agency that receives reports required under paragraph (1) shall annually submit a report to the Secretary that is based on such reports and contains such information as the Secretary may require.

''(3) INDIAN TRIBE WAIVER.—An Indian tribe that receives a waiver under this section shall annually submit a report to the Secretary that—

''(A) describes the uses of such waiver by schools operated by such tribe; and

''(B) evaluates the progress of such schools in improving the quality of instruction or the academic performance of students.

''(4) REPORT TO CONGRESS.—Beginning in fiscal year 2002 and each subsequent year, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a report—

''(A) summarizing the uses of waivers by State educational agencies, local educational agencies, Indian tribes, and schools; and

''(B) describing whether such waivers—

''(i) increased the quality of instruction to students; or

''(ii) improved the academic performance of students.

''(f) TERMINATION OF WAIVERS.—The Secretary shall terminate a waiver under this section if the Secretary determines, after notice and an opportunity for a hearing, that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver or if the waiver is no longer necessary to achieve its original purposes.

''(g) PUBLICATION.—A notice of the Secretary's decision to grant each waiver under subsection (a) shall be published in the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, and the public.

''PART E—UNIFORM PROVISIONS

''SEC. 8501. MAINTENANCE OF EFFORT.

''(a) IN GENERAL.—A local educational agency may receive funds under a covered program for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of such agency and the State with respect to the provision of free public education by such agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

''(b) REDUCTION IN CASE OF FAILURE TO MEET.—

''(1) IN GENERAL.—The State educational agency shall reduce the amount of the allocation of funds under a covered program in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of subsection (a) of this section by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency).

''(2) SPECIAL RULE.—No such lesser amount shall be used for computing the effort required under subsection (a) of this section for subsequent years.

''(c) WAIVER.—The Secretary may waive the requirements of this section if the Secretary determines that such a waiver would be equitable due to—

''(1) exceptional or uncontrollable circumstances such as a natural disaster; or

''(2) a precipitous decline in the financial resources of the local educational agency.

''SEC. 8502. PROHIBITION REGARDING STATE AID.

''A State shall not take into consideration payments under this Act (other than under title VI) in determining the eligibility of any local educational agency in such State for State aid, or the amount of State aid, with respect to free public education of children.

''SEC. 8503. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.

''(a) PRIVATE SCHOOL PARTICIPATION.—

''(1) IN GENERAL.—Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in areas served by a State educational agency, local educational agency, educational service agency, consortium of such agencies, or another entity receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary and secondary schools in areas served by such agency, consortium or entity, such agency, consortium or entity shall, after timely and meaningful consultation with appropriate private school officials, provide such children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits that address their needs under such program.

''(2) SECULAR, NEUTRAL, AND NONIDEOLOGICAL SERVICES OR BENEFITS.—Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.

''(3) SPECIAL RULE.—Educational services and other benefits provided under this section for such private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in such program and shall be provided in a timely manner.

''(4) EXPENDITURES.—Expenditures for educational services and other benefits provided under this section to eligible private school children, their teachers, and other educational personnel serving such children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.

''(5) PROVISION OF SERVICES.—Such agency, consortium or entity described in subsection (a)(1) of this section may provide such services directly or through contracts with public and private agencies, organizations, and institutions.

''(b) APPLICABILITY.—

''(1) IN GENERAL.—This section applies to programs under—

''(A) part B, subpart 1 of title I;

''(B) part C of title I;

''(C) part A of title II;

''(D) part A of title III.

''(E) part A of title V; and

''(F) part B of title V;

''(2) DEFINITION.—For the purposes of this section, the term 'eligible children' means children eligible for services under a program described in paragraph (1).

''(c) CONSULTATION.—

''(1) IN GENERAL.—To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency, consortium of such agencies or entity shall consult with appropriate private school officials during the design and development of the programs under this Act, on issues such as—

''(A) how the children's needs will be identified;

''(B) what services will be offered;

''(C) how, where, and by whom the services will be provided;

''(D) how the services will be assessed and how the results of the assessment will be used to improve such services;

''(E) the size and scope of the equitable services to be provided to the eligible private school children, teachers, and other educational personnel and the amount of funds available for such services; and

''(F) how and when the agency, consortium, or entity will make decisions about the delivery of services, including a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third party providers.

''(2) DISAGREEMENT.—If the agency, consortium or entity disagrees with the views of the private school officials on the provision of services through a contract, the agency, consortium, or entity shall provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to use a contractor.

''(3) TIMING.—Such consultation shall occur before the agency, consortium, or entity makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act, and shall continue throughout the implementation and assessment of activities under this section.

''(4) DISCUSSION REQUIRED.—Such consultation shall include a discussion of service delivery mechanisms that the agency, consortium, or entity could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.

''(d) PUBLIC CONTROL OF FUNDS.—

''(1) IN GENERAL.—The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with such funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer such funds and property.

''(2) PROVISION OF SERVICES.—

''(A) The provision of services under this section shall be provided—

''(i) by employees of a public agency; or

''(ii) through contract by such public agency with an individual, association, agency, organization, or other entity.

''(B) In the provision of such services, such employee, person, association, agency, organization or other entity shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

''(C) Funds used to provide services under this section shall not be commingled with non-Federal funds.

''SEC. 8504. STANDARDS FOR BY-PASS.

''If, by reason of any provision of law, a State educational agency, local educational agency, educational service agency, consortium, or other entity of such agencies, is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary and secondary schools, on an equitable basis, or if the Secretary determines that such agency consortium or entity has substantially failed or is unwilling to provide for such participation, as required by section 8503, the Secretary shall—

''(1) waive the requirements of that section for such agency, consortium, or entity;

''(2) arrange for the provision of equitable services to such children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 8503, 8505, and 8506; and

''(3) in making the determination, consider one or more factors, including the quality, size, scope, location of the program and the opportunity of private school children, teachers, and other educational personnel to participate.

''SEC. 8505. COMPLAINT PROCESS FOR PARTICIPATION OF PRIVATE SCHOOL CHILDREN.

''(a) PROCEDURES FOR COMPLAINTS.—The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other

individuals and organizations concerning violations of section 8503 by a State educational agency, local educational agency, educational service agency, consortium of such agencies or entity. Such individual or organization shall submit such complaint to the State educational agency for a written resolution by the State educational agency within a reasonable period of time.

''(b) APPEALS TO SECRETARY.—Such resolution may be appealed by an interested party to the Secretary not later than 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within a reasonable period of time. Such appeal shall be accompanied by a copy of the State educational agency's resolution, and a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve each such appeal not later than 120 days after receipt of the appeal.

"SEC. 8506. BY-PASS DETERMINATION PROCESS.

''(a) REVIEW.—

''(1) IN GENERAL.—

''(A) The Secretary shall not take any final action under section 8504 until the State educational agency, local educational agency, educational service agency, consortium of such agencies or entity affected by such action has had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary to show cause why that action should not be taken.

''(B) Pending final resolution of any investigation or complaint that could result in a determination under this section, the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

''(2) PETITION FOR REVIEW.—

''(A) If such affected agency consortium or entity is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), such agency consortium or entity may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action.

''(B) A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary.

''(C) The Secretary upon receipt of the copy of the petition shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code.

''(3) FINDINGS OF FACT.—

''(A) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may then make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings.

''(B) Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

''(4) JURISDICTION.—

''(A) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part.

''(B) The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

''(b) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines, in consultation with such agency, consortium or entity and representatives of the affected private school children, teachers, or other educational personnel that there will no longer be any failure or inability on the part of such agency or consortium to meet the applicable requirements of section 8503 or any other provision of this Act.

''(c) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allocation or allocations under this Act.

''(d) PRIOR DETERMINATION.—Any by-pass determination by the Secretary under this Act as in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001 shall remain in effect to the extent the Secretary determines that such determination is consistent with the purpose of this section.

"SEC. 8507. PROHIBITION AGAINST FUNDS FOR RELIGIOUS WORSHIP OR INSTRUCTION.

''Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction.

"SEC. 8508. APPLICABILITY.

''Nothing in this Act shall be construed to affect home schools, whether or not a home school is treated as a home school or a private school under State law (consistent with section 8509), nor shall any home schooled student be required to participate in any assessment referenced in this Act.

"SEC. 8509. PRIVATE SCHOOLS.

''Nothing in this Act shall be construed to affect any private school that does not receive funds or services under this Act nor shall any student who attends a private school that does not receive funds or services under this Act be required to participate in any assessment referenced in this Act.

"SEC. 8510. PRIVACY OF ASSESSMENT RESULTS.

''Any results from individual assessments referenced in this Act which become part of the education records of the student shall have the protections as provided in section 444 of the General Education Provisions Act.

"SEC. 8511. GENERAL PROVISION REGARDING NONRECIPIENT NONPUBLIC SCHOOLS.

''Nothing in this Act, or any other Act administered by the Department, shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this Act.

"SEC. 8512. SCHOOL PRAYER.

''As a condition for receipt of funds under this Act, a local educational agency shall certify in writing to the Secretary that no policy of the agency prevents or otherwise denies participation in constitutionally protected prayer in public schools.

"SEC. 8513. GENERAL PROHIBITIONS.

''(a) PROHIBITION.—None of the funds authorized under this Act shall be used—

''(1) to develop or distribute materials, or operate programs or courses of instruction directed at youth that are designed to promote or encourage, sexual activity, whether homosexual or heterosexual;

''(2) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;

''(3) to provide sex education or HIV prevention education in schools unless such instruction is age appropriate and emphasizes the health benefits of abstinence; or

''(4) to operate a program of contraceptive distribution in schools.

''(b) LOCAL CONTROL.—Nothing in this section shall be construed to—

''(1) authorize an officer or employee of the Federal Government to direct, review, or control a State, local educational agency, or schools' instructional content, curriculum, and related activities;

''(2) limit the application of the General Education Provisions Act (20 U.S.C.A. 1221 et seq.);

''(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

''(4) create any legally enforceable right.

"SEC. 8514. PROHIBITION ON FEDERAL MANDATES, DIRECTION, AND CONTROL.

''(a) GENERAL PROHIBITION.—Officers and employees of the Federal Government are prohibited from mandating, directing, or controlling a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandating a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

''(b) PROHIBITION OF FEDERAL MANDATES, DIRECTION, OR CONTROL.—Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content or academic achievement standards and assessments, curriculum, or program of instruction as a condition of eligibility to receive funds under this Act.

''(c) EQUALIZED SPENDING.—Nothing in this Act shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

''(d) BUILDING STANDARDS.—Nothing in this Act shall be construed to mandate national school building standards for a State, local agency, or school.

"SEC. 8515. RULEMAKING.

''The Secretary shall issue regulations under this Act only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this Act.

"SEC. 8516. REPORT.

''The Secretary shall report to the Congress not later than 180 days after the date of enactment of the No Child Left Behind Act of 2001 regarding how the Secretary shall ensure that audits conducted by Department employees of activities assisted under this Act comply with changes to this Act made by the No Child Left Behind Act of 2001, particularly with respect to permitting children with similar educational needs to be served in the same educational settings, where appropriate.

"SEC. 8517. REQUIRED APPROVAL OR CERTIFICATION PROHIBITED.

''(a) IN GENERAL.—Notwithstanding any other provision of Federal law, no State shall be required to have academic content standards or student academic achievement standards approved or certified by the Federal Government, in order to receive assistance under this Act.

''(b) CONSTRUCTION.—Nothing in this section shall be construed to affect requirements under title I of this Act.

"SEC. 8518. PROHIBITION ON ENDORSEMENT OF CURRICULUM.

''Notwithstanding any other prohibition of Federal law, no funds provided to the Department of Education or to any applicable program may be used by the Department to endorse, approve, or sanction any curriculum designed to be used in an elementary or secondary school.

"SEC. 8519. RULE OF CONSTRUCTION ON PERSONALLY IDENTIFIABLE INFORMATION.

''Nothing in this Act shall be construed to permit the development of a national database of personally identifiable information on individuals involved in studies or in data collection efforts under this Act.

"SEC. 8520. SEVERABILITY.

''If any provision of this Act is held invalid, the remainder of this Act shall be unaffected thereby.

''PART F—SENSE OF CONGRESS

"SEC. 8601. PAPERWORK REDUCTION.

''(a) FINDINGS.—The Congress finds that—

''(1) instruction and other classroom activities provide the greatest opportunity for students, especially at-risk and disadvantaged students, to attain high standards and achieve academic success;

''(2) one of the greatest obstacles to establishing an effective, classroom-centered education system is the cost of paperwork compliance;

''(3) paperwork places a burden on teachers and administrators who must complete Federal and State forms to apply for Federal funds and absorbs time and money which otherwise would be spent on students;

''(4) the Education at a Crossroads Report released in 1998 by the Education Subcommittee on Oversight and Investigations states that requirements by the Department of Education result in more than 48,600,000 hours of paperwork per year; and

''(5) paperwork distracts from the mission of schools, encumbers teachers, and administrators with nonacademic responsibilities, and competes with teaching and classroom activities which promote learning and achievement.

''(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal and State educational agencies should reduce the paperwork requirements placed on schools, teachers, principles, and other administrators.

"SEC. 8602. PROHIBITION ON MANDATORY NATIONAL CERTIFICATION OF TEACHERS AND PARAPROFESSIONALS.

''(a) PROHIBITION ON MANDATORY TESTING OR CERTIFICATION.—Notwithstanding any other provision of law, the Secretary is prohibited from using Federal funds to plan, develop, implement, or administer any mandatory national teacher or paraprofessional test or certification.

''(b) PROHIBITION ON WITHHOLDING FUNDS.—The Secretary is prohibited from withholding funds from any State or local educational agency if such State or local educational agency fails to adopt a specific method of teacher or paraprofessional certification.

"SEC. 8603. PROHIBITION ON FEDERALLY SPONSORED TESTING.

''Notwithstanding any other provision of Federal law, no funds provided under this Act to the Secretary or to the recipient of any award may be used to develop, pilot test, field test, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

"SEC. 8604. SENSE OF CONGRESS REGARDING MEMORIALS.

''It is the sense of Congress that—

''(1) the saying of a prayer, the reading of a scripture, or the performance of religious music, as part of a memorial service that is held on the campus of a public elementary or secondary school in order to honor the memory of any person slain on that campus is not objectionable under this Act; and

''(2) the design and construction of any memorial which includes religious symbols, motifs, or sayings that is placed on the campus of a public elementary or secondary school in order to honor the memory of any person slain on that campus is not objectionable under this Act.

''PART G—EVALUATIONS

"SEC. 8651. EVALUATIONS.

''(a) RESERVATION OF FUNDS.—Except as provided in subsections (b) and (c), the Secretary may reserve not more than 0.5 percent of the amount appropriated to carry out each categorical program and demonstration project authorized under this Act—

''(1) to conduct—

''(A) comprehensive evaluations of the program or project; and

''(B) studies of the effectiveness of the programs or project and its administrative impact on schools and local educational agencies;

''(2) to evaluate the aggregate short- and long-term effects and cost efficiencies across Federal programs assisted or authorized under this Act and related Federal preschool, elementary and secondary programs under any other Federal law; and

''(3) to increase the usefulness of evaluations of grant recipients in order to ensure the continuous progress of the program or project by improving the quality, timeliness, efficiency, and utilization of information relating to performance under the program or project.

''(b) TITLE I EXCLUDED.—The Secretary may not reserve under subsection (a) funds appropriated to carry out any program authorized under title I.

''(c) EVALUATION ACTIVITIES AUTHORIZED ELSEWHERE.—If, under any other provision of this Act (other than title I), funds are authorized to be reserved or used for evaluation activities with respect to a program or project, the Secretary may not reserve additional funds under this section for the evaluation of such program or project.''.

SEC. 802. COMPREHENSIVE REGIONAL ASSISTANCE CENTERS.

(a) IN GENERAL.—Part A of title XIII (20 U.S.C. 8621 et seq.)—

(1) is transferred to the end of title VIII, as amended by section 801; and

(2) is redesignated as part H.

(b) REDESIGNATION OF SECTIONS.—Sections 13101 through 13105 are redesignated as sections 8701 through 8705, respectively.

(c) CONFORMING AMENDMENTS.—

(1) REQUIREMENTS.—Section 8702(a) (as redesignated by subsection (b)) is amended—

(A) by striking ''section 13101(a)'' and inserting ''section 8701(a)''; and

(B) in paragraph (7), by striking ''section 13201'' and inserting ''section 8751''.

(2) MAINTENANCE OF SERVICE.—Section 8703(b) (as redesignated by subsection (b)) is amended—

(A) in paragraph (1), by striking ''section 13102'' and inserting ''section 8702''; and

(B) in paragraph (2)—

(i) by striking ''section 13201'' and inserting ''section 8751''; and

(ii) by striking ''section 13401'' and inserting ''section 8851''.

(3) TRANSITION.—Section 8704(b)(1) (as redesignated by subsection (b)) is amended by striking ''section 13105'' and inserting ''section 8705''.

SEC. 803. NATIONAL DIFFUSION NETWORK.

(a) IN GENERAL.—Part B of title XIII (20 U.S.C. 8651 et seq.)—

(1) is transferred to the end of title VIII, as amended by section 802; and

(2) is redesignated as part I.

(b) REDESIGNATION OF SECTIONS.—Sections 13201 and 13202 are redesignated as sections 8751 and 8752, respectively.

(c) CONFORMING AMENDMENT.—Section 8751 (as redesignated by subsection (b)) is amended—

(1) in subsection (e)(3), by striking ''under part C'' through the end thereof and inserting ''under part F; and''; and

(2) in subsection (f)(4), by striking ''section 13401'' and inserting ''section 8851''.

SEC. 804. EISENHOWER REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIA.

(a) IN GENERAL.—Part C of title XIII (20 U.S.C. 8671 et seq.)—

(1) is transferred to the end of title VIII, as amended by section 803; and

(2) is redesignated as part J.

(b) REDESIGNATION OF SECTIONS.—Sections 13301 through 13308 are redesignated as sections 8801 through 8808, respectively.

(c) CONFORMING AMENDMENTS.—

(1) GRANT AUTHORIZATION.—Section 8801(a)(3) (as redesignated by subsection (b)) is amended by striking ''section 13308'' and inserting ''section 8808''.

(2) USE OF FUNDS.—Section 8802 (as redesignated by subsection (b)) is amended—

(A) by striking ''section 13304'' and inserting ''section 8804'';

(B) in paragraph (2), by striking ''13301(a)(1)'' and inserting ''8801(a)(1)''; and

(C) in paragraph (3), by striking ''13301(a)(1)'' and inserting ''8801(a)(1)''.

(3) PAYMENTS.—Section 8805 (as redesignated by subsection (b)) is amended in each of subsections (a) and (c) by striking ''section 13303'' and inserting ''section 8803''.

(4) EVALUATION.—Section 8806(a) (as redesignated by subsection (b)) is amended by striking ''section 14701'' and inserting ''section 8651''.

(5) DEFINITIONS.—Section 8807(4) (as redesignated by subsection (b)) is amended by striking ''section 13301'' and inserting ''section 8801''.

SEC. 805. TECHNOLOGY-BASED TECHNICAL ASSISTANCE.

(a) IN GENERAL.—Part D of title XIII (20 U.S.C. 8701)—

(1) is transferred to the end of title VIII, as amended by section 804; and

(2) is redesignated as part K.

(b) REDESIGNATION OF SECTION.—Section 13401 is redesignated as section 8851.

SEC. 806. REGIONAL TECHNICAL SUPPORT AND PROFESSIONAL DEVELOPMENT.

(a) IN GENERAL.—Subpart 3 of part A of title III (20 U.S.C. 6861 et seq.)—

(1) is transferred to the end of title VIII, as amended by section 805; and

(2) is redesignated as part L.

(b) REDESIGNATION OF SECTION.—Section 3141 is redesignated as section 8901.

(c) CONFORMING AMENDMENT.—Section 8901 (as redesignated by subsection (b)) is amended by striking ''part C of title XIII'' and inserting ''part J''.

TITLE IX—MISCELLANEOUS PROVISIONS

PART A—AMENDMENTS TO OTHER ACTS

Subpart 1—National Education Statistics Act

SEC. 901. AMENDMENT TO NESA.

Section 411 of the National Education Statistics Act of 1994 (20 U.S.C. 9010) is amended—

(1) by amending subsection (b)(2) to read as follows:

''(2) STATE ASSESSMENTS.—(A) The Commissioner, in carrying out the National Assessment—

''(i) may conduct State assessments of student achievement in grades 4, 8, and 12; and

''(ii) shall conduct annual State assessments of student achievement in reading and mathematics in grades 4 and 8 in order for States to carry out section 1111(c)(2) of the Elementary and Secondary Education Act of 1965.

''(B)(i) Except as provided in clause (ii), a participating State shall review and give permission for the release of results from any test of its students administered as a part of a State assessment prior to the release of the data. Refusal by a State to release its data shall not restrict the release of data from other States that have approved the release of that data.

''(ii) A State participating in the annual State assessments of its students in reading and mathematics in grades 4 and 8 shall be deemed to have given its permission to release its data if it has an approved plan under section 1111 of the Elementary and Secondary Education Act of 1965.''; and

(2) by amending subsection (d) to read as follows:

''(d) PARTICIPATION.—

''(1) NATIONAL AND REGIONAL PARTICIPATION.—Participation in the national and regional assessments by State and local educational agencies shall be voluntary.

''(2) STATE PARTICIPATION.—Participation in assessments made on a State basis shall be voluntary.''.

Subpart 2—Homeless Education

SEC. 911. SHORT TITLE.

This subpart may be cited as the ''McKinney-Vento Homeless Education Assistance Improvements Act of 2001''.

SEC. 912. FINDINGS.

Congress makes the following findings:

(1) An estimated 1,000,000 children in the United States will experience homelessness in 2001.

(2) Homelessness has a devastating impact on the educational opportunities of children and youth. Homeless children go hungry at more than twice the rate of other children, have four times the rate of delayed development, and are twice as likely to repeat a grade.

(3) Despite steady progress in school enrollment and attendance resulting from the passage in 1987 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.), homeless students still face numerous barriers to education, including residency, guardianship and registration requirements, delays in the transfer of school records, and inadequate transportation service.

(4) School is one of the few secure factors in the lives of homeless children and youth, providing stability, structure, and accomplishment during a time of great upheaval.

(5) Homeless children and youth require educational stability and the opportunity to maintain regular and consistent attendance in school, so that they acquire the skills necessary to escape poverty and lead productive, healthy lives as adults.

(6) In the 14 years since the passage of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.), educators and service providers have learned much about policies and practices which help remove the barriers described.

SEC. 913. PURPOSE.

The purpose of this subpart is to strengthen subtitle B of title VII of Public Law 100–77 (42 U.S.C. 11431 et seq.) by amending it—

(1) to include innovative practices, proven to be effective in helping homeless children and youth enroll, attend, and succeed in school; and

(2) to help ensure that all children and youth impacted by the loss of fixed, regular, and adequate housing receive a quality education and secure their chance for a brighter future.

SEC. 914. EDUCATION FOR HOMELESS CHILDREN AND YOUTH.

Subtitle B of title VII of Public Law 100–77 (42 U.S.C. 11431 et seq.) is amended to read as follows:

"Subtitle B—Education for Homeless Children and Youth

"SEC. 721. STATEMENT OF POLICY.

''It is the policy of the Congress that—

''(1) each State educational agency ensure that each child of a homeless individual and each homeless youth has equal access to the same free, public education, including a public preschool education, as provided to other children and youth;

''(2) in any State that has a compulsory residency requirement as a component of the State's compulsory school attendance laws or other laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and youth, the State review and undertake steps to revise such laws, regulations, practices, or policies to ensure that homeless children and youth are afforded the same free, public education as provided to other children and youth;

''(3) homelessness alone is not sufficient reason to separate students from the mainstream school environment; and

''(4) homeless children and youth must have access to the education and other services that such children and youth need to ensure that such children and youth have an opportunity to meet the same challenging State student academic achievement standards to which all students are held.

"SEC. 722. GRANTS FOR STATE AND LOCAL ACTIVITIES FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.

''(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to States in accordance with the provisions of this section to enable such States to carry out the activities described in subsections (d), (e), (f), and (g).

''(b) APPLICATION.—No State may receive a grant under this section unless the State educational agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

''(c) ALLOCATION AND RESERVATIONS.—

''(1) IN GENERAL.—Subject to paragraph (2) and section 724(d), from the amounts appropriated for each fiscal year under section 726, the Secretary is authorized to allot to each State an amount that bears the same ratio to the amount appropriated for such year under section 726 as the amount allocated under section 1122 of the Elementary and Secondary Education Act of 1965 to the State for that year bears to the total amount allocated under section 1122 of such Act to all States for that year, except that no State shall receive less than $125,000 or ½ of 1 percent of the amount appropriated under section 726, whichever is greater.

''(2) RESERVATION.—(A) The Secretary is authorized to reserve 0.1 percent of the amount appropriated for each fiscal year under section 726 to be allocated by the Secretary among the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, according to their respective need for assistance under this subtitle, as determined by the Secretary.

''(B)(i) The Secretary shall transfer one percent of the amount appropriated for each fiscal year under section 726 to the Department of the Interior for programs for Indian students served by schools funded by the Secretary of the Interior, as determined under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), that are consistent with the purposes of this Act.

''(ii) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of this part, for the distribution and use of the funds described in clause (i) under terms that the Secretary determines best meet the purposes of the programs described in such clause. Such agreement shall set forth the plans of the Secretary of the Interior for the use of the amounts transferred, including appropriate goals, objectives, and milestones.

''(3) STATE DEFINED.—As used in this subsection, the term 'State' shall not include the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(d) ACTIVITIES.—Grants under this section shall be used—

''(1) to carry out the policies set forth in section 721 in the State;

''(2) to provide activities for, and services to, homeless children, including preschool-aged homeless children, and youth that enable such children and youth to enroll in, attend, and succeed in school, or, if appropriate, in preschool programs;

''(3) to establish or designate an Office of Coordinator of Education of Homeless Children and Youth in the State educational agency in accordance with subsection (f);

''(4) to prepare and carry out the State plan described in subsection (g); and

''(5) to develop and implement professional development programs for school personnel to heighten their awareness of, and capacity to respond to, specific problems in the education of homeless children and youth.

''(e) STATE AND LOCAL GRANTS.—

''(1) MINIMUM DISBURSEMENTS BY STATES.—From the sums made available each year to carry out this subtitle, the State educational agency shall distribute not less than 75 percent in grants to local educational agencies for the purposes of carrying out section 723, except that States funded at the minimum level set forth in subsection (c)(1) shall distribute not less than 50 percent in grants to local educational agencies for the purposes of carrying out section 723.

''(2) USE BY STATE EDUCATIONAL AGENCY.—A State educational agency may use funds made available for State use under this subtitle to conduct activities under subsection (f) directly or through grants.

''(3) PROHIBITION ON SEGREGATING HOMELESS STUDENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) and section 723(a)(2)(B)(ii), in providing a free public education to a homeless child or youth, no State receiving funds under this subtitle shall segregate such child or youth, either in a separate school or in a separate program within a school, based solely on such child's or youth's status as homeless.

''(B) EXCEPTION.—A State that operates a separate school for homeless children as of the day preceding the date of enactment of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001—

''(i) shall remain eligible to receive, and to distribute to local educational agencies, funds under this subtitle for such school; and

''(ii) shall not distribute to local educational agencies in the State any funds received under this subtitle for use by any such schools not in operation as of such date of enactment.

''(f) FUNCTIONS OF THE OFFICE OF COORDINATOR.—The Coordinator of Education of Homeless Children and Youth established in each State shall—

''(1) gather, to the extent possible, reliable, valid, and comprehensive information on the nature and extent of the problems homeless children and youth have in gaining access to public preschool programs and to public elementary and secondary schools, the difficulties in identifying the special needs of such children and youth, any progress made by the State educational agency and local educational agencies in the State in addressing such problems and difficulties, and the success of the program under this subtitle in assisting homeless children and youth to enroll in, attend, and succeed in, school;

''(2) develop and carry out the State plan described in subsection (g);

''(3) collect and transmit to the Secretary information gathered pursuant to paragraphs (1) and (2) at such time and in such manner as the Secretary may require;

''(4) facilitate coordination between the State educational agency, the State social services agency, and other agencies providing services to homeless children and youth, including homeless children, including preschool-aged homeless children, and youth, and families of such children and youth;

''(5) in order to improve the provision of comprehensive education and related services to homeless children and youth and their families, coordinate and collaborate with—

''(A) educators, including child development and preschool program personnel;

''(B) State and local providers of services to homeless and runaway children and youth and homeless families (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youth);

''(C) local educational agency liaisons for homeless children and youth; and

''(D) State and local community organizations and groups representing homeless children and youth and their families; and

''(6) provide technical assistance to local educational agencies, in coordination with local liaisons designated under subsection (g)(1)(J)(ii), to ensure that local educational agencies comply

with the requirements of paragraphs (3) through (7) of subsection (g).

''(g) STATE PLAN.—

''(1) IN GENERAL.—Each State shall submit to the Secretary a plan to provide for the education of homeless children and youth within the State, which plan shall—

''(A) describe how such children and youth are or will be given the opportunity to meet the same challenging State student academic achievement standards all students are expected to meet;

''(B) describe the procedures the State educational agency will use to identify such children and youth in the State and to assess their special needs;

''(C) describe procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youth;

''(D) describe programs for school personnel (including principals, attendance officers, teachers, enrollment personnel, and pupil services personnel) to heighten the awareness of such personnel of the specific needs of runaway and homeless youth;

''(E) describe procedures that ensure that homeless children and youth who meet the relevant eligibility criteria are able to participate in Federal, State, or local food programs;

''(F) describe procedures that ensure that—

''(i) homeless children have equal access to the same public preschool programs, administered by the State agency, as provided to other children;

''(ii) homeless youth and youth separated from the public schools are identified and accorded equal access to appropriate secondary education and support services; and

''(iii) homeless children and youth who meet the relevant eligibility criteria are able to participate in Federal, State, or local before- and after-school care programs;

''(G) address problems set forth in the report provided to the Secretary under subsection (f)(3);

''(H) address other problems with respect to the education of homeless children and youth, including problems caused by enrollment delays that are caused by—

''(i) immunization and medical records requirements;

''(ii) residency requirements;

''(iii) lack of birth certificates, school records, or other documentation;

''(iv) guardianship issues; or

''(v) uniform or dress code requirements;

''(I) demonstrate that the State educational agency and local educational agencies in the State have developed, and shall review and revise, policies to remove barriers to the enrollment and retention of homeless children and youth in schools in the State; and

''(J) contain assurances that—

''(i) except as provided in subsection (e)(3)(B), State and local educational agencies will adopt policies and practices to ensure that homeless children and youth are not segregated solely on the basis of their status as homeless;

''(ii) local educational agencies will designate an appropriate staff person, who may also be a coordinator for other Federal programs, as a liaison for homeless children and youth, to carry out the duties described in paragraph (6)(A); and

''(iii) the State and its local educational agencies will adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison) to and from the school of origin, as determined in paragraph (3)(A), in accordance with the following, as applicable:

''(I) If the homeless child or youth continues to live in the area served by the local educational agency in which the school of origin is located, the child's or youth's transportation to and from the school of origin shall be provided or arranged by the local educational agency in which the school of origin is located.

''(II) If the homeless child's or youth's living arrangements in the area served by the local educational agency of origin terminate and the child or youth, though continuing his or her education in the school of origin, begins living in the area served by another local educational agency, the local educational agency of origin and the local educational agency in which the homeless child or youth is living shall agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school or origin. If the local educational agencies are unable to agree upon such method, the responsibility and costs for transportation shall be shared equally.

''(2) COMPLIANCE.—

''(A) IN GENERAL.—Each plan adopted under this subsection shall also describe how the State will ensure that local educational agencies in the State will comply with the requirements of paragraphs (3) through (7).

''(B) COORDINATION.—Such plan shall indicate what technical assistance the State will furnish to local educational agencies and how compliance efforts will be coordinated with the local liaisons established under this subchapter.

''(3) LOCAL EDUCATIONAL AGENCY REQUIREMENTS.—

''(A) IN GENERAL.—The local educational agency serving each child or youth to be assisted under this subtitle shall, according to the child's or youth's best interest, either—

''(i) continue the child's or youth's education in the school of origin for the duration of homelessness—

''(I) in any case in which a family becomes homeless between academic years or during the academic year; or

''(II) for the remainder of the academic year, if the child becomes permanently housed during the academic year; or

''(ii) enroll the child or youth in any public school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.

''(B) BEST INTEREST.—In determining the best interest of the child or youth under subparagraph (A), the local educational agency shall—

''(i) to the extent feasible, keep a homeless child or youth in the school of origin, except when doing so is contrary to the wishes of the child's or youth's parent or guardian;

''(ii) provide a written explanation, including a statement regarding the right to appeal under subparagraph (E), to the homeless child's or youth's parent or guardian if the local educational agency sends such child or youth to a school other than the school of origin or a school requested by the parent or guardian; and

''(iii) in the case of an unaccompanied youth, ensure that the homeless liaison designated under paragraph (1)(J)(2) assists in placement or enrollment decisions under this subparagraph and provides notice to such youth of the right to appeal under subparagraph (E).

''(C) ENROLLMENT.—(i) The school selected in accordance with this paragraph shall immediately enroll pursuant to section 725(3) the homeless child or youth, even if the child or youth is unable to produce records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation.

''(ii) The enrolling school shall immediately contact the school last attended by the child or youth to obtain relevant academic and other records.

''(iii) If the child or youth needs to obtain immunizations or immunization or medical records, the enrolling school shall immediately refer the parent or guardian of the child or youth to the liaison who shall assist in obtaining necessary immunizations or immunization or medical records in accordance with subparagraph (E).

''(D) RECORDS.—Any record ordinarily kept by the school, including immunization or medical records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, of each homeless child or youth shall be maintained—

''(i) so that the records are available, in a timely fashion, when a child or youth enters a new school or school district; and

''(ii) in a manner consistent with section 444 of the General Education Provisions Act (20 U.S.C. 1232g).

''(E) ENROLLMENT DISPUTES.—If a dispute arises over school selection or enrollment in a school—

''(i) the child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute;

''(ii) the parent or guardian of the child or youth shall be provided with a written explanation of the school's decision regarding school selection or enrollment, including the rights of the parent, guardian, or youth to appeal the decision;

''(iii) the child, youth, parent, or guardian shall be referred to the local liaison designated under paragraph (1)(J)(ii), who shall carry out the dispute resolution process as described in paragraph (1)(A) as expeditiously as possible after receiving notice of the dispute; and

''(iv) in the case of an unaccompanied youth, the homeless liaison shall ensure that the youth is immediately enrolled in school pending resolution of the dispute.

''(F) PLACEMENT CHOICE.—The choice regarding placement shall be made regardless of whether the child or youth lives with the homeless parents or has been temporarily placed elsewhere.

''(G) SCHOOL OF ORIGIN DEFINED.—In this paragraph, the term 'school of origin' means the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled.

''(H) CONTACT INFORMATION.—Nothing in this subtitle shall prohibit a local educational agency from requiring a parent or guardian of a homeless child to submit contact information required by the local educational agency of a parent or guardian of a nonhomeless child.

''(4) COMPARABLE SERVICES.—Each homeless child or youth to be assisted under this subtitle shall be provided services comparable to services offered to other students in the school selected under paragraph (3), including—

''(A) transportation services;

''(B) educational services for which the child or youth meets the eligibility criteria, such as services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, educational programs for children with disabilities, and educational programs for students with limited-English proficiency;

''(C) programs in vocational and technical education;

''(D) programs for gifted and talented students; and

''(E) school nutrition programs.

''(5) COORDINATION.—

''(A) IN GENERAL.—Each local educational agency serving homeless children and youth that receives assistance under this subtitle shall coordinate—

''(i) the provision of services under this subtitle with local social services agencies and other agencies or programs providing services to homeless children and youth and their families, including services and programs funded under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.); and

''(ii) with other local educational agencies on interdistrict issues, such as transportation or transfer of school records.

''(B) HOUSING ASSISTANCE.—If applicable, each State and local educational agency that receives assistance under this subtitle shall coordinate with State and local housing agencies responsible for developing the comprehensive

housing affordability strategy described in section 105 of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. 12705) to minimize educational disruption for children and youth who become homeless.

''(C) COORDINATION PURPOSE.—The coordination required under subparagraphs (A) and (B) shall be designed to—

''(i) ensure that homeless children and youth have access and reasonable proximity to available education and related support services; and

''(ii) raise the awareness of school personnel and service providers of the effects of short-term stays in a shelter and other challenges associated with homelessness.

''(6) LIAISON.—

''(A) DUTIES.—Each local liaison for homeless children and youth, designated under paragraph (1)(J)(ii), shall ensure that—

''(i) homeless children and youth are identified by school personnel and through coordination activities with other entities and agencies;

''(ii) homeless children and youth enroll in, and have an equal opportunity to succeed in, schools of that agency;

''(iii) homeless families, children, and youth receive educational services for which such families, children, and youth are eligible, including Head Start and Even Start programs and preschool programs administered by the local educational agency, and referrals to health care services, dental services, mental health services, and other appropriate services;

''(iv) the parents or guardians of homeless children and youth are informed of the education and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children;

''(v) public notice of the educational rights of homeless children and youth is disseminated where such children and youth receive services under this Act, such as schools, family shelters, and soup kitchens;

''(vi) enrollment disputes are mediated in accordance with subsection (g)(3)(E); and

''(vii) the parent or guardian of a homeless child or youth, and any unaccompanied youth, is fully informed of all transportation services, including transportation to the school of origin, as described in paragraph (1)(J)(ii), and is assisted in accessing transportation to the school selected in accordance with paragraph (3)(A).

''(B) NOTICE.—State coordinators whose duties are described under subsection (d) and local educational agencies shall inform school personnel, service providers, and advocates working with homeless families of the duties of the liaisons.

''(C) LOCAL AND STATE COORDINATION.—Local educational agency liaisons for homeless children and youth shall, as a part of their duties, coordinate and collaborate with State coordinators and community and school personnel responsible for the provision of education and related services to homeless children and youth.

''(7) REVIEW AND REVISIONS.—

''(A) IN GENERAL.—Each State educational agency and local educational agency that receives assistance under this subtitle, shall review and revise any policies that may act as barriers to the enrollment of homeless children and youth in schools selected in accordance with paragraph (3).

''(B) CONSIDERATION.—In reviewing and revising such policies, consideration shall be given to issues concerning transportation, immunization, residency, birth certificates, school records and other documentation, and guardianship.

''(C) SPECIAL ATTENTION.—Special attention shall be given to ensuring the enrollment and attendance of homeless children and youth who are not currently attending school.

"SEC. 723. LOCAL EDUCATIONAL AGENCY GRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.

''(a) GENERAL AUTHORITY.—

''(1) IN GENERAL.—The State educational agency shall, in accordance with section 722(e) and from amounts made available to such agency under section 726, make grants to local educational agencies for the purpose of facilitating the enrollment, attendance, and success in school of homeless children and youth.

''(2) SERVICES.—

''(A) IN GENERAL.—Services under paragraph (1)—

''(i) may be provided through programs on school grounds or at other facilities;

''(ii) shall, to the maximum extent practicable, be provided through existing programs and mechanisms that integrate homeless children and youth with nonhomeless children and youth; and

''(iii) shall be designed to expand or improve services provided as part of a school's regular academic program, but not to replace such services provided under such program.

''(B) SERVICES ON SCHOOL GROUNDS.—If services under paragraph (1) are provided on school grounds, schools—

''(i) may use funds under this subtitle to provide the same services to other children and youth who are determined by the local educational agency to be at risk of failing in, or dropping out of, schools, subject to the requirements of clause (ii); and

''(ii) except as otherwise provided in section 722(e)(3)(B), shall not provide services in settings within a school that segregates homeless children and youth from other children and youth, except as is necessary for short periods of time—

''(I) for health and safety emergencies; or

''(II) to provide temporary, special, and supplementary services to meet the unique needs of homeless children and youth.

''(3) REQUIREMENT.—Services provided under this section shall not replace the regular academic program and shall be designed to expand upon or improve services provided as part of the school's regular academic program.

''(b) APPLICATION.—A local educational agency that desires to receive a grant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by such information as the State educational agency may reasonably require. Each such application shall include—

''(1) an assessment of the educational and related needs of homeless children and youth, as defined in section 725(1) and (2), in the area served by such agency (which may be undertaken as part of needs assessments for other disadvantaged groups);

''(2) a description of the services and programs for which assistance is sought to address the needs identified in paragraph (1);

''(3) an assurance that the local educational agency's combined fiscal effort per student, or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such agency for the fiscal year preceding the fiscal year for which the determination is made, was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made;

''(4) an assurance that the applicant complies with, or will use requested funds to comply with, paragraphs (3) through (7) of section 722(g); and

''(5) a description of policies and procedures, consistent with section 722(e)(3)(B), that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and youth.

''(c) AWARDS.—

''(1) IN GENERAL.—The State educational agency shall, in accordance with the requirements of this subtitle and from amounts made available to it under section 726, make competitive subgrants to local educational agencies that submit applications under subsection (b). Such subgrants shall be awarded on the basis of the need of such agencies for assistance under this subtitle and the quality of the applications submitted.

''(2) NEED.—In determining need under paragraph (1), the State educational agency may consider the number of homeless children and youth enrolled in preschool, elementary, and secondary schools within the area served by the agency, and shall consider the needs of such children and youth and the ability of the agency to meet such needs. Such agency may also consider—

''(A) the extent to which the proposed use of funds would facilitate the enrollment, retention, and educational success of homeless children and youth;

''(B) the extent to which the application—

''(i) reflects coordination with other local and State agencies that serve homeless children and youth; and

''(ii) meets the requirements of section 722(g)(3);

''(C) the extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youth; and

''(D) such other criteria as the State agency determines appropriate.

''(3) QUALITY.—In determining the quality of applications under paragraph (1), the State educational agency shall consider—

''(A) the applicant's needs assessment under subsection (b)(1) and the likelihood that the program presented in the application will meet such needs;

''(B) the types, intensity, and coordination of the services to be provided under the program;

''(C) the involvement of parents or guardians;

''(D) the extent to which homeless children and youth will be integrated within the regular education program;

''(E) the quality of the applicant's evaluation plan for the program;

''(F) the extent to which services provided under this subtitle will be coordinated with other available services; and

''(G) such other measures as the State educational agency considers indicative of a high-quality program.

''(4) DURATION OF GRANTS.—Grants awarded under this section shall be for terms not to exceed 3 years.

''(d) AUTHORIZED ACTIVITIES.—A local educational agency may use funds awarded under this section for activities to carry out the purpose of this subtitle, including—

''(1) the provision of tutoring, supplemental instruction, and enriched educational services that are linked to the achievement of the same challenging State academic content standards and challenging State student academic achievement standards the State establishes for other children and youth;

''(2) the provision of expedited evaluations of the strengths and needs of homeless children and youth, including needs and eligibility for programs and services (such as educational programs for gifted and talented students, children with disabilities, and students with limited-English proficiency, services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, programs in vocational and technical education, and school nutrition programs);

''(3) professional development and other activities for educators and pupil services personnel that are designed to heighten the understanding and sensitivity of such personnel to the needs of homeless children and youth, the rights of such children and youth under this Act, and the specific educational needs of runaway and homeless youth;

''(4) the provision of referral services to homeless children and youth for medical, dental, mental, and other health services;

''(5) the provision of assistance to defray the excess cost of transportation for students pursuant to section 722(g)(4)(A), not otherwise provided through Federal, State, or local funding,

where necessary to enable students to attend the school selected under section 722(g)(3);

''(6) the provision of developmentally appropriate early childhood education programs, not otherwise provided through Federal, State, or local funding, for preschool-aged children;

''(7) the provision of services and assistance to attract, engage, and retain homeless youth (as described in paragraphs (1) and (2) of section 725) in public school programs and services provided to nonhomeless youth;

''(8) the provision for homeless children and youth of before- and after-school, mentoring, and summer programs in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities;

''(9) if necessary, the payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll homeless children and youth in school, including birth certificates, immunization or medical records, academic records, guardianship records, and evaluations for special programs or services;

''(10) the provision of education and training to the parents of homeless children and youth about the rights of, and resources available to, such children and youth;

''(11) the development of coordination between schools and agencies providing services to homeless children and youth, as described in section 722(g)(5);

''(12) the provision of pupil services (including violence prevention counseling) and referrals for such services;

''(13) activities to address the particular needs of homeless children and youth that may arise from domestic violence;

''(14) the adaptation of space and purchase of supplies for nonschool facilities made available under subsection (a)(2) to provide services under this subsection;

''(15) the provision of school supplies, including those supplies to be distributed at shelters or temporary housing facilities, or other appropriate locations; and

''(16) the provision of other extraordinary or emergency assistance needed to enable homeless children and youth to attend school.

''SEC. 724. SECRETARIAL RESPONSIBILITIES.

''(a) REVIEW OF PLANS.—In reviewing the State plan submitted by a State educational agency under section 722(g), the Secretary shall use a peer review process and shall evaluate whether State laws, policies, and practices described in such plans adequately address the problems of homeless children and youth relating to access to education and placement as described in such plans.

''(b) TECHNICAL ASSISTANCE.—The Secretary shall provide support and technical assistance to the State educational agencies to assist such agencies to carry out their responsibilities under this subtitle, if requested by the State educational agency.

''(c) NOTICE.—The Secretary shall, before the next school year that begins after the date of the enactment of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, create and disseminate nationwide a public notice of the educational rights of homeless children and youth and disseminate such notice to other Federal agencies, programs, and grantees, including Head Start grantees, Health Care for the Homeless grantees, Emergency Food and Shelter grantees, and homeless assistance programs administered by the Department of Housing and Urban Development.

''(d) EVALUATION AND DISSEMINATION.—The Secretary shall conduct evaluation and dissemination activities of programs designed to meet the educational needs of homeless elementary and secondary school students, and may use funds appropriated under section 726 to conduct such activities.

''(e) SUBMISSION AND DISTRIBUTION.—The Secretary shall require applications for grants under this subtitle to be submitted to the Secretary not later than the expiration of the 60-day period beginning on the date that funds are available for purposes of making such grants and shall make such grants not later than the expiration of the 120-day period beginning on such date.

''(f) DETERMINATION BY SECRETARY.—The Secretary, based on the information received from the States and information gathered by the Secretary under subsection (e), shall determine the extent to which State educational agencies are ensuring that each homeless child and homeless youth has access to a free appropriate public education as described in section 721(1).

''(g) INFORMATION.—

''(1) IN GENERAL.—From funds appropriated under section 726, the Secretary shall, either directly or through grants, contracts, or cooperative agreements, periodically collect and disseminate data and information regarding—

''(A) the number and location of homeless children and youth;

''(B) the education and related services such children and youth receive;

''(C) the extent to which such needs are being met; and

''(D) such other data and information as the Secretary deems necessary and relevant to carry out this subtitle.

''(2) COORDINATION.—The Secretary shall coordinate such collection and dissemination with other agencies and entities that receive assistance and administer programs under this subtitle.

''(h) REPORT.—Not later than 4 years after the date of the enactment of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, the Secretary shall prepare and submit to the President and the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the status of education of homeless children and youth, which shall include information on—

''(1) the education of homeless children and youth; and

''(2) the actions of the Department and the effectiveness of the programs supported under this subtitle.

''SEC. 725. DEFINITIONS.

''In this subtitle:

''(1) The term 'homeless children and youth'—

''(A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1));

''(B) includes—

''(i) children and youth who are living in doubled-up accommodations sharing the housing of another due to loss of housing, economic hardship or a similar reason, are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations, are living in emergency or transitional shelters, are abandoned in hospitals, or are awaiting foster care placement;

''(ii) individuals who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 103(a)(2)(C)); and

''(iii) children and youth who are living in cars, parks, public spaces, abandoned buildings or substandard housing, bus or train stations, or similar settings; and

''(C) does not include migratory children (as such term is defined in section 1309(2) of the Elementary and Secondary Education Act of 1965), unless such children are staying in accommodations not fit for habitation.

''(2) The term 'unaccompanied youth' includes youth not in the physical custody of a parent or guardian.

''(3) The terms 'enroll' and 'enrollment' include within their meaning the right to attend classes and to participate fully in school activities.

''(4) The terms 'local educational agency' and 'State educational agency' have the meanings given such terms in section 8101 of the Elementary and Secondary Education Act of 1965.

''(5) The term 'Secretary' means the Secretary of Education.

''(6) The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''SEC. 726. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out this subtitle, there are authorized to be appropriated $60,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003 through 2006.''.

SEC. 915. TECHNICAL AMENDMENT.

(a) IN GENERAL.—Section 1 of Public Law 106–400 (42 U.S.C. 11301) is amended by striking ''Section 1 of'' and inserting ''Section 101 of''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be deemed to be effective on the date of enactment of Public Law 106–400.

PART B—REPEALS

SEC. 921. REPEALS.

The following provisions are repealed:

(1) GOALS.—Parts A and C of title II and title VI of Goals 2000: Educate America Act.

(2) TROOPS-TO-TEACHERS PROGRAM ACT OF 1999.—The Troops-to-Teachers Program Act of 1999 (title XVII of Public Law 106–65; 20 U.S.C. 9301 et seq.).

(3) ESEA.—

(A) Title IX, relating to Indian, Native Hawaiian, and Alaska Native education.

(B) Parts A, B, C, D, F, G, I, J, L, of title X, relating to programs of national significance.

(C) Title XI, relating to coordinated services.

(D) Title XII, relating to education infrastructure.

(E) The title heading of title XIII and sections 13001 and 13002.

(F) Title XIV, relating to general provisions.

The CHAIRMAN. No amendment to that amendment is in order except those printed in House Report 107–69. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. BOEHNER

Mr. BOEHNER. Mr. Chairman, pursuant to the rule, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. BOEHNER:

In section 1003(b) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 103 of the bill, strike ''1116(c)'' and insert ''1116(b)''.

In section 1003(e) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 103 of the bill, strike ''amount of State funds'' and all that follows through ''the preceding fiscal year'' and inserting the following: ''amount of funds each local educational agency receives under subpart 2 below the amount received by such agency under such subpart in the preceding fiscal year''.

In section 1111 of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 104 of the bill, add at the end the following:

''(j) SPECIAL RULE WITH RESPECT TO BUREAU FUNDED SCHOOLS.—In determining the assessments to be used by each Bureau funded school receiving funds under this part, the following shall apply:

''(1) Each Bureau funded school which obtains accreditation by the State in which it is operating shall utilize the assessments the State has developed and implemented to meet the requirements of this section, or such other appropriate assessment as approved by the Secretary of the Interior.

''(2) Each Bureau funded school which obtains accreditation by a regional accreditation organization shall adopt an appropriate assessment, in consultation and with the approval of the Secretary of Interior and consistent with assessments adopted by other schools in the same State or region, that meets the requirements of this section.

''(3) Each Bureau funded school which obtains accreditation by a tribal accrediting agency or tribal division of education shall use an assessment developed by such agency or division, except that the Secretary of Interior shall ensure that such assessment meets the requirements of this section.

In section 1111(h)(1)(D)(i) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 104 of the bill, strike ''subsection (b)(4)(F)'' and insert ''subsection (b)(4)''.

In section 1116 of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 106 of the bill, add at the end the following:

''(f) TREATMENT OF BUREAU FUNDED SCHOOLS.—For the purposes of applying the requirements of subsection (b) to schools funded by the Bureau of Indian Affairs, the Secretary of Interior shall implement such subsection in a manner that treats the appropriate tribe or tribal organization as a local educational agency for the purpose of implementing school improvement, corrective action and restructuring actions. If such tribe or tribal organization does not take the appropriate action required under subsection (b), the Secretary shall take such appropriate action as required under subsection (b) after final notice to such tribe or tribal organization.''

In section 1116(b) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 106 of the bill—

(1) in paragraph (7)(D), strike ''to participate in developing any plan under subparagraph (A)(iii)'' and insert '', to the extent practicable, to participate in developing any plan under subparagraph (A)(ii)(III)'';

(2) in the matter preceding subparagraph (A) of paragraph (8)—

(A) insert ''(1)(E) for schools described in paragraphs (1)(A)(i),'' after ''paragraph''; and

(B) insert a comma after ''(6)(D)(i)''; and

(3) in paragraph (9)—

(A) insert ''(1)(E),'' after ''paragraph''; and

(B) insert a comma after ''(6)(D)(i)''.

In section 1116(d)(11) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 106 of the bill—

(1) strike ''paragraph shall'' and insert ''subsection shall''; and

(2) strike ''under this paragraph''.

In section 1118 of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 108 of the bill—

(1) in paragraph (12), insert ''and'' after the semicolon;

(2) in paragraph (13), strike ''; and'' and insert a period; and

(3) strike paragraph (14).

In section 1221(2)(A) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 111 of the bill, strike ''alphabet;'' and insert ''alphabet and letter sounds;''.

In section 1221(5) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 111 of the bill, strike ''care agencies,'' and insert ''care agencies and programs,''.

In section 1222 of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 111 of the bill—

(1) in subsection (b)—

(A) in paragraph (2) insert ''or agencies'' after ''organizations'' each place such term appears and insert ''or program'' after ''child care agency''; and

(B) in paragraph (3), insert ''or agencies'' after ''organizations''; and

(2) in subsection (e)—

(A) in paragraph (1)(B)(i), strike ''alphabet;'' and insert ''alphabet and letter sounds;''; and

(B) in paragraph (2)(B), strike ''care agencies,'' and insert ''care agencies or programs,''.

In subpart 2 of part B of title I of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 111 of the bill, amend section 1224 to read as follows:

''SEC. 1224. REPORTING REQUIREMENTS.

''Each eligible applicant receiving a grant under this subpart shall report annually to the Secretary regarding the eligible applicant's progress in addressing the purposes of this subpart, including information on—

''(1) the research-based instruction, materials, and activities being used in the programs funded under the grant;

''(2) the types of programs funded under the grant and the ages of children served by such programs;

''(3) the qualifications of the program staff who provide early literacy instruction under such programs and the type of ongoing professional development provided to such staff; and

''(4) the curricula, materials, and activities used by the programs funded under the grant to support children's reading development.

In section 1711(c) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 171 of the bill—

(1) insert ''subpart 1 of'' before ''part A of title V''; and

(2) strike ''5212(2)(A)'' and insert ''5212(a)(2)(A)''.

In section 2012(e) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 201 of the bill, strike paragraph (12) and insert the following:

''(12) Developing, or assisting local educational agencies in developing, teacher advancement initiatives that promote professional growth and emphasize multiple career paths (such as career teacher, mentor teacher, and master teacher) and pay differentiation.

In section 2031(a) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 201 of the bill, amend paragraph (7) to read as follows:

''(7) Teacher advancement initiatives that promote professional growth and emphasize multiple career paths (such as career teacher, mentor teacher, and master teacher) and pay differentiation.

In title III of the bill, add at the end the following:

SEC. 315. ACCOUNTABILITY FOR BUREAU FUNDED SCHOOLS

Notwithstanding the provisions of section 7102 of the Elementary and Secondary Education Act of 1965, the Secretary shall limit any reduction of administrative funding for the Bureau of Indian Affairs under such section to no more than 50 percent of the amount that may be reserved for administration under such Act.

In section 4131(b) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 401 of the bill—

(1) in paragraph (14), strike ''and'' at the end;

(2) in paragraph (15), strike the period at the end and insert a semicolon; and

(3) add at the end the following:

''(16) programs to establish or enhance prekindergarten programs for children ages 3 through 5; and

''(17) academic intervention programs that are operated jointly with community-based organizations and that support academic enrichment and counseling programs conducted during the school day (including during extended school day or extended school year programs) for students most-at-risk of not meeting challenging State academic standards or not completing secondary school.

In section 4201(b)(2) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 411 of the bill, insert ''academic'' before ''achievement''.

In section 5122(a)(3) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 501 of the bill, insert ''students who attend'' after ''target''.

In section 5124 of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 501 of the bill—

(1) in subsection (a), strike paragraph (3);

(2) in subsection (c)(1), insert ''(including summer school programs)'' after ''school activities''; and

(3) in subsection (d), insert '', during the summer,'' after ''after school''.

In section 5151(4)(B) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 501 of the bill, insert ''and harassment'' after ''weapons''.

In section 5202(5) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 501 of the bill, insert ''to training'' after ''constant access''.

In section 5213(b)(4)(A) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 501 of the bill, strike ''that'' before ''ongoing'' and insert a comma before ''so that''.

In section 5214(b) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 501 of the bill—

(1) in paragraph (5), insert ''(including software and other electronically delivered learning materials)'' after ''will integrate technology''; and

(2) in paragraph (10)(B)—

(A) strike ''an assurance that'' and insert ''a description of how''; and

(B) strike ''have compatibility and interconnectivity with technology obtained'' and insert ''be integrated''.

In section 5215(a)(2) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 501 of the bill, insert a comma after ''reduced-cost loans''.

In section 5232 of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 501 of the bill, strike ''**TELECOMMUNICATIONS PROGRAM**'' in the section heading and insert ''**READY TO TEACH**''.

In title VI of the bill, insert after section 602 the following:

SEC. 603. ELIGIBILITY UNDER SECTION 8003 FOR CERTAIN HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.

(a) ELIGIBILITY.—Section 8003(b)(2)(C) (20 U.S.C. 7703(b)(2)(C)) is amended—

(1) in clauses (i) and (ii) by inserting after ''Federal military installation'' each place it appears the following: ''(or if the agency is a qualified local educational agency as described in clause (iv))''; and

(2) by adding at the end the following:

''(iv) QUALIFIED LOCAL EDUCATIONAL AGENCY.—A qualified local educational agency described in this clause is an agency that meets the following requirements:

''(I) The boundaries of the agency are the same as island property designated by the Secretary of the Interior to be property that is held in trust by the Federal Government.

''(II) The agency has no taxing authority.

''(III) The agency received a payment under paragraph (1) for fiscal year 2001.''.

(b) EFFECTIVE DATE.—The Secretary shall consider an application for a payment under section 8003(b)(2) for fiscal year 2002 from a qualified local educational agency described in section 8003(b)(2)(C)(iv), as added by subsection (a), as meeting the requirements of section 8003(b)(2)(C)(iii), and shall provide a payment under section 8003(b)(2) for fiscal year 2002, if the agency submits to the Secretary an application for payment under such section not later than 60 days after the date of the enactment of this Act.

In section 7203(b)(2)(C) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by such section 701 of the bill, strike ''Part A of title V or section 5212(2)(A)'' and insert ''Subpart 1 of part A of title V or section 5212(a)(2)(A)''.

In section 8305(a) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 801 of the bill, strike ''Governor and'' and add at the end the following: ''The State educational agency shall make any consolidated local plans and applications available to the Governor.''.

In section 8305(c) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 801 of the bill, strike ''A Governor and State educational agency'' and insert ''A State educational agency, in consultation with the Governor,''.

In part E of title VIII of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 801 of the bill—

(1) in section 8516, insert ''**ON DEPARTMENT AUDITS**'' after ''**REPORT**'' in the section heading; and

(2) after section 8516, insert the following (and redesignate succeeding provisions, and cross-references thereto, accordingly):

''SEC. 8517. STUDY OF TESTING.

''(a) IN GENERAL.—The Secretary shall provide for a study of the effects of testing on students in elementary and secondary schools. Such study may include—

''(1) overall improvement or decline in what students are learning based on independent measures;

''(2) changes in course offerings, teaching practices, course content, and instructional material;

''(3) changes in rates of teacher and administrator turnover;

''(4) changes in dropout, grade retention and graduation rates for students;

''(5) costs of preparing for, conducting and grading the assessments in terms of dollars expended by the school district and time expended by students and teachers; and

''(6) such other effects as the Secretary may deem appropriate.

''(b) REPORT.—Not later than 2 years after the date of enactment of the No Child Left Behind Act of 2001, the Secretary shall transmit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a report on the study conducted under subsection (a).

''(c) SUBSEQUENT CONGRESSIONAL CONSIDERATION.—After receipt of the report described in subsection (b), Congress may consider whether it is appropriate to enact legislation to mitigate any negative effects on students in elementary or secondary schools caused by testing.

The CHAIRMAN. Pursuant to House Resolution 143, the gentleman from Ohio (Mr. BOEHNER) and a Member opposed will each control 5 minutes.

Mr. GEORGE MILLER of California. Mr. Chairman, I ask unanimous consent to claim the time otherwise reserved for the opposition.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. BOEHNER)

Mr. BOEHNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, from the time the committee marked up H.R. 1 until today, I have been working with the ranking member, the gentleman from California (Mr. GEORGE MILLER) and many other Members from both sides of the aisle to resolve a number of issues. Those issues that we have resolved have been included in this manager's amendment, and I wish to thank all of the Members for their cooperation.

In addition, there are several technical and conforming changes that have been included in this amendment as well. In title I, we have made several changes. First, we have made it clear that transportation is to be provided for public school choice when a school is designated as low performing.

Second, we have clarified the role of parents in developing a school's restructuring plan.

Third, we have made clarifications on the assessments used by Bureau of Indian Affairs schools and made clear that tribal organizations operating Bureau of Indian Affairs schools are to be treated as local educational agencies for purposes of implementing school improvement and corrective action programs.

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In title II, we have made technical changes regarding State activities and local uses of funds with respect to teacher advancement initiatives and pay differentiation.

In title III, part B, we have made changes concerning the accountability of the Secretary of the Interior for the improvement of schools funded or operated by the Bureau of Indian Affairs.

Under the innovative education block grant in title IV, we have added two items to the local uses of funds at the school district level. First, we have included activities to enhance or establish prekindergarten programs for 3-, 4-, and 5-year-old children. Second, we have included academic intervention programs for students most at risk of not meeting State academic achievement standards as a use of funds, as well as programs for students not completing secondary school.

In title V, part B, we have clarified that one of the purposes of the technology grants is to provide training in the use of technology as a part of ongoing professional development.

With respect to title VI and Impact Aid, we have added a provision that clarifies that school districts which have no tax base and whose boundaries are held in trust by the Federal Government are considered heavily impacted and therefore eligible for payments under the program.

In the 21st Century Schools program, we have made a technical correction regarding the transferability of funds at the local level.

In title VIII, we have made technical changes regarding local consolidation plans. Finally, in title VIII, we have added a study on the effects of testing on children.

Mr. Chairman, I wish to thank my ranking member, the gentleman from California (Mr. GEORGE MILLER) and other Members from both sides of the aisle for their cooperation in working out the matters.

Mr. Chairman, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Ohio (Mr. BOEHNER), the chairman, has quite properly explained his amendment, and we have no opposition to it.

Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Chairman, I would invite the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce, to engage in a brief colloquy.

Mr. Chairman, as the gentleman from Ohio knows, part D, section 5401 of this legislation deals with elementary and secondary school counseling programs and authorizes grants for local school boards to establish or expand counseling programs in the school.

Before coming to Congress, I spent 23 years as a practicing clinical psychologist; and I want to thank the gentleman from Ohio (Mr. BOEHNER) and members of the Committee on Education and the Workforce for including this element of the bill. Our kids deserve to get high quality counseling, and this bill provides the means for more schools to reach these children more easily.

However, I am concerned that this important and well-meaning provision could be misunderstood by States and local school boards with respect to clinical psychologists. While the distinction between a school psychologist and a clinical psychologist is subtle, it is an important difference.

Clearly there are cases that would be better handled by a school psychologist, and there are others in which a clinical psychologist may be better suited to counsel a particular child. But as I read the bill now, it may not be apparent that a school could utilize the services of a clinical psychologist. I would hate to see a child who needed a certain level of care was unable to receive that level of care.

Would the gentleman agree to seek to include the words ''clinical psychologist,'' to insert those words in this section once the bill goes to conference?

Mr. BOEHNER. Mr. Chairman, will the gentleman yield?

Mr. BAIRD. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, I think the gentleman raises an important point, and I agree with him that all of our children deserve the most appropriate level of care that can be offered. Therefore, I will commit to work with the gentleman from Washington (Mr. BAIRD) when we get to conference on trying to ensure that his concern is addressed in the final version of the bill.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. BAIRD. I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Chairman, as the gentleman knows, I have worked hard to include school-based mental health services in this bill. I presented it, and I am happy to know of the gentleman's professional concerns here. I certainly agree with the gentleman's desire to ensure that our students receive the mental health services appropriate and from qualified providers. I do not know if the gentleman realizes it, but a member of my family, namely my husband, is a psychiatrist, so we know what we are talking about here.

Mr. Chairman, I look forward to working with the gentleman from Washington. There is nothing in this bill, or certainly in my amendment that I put in the bill, that would prohibit his proposal here. In fact, I think it would underscore the importance of what the gentleman has stated. And so I look forward to working together to address these concerns in the conference. I am happy to hear from the gentleman from Ohio (Mr. BOEHNER), the chairman's support for that as well.

Mr. BAIRD. Mr. Chairman, I thank the gentlewoman from New Jersey and the gentleman from Ohio, and I commend them for their leadership on this issue and thank them for their consideration for children in need.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield back the balance of my time.

Mr. BOEHNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. BOEHNER).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MRS. CAPPS

Mrs. CAPPS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mrs. CAPPS:

In subsection (b) of section 4131 of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 401 of the bill—

(1) strike ''and'' at the end of paragraph (14);

(2) strike the period at the end of paragraph (15) and insert ''; and''; and

(3) add at the end the following:

''(16) programs for cardiopulmonary resuscitation (CPR) training in schools.

The CHAIRMAN. Pursuant to House Resolution 143, the gentlewoman from California (Mrs. CAPPS) and the gentleman from Indiana (Mr. SOUDER) each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Chairman, I yield myself such time as I may consume.

I am pleased to offer this amendment to provide funding for CPR training in schools on behalf of myself, the gentlewoman from Maryland (Mrs. MORELLA), and the gentleman from Florida (Mr. FOLEY). This is a simple amendment. It would allow funds in title IV, the block grant provision of the bill, to be used to teach our kids CPR in schools. This amendment is based on legislation which I introduced earlier this year with the gentleman from Florida (Mr. FOLEY) and the gentlewoman from Maryland (Mrs. MORELLA) and others to encourage CPR instruction in public schools. It has been endorsed by the American Heart Association, the National Education Association, and the American Red Cross, among others.

Mr. Chairman, heart disease is the leading cause of death in the United States with 220,000 Americans dying each year of sudden cardiac arrest. But according to the Heart Association, 50,000 cardiac victims could be saved each year by initiating a chain of survival. This includes an immediate call to 911, early CPR and defibrillation, and early advanced life support. The Congress has recently taken action to enhance our 911 system and encourage automated external defibrillators to be placed in public buildings. Encouraging more of our citizens to know CPR is clearly the next step as we continue strengthening this chain of survival. Teaching our kids this skill gives them the ability to assist cardiac victims, and will impress upon them how important it is to be prepared to help their fellow citizens in time of need. It also encourages the development of heart-healthy habits, diet, exercise, avoiding smoking. These are good things to learn at an early age.

Mr. Chairman, this bill grew out of my experience as a school nurse in California where I began a CPR curriculum. I saw a need to teach students these life-saving skills. The strength of this amendment is that it encourages collaboration between public schools and community organizations such as the Red Cross and the Heart Association.

Mr. Chairman, I urge my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SOUDER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me first point out that I am not against CPR. My father died at age 55, as did his two brothers, of a heart attack. So did my grandfather on both sides die of heart attacks. I agree CPR is needed. I agree that education on what you can eat, and exercise exercise is needed.

Mr. Chairman, I rise in opposition to this amendment because quite frankly, any reform bill that is a thousand pages long has a fundamental problem with it in the beginning. In trying to find out where this amendment is, title IV has between 90 and 100 pages in it. It has allowable uses, so to speak, coming out of one's ears. It is not clear that they cannot already use these funds for CPR. It is kind of a pattern that we have in Washington that we think if we do not put in the bill that they can use dollars for CPR to work among the schools and school districts, that somehow the local educators might not realize that CPR is important, or that State educators might not realize CPR is important.

Mr. Chairman, throughout the whole bill we have this assumption that unless we specifically write it in and tell these poor, kind of backwards people in Indiana and California and other parts of the country what they can and cannot do, that we have failed as congressmen.

I know very few schools that do not do CPR training, but I do not believe that it is essential to put that in this bill. In Title IV, Federal funds are used rather than local health departments, or local fire departments and ambulance departments which frequently do CPR training, these funds would come directly out of teacher training and the programs that we are doing to help the schools at risk. Federal programs should be tightly targeted to those in need, not necessarily towards a broad, sweeping program where there are plenty of avenues to fund them at the local level.

Mr. Chairman, I reserve the balance of my time.

Mrs. CAPPS. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. BOEHNER), the chairman of the committee.

Mr. BOEHNER. Mr. Chairman, I thank the gentlewoman from California for yielding me this time.

I think that title IV is a block grant that allows school districts to do all types of activities. Certainly I think CPR training is an appropriate activity for the use of Federal funds. And I absolutely see no reason why we should not include this to the laundry list, as the gentleman from Indiana who is opposing the amendment pointed out.

There is a laundry list, because without some definition of what you can and cannot use Federal funds for, school districts will come up with all kinds of ideas how to use that money. That is why I think allowing this to be included, along with the three items that the gentleman from Indiana requested to be part of allowable uses of funds under title IV, I see no reason why this should not join those and be part of the bill.

Mrs. CAPPS. Mr. Chairman, I yield back the balance of my time.

Mr. SOUDER. Mr. Chairman, I yield myself the balance of my time.

I want to clarify because I, like many others, have a number of things in this bill and I have been pleased to work with both the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER) as we have worked through this bill.

Mr. Chairman, at some point we passed the point of no return. This bill grows and grows. In fact, I wonder why we do not have a national test for CPR. I took CPR in high school; and quite frankly, I do not know if anyone would want me to perform CPR on them. Perhaps because we do not trust the local and State governments to come up with their tests in other areas, we should have a fall back test on CPR to make sure that they are actually teaching CPR in the way that CPR should be taught.

On the other hand, I want to commend the gentlewoman for her concern, and her career concern, with combating heart disease. I know that I am likely to be a lone vote on this but I wanted to make a couple of points. To me this is a symptom of what is wrong with this bill.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Mrs. CAPPS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. SOUDER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California (Mrs. CAPPS) will be postponed.

The point of no quorum is considered withdrawn.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 107–69.

AMENDMENT NO. 4 OFFERED BY MR. GRAVES

Mr. GRAVES. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. GRAVES:

In part F of title VIII of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 801 of the bill, add at the end the following:

"SEC. 8605. EFFECTIVE USE OF FEDERAL ELEMENTARY AND SECONDARY EDUCATION FUNDS.

"It is the sense of the Congress that the Secretary, State educational agencies, and local educational agencies should work together to ensure that not less than 95 percent of all funds appropriated to carry out elementary and secondary education programs under this Act is spent directly to improve the academic achievement of the Nation's children in their classrooms.

The CHAIRMAN. Pursuant to House Resolution 143, the gentleman from Missouri (Mr. GRAVES) and a Member opposed will each control 5 minutes.

Mr. GEORGE MILLER of California. Mr. Chairman, I ask unanimous consent to claim the time otherwise reserved for the opposition.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. GRAVES).

Mr. GRAVES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are at a crossroads in Federal education policy. There are those that still believe that all wisdom lies in Washington, and solutions to our education woes will be found in the bowels of Washington bureaucracy. Yet H.R. 1 is a road down a new path. This legislation recognizes the power, the possibility, and the promise of our public schools.

□ 1315

Today, I urge my colleagues to support our local teachers, administrators, and school board members who in the majority of our schools are finding common-sense solutions to this generation's problems.

By directing 95 cents of every education dollar directly to the classroom, we will empower teachers, not bureaucrats, and we will support education, not regulation. I offer for my colleagues' approval today, a very simple amendment. It directs the Department of Education to join our States and local school districts in an all-out effort to direct 95 percent of all our Federal education dollars to the place in which it belongs the most, the classroom.

Mr. Chairman, too many education dollars are spent on bureaucracies at all levels of government. Federal education dollars should not benefit a bloated bureaucracy. Rather, those precious dollars should provide maximum educational opportunities for all of our students.

As we reauthorize the Elementary and Secondary Education Act, we must do our part to ensure that increased spending is coupled with increased flexibility.

By sending more education dollars directly to the classroom, we will shift the focus of our education system back to the students, the families, the classrooms, the schools, and the communities of our Nation.

Mr. Chairman, while there may be some disagreement on how we do it, we all agree that today's youth deserve an education system that is second to none.

As I travel the Sixth Congressional District of Missouri and listen to the hopes and dreams of youth today from Maryville to Blue Springs and Park Hill to Brookfield, I am reminded that what we do here in Congress really does matter. Our decisions will have a significant impact on our children's future and the future of our country.

Mr. Chairman, the people of this country and the President of this Nation have made education the top priority. Let us join them today in embracing a new vision for American education that strengthens schools, streamlines bureaucracy, and supports our classrooms.

Mr. Chairman, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have no problem with sense of the Congress amendment on this matter offered by the gentleman from Missouri (Mr. GRAVES). This has obviously been a matter that has been of growing concern in the Congress to make sure that we, in fact, have the ability to drive every dollar possible to the classroom, to the local level, where the decision-making that is on a day-to-day basis for the well being of our children is made and that they have the opportunity to use those resources that we have dedicated for that purpose.

I would say, however, that I find this somewhat in conflict with those who will support the Straight A's proposal because, in fact, the Straight A's proposal allows 8 percent of the title I money to be held at the State level and 10 percent of the money on everything else to be held at the State level. This is money that a State would hold onto itself, and in many instances we know that that is really about the bureaucracy funding itself, a State bureaucracy funding itself, with Federal dollars. Whether that in some cases is legal or not, the fact of the matter is that is what happens.

So we support this resolution because we strongly believe that we should be driving these dollars to the classroom. We also strongly believe that we should increase the flexibility at the local level, and we have done that in this legislation. That is why later on we will be opposing the proposal on the Straight A's.

Mr. BOEHNER. Mr. Chairman, will the gentleman yield?

Mr. GEORGE MILLER of California. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, I thank the gentleman from California (Mr. GEORGE MILLER) for yielding.

Mr. Chairman, I, too, support the resolution offered by the gentleman from Missouri (Mr. GRAVES). If we look at the bill that we have before us, we will see that local districts have far more flexibility over how they use Federal funds than at any time in any Federal education program.

We also believe that to the extent possible, we ought to continue to work at reducing the paperwork requirements on States and local districts, so, in fact, more of these funds actually get to the classroom and can get to the children who most need it.

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the chairman for his comments. I think clearly this amendment is consistent with what we said we want to do in this legislation, and we have no opposition.

Mr. Chairman, I yield back the balance of my time.

Mr. GRAVES. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PITTS), who has been a tireless advocate on behalf of sending Federal education dollars back to the classroom.

Mr. PITTS. Mr. Chairman, I rise in support of the Graves amendment. Since I came to Congress, I have been working to promote this idea of getting 95 cents out of every Federal education tax dollar to the classrooms of America. I applaud my friend from Missouri (Mr. GRAVES) for offering this amendment today, an amendment that puts children first in education.

Several States have reported that, although they receive less than 10 percent of their education funding from the Federal Government, more than 50 percent of their paperwork is associated with those Federal dollars.

In 1998, the Department of Education paperwork and data reporting requirements totaled 40 million ''burden hours,'' the equivalent of 19,300 people working 40 hours a week for 1 year just to comply with Federal programs.

Instead of spending money on bureaucracy, I believe that Federal dollars are better spent directly in our Nation's classrooms, on things like textbooks, computers, maps, teacher aids, microscopes, other classroom aids, things that help teachers teach and children learn.

Local schools are best suited to make decisions about allocating resources. They understand their students' background, the needs. They can respond to them most directly with proven methods of instruction. This amendment sets a standard to reduce bureaucracy and ineffective spending, gets more money into the hands of a person who knows a child's name.

We must prioritize the way we spend our education tax dollars and put children first. I urge support for this amendment.

Mr. BOEHNER. Mr. Chairman, will the gentleman yield?

Mr. PITTS. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. PITTS) for yielding, and I also thank him for his tireless efforts on this project.

Over the last 4 years, 5 years, he has worked at trying to ensure that more of these Federal education dollars get back to the classroom. I can say we would not be talking about this issue today still if it had not been for the tenacity of the gentleman from Pennsylvania (Mr. PITTS). Congratulations.

Mr. GRAVES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a simple amendment, and it does empower local schools.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. GRAVES).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. GRAVES. Mr. Chairman, I demand a recorded vote, and pending that, I make a point of order that a quorum is not present.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Missouri (Mr. GRAVES) will be postponed.

The point of no quorum is considered withdrawn.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 2 offered by the gentlewoman from California (Mrs. CAPPS), and amendment No. 4 offered by the gentleman from Missouri (Mr. GRAVES).

The Chair will reduce to 5 minutes the time for the second electronic vote.

AMENDMENT NO. 2 OFFERED BY MRS. CAPPS

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from California (Mrs. CAPPS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 421, noes 2, not voting 9, as follows:

[Roll No. 128]

AYES—421

Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Wamp
Waters

Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—2

Johnson, Sam
Souder

NOT VOTING—9

Abercrombie
Cubin
Greenwood
Hansen
McKinney
Moakley
Owens
Rogers (KY)
Walsh

□ 1343

Ms. SOLIS changed her vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time during which a vote by electronic device will be taken on the second amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 4 OFFERED BY MR. GRAVES

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Missouri (Mr. GRAVES) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 422, noes 0, not voting 10, as follows:

[Roll No. 129]

AYES—422

Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E.B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Abercrombie
Cubin
Greenwood
Hansen
McCarthy (NY)
Moakley
Owens
Pickering
Rogers (KY)
Scarborough

□ 1352

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. PICKERING. Mr. Chairman, I was inadvertently detained and unable to vote on rollcall No. 129, expressing the sense of Congress that the Education Department, states, and school districts should work together to ensure that at least 95% of all federal education funds be spent directly to improve the academic achievement of children in the classroom.

Had I been present, I would have voted ''yea'' on rollcall No. 129.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 107–69.

AMENDMENT NO. 5 OFFERED BY MR. HILL

Mr. HILL. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. HILL:

In section 401 of the bill, at the end of section 4131(b) of the Elementary and Secondary Education Act of 1965 (as proposed to be amended by such section 401) add the following:

''(16) programs to establish smaller learning communities.

The CHAIRMAN. Pursuant to House Resolution 143, the gentleman from Indiana (Mr. HILL) and a Member opposed will each control 5 minutes.

Mr. DUNCAN. Mr. Chairman, I ask unanimous consent to be given the time normally reserved for those in opposition.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. HILL).

Mr. HILL. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, when I was growing up in Jackson County, Indiana, there were more high schools than there are today. In towns like Tampico and Clear Spring and Cortland, there were high schools that local kids attended and local families supported. These schools brought people together and helped keep their towns strong and vital places to lives. They were the heartbeats of their communities.

When school consolidation forced high schools to close, it tore the hearts

right out of these communities. These high schools, along with thousands of other small schools around America, were closed because for many years educators followed a rule that bigger schools are better. For a long time, we all assumed that bigger schools were better because they could offer students more courses, more extracurricular activities, and could save schools money.

We need to rethink our assumptions about larger schools. New research shows that achievement levels in smaller schools are higher, especially among children from disadvantaged backgrounds who need extra help to succeed.

Mr. Chairman, my amendment would not authorize a separate program. Title IV of the bill includes a list of innovative options that local schools can explore. My amendment would simply add smaller learning communities to that list. My amendment would simply allow local education agencies to judge for themselves whether a smaller learning community program is the best strategy for helping students and teachers.

Mr. Chairman, I reserve the balance of my time.

Mr. DUNCAN. Mr. Chairman, I yield myself such time as I may consume.

(Mr. DUNCAN asked and was given permission to revise and extend his remarks.)

Mr. DUNCAN. Mr. Chairman, I first would like to thank the gentleman from Indiana (Mr. HILL) for his leadership in the movement to reverse the size of the growth in our schools.

He and I and our staffs have worked together for the last 2 years to obtain funding within the Department of Education for the smaller schools initiative program, a very, very important program within our Department of Education.

At a smaller school, a young person has a better chance to make a sports team, serve on the student council, lead a club, be a cheerleader, or excel or stand out in some other way. Also, a student at a smaller school can get more individual attention and not feel just like a number in some education factory.

Actually, very large schools, large high schools, sometimes breed very dangerous types of situations because, while most students can handle very big schools, a few always feel alienated and feel like they have to resort to strange or dangerous behavior to get noticed.

I was very shocked, for instance, when I read that the principal at the Columbine High School had never even heard of the Trench Coat Mafia, even though the group's picture had been published in the school yearbook.

Agusta Kappner, a former U.S. assistant secretary of education, wrote recently in USA Today that ''good things happen'' when large schools are remade into smaller ones. She said, ''Incidents of violence are reduced; students' performance, attendance, and graduation rates improve; disadvantaged students significantly outperform those in large schools on standardized tests; students of all social classes and races are treated more equitably; teachers, students, and the local community prefer them.

Students are better off going to smaller schools, Mr. Chairman, even in older buildings, as long as they are clean and safe and well-lit, than they are going to large, very centralized high schools, even in brand new buildings.

We have done a good job of reducing class sizes in most places, but too often we are making a very bad mistake in making students go to very large high schools. Just yesterday I had one of my constituents tell me that at her small community high school she knew everyone there, even in the lower grades, but at the large, centralized high school which her daughter attended, she did not even know two-thirds of the people in her own class.

I remember several years ago reading that the largest high school in New York City had 3,500 students, and when they broke it up into five separate high schools, their drug and discipline problems went way down.

I feel very strongly about this issue, and I could go on at length. But I want to emphasize briefly four main points why we need to pass the Hill amendment.

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One, educational experts are increasingly rejecting the ''bigger is better'' approach to schools. In the smaller schools, obviously students can get more individualized attention.

Secondly, research is finding that smaller schools especially help minority and disadvantaged students.

The third point, more and more high school principals have criticized ''bigness.'' The National Association of Secondary School Principals recommended in 1999 that high schools change their structure to limit enrollments to schools of no more than 600 students in size.

Fourth, smaller schools reduce violence and criminality.

In summary, the Hill amendment is very simple. It lets local school districts use the local innovative programs to reduce the size of their schools as they feel that that action would improve school quality. This is a very good amendment.

Mr. Chairman, I am proud to join the gentleman from Indiana (Mr. HILL) in supporting this amendment.

Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Chairman, I want to thank the gentleman from Tennessee (Mr. DUNCAN), my colleague, for yielding the time to me.

Mr. Chairman, I want to congratulate both the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Indiana (Mr. HILL) for their amendment that we have before us.

I know firsthand what happens in large high schools. The community in which I live had a high school with over 3,000 students, and the community eventually voted to build two new high schools, and it provided many more opportunities for many of the students that formerly had attended just one high school.

I think under the amendment offered by the gentleman from Indiana (Mr. HILL), this is an allowable use of funds under title IV, which is the Innovative Block Grant Program, and this is the type of program that I think is good for some school districts that would make this an allowable use of funds.

It is appropriate, and I support the Hill amendment.

Mr. HILL. Mr. Chairman, I want to thank the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Ohio (Mr. BOEHNER) for their words and their strong support on this.

Mr. Chairman, I yield 2 minutes to the gentleman from the State of Washington (Mr. BAIRD), my good friend.

Mr. BAIRD. Mr. Chairman, I thank the gentleman from Indiana (Mr. HILL) for yielding the time to me.

Mr. Chairman, I want to also thank the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce, for their support of this initiative, and I rise in strong support of the amendment.

This amendment allows local school districts to use innovative funds authorized to create smaller learning communities in their schools.

When I was growing up, as with other Members of this body, our schools were a manageable size where you knew the teachers, the teachers knew who the kids were, and we all knew each other.

Communities were proud of their schools. The schools brought people together and helped keep their towns strong and vital places to live.

But the Nationwide trends towards consolidation in larger schools has brought ever-increasing problems. Since 1930, the number of high schools in the U.S. has declined 70 percent from 262,000 schools to 88,000 in 1996. In 1930, the average school had 100 students. In 1996, the average school had 510 students.

It is unbelievable that America's grown by 100 million people, yet the number of schools has declined by almost two-thirds.

I will say it again, too many schools are simply too big today. Yet, research tells us from many studies that smaller schools are more personalized, less bureaucratic, show fewer inequities in student achievement, have higher attendance rates, higher participation in school activities, and violence and criminality are significantly reduced.

In addition, students in smaller schools perform better in the core subjects of reading, math, history, and science.

Think about it for just a second. No matter how big or small your school is, there are only nine folks who play on the baseball team. Kids in smaller schools have more opportunities to participate and more opportunities to be involved, and that makes better schools and better education.

Shortly after the Columbine tragedy, the gentleman from Indiana (Mr. HILL) and I talked about that and what could be done. We discussed bullying and we discussed this problem of school size.

We talked about what could be done, and I commend with all of my heart the gentleman from Indiana (Mr. HILL) for his initiative and the gentleman from Ohio (Chairman BOEHNER) and the gentleman from Tennessee (Mr. DUNCAN) in proposing this amendment.

It is the right thing to do to move from these massive schools to smaller schools where faculty know the kids and families know the faculty.

This amendment will improve our schools.

Mr. DUNCAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will simply say this, the school superintendent in my home county of Knox County, Tennessee, told me that the school system he moved from in South Carolina a couple of years ago was the largest high school, it had 3500 students but it was going to 3800 students. That is a trend that we see all over this Nation.

It is a bad trend for the youth of America. We need to do whatever we can to reverse that trend, and that is why I strongly support the Smaller Schools Initiative that the gentleman from Indiana (Mr. HILL) and I have worked on within the Department of Education and why this amendment, I think, should be supported by all Members.

Mr. Chairman, I appreciate very much the good words spoken by the gentleman from Ohio (Mr. BOEHNER), chairman of the Committee on Education and the Workforce, and for his support of this amendment.

Once again, I commend the gentleman from Indiana (Mr. HILL) for his leadership on this issue.

Mr. Chairman, I yield back the balance of my time.

Mr. HILL. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California (Ms. SANCHEZ).

Ms. SANCHEZ. Mr. Chairman, I am pleased to speak in support of this amendment, because it is a school safety measure. School safety is not just about metal detectors or locker checks.

Safe schools mean that the faculty and administrators can know their students and they can watch for the warning signs of any impending violence.

This is a very difficult time when most of our high schools, especially in the area I represent, have enrollments of 2,000 to 3,000 students. This is also a matter of common sense.

Students feel less alienated and more connected to caring adults when they are in a smaller school. Smaller schools mean that there is improved morale. There is higher participation by the students, higher attendance, lower dropout rates, less crime, violence, alcohol, tobacco problems, fewer behavior and discipline problems.

There is higher achievement in smaller schools and closer teacher-student relations. Overall, smaller schools mean safer schools.

Including real support for smaller schools in the ESEA will show a commitment to providing safer and better learning communities for all of our students.

Mr. Chairman, I urge my colleagues to support smaller learning communities and prove this commitment.

Mr. Chairman, I thank the gentleman from Indiana (Mr. HILL) for yielding me the time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. HILL).

The amendment was agreed to.

The CHAIRMAN. Pursuant to the order of the House of today, it is now in order to consider amendment No. 3 printed in the House Report 107–69.

AMENDMENT NO. 3 OFFERED BY MS. DUNN

Ms. DUNN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. DUNN:

In section 5115(b)(2) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 501 of the bill, strike subparagraph (D) and insert the following:

''(D) to the extent that expenditures do not exceed 20 percent of the amount made available to a local educational agency under this subpart (except that this subparagraph shall not apply to the hiring and training of school resource officers pursuant to clause (ii)), law enforcement and security activities, including—

''(i) acquisition and installation of metal detectors;

''(ii) hiring and training of security personnel (including school resource officers), that are related to youth drug and violence prevention;

''(iii) reporting of criminal offenses on school property; and

''(iv) development of comprehensive school security assessments;

The CHAIRMAN. Pursuant to House Resolution 143, the gentlewoman from Washington (Ms. DUNN) and a Member opposed will each control 5 minutes.

Mr. FROST. Mr. Chairman, although I do not oppose the amendment, I ask unanimous consent to claim the time in opposition.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas (Mr. FROST)?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentlewoman from Washington (Ms. DUNN).

Ms. DUNN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first, I would like to commend the gentleman from Ohio (Chairman BOEHNER) and the gentleman from California (Mr. GEORGE MILLER), the ranking member, for guiding us along this road towards reforming America's education system and truly making sure that no child is left behind.

I rise today, along with the gentleman from Texas (Mr. FROST), to offer an amendment designed to give communities greater flexibility to use their Federal education dollars to hire school resource officers. School resource officers are specially trained, uniformed policemen and women who are sent into the public schools to identify at-risk youth and serve as positive role models and mentors to students.

During the 106th Congress, the gentleman from Texas and I served as cochairs of the Speaker's Bipartisan Working Group on Youth Violence.

Included in the Working Group's final report was a recommendation that Congress provide adequate funds for school resource officers and other programs that bring law enforcement into the schools as mentors and instructors.

Earlier this year, we witnessed the importance of having these safety officers in schools. During a recent school shooting at Granite Hills High School in Southern California, the campus school resource officer was able to stop the youth offender, and he was instrumental in preventing further violence.

The school principal called the officer his personal hero and credited him for saving the lives of other students.

H.R. 1 places a 20 percent cap on the amount of Federal funds local education agencies can use for authorized law enforcement and security activities, including the hiring of school resource officers.

Our amendment lifts this cap and it gives local educational agencies the option to spend any portion of their Federal funds on hiring school resource officers.

Mr. Chairman, our Nation's schools should be safe places. We must provide an atmosphere where teachers feel safe to teach and students feel safe enough to learn.

School resource officers are an important part of any school safety plan, and every effort should be made at the Federal level to give schools greater flexibility to hire these officers as a violence prevention measure.

Mr. Chairman, I urge my colleagues to support this important amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. FROST. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to offer this important school safety amendment with the gentlewoman from Washington (Ms. DUNN), my friend and fellow cochair of the Bipartisan Task Force on Youth Violence.

After the Columbine school shootings, our Youth Violence Task Force heard from parents, teachers, police, counselors, and other experts about

what Congress could do to combat growing youth violence.

We all agreed that school safety officers are a crucial piece of any real approach to youth violence. So the Dunn-Frost amendment empowers schools by lifting the 20 percent cap on Federal funds under title V that local educational agencies may use for security activities, including the hiring of school safety officers.

I have heard directly from school officials throughout my district about the sense of comfort and security these officers have given students traumatized by reports of school shootings.

By placing school resource officers in schools, we enable officers to teach crime and violence prevention, to facilitate substance abuse education, to monitor troubled students, and to build respect for law enforcement.

This amendment directly reflects requests that have been brought to our attention by school administrators, teachers, parents, and students.

It is our obligation to listen to our communities. It is time to stop only discussing the problem of our troubled youth and to start to be a part of the solution to this national crisis.

Passing the Dunn-Frost amendment will give schools the freedom to hire the officers they need to make the students safe, an important step towards helping troubled youth and stemming the tragic tide of youth violence.

Mr. Chairman, I reserve the balance of my time.

Ms. DUNN. Mr. Chairman, I yield 30 seconds to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Chairman, I want to thank the gentlewoman from the State of Washington (Ms. DUNN) for her amendment, along with the gentleman from Texas (Mr. FROST).

Under the Safe and Drug Free Schools Program, part of the intent is to make sure there are resources there for safety in school and to allow school districts to have the funds available to do drug prevention programs of many sorts.

I think that the amendment that is being offered, making it clear that school resources officers can, in fact, be paid out of this fund, is a good amendment. It helps the bill. It should be supported.

Mr. FROST. Mr. Chairman, I reserve the balance of my time.

Ms. DUNN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me just make one remark before we close debate on this amendment. It is very important to remember that schools are among the safest place for children to be. We discovered that as I served as cochair of the working group here in Congress on Youth Violence.

The perception that schools are unsafe, however, creates a huge uneasiness and anxiety among our children that they need not feel, but it is up to us and a responsibility of ours and an opportunity of ours here in the Congress to do those things that are positive steps towards reducing youth violence in schools around the country and towards reassuring youngsters that schools are safe places to be.

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Schools provide a tremendous opportunity to interact with our youth and positively contribute to their personal development. It is an opportunity that we must not miss. I urge my colleagues to support this important youth violence prevention amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. FROST. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment demonstrates that Democrats and Republicans can work together. We had an excellent youth violence task force, made a number of recommendations.

I can tell my colleagues that I consulted students, teachers, administrators throughout my congressional district in Texas. We have a program that has been in place in a number of our school districts, in Grand Prairie, Arlington, and other parts of the areas that I represent. This program works. This is a program that must be adequately funded.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Washington (Ms. DUNN).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Ms. DUNN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Washington (Ms. DUNN) will be postponed.

The point of no quorum is considered withdrawn.

It is now in order to consider amendment No. 6 printed in House Report 107–89.

AMENDMENT NO. 6 OFFERED BY MR. HOEKSTRA

Mr. HOEKSTRA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. HOEKSTRA:

In section 1111(b)(4) of the Elementary and Secondary Education Act of 1965 as amended by section 104 of the bill—

(1) strike subparagraph (E) and insert the following:

''(E) measure the proficiency of students in the academic subjects in which a State has adopted challenging academic content and student performance standards and be administered at some time during—

''(i) grades 3 through 5;

''(ii) grades 6 through 9; and

''(iii) grades 10 through 12;''; and

(2) strike subparagraph (G).

The CHAIRMAN. Pursuant to House Resolution 143, the gentleman from Michigan (Mr. HOEKSTRA) and a Member opposed will each control 15 minutes.

Mr. BOEHNER. Mr. Chairman, I rise in opposition to the amendment, and I ask unanimous consent that my time be split between the gentleman from California (Mr. GEORGE MILLER) and myself, that we will each control 7½ minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, accountability is one of the keys to improving our Nation's education system. There is no doubt about that. Accountability is so important that the President has made it one of the three cornerstones of his education reform package along with flexibility and parental empowerment.

This is not a new issue. In 1994, Congress passed the Improving America's School Act. In that bill, testing was required to be implemented by the year 2001. Our students would be tested once in grades 3 through 5, once in grades 6 through 9, and once again in grades 10 through 12. The deadline was 2001. But so far, only 25 of the 50 States have met that mandate.

Here we are before we have any results from that mandate, we are going back to our local schools, and we are going back to the States and saying, oh, by the way, we were not serious about the mandate that is going into effect for this school year. We are going to give a new mandate that significantly changes the Federal accountability standards that one must meet. Forget about the work that one has completed over the last 7 years. Forget about the money that one has invested. Here is a new process and a new system and a new set of requirements that one needs to meet.

What my amendment does is let us give the mandate for 2001, let us give it a little bit of an opportunity to see exactly what the results and what the impact is.

Mr. Chairman, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Chairman, I rise in opposition to the amendment. It is very important to understand what the bill does not provide in the area of testing. First of all, it does not provide for a national test. It provides for States to have the standards and the flexibility to determine in their judgment

the best way to evaluate their students.

Second of all, the bill does not provide for punitive results of poor performance on the test. Instead, the test is diagnostic in nature as designed by the States. It is designed to identify those schools and those children that have significant learning needs and difficulties and to empower educators with the tools and strategies necessary to address those deficiencies.

I think the greatest risk of passing this amendment is it means it will never get to the day that so many people rhetorically agree that we need to get to. Federal investment in education must produce results. People agree with that. One cannot measure results unless one tests and evaluates, and most people agree with that. But they say not this test, not this time, and not this way.

I fear that we will never get to the test, we will never get to the time, we will never get to the standard that people can agree is necessary to meet the rhetorical principle that we have set forth.

This bill provides for state-guided testing. It provides for remediation, not punishment, for those who do not measure up. The bill deserves the support of both parties here in the House. I urge my colleagues to reject and defeat this amendment.

Mr. HOEKSTRA. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. FRANK) in recognition of the bipartisan nature of this amendment.

Mr. FRANK. Mr. Chairman, the gentleman from New Jersey (Mr. ANDREWS), the preceding speaker, kept stressing the virtue of letting the States make a decision. He stressed that this leaves it up to the States. Well, why not follow the logic of this? I agree, the States are the ones who should be making these decisions. Why then mandate as a part of a Federal bill as a condition of getting the Federal money that the States have to test the students in five grades every year?

I want to be clear this is not an argument about testing. This is an argument about the Federal Government deciding today that every school has to test students. Now, yes, the States get some flexibility, but within a very rigid mandate.

There was a problem about whether or not we are ready to do this testing. I read in the New York Times that some of the testing entities pay $9 an hour for people to grade essay tests. I want to say to my colleagues, pass a law now whereby the Federal Government mandates that every State get into the testing business, ready or not, and the results will be so unpleasant that pretty soon my colleagues will be answering a lot of letters on it. They better pay the people on their staff who answer those angry letters more than $9 an hour, because they are going to be difficult letters to answer.

Mr. BOEHNER. Mr. Chairman, I yield 1 minute to the gentleman from San Diego, California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, I rise in opposition to the amendment. The gentleman from Michigan (Mr. HOEKSTRA) has done some marvelous things, I think, in education. He has identified multiple programs, and he has got my utmost respect. But I think the gentleman is wrong on this particular issue.

I have talked to the superintendents in San Diego. They are opposed to the amendment. They want the flexibility to test. I spoke to a group in New York that were against it; and basically, they were from an affluent school, and they wanted their students to be able to go on to Harvard and Yale and those things; and they thought that a higher level of testing would limit them from doing that.

We want to be able to judge. We put billions of dollars, which my colleague has fought against, in education without accountability. This is one way that we feel that, if we put the money in, we hold the schools and raise the bar, because if one lowers the bar, that is going to lower the standards. The only real way to assess that is with this quality standards.

I laud the gentleman from Michigan (Mr. HOEKSTRA) for his effort in education, but I do oppose the amendment.

Mr. HOEKSTRA. Mr. Chairman, just in response, my superintendents back home like controlling their own schools. They are not looking for another Federal mandate.

Mr. Chairman, I yield 2 minutes to the gentleman from Colorado (Mr. SCHAFFER).

Mr. SCHAFFER. Mr. Chairman, I thank the gentleman from Michigan for yielding me this time.

Mr. Chairman, I, too, am one who finds myself in rare disagreement with the previous speaker; and his argument speaks actually in favor of the amendment, I would think.

Flexibility is the desire here. The amendment certainly achieves more of it rather than less of it in relation to the rest of the bill. Flexibility, Mr. Chairman, should be something upon which we all insist here in this Chamber. Flexibility was the cornerstone of the President's plan when he first introduced it, the Leave No Child Behind proposal that we have all seen, that we have all worked off of. The document looks just like this. It is a brilliant agenda for America's schools. But this plan has been left behind by the Committee on Education and the Workforce and in the bill that is before us.

What I mean by that is the flexibility component, what is called Straight A's, or as the President referred to it, Charter States, was taken out of this bill. The flexibility provisions are essentially gone. There was another provision dealing with choice, the portability of title I funds, that the President mentions in his plan and that Secretary Paige forcefully advocated before the committee. But that provision was taken out in the first amendment that the committee considered.

So at this point, the question becomes, how can we as a legislative body here on the floor reinstitute as much flexibility for States as we possibly can? This amendment is one answer in that regard.

If one holds up all 1,000 pages of the bill that we are considering today, one will find that the word ''must'' appears 11 times; the word ''ensure'' appears 150 times; the word ''require'' appears 477 times; the word ''shall'' appears a whopping 1,537 times; and ''shall not'' is in this bill 123 times.

Now, I would submit that, by the time the day is over, we should be able to come together on a flexibility amendment of some sort. The gentleman from Michigan (Mr. HOEKSTRA) has proposed one when it comes to the testing provisions.

I would ask my colleagues to consider this new testing requirement that is in the bill within the following context. For the first time, this Congress, through this legislation, will attach Federal cash to test results.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 2¼ minutes to the gentleman from Indiana (Mr. ROEMER), a member of the committee.

Mr. ROEMER. Mr. Chairman, I thank the gentleman from California for yielding me this time.

Mr. Chairman, it seems to me that so many Members here arguing to rip out the testing proposal in this bill are for the status quo. They are happy with the fact that 60 percent of kids in the inner city cannot read at a fourth grade level, six out of 10. So we are going to continue the same policies that we have had up to this date. That is unacceptable. We have got to change the status quo.

I was in some schools up in New York visiting. Eighty percent of some of those children are having trouble passing tests. Is that acceptable? We must change the status quo with new ideas and with resources to remediate and help these children.

Now, all of us have problems and reservations with tests. A test done right is not a high-stake test. It is a diagnostic tool combined with a host of other things to determine whether or not that child goes to the next grade or graduates. It is not the sole indicator.

The other point I want to clear up, in this legislation, Indiana will continue to say and pick and determine what kind of tests they develop. Whether we have the ISTEP+, or the Iowa, or the Stanford, or the TerraNova, or a combination, that is our decision under this bill. We decide that.

But the deal in this bill is there is accountability and there is resources. We are going to help those children. We are going to help those children that cannot read at fourth grade reading level before they fail. We are going to get tutoring for them, and we are going to get after-school programs for them and summer school programs.

This committee is going to work directly with the appropriators to see that these authorization levels are put into law.

I would end on this note: we have many Republicans standing up saying that this bill is not the President's bill. If this amendment passes, this amendment guts the heart and the soul from the President's bill, and I understand he will veto this bill if this amendment passes. So defeat this amendment. Keep this bipartisan proposal going forward to conference.

Mr. BOEHNER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New Jersey (Mrs. ROUKEMA).

(Mrs. ROUKEMA asked and was given permission to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Chairman, I want to associate my remarks with the remarks from the gentleman from Indiana (Mr. ROEMER), my colleague on the committee, and rise in strong opposition to this amendment.

Testing is the centerpiece of the President's education plan! Why in the world would we want to eliminate testing?

Let me say this again—testing is the essential component of holding schools accountable. In its current form this bill provides unprecedented flexibility to our school districts. But as we provide that flexibility, it is important that federal education programs produce real, accountable results. And the best way to hold schools accountable is through testing. Testing helps us gauge whether children are truly learning and whether our federal education programs are effective.

For far too long, many federal education programs have failed to produce increases in student achievement. It is imperative that the programs we reauthorize in this bill contain mechanisms that make it possible for the American people to evaluate whether they work.

The testing provisions in this bill provides accountability and demands results through high standards and assessments. And it provides appropriate responses to address failure. States will be required to test students in grades 3–8.

The states will develop their own standards and assessments under this bill. We are not dictating a national test. But we are saying that if you are going to accept federal education funding, then you are going to be held accountable for results.

State test results are confirmed through the National Assessment of Educational Progress (NAEP) or similar test, which would be required annually for grades 4 and 8 in reading and math. If a state improves on NAEP and their state assessments each year they will be eligible for rewards, and if it does not, there will be sanctions.

We reward states and schools that improve. Those that do not improve will undergo corrective actions. Striking a balance between state and federal responsibility is the right approach to accountability.

This bill takes a meaningful step towards leaving no child behind. And this amendment guts the major accountability provision in the bill. As such, I urge all of my colleagues to oppose the amendment.

Mr. BOEHNER. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware (Mr. CASTLE), the subcommittee chairman that is responsible for this bill.

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me this time. I thank the gentleman from Ohio (Mr. BOEHNER), I thank the gentleman from California (Mr. GEORGE MILLER), and I thank the President of the United States because they have come up with a plan which might finally change education and improve education opportunities for kids in our country.

One of the sponsors of this bill, the gentleman from Michigan (Mr. HOEKSTRA), has said earlier the rule will allow us to vote on amendments which will restore the President's plan.

□ 1430

This will gut the President's plan. This amendment would absolutely gut, go to the very heart of what the President is trying to do.

For 35 years, we in the Federal Government have tried, with a lot of money, to help kids, particularly lower-income kids, because that is the obligation which we have assumed, to be able to be educated better. It is fairly flat-lined, as far as that improvement is concerned, and we have to do something different in order to do this. To do that, we do need to have the standards and the assessments, and part of the assessments is the testing. And that is something we absolutely need to go forward with.

Annual testing will produce more accurate and timely disaggregated data to determine not just overall progress, but progress in narrowing the stubbornly persistent achievement gap between all students. Tests do put pressure on children to perform. We all understand that. We went through it. But I also believe it is important to identify academic weaknesses early. This allows teachers and parents to intervene in a timely manner. That has not happened before. After all, we are not focusing on input, such as books or paperwork, but the result, real student learning, and that is what education is all about.

Without annual tests, student achievement data will not be comparable from year to year, the value added by a school or teacher will be hard to calculate, and the State-wide reporting of results, including results by race and income, will be unworkable. The entire system of accountability will be undermined. If we are serious about education reform, we need to know the unvarnished facts about where our children stand against standards, and we need to help diagnose problems and design remedies to improve student achievement.

While nothing will give us an ironclad guarantee for success, one thing is certain, more of the same will guarantee more of the same failure. And that is exactly what the Hoekstra-Frank amendment gives us. We all should oppose this amendment.

Mr. HOEKSTRA. Mr. Chairman, I yield 1½ minutes to my colleague, the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Chairman, I rise in support of the amendment. When we discuss the issue of testing, I think we have to remember the farmer's adage, ''You do not fatten the pig by weighing the pig,'' meaning you do not improve education merely by giving tests. So I support this amendment for the following reasons:

First, there is already, in current law, provision for adequate testing. Only 11 States are in compliance with this requirement, and States spent over $400 million last year alone trying to come into compliance with the current law involving testing.

Second, the new test requirements in H.R. 1 will cost substantially more than what we are providing for in the bill. A recent USA Today article reported, and I quote, ''fulfilling President Bush's proposal to test every student in grades 3 through 8 could cost States as much as $7 billion over the next 7 years, the National Association of School Boards of Education says.''

Mr. Chairman, finally, we need to address the potential inappropriate use of the tests: By using them to make high-stake decisions to punish students. Two recent New York Times articles documented that States and localities are increasingly using tests for purposes for which they are not designed and making high-stake decisions to punish students based on one single test. Tests will be given, but there is nothing in H.R. 1 to prohibit inappropriate use of those tests.

For those reasons, Mr. Chairman, I urge my colleagues to support the amendment.

Mr. HOEKSTRA. Mr. Chairman, I yield 1 minute to the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Chairman, I rise in strong support of the Hoekstra-Frank amendment. I rise in support of it for at least three major reasons:

Number one, we already test too much. Federal law mandates three tests already, and this bill doubles that requirement. I hope my colleagues understand that. The Hoekstra-Frank amendment simply says we will continue with the tests that are currently mandated but do not double the number of tests that are required.

Now, how do I come to that conclusion? Well, my wife is a teacher, both of my sisters are teachers, and my niece is a teacher, and I have talked to them about this bill extensively, over and over again, and not a single one of them says that either they or their peers believe that teaching will be benefitted by more testing.

As the gentleman from Virginia just pointed out, you do not fatten the pig by weighing it; you do not improve education by mandating more tests. Federal law mandates three tests already, and yet only 11 out of 50 States comply with this current demand.

The reality is more mandated Federal tests will take up more time. The

courts have already reported on this. There is too much testing at this point. The President is right, we should have accountability; he was wrong, we should mandate a doubling of the number of tests.

Mr. BOEHNER. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. MCKEON), a subcommittee chairman on the Committee on Education and the Workforce.

Mr. MCKEON. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in strong opposition to this amendment offered by the gentleman from Michigan (Mr. HOEKSTRA) and the gentleman from Massachusetts (Mr. FRANK) to remove the annual testing provisions in H.R. 1.

The gentleman who spoke just before me is right, we do test. We test in the third grade and we test in the eighth grade. But what happens in those years in between is why the President's proposal for annual testing is truly the centerpiece of his education reform plan. His reasoning is very simple. If you do not test, you cannot measure.

I was an animal husbandry student in college, and I learned that they did weigh hogs before they took them to market. You have to test to find out how things are doing, and you had to weigh the hogs to find out if what you were feeding them was appropriate.

With annual testing and appropriate reports to parents and teachers, problems can be found before it is too late to fix them. In other words, without assessments, schools cannot be held accountable for improving student performance. And without assessment information, parents are powerless to choose a better performing school. With assessments, there will be improvements in instruction and in learning by focusing on outputs; year-to-year progress, and student achievement, instead of inputs, such as dollars, teachers or textbooks.

In closing, I urge all of my colleagues to oppose this amendment, and instead support our President, and more importantly, the children of this country.

Mr. HOEKSTRA. Mr. Chairman, I yield 1 minute to the gentlewoman from Minnesota (Ms. MCCOLLUM).

Ms. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding me this time.

As a mother, I held my children's schools accountable; as a former teacher, I was held accountable; as a Member of Congress, Minnesotans hold me accountable. I do support fair, accurate, and reasonable testing, but I oppose the testing in H.R. 1.

This provision is an unfunded mandate. The funding authorized will not even begin to cover the cost of current testing. Last year, we had problems with testing in Minnesota. 336 high school seniors were denied diplomas on graduation day because of a vendor error. Minnesota expects a testing program that is accountable and is funded, with control at the local level.

I oppose any new unfunded mandated testing, and I urge my colleagues to support this amendment. We can do better for our schools and for our children.

Mr. HOEKSTRA. Mr. Chairman, how much time is left?

The CHAIRMAN. The gentleman from Michigan (Mr. HOEKSTRA) has 7 minutes remaining, the gentleman from Ohio (Mr. BOEHNER) has 2½ minutes remaining, and the gentleman from California (Mr. GEORGE MILLER) has 3¼ minutes remaining.

Mr. HOEKSTRA. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding me this time, and I urge my colleagues to vote for the Hoekstra-Frank amendment.

The portion of the bill that we are debating now represents, in my judgment, the quintessential example of the principle of unintended consequences. Teaching to the test has become the norm in many States. It definitely has become the norm in the State of Maryland.

In a system where high stakes and dollars are involved, this is almost always the inevitable consequence. We do not want to build on the current system because the current system of testing our children is failing. H.R. 1 would buttress a system that is failing, further erode creativity and diversity in the classroom, it would literally tenure incompetence, especially in school administrators, eliminate a professional ethic in the educational field, and enhance vindictive behavior with people who are working to make their schools look good at any cost.

We all know tests and assessments are necessary to find out what the progress is. But for the Federal Government to get into creating a testing criteria for tests, and then obliquely refer to it as accountability, is wrong. Teachers receive degrees. They are licensed to teach in a State. They are professionals. They represent the broad diversity of the country. Now we summarily assume that the aristocracy of Washington and the State capitals are smarter and wiser.

The Federal Government endorsing more tests will not make schools better. They will make them less knowledge-based and turn teachers into technicians. By encroaching on the ability of individual teachers to be unique, we show aversion for the independent thinker, and self-reliance drifts away. Nothing is at last sacred but the integrity of our own mind.

I encourage my colleagues to vote for the amendment that simply takes us back to current law.

Mr. BOEHNER. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. ISAKSON), a member of the committee.

Mr. ISAKSON. Mr. Chairman, I thank the gentleman from Ohio for yielding me this time, and I rise for three reasons:

As a former board chairman for the State of Georgia, who implemented mandatory testing for diagnosis purposes, and saw the ability to raise expectations of all children, I oppose this amendment and support the President's plan.

As one who believes that if we do the same thing over and over and over again, it is unrealistic to expect any other result, I show my colleagues this graph. This is $120 billion in 35 years doing the same thing in title I over and over again. And average reading scores of title I students remain today where they were years ago, at the lowest 35th percentile.

Do not be fooled by those who oppose this amendment. The heart of the President's proposal is to hold us accountable for the investment of our taxpayers' dollars and the achievement of our children. If this amendment fails, the President's proposal will have failed and we will continue to do what we have always done and have less than satisfactory results. I encourage my colleagues to oppose the amendment.

Mr. HOEKSTRA. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Chairman, for the last several months I have gotten an earful from parents, students, and teachers in Florida who are concerned that standardized educational testing has run amuck there. Today, on behalf of hundreds of thousands of school children in Florida, I rise in support of this amendment.

I am not opposed to testing students every year, but I believe the principal purpose of testing should be diagnostic. Testing should determine where my third grader is at the beginning of the year and what he needs to do to get to where he needs to be at the end of the school year. Testing should tell my child, my wife and I, and the teacher, what my child's needs are and how to help meet those needs.

I also support accountability. I want to know how my child's schools are doing in relation to other schools. In the Florida legislature, I chaired a subcommittee that wrote our accountability law. But unfortunately, through the FCAT standardized test in Florida, the governor and the legislature have turned that law on its head and are using testing as a public relations tool.

Florida already tests reading and math in the third through the tenth grades. However, teachers, principals, and students receive no information that helps them identify the needs of children and what they need to help those children learn. Teachers and students in Florida are not stupid. They have figured out this testing system does nothing to help teachers teach and children learn. They have figured out this is testing designed by the politicians for the politicians. Teachers set aside their lesson plans and teach the test to help their schools earn the financial reward and to avoid the stigma of being graded as a failing school.

Last week, Florida reached a new inevitable low in testing run amuck. Two Hernando County middle schools bribed their students by offering up to $150 each for a high standardized test score. As one of the principals pointed out, the State is using this same form of bribery with the schools that the schools are now using with the children. One of the student recipients of this financial reward said, it may be a small bribe, but at least it is something for going through the test.

□ 1445

I disagree completely with Florida's Commissioner of Education who says that he does not have a problem with this form of bribery. I think it is wrong, and needs to be stopped now. The standardized testing situation in Florida is a growing disgrace.

Mr. Chairman, let me close by saying I have repeated these concerns to the Secretary of Education. This bill should be written to clearly state the principal purpose of testing should be diagnostic. Until it does, I urge adoption of the amendment.

Mr. HOEKSTRA. Mr. Chairman, I yield 30 seconds to the gentlewoman from Florida (Mrs. THURMAN).

Mrs. THURMAN. Mr. Chairman, I stand in support of this amendment. I am a former middle-school math teacher. I started teaching back in the early 1970s. In 1978, the State of Florida put in an assessment, a diagnostic test that said we are going to test children at 3rd, 5th, 8th and 10th grade. We are not doing it to test how we are doing nationally, we are not doing it to test how we are doing from school to school. We are trying to find out what the individual student knows or does not know. We started it in October. We did it so that we could look at the student and find out where his or her weaknesses were, and to allow those to be taken care of through remediation. Nothing in this bill does that.

Mr. HOEKSTRA. Mr. Chairman, I yield 30 seconds to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I stand in favor of this particular amendment. In Massachusetts we have plenty of testing going on already. This idea by the President simply raises the quantity of testing, while doing nothing about the quality. Beyond that, we have the issue of bringing the testing procedure up to scale. The New York Times articles on Sunday and Monday indicate that this industry is not ready to produce the kind of quality tests and have them designed and administered and corrected in an appropriate way. We need to go back to the drawing board and make sure that this is done not as a mandate that will not be funded, but as a way to be actually used as a diagnostic tool for our children.

Mr. HOEKSTRA. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Chairman, for six years this Congress has insisted and held firm that there should be no national test. We have heard it said that the heart of the President's proposal was to find a national test. I do not believe this is true. The heart of the President's proposal is this: Find out what schools were performing, then provide assistance for two to three years to help them improve. Then if they did not improve, give the parents and the children the flexibility to find a school that does improve.

Mr. Chairman, we have taken out the final thing, which was the heart of the proposal, to give the parents flexibility. Now we say if your school is failing, you are trapped. Furthermore, there is nothing to say that the State tests and the local tests are not sufficient to know whether the schools are accountable.

This amendment says we trust the local teachers, principals, and school boards. We trust our governors. We do not need a national test coming out of Washington, which is one national standard that potentially will reach into every school, into private schools and home schools.

Mr. Chairman, we heard it is only reading and math. But the truth is it can go anywhere. It can be anything because once Washington gets control of this test, we do not know where it is going to go. We will no longer have the local control that we currently have.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, what this legislation says is that we shall annually measure the proficiency of students in the academic subjects in which States have adopted challenging academic content and student performance and standards.

We shall try and make a determination of how the students are doing in meeting that academic standard and content. We are kind of down to the point where we can make a choice. We can do business as usual, hold onto the status quo and we can just continue to see a system that has passed children from grade to grade, not knowing whether or not those children can read, not knowing whether they can compute, not knowing whether those children can reason or whether they have mastered the language arts. Social promotion.

Mr. Chairman, the gentleman from Nebraska (Mr. OSBORNE), a former coach, talked about it in his remarks. He found as he looked at his new recruits, even though they had a diploma and grades, they could not master the work in college.

We know it from our own school districts. We know it from parents that have talked to us. I teach in a continuation high school, and I see children which have been passed through from grade to grade. We want to stop that. We owe it to those children and parents to stop that. We owe it to the taxpayers of this Nation to stop that.

As the gentleman from Georgia (Mr. ISAKSON) said, $120 billion later, we have not gotten the results that we believe that these children and their families are entitled to, and we have not gotten the results that the taxpayers are entitled to, so we have asked for a system of accountability. We have asked for a system of accountability to determine how our children are doing so then local districts will have the ability to target the resources, target the resources of summer school, target the resources of after-school tutoring and mentoring, to target the resources of Saturday school so that these children will be able to get the help that they need.

Mr. Chairman, one of my colleagues said we do not fatten a pig by weighing them. Yes, one does. One wants to make a determination whether the pig is being fed the right thing, because pigs are sold by the pound. If the pig is sick, one wants to know that. That is why that assessment is made.

People say we test in 8th and 10th grade. In our poor school districts, if a student falls behind in second or third grade, in all likelihood they will drown before they can be helped because the resources are not there.

Mr. Chairman, we want to make an assessment of how these children are doing. Are they performing at age-appropriate levels and grade-appropriate levels, are they mastering the subject matter; and we want to provide the resources to those schools to improve those schools, to keep them from failing, to turn them around. But we need to have that assessment.

This is the heart of accountability. One cannot just say they are for accountability. Someday my colleagues have to step up to the plate and make that determination.

Let me say in closing, Motorola requires a high school education before an individual can make application to their corporation. And I think they turn away about 50 percent of their applicants because they cannot read or perform at 12th grade levels. We owe better to our students; and we certainly owe better to the poorest of our students.

Mr. HOEKSTRA. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to clarify some of the perceptions of what has been said today. But before I do that, I want to thank my colleagues on the other side of the aisle, in particular the gentleman from Massachusetts (Mr. FRANK), for joining me in bringing this amendment forward.

Mr. Chairman, the Federal Government put in place a mandate to local schools and States to implement testing, to be implemented for 2001. That is this year. We have that mandate in place, and now as local school districts are implementing that mandate, we are saying we are not really serious, the $400 million that has been spent, we have moved the bar and changed the playing field.

The role of the Federal Government should be to audit the results. We should not mandate on a yearly basis what will be going on in our local school districts.

Our local school districts have had enough of unfunded Federal mandates: IDEA, unfunded. Testing, underfunded. Testing is not yet ready for prime time.

Mr. Chairman, I encourage my colleagues to support this amendment and stick with the agreement in the mandate that we put in place for 2001. Let us not pull the rug out from under that mandate and create a new mandate.

Mr. BOEHNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, Members know we have worked hand in glove across the aisle since January to produce the bill that we have on the floor before us today. This is a very good bill. But we have all known at the essence of it, the core of this bill is to require real accountability from every school in America that gets Federal dollars.

We have spent $120 billion over the last 35 years, and we have not gotten results. We have spent $80 billion over the last 10 years in the heart of the school reform movement and have gotten no results. How many more hundreds of billions of dollars are we going to spend here in Washington without asking our schools to give us real results.

What do we say to the lost generation of Americans that we have over the last 25 years because we passed them through grade after grade, year after year, and never asked whether they could read or write? Is that fair? No.

And to my African American colleagues in this Chamber and to my Hispanic colleagues in this Chamber, and to my colleagues in this Chamber who represent low-income communities, they should be demanding more than any of us that we have testing year by year because it is the students in those schools who get short-changed year after year because no one knows what is really happening.

Mr. Chairman, I would say to all of my colleagues, it is time to have accountability. It is time to stand up and show the courage that it takes to bring real results to our schools and to take our heads out of the sand and quit ignoring incompetence and quit ignoring the fact that some of our kids, and too many of them, are not learning.

Mr. DAVIS of Florida. Mr. Chairman, for the last several months, I have been getting an earful from parents, teachers and students who are concerned that standardized educational testing in Florida has run amuck. Today, on behalf of hundreds of thousands of Florida public school students subjected to these tests, I rise in support of the Hoekstra/Frank amendment.

I am not opposed to testing our students every year, but I believe the principle purpose of testing should be diagnostic. Testing should determine where my child is at the beginning of the school year and what he needs to work on to get where he should be at the end of that school year. Testing should tell my child, his teacher, my wife and me what we need to know to help him improve as a student.

I also support accountability. I want to know how my child's school is doing in comparison to other schools. In fact, while I served in the Florida House of Representatives, I chaired the Subcommittee that wrote Florida's Accountability law. Unfortunately, the Governor has turned that initial law on its head and is now using testing as a public relations tool rather than a true measure of students' academic abilities.

As many of you know, Florida is already testing students in grades three through eight in reading and math. The Florida Comprehensive Assessment Test, FCAT, also tests writing in grades four, eight and ten. Unfortunately, as I stated above, the purpose of the FCAT is to grade our schools and implement high stakes penalties or rewards based on their scores, NOT to see where our students need help to boost their performance.

That's right. Under the FCAT, teachers, principals, parents and students get no information from the test identifying the needs of individual students and how to help them improve.

Teachers and students in Florida aren't stupid. They have figured out this testing system does not help teachers teach or students learn. It is, instead, testing by the politicians, for the politicians with an end result of pitting school against school.

In response, teachers set aside their lesson plans and teach to the test to help their school earn a high test score in hopes of earning financial rewards and avoiding the stigma of being labeled a failing school.

As a result, last week in Florida, we reached the inevitable new low in testing run amuck. In Hernando County, Florida, two middle schools are paying kids for good scores on the FCAT. That's right. These schools are bribing their students with up to $150 for high scores on the reading, math or writing portions of the FCAT. Again, the FCAT is not designed to help students. Because the test does not motivate students to learn, these schools feel they have no alternative but to use financial rewards to encourage students to do well on the FCATs. The Principal of one of these middle schools pointed out that the State is using this same type of bribe to help the schools perform better on the tests, and the school has merely passed that bribe on to its students. As this Principal asked the Governor, ''What's the difference?''

One of the student recipients of a monetary reward said the following, ''I thought it was pretty good. It's a little bribe. That way, it's not just a pain-in-the-butt test, you actually have something.''

The reaction of Florida's Commissioner of Education to the bribe was, ''. . . I don't have a problem with it. . . . It's legal, it's not unethical. . . .''

Well, I disagree completely with the Commissioner. The last time I checked, bribery was illegal. This is wrong, and it should be halted now.

The standardized testing situation in Florida is a growing disgrace. If we allow it to continue and spread to other states, it will be a national disgrace for which this Congress will be responsible. Worse yet, by allowing standardized testing to run amuck, we will only aggravate the increasing teacher shortage that is currently plaguing our schools. Over the next decade our nation's schools will lose more than 65 percent of their teaching faculty. This percentage can only increase if we do not address these testing problems.

I have repeatedly expressed my concerns that the principal purpose of testing should be diagnostic to the Secretary of Education and the President's Chief Advisor on his education proposal. Both of them told me that they agreed with me.

This bill must be rewritten to clearly state that the principal purpose of standardized testing should be diagnostic—to help teachers teach and children learn. Because this bill is silent on this point, I urge my colleagues to support the Hoekstra/Frank Amendment.

Mr. BAIRD. Mr. Chairman, I rise today to express a number of serious reservations about the testing provisions of HR 1.

I commend the committee chair, the ranking member, and all those who have worked in a truly bipartisan basis to bring this legislation to the floor today, but I am afraid that some provisions of the bill as written have the potential to harm, rather than improve, our educational system.

The problem to which I am referring is the mandate for annual testing. I know that many of those who support annual testing do so because they believe we must set high standards in order to motivate our students, faculty, and administrators to achieve. I strongly agree with that goal, but I also disagree with how this legislation seeks to accomplish it.

As a licensed clinical psychologist before coming to Congress, I may bring a unique perspective to this debate. In addition to administering, scoring and interpreting hundreds of tests in my own professional career, I also taught graduate level courses dealing with the design, uses, and potential abuses of tests and test results. So I know something about the matter of testing.

Based on that experience, and a careful reading of this legislation, let me raise the following concerns:

First, this legislation represents an enormous unfunded mandate with absolutely no information provided regarding the cost of implementation or the benefits as compared to other options. I find it surprising that those who so often complain about unfunded federal mandates and bureaucracy elsewhere in our government so enthusiastically support legislation that even by a conservative estimate will require hundreds of millions of dollars of expenditures every year. It is true that this legislation authorizes money to help states design their testing, but the legislation before us includes nothing to fund the actual annual testing that it requires.

Since there is no money in this bill or in the budget to fund the testing process itself, we must ask ourselves how those costs will be borne by our states and local school districts. How many teachers or teachers aides could be paid for with the money to be spent on testing? What level of school repair or numbers of textbooks will go unrenewed because of the money spent on testing? How might those alternative expenditures benefit students more than the money to be spent on testing? And, finally, what is the opportunity cost to our system as teachers and students spend time and resources preparing for the tests rather than engaging in other valuable educational activities?

Secondly, while the legislation purports to require standards, it is clear that there really is no consistent or common standard required. In fact, by leaving the proposed achievement standards up to the states, albeit with some level of federal review, it is quite possible that schools in some states will meet their internal standards while others will fail, but the standards that are met may be entirely different from state to state. This leaves open the possibility that federal dollars will be restricted from some schools where there is actually higher achievement but given to others where achievement is lower but the state standards are also lower. As I read this legislation, there will be every incentive for schools to set low standards on their tests in order to meet the federal requirements and not lose funding. Isn't this precisely what the authors of the legislation hoped to avoid? And isn't the alternative—the micro-management of state testing by the federal government—equally undesirable?

Third, an additional problem with the standards referred to in the bill is that it seems to be legislating the so-called Lake Wobegon effect, in which all the students are above average. The legislation requires all students to meet or exceed the ''State's proficient level of academic performance.'' But the legislation apparently fails to recognize that proficiency standards can be set in several ways. For example, a standard could be a bare minimum level of competency, or it could be a level set by the average student of a given grade. If the average level of proficiency is taken as the standard, by definition of average, not all students can meet that level. Conversely, if proficiency is to be set at a relatively high level, which it should be if the term ''proficient'' is to mean anything important, then we can expect that the natural variations in student skills and development will leave many students coming close to, but not reaching full proficiency.

Like it or not, Congress cannot legislate the repeal of the laws of statistics, and the normal distribution of abilities will be with us regardless of how appealing a law may sound on the surface. This fundamental ambiguity alone should be reason enough to withhold the testing requirement until we have clear answers to the question of what exactly is meant by the requirement of the legislation.

Fourth, even if the questions addressed above could be answered, the logic of using annual testing to evaluate school performance and compare districts is severely flawed. In my Congressional district some districts have turnover rates higher than 40% per year. In many districts there are literally dozens of different non-English languages spoken in the homes. Still other districts have not passed funding levys in years. How can any comparison between these schools and schools with more homogenous or stable populations of students or with greater funding resources be meaningful? And how can the yearly progress or lack of progress of a school be meaningful if 40% of the students turnover every year?

One of the most important lessons I used to teach my graduate students was this—tests, per se, cannot be said to be valid or invalid in and of themselves. Rather, validity is a relative term whose meaning depends on the usage to be made of the test. The point made here is that there will be inherent limitations on the meaning of the scores across schools or across years. In other words, tests of individual student achievement may be designed to fairly and accurately assess the achievements of those individual students and to monitor individual student progress, but use of aggregate data to determine overall educational efficacy of a school, in the face of the other variables that influence aggregate scores, is not a valid use. It would not be unlike mixing together the blood samples from many different patients to measure average health. The mixing of samples defeats the purpose and vitiates the meaning of the findings.

As many of the students I have taught will attest, I believe with all my heart in setting high standards for students and faculty and then providing the resources and opportunities to help them succeed. I also believe that when standards are not met, there should be consequences.

But the testing provision in the legislation before us today, however positive its intent, proposes the wrong solution to the right problem. It will be tremendously costly to local schools to implement, it provides no funding for the annual testing itself, it offers a false premise as a basis for comparing schools and allocating funding, it includes inherent ambiguities in meaning that will produce unintended and paradoxical consequences, and it may well impede rather than enhance the ability of teachers and schools to help students achieve our overall educational goals.

Mrs. THURMAN. Mr. Chairman, as a math teacher in Dunnellon, Florida when the State of Florida mandated the state assessment tests, I started the first remediation classes for math at the High School. The diagnostic testing that was performed allowed educators to address the weaknesses of students before they progress to a higher grade. Recently, I was at a wedding where one of the students who was in my program came up to me and said that he would not have passed math without the remedial work I did with him.

Mr. Chairman I share this story with the House because it is critical that testing be used as a diagnostic process to help students in areas where they are underperforming and not just to collect statistics.

Mr. Chairman, we hear constantly about the federal government getting too heavily involved in state matters. I believe this is a priority we should leave to the states. I also wonder why we are using federal money to duplicate programs already being performed by the states when we should be using the Federal dollars to reduce the class size for our children.

Mr. MORAN of Kansas. Mr. Chairman, I support Representative HOEKSTRA's amendment. The federal government's role in education should be to support proven state and local reform efforts rather than create additional requirements for our local schools. By mandating new testing requirements on every child, every year from grades 3 through 8, this plan will take teachers and students out of class; take dollars out of state and local education budgets; and undermine successful reform efforts already under way in states like my own.

In Kansas, state assessments already take students away from the classroom 6 to 7 days per year. If the assessment provisions pass as proposed, Kansas would have to add 10 new assessments. As a result, Kansas would be administering 21 assessments on an annual basis. H.R. 1 means even more time testing and less time learning.

These new federal mandates are too expensive at a time when education budgets are already stretched paper-thin. In Kansas, the cost of administering state tests would rise from approximately $1.7 million to $9 million. Before the federal government starts tacking on expensive new requirements, it should work to fully fund existing mandates such as special education.

Requiring more tests, will interfere with a 10-year educational improvement effort already under way in Kansas. Kansans have established a system that accurately measures yearly progress of our state, our schools, and our students. Our system holds schools accountable and provides reports to parents. Under H.R. 1's testing requirements, not only will states be required to develop new assessments, but local school districts will have to redesign their curriculums to meet the new assessments. The bottom line: Kansas is making progress, and we should not be forced to abandon a program that is working.

Reform initiatives should come from the parents, teachers and local boards of education, and not be imposed by the federal government in a one-size-fits-all manner. I remain committed in my belief that the educational needs of a community are best known by that community. I urge my colleagues to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. HOEKSTRA).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HOEKSTRA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair announces that, pursuant to clause 6 of rule XVIII, proceedings will resume on amendment No. 3 offered by the gentlewoman from Washington (Ms. DUNN) immediately after this vote and that a vote on amendment No. 3, if ordered, will be reduced to 5 minutes.

The vote was taken by electronic device, and there were—ayes 173, noes 255, not voting 5, as follows:

[Roll No. 130]

AYES—173

Ackerman	Clyburn	Green (TX)
Akin	Coble	Gutierrez
Baca	Conyers	Gutknecht
Baird	Costello	Hastings (FL)
Baldwin	Coyne	Hefley
Barcia	Cummings	Hill
Barrett	Davis (FL)	Hilliard
Bartlett	Davis (IL)	Hinojosa
Barton	Davis, Jo Ann	Hoekstra
Becerra	DeFazio	Holden
Bereuter	Delahunt	Honda
Berkley	DeLauro	Hostettler
Berry	Doolittle	Hyde
Bilirakis	Doyle	Istook
Blagojevich	Duncan	Jackson (IL)
Blumenauer	Evans	Jackson-Lee (TX)
Bonior	Farr	Jefferson
Borski	Fattah	Johnson, E. B.
Boswell	Filner	Johnson, Sam
Boucher	Flake	Jones (NC)
Boyd	Frank	Jones (OH)
Brady (PA)	Frost	Kaptur
Brown (FL)	Ganske	Kennedy (MN)
Brown (OH)	Gephardt	Kerns
Cantor	Gilchrest	Kilpatrick
Capuano	Gilman	Kleczka
Chabot	Gonzalez	LaFalce
Clay	Goode	Langevin
Clayton	Graham	

Larson (CT)
Lee
Lewis (GA)
Lowey
Lucas (OK)
Luther
Manzullo
Markey
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McKinney
Meek (FL)
Meeks (NY)
Menendez
Mink
Mollohan
Moran (KS)
Murtha
Myrick
Napolitano
Neal
Ney
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pence
Peterson (MN)
Phelps
Pickering
Pitts
Pombo
Ramstad
Rangel
Reyes
Riley
Rivers
Rodriguez
Ross
Rothman
Roybal-Allard
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sawyer
Scarborough
Schaffer
Schakowsky
Scott
Sensenbrenner
Shadegg
Sherman
Smith (MI)
Solis
Souder
Stearns
Strickland
Stupak
Tancredo
Terry
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Toomey
Towns
Velazquez
Vitter
Waters
Watt (NC)
Waxman
Weiner
Weldon (FL)
Wexler
Woolsey
Wu

NOES—255

Aderholt
Allen
Andrews
Armey
Bachus
Baker
Baldacci
Ballenger
Barr
Bass
Bentsen
Berman
Biggert
Bishop
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chambliss
Clement
Collins
Combest
Condit
Cooksey
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cunningham
Davis (CA)
Davis, Tom
Deal
DeGette
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Everett
Ferguson
Fletcher
Foley
Ford
Fossella
Frelinghuysen
Gallegly
Gekas
Gibbons
Gillmor
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Grucci
Hall (OH)
Hall (TX)
Harman
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Herger
Hilleary
Hinchey
Hobson
Hoeffel
Holt
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Inslee
Isakson
Israel
Issa
Jenkins
John
Johnson (CT)
Johnson (IL)
Kanjorski
Keller
Kelly
Kennedy (RI)
Kildee
Kind (WI)
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Lantos
Largent
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas (KY)
Maloney (CT)
Maloney (NY)
Mascara
Matheson
McCarthy (NY)
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Moore
Moran (VA)
Morella
Nadler
Nethercutt
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pelosi
Peterson (PA)
Petri
Platts
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Regula
Rehberg
Reynolds
Roemer
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Rush
Sandlin
Saxton
Schiff
Schrock
Serrano
Sessions
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Spence
Spratt
Stark
Stenholm
Stump
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Visclosky
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—5

Abercrombie
Cubin
Hansen
Moakley
Rogers (KY)

□ 1518

Messrs. KIRK, HUNTER and MALONEY of Connecticut changed their vote from ''aye'' to ''no.''

Messrs. HILLIARD, KERNS, BLAGOJEVICH, CONYERS, PICKERING, BARTLETT of Maryland and BARCIA, and Ms. McKINNEY changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 3 OFFERED BY MS. DUNN

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Washington (Ms. DUNN) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 420, noes 3, not voting 9, as follows:

[Roll No. 131]

AYES—420

Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hillary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Roemer
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman

Tiahrt	Vitter	Weller
Tiberi	Walden	Wexler
Tierney	Walsh	Whitfield
Toomey	Wamp	Wicker
Towns	Waters	Wilson
Traficant	Watkins	Wolf
Turner	Watt (NC)	Woolsey
Udall (CO)	Watts (OK)	Wu
Udall (NM)	Waxman	Wynn
Upton	Weiner	Young (AK)
Velazquez	Weldon (FL)	Young (FL)
Visclosky	Weldon (PA)	

NOES—3

Johnson, Sam	Schaffer	Souder

NOT VOTING—9

Abercrombie	Granger	Peterson (MN)
Cubin	Hansen	Rodriguez
Ford	Moakley	Rogers (KY)

□ 1527

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 107–69.

□ 1530

AMENDMENT NO. 7 OFFERED BY MR. DOOLEY OF CALIFORNIA

Mr. DOOLEY of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. DOOLEY of California:

In section 1111(h)(1)(D) of the Elementary and Secondary Education Act of 1965, as amended by section 104 of the bill, after clause (i), insert the following (and redesignate subsequent provisions accordingly):

''(ii) information that provides a comparison between the actual achievement levels of each group of students described in subclauses (I) and (II) of subsection (b)(2)(C) to the State's annual numerical objectives for each such group of students on each of the assessments required under this part;

In section 1111(h)(1)(D) of the Elementary and Secondary Act of 1965, as amended by section 104 of the bill—

(1) after clause (v), strike ''and'';

(2) at the end of clause (vi), strike the period and insert ''; and''; and

(3) add at the end the following:

''(viii) a clear and concise description of the State's accountability system, including: a description of the criteria by which the State evaluates school performance, and the criteria that the State has established, consistent with (b)(2)(B), to determine the status of schools regarding school improvement, corrective action, and reconstitution.''.

The CHAIRMAN. Pursuant to House Resolution 143, the gentleman from California (Mr. DOOLEY) and a Member opposed will each control 5 minutes.

Mr. BOEHNER. Mr. Chairman, I ask unanimous consent, although I do not oppose the amendment, to claim the time in opposition.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Chairman, I yield myself such time as I may consume.

First off, I want to compliment the gentleman from Ohio (Chairman BOEHNER), the gentleman from California (Mr. GEORGE MILLER), the gentleman from Michigan (Mr. KILDEE), and the gentleman from Indiana (Mr. ROEMER) for the terrific work they have done in putting together what is truly a bipartisan education reform bill.

I represent a region of California, the Central Valley, which is one of the most low-income areas of the Nation, an area populated by a lot of farmworker families. It is these children that this bill has the greatest promise of helping, because it is important for us to have our schools ensuring that they are providing the academic programs that are ensuring that these students are going to have the skills that allow them to compete and win in our economy and our society today.

Mr. Chairman, this legislation holds a promise, by providing for greater accountability, to really empower communities, families, students, as well as schools, to really be able to understand what they need to be doing in order to improve the programs they are providing to enrich the academic performance of their schools.

What is also important for us, and that is the crux of this amendment, is that we ensure that that information that we are gathering, through this accountability process, will be easily understood by parents, teachers, as well as the community.

The thrust of this legislation is really truth in accountability. We need to be able to assure that we can provide this data and this information in a manner which really can be utilized and understood by the families so that they can understand what they have to do to see how they can improve the schools, how they can ensure that they are working together as partners with our teachers and schools.

In many ways, this amendment can also be viewed as a sunshine amendment by ensuring once again that when we ask schools to adopt these accountability standards, that they are providing this information in a manner which is easily understood.

This amendment I think will go a long way to ensure that the thrust and the focus of this legislation, which is to provide greater academic performance in our schools through this greater accountability, that will make sure we can translate this information in a way that will empower parents to have a better understanding of what needs to be done and how their school is actually performing.

Mr. Chairman, I ask all my colleagues to support this.

Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Mr. Chairman, I thank the gentleman for yielding time to me.

First of all, I want to thank my dear friend, the gentleman from California (Mr. DOOLEY), for all his hard work on the education bill, but also in helping the New Democrats up to 2 years ago formulate policy and position and substance on accountability and flexibility and resources to help these children.

I know the gentleman, with his district and State, is greatly concerned about this for all his students and for his Hispanic population. I just want to thank the gentleman for all his hard work on the education issue. The New Democrats, as he knows, came out with a bill with Senator LIEBERMAN and Senator BAYH a couple of years ago. I think the President saw that bill, saw a good bill, and decided to campaign on it. That is basically the heart and soul of much of the bipartisanship that we form today.

I want to thank the gentleman for his work from the New Democratic position, and as we work through this bill on the floor and into conference, that we continue to work on many of the things that the New Democrats have seen as vital to reforming education with new ideas since almost 2½ years ago.

I thank the gentleman for his hard work and for his amendment here today. I encourage support for the amendment.

Mr. DOOLEY of California. Mr. Chairman, I reserve the balance of my time.

Mr. BOEHNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me congratulate my good friend, the gentleman from California (Mr. DOOLEY). He and I have sat on the Committee on Agriculture for the last 10 years and worked very closely on agricultural policy and trade policy, as well.

The amendment that he brings forward I think is helpful to the bill, because I think the amendment empowers parents. It gives them information that explains in concise terms the academic accountability system used by the State and the progress in reaching the numeric goals for each of our students.

In order to be effective and credible, accountability systems must be easily understood by parents and educators, and I think this amendment will help ensure that that happens.

Mr. POMEROY. Mr. Chairman, will the gentleman yield?

Mr. BOEHNER. I yield to the gentleman from North Dakota.

Mr. POMEROY. Mr. Chairman, I thank the gentleman for yielding, and for working with us on this matter.

The matter I would like to address in this colloquy involves section 117 of the Carl D. Perkins Act. This section authorizes funding for tribally controlled postsecondary, vocational, and technical institutions.

Under prior law and regulation, the funds under this program were awarded to institutions not authorized to receive assistance under the Tribally Controlled College or University Assistance Act, or the Navajo Community College Act.

As such, these funds are critical to the support of two institutions that have for many years provided training consistent with the act and are urgently needed by the students of these schools.

However, the Department of Education has indicated changes in the 1998 Perkins Act amendments modified the eligibility criteria for these funds. This poses a direct threat to the ongoing viability of these two schools.

It was not the intent of Congress to alter the eligibility for section 117 funding. It was not the intent of Congress to cause an end to these schools. Therefore, a legislative clarification is necessary.

Mr. Chairman, if, as we expect, this issue arises in conference, I ask for Members' support to restore the intended eligibility requirement for this program.

Mr. BOEHNER. Mr. Chairman, I thank my colleague for bringing this crucial issue to my attention. I recognize the importance of this program for those institutions that have received funds under section 117.

During conference negotiations with the Senate, I will work with my colleagues to restore eligibility for funding under section 117 of the Perkins Act to its original purpose.

Mr. MCKEON. Mr. Chairman, will the gentleman yield?

Mr. BOEHNER. I yield to the gentleman from California.

Mr. MCKEON. Mr. Chairman, as the chairman of the Subcommittee on 21st Century Competitiveness, which has authority over the Perkins Act, I, too, want to express my support for restoring section 117 of the act to its original purpose. I understand the importance of these funds to these schools and appreciate the gentleman bringing it to our attention.

Mr. UDALL of New Mexico. Mr. Chairman, will the gentleman yield?

Mr. BOEHNER. I am happy to yield to the gentleman from New Mexico.

Mr. UDALL of New Mexico. Mr. Chairman, I thank the gentleman from Ohio (Chairman BOEHNER) and the subcommittee chairman, the gentleman from California (Mr. MCKEON), for their comments and commitment to work to address this issue.

Additionally, I would like to point out that the American Indian Higher Education Consortium, which represents 32 tribal colleges and universities, worked closely with Congress to create the program under section 117 to ensure a source of core operational funding for vocational educational opportunities.

Dr. Jim Shanley, President of the American Indian Higher Education Consortium, has sent a letter in support of this effort. I appreciate the Chairman's cooperation during negotiations with the Senate.

Mr. KILDEE. Mr. Chairman, will the gentleman yield?

Mr. BOEHNER. I yield to the gentleman from Michigan.

Mr. KILDEE. Mr. Chairman, I thank the gentleman for yielding to me.

I would like to echo the comments of the gentleman from Ohio (Chairman BOEHNER) regarding this program. Congress did not intend to make eligibility changes in section 117 of the Carl Perkins Act. I will work with my colleagues to address this issue in conference.

Mr. BOEHNER. Mr. Chairman, I yield the balance of my time to my colleague, the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I think this is an excellent amendment. I think it is important that we understand that this whole legislation and what we do at the Federal Government is basically aimed at helping children who are having problems, who are disadvantaged in some way or another.

By disaggregating this information, as this amendment does, we really do that. By making it simpler, as this amendment does, we make sure the parents, schools, and students themselves understand exactly what is expected, what they have achieved, and where we are going in the direction of education. That is what it is all about.

Having a rising tide will help all children. I think this amendment does it. I compliment the sponsor of it.

Mr. DOOLEY of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, I thank the gentleman from California for his amendment and applaud him for his efforts. It is an important addition to this bill.

I would also like to commend the chairman and ranking member of the Committee on Education and the Workforce on this landmark legislation.

I had intended to offer an amendment that would have helped ensure that children arrive at school with all the tools that they need for success. I will instead engage the gentleman from Ohio (Chairman BOEHNER) and the ranking member, the gentleman from Michigan (Mr. KILDEE), in a colloquy.

On the basis of a growing body of scientific study, there is an increasing recognition that the foundations for learning are laid in a child's earliest years. Both the President's proposal and the bipartisan bill crafted by the committee took notice of this knowledge in providing for the Early Reading First Initiative to help the development of literacy skills in pre-school age children.

My amendment would compliment the Early Reading First Initiative by promoting young children's emotional and social development, as well as their literacy skills, so they will be prepared for success when they begin school.

This approach was recommended by the National Academy of Sciences, and also urged by kindergarten teachers. It is a proven method to reduce special education placements, grade retention, juvenile arrests, and school dropouts.

The CHAIRMAN. The time of the gentleman from California (Mr. DOOLEY) has expired.

Mr. KENNEDY of Rhode Island. Mr. Chairman, I ask unanimous consent for 1 additional minute.

The CHAIRMAN. That request must be for equal time on both sides.

Mr. BOEHNER. Mr. Chairman, I ask unanimous consent that we have 10 additional minutes on this amendment, equally split between both sides.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. KENNEDY of Rhode Island. Mr. Chairman, will the gentleman yield?

Mr. DOOLEY of California. I yield to the gentleman from Rhode Island.

Mr. KENNEDY of Rhode Island. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, this is part of a strategy to improve test scores and academic achievement. It has been proven to work. I know the chairman and ranking member of the Committee share my commitment to ensuring that children enter school with all the tools they need. Their dedication to the educational needs of our youth is evidenced by their hard work on this bill.

I would ask if the gentleman from Ohio (Chairman BOEHNER) would be willing to work with me in conference to address the goals of this amendment in the final legislation.

Mr. BOEHNER. Mr. Chairman, will the gentleman yield?

Mr. DOOLEY of California. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, I thank the gentleman from Rhode Island for his kind words.

Congress has a history of supporting programs that promote school readiness for young children. In the 105th Congress, we reformed the Head Start program to ensure better school readiness programs for pre-schoolers.

We have the Individuals with Disabilities Education Act part C program that provides early intervention services for infants and toddlers with disabilities. Just last year we created a new program for children ages 0 through 6, or I guess one day through 6, called Early Learning that addresses these same issues.

I support the goal of this amendment, helping children to be fully ready to enter elementary school and ready to learn. I believe we can best achieve this goal by working within existing programs and systems. We should encourage providers in the existing programs to address all aspects of school readiness.

I want to thank the gentleman from Rhode Island (Mr. KENNEDY) for his thoughtful addition to this debate. I would be happy to work with him to help achieve this goal.

Mr. KILDEE. Mr. Chairman, will the gentleman yield?

Mr. DOOLEY of California. I yield to the gentleman from Michigan.

Mr. KILDEE. Mr. Chairman, I have spoken with the gentleman from Rhode Island about this amendment. I think we should work to address this issue in conference, Mr. Chairman. It is sound policy to help put at-risk children on a healthy trajectory earlier in their lives. Helping families and communities build children's emotional skills in the early years will lead to increased academic achievement.

This amendment is a strong proposal to do just that, and I will support the efforts of the gentleman from Rhode Island (Mr. KENNEDY) to address this issue in conference.

Mr. KENNEDY of Rhode Island. Mr. Chairman, If the gentleman from California will continue to yield, I thank the gentleman from Michigan.

Mr. DOOLEY of California. Mr. Chairman, I yield myself such time as I may consume.

In closing, I urge all my colleagues to support this amendment. Once again, I want to compliment the gentleman from Ohio (Chairman BOEHNER) and the gentleman from California (Mr. GEORGE MILLER) for their terrific work on this legislation.

Mr. Chairman, I yield back the balance of my time.

Mr. BOEHNER. I urge my colleagues to support the amendment, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DOOLEY).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 107–69.

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AMENDMENT NO. 8 OFFERED BY MR. VITTER

Mr. VITTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. VITTER:

In part E of title VIII of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 801 of the bill, after section 8519, insert the following (and redesignate succeeding paragraphs, and any cross-references thereto, accordingly):

"SEC. 8520. ARMED SERVICES RECRUITING.

''Any secondary school that receives Federal funds under this Act shall permit regular United States Armed Services recruitment activities on school grounds, in a manner reasonably accessible to all students of such school.

The CHAIRMAN. Pursuant to House Resolution 143, the gentleman from Louisiana (Mr. VITTER) and a Member opposed each will control 5 minutes.

Mr. GEORGE MILLER of California. Mr. Chairman, I ask unanimous consent to claim the time in opposition.

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. GEORGE MILLER)?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. VITTER).

Mr. VITTER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise today to speak in favor of the Vitter-Sessions amendment to H.R. 1. This amendment will prevent discrimination against armed services recruiters and will simply offer them fair access to secondary schools that accept Federal funding.

Mr. Chairman, top Department of Defense manpower officials, as well as the actual military recruiters on the ground, in the trenches, if you will, face daunting challenges in beefing up our military with good, new, young recruits. That is particularly true in a flourishing economy.

What I find truly dismaying and alarming, however, is that the Pentagon estimates there are some 2,000 schools nationally that actually have policies banning recruiters from their campuses.

Should we discriminate against our national interests of a strong armed services by restricting which youth have access to choose a career in the U.S. military?

Recruiters have stated that in many cases they have been denied access simply and solely because of school administrators' own personal antimilitary bias or lack of familiarity with the positive aspects of military service.

What is going on clearly, Mr. Chairman, is pure, old-fashioned bad political correctness and antimilitary ideology being shoved down the throats of our young people.

This amendment simply states that secondary educational institutions that receive Federal funding must allow the same Armed Forces that are sworn to protect and defend the lives of students and teachers access to students in those educational institutions, just like college recruiters, university recruiters, and employment recruiters are given access on those campuses.

Mr. Chairman, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I know of no real opposition to this amendment. There are some who obviously think that this is a decision school boards ought to be making. They are elected by the people in the community; if that is the view of the people in the communities, then maybe they ought to reflect that. But I know of no real opposition here.

Mr. Chairman, I yield back the balance of my time.

Mr. VITTER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. SESSIONS).

Mr. SESSIONS. Mr. Chairman, I thank the gentleman from Louisiana (Mr. VITTER) for yielding me the time.

This Vitter-Sessions amendment is very important for the Armed Forces of this country. We have heard today how school boards all across this country and up to 2,000 schools nationally have banned military recruiters from coming on their campus.

It is of the utmost importance that the American military have the opportunity to not only come and tell their story about the military, but also to attract some of the brightest and best of our young people.

Mr. Chairman, see, many times there are people who have no other opportunities, whether it be college or other directions, and the military stands as a fabulous, not only career, but an opportunity for public service that young men and young women all across our country, and they might not have that opportunity simply because a school board or a school superintendent or principal might have a bias against the military.

I was on the U.S.S. *John C. Stennis*, which is one of our largest aircraft carriers, just a few weeks ago and spoke with person after person, young persons from all across this country, and many of them expressed to me that the vision and idea that they had not only about serving our Nation came from a member of the military who visited their campus, but also from a loved one who perhaps served in the military.

Mr. Chairman, I will tell my colleagues this amendment to H.R. 1 of allowing the military the opportunity to recruit on school campuses all across America is not only in the best interests of America, but it is in the best interests of every one of our students.

Mr. Chairman, I thank the gentleman from Louisiana (Mr. VITTER) for his leadership.

Mr. VITTER. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Chairman, I want to thank the gentleman from California (Mr. GEORGE MILLER) for his kind words.

Earlier today we debated the World War II memorial and remembered those who served. For schools to accurately depict history, they have to talk about those who served.

Serving in the military is honorable. Military service increases self-esteem, discipline, devotion to duty, selfless service, and love of country. That is not too bad. No recruiters; no money.

Let us open the door to those who serve our young men and women and allow them to serve this great Nation. We, as a Nation, will not be disappointed.

Mr. VITTER. Mr. Chairman, I yield 30 seconds to the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Mr. Chairman, I enthusiastically support the Vitter-Sessions amendment. It is hard to believe that recruiters do not have access to our young men and women, but this is an opportunity for character education.

It is an opportunity for national security. This brings to our schools, through ROTC, character, honesty, integrity, core values of the military. I

appreciate the gentleman bringing this to our attention, and I strongly support the Vitter-Sessions amendment and recommend my colleagues do the same.

Mr. DEFAZIO. Mr. Chairman, I intend to vote against the Vitter amendment not because I personally believe military recruiters should be excluded from school grounds but because I strongly support the ability of local communities to determine what is best for their schools and their children.

The CHAIRMAN. All time for debate has expired.

The question is on the amendment offered by the gentleman from Louisiana (Mr. VITTER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. VITTER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Louisiana (Mr. VITTER) will be postponed.

The point of no quorum is considered withdrawn.

The CHAIRMAN. It is now in order to consider Amendment Number 9 printed in House Report 107–69.

AMENDMENT NO. 9 OFFERED BY MR. TIBERI

Mr. TIBERI. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. TIBERI:

At the end of the provision proposed to be added by section 701 of the bill, add the following:

"PART C—LOCAL FLEXIBILITY DEMONSTRATION

"SEC. 7301. SHORT TITLE.

This part may be cited as the ''Local Flexibility Demonstration Act''.

"SEC. 7302. PURPOSE.

''The purpose of this part is to create options for local educational agencies—

''(1) to improve the academic achievement of all students, and to focus the resources of the Federal Government upon such achievement;

''(2) to improve teacher quality and subject matter mastery, especially in mathematics, reading, and science;

''(3) to empower parents and schools to effectively address the needs of their children and students;

''(4) to give local educational agencies maximum freedom in determining how to boost academic achievement and implement education reforms;

''(5) to eliminate Federal barriers to implementing effective local education programs;

''(6) to hold local educational agencies accountable for boosting the academic achievement of all students, especially disadvantaged children; and

''(7) to narrow achievement gaps between the lowest and highest performing groups of students so that no child is left behind.

"SEC. 7303. AGREEMENTS TO PROVIDE LOCAL FLEXIBILITY.

''(a) AUTHORITY.—Except as otherwise provided in this part, the Secretary shall enter into performance agreements—

''(1) with local educational agencies that meet their State's definition of adequate yearly progress, that submit approvable performance agreement proposals, and that are selected under paragraph (2); and

''(2) under which the agencies may consolidate and use funds as described in section 7304.

''(b) SELECTION OF LOCAL EDUCATIONAL AGENCIES.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall enter into performance agreements under this part with not more than 100 local educational agencies. Each such local educational agency shall be selected from among those local educational agencies that—

''(A) submit a proposed performance agreement to the Secretary and demonstrate, to the satisfaction of the Secretary, that the agreement)

''(i) has substantial promise of meeting the requirements of this part; and

''(ii) describes a plan to combine and use funds (as authorized under section 7304) under the agreement to meet the State's definition of adequate yearly progress);

''(B) provide information in the proposed performance agreement regarding how the local educational agency has notified the State of the local educational agency's intent to submit a proposed performance agreement; and

''(C) have consulted and involved parents and educators in the development of the proposed performance agreement.

''(2) GEOGRAPHIC DISTRIBUTION.—

''(A) IN GENERAL.—

''(i) INITIAL AGREEMENTS.—During the period of time that expires 3 years after the date of enactment of the No Child Left Behind Act of 2001, the Secretary may enter into not more than 2 performance agreements under this part with local educational agencies in each State.

''(ii) SUBSEQUENT AGREEMENTS.—After the expiration of the 3-year period beginning on the date of enactment of the No Child Left Behind Act of 2001, the Secretary may enter into performance agreements under this part with any number of local educational agencies in each State until the total number of such agreements equals 100.

''(B) URBAN AND RURAL AREAS.—If more than 2 local educational agencies in a State submit approvable performance agreements under this part, the Secretary shall select local educational agencies for performance agreements under this part in a manner that ensures an equitable distribution among such agencies serving urban and rural areas.

''(c) REQUIRED TERMS OF PERFORMANCE AGREEMENT.—Each performance agreement entered into with the Secretary under this part shall have each of the following terms:

''(1) TERM.—The performance agreement shall be for a term of 5 years.

''(2) APPLICATION OF PROGRAM REQUIREMENTS.—The performance agreement shall provide that no requirements of any program described in section 7304(b) and included by the local educational agency in the scope of the agreement shall apply to the agency, except as otherwise provided in this part.

''(3) LIST OF PROGRAMS.—The performance agreement shall list which of the programs described in section 7304(b) are included in the scope of the performance agreement.

''(4) USE OF FUNDS TO IMPROVE STUDENT ACHIEVEMENT.—The performance agreement shall contain a 5-year plan describing how the local educational agency intends to combine and use the funds from programs included in the scope of the performance agreement to advance the education priorities of the State and the local educational agency, meet the general purposes of the included programs, improve student achievement, and narrow achievement gaps.

''(5) LOCAL INPUT.—The performance agreement shall contain an assurance that the local educational agency will provide parents, teachers, and schools with notice and an opportunity to comment on the proposed terms of the performance agreement in accordance with State law.

''(6) FISCAL RESPONSIBILITIES.—The performance agreement shall contain an assurance that the local educational agency will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds consolidated and used under the performance agreement.

''(7) CIVIL RIGHTS.—The performance agreement shall contain an assurance that the local educational agency will meet the requirements of applicable Federal civil rights laws in carrying out the agreement and in consolidating and using the funds under the agreement.

''(8) PRIVATE SCHOOL PARTICIPATION.—The performance agreement shall contain an assurance that the local educational agency agrees that in consolidating and using funds under the performance agreement—

''(A) the local educational agency will provide for the equitable participation of students and professional staff in private schools; and

''(B) that sections 8504, 8505, and 8506 shall apply to all services and assistance provided with such funds in the same manner as such sections apply to services and assistance provided in accordance with section 8503.

''(9) ANNUAL REPORTS.—The performance agreement shall contain an assurance that the local educational agency agrees that not later than 1 year after the date on which the Secretary enters into the performance agreement, and annually thereafter during the term of the performance agreement, the local educational agency shall disseminate widely to parents and the general public, transmit to its State educational agency and the Secretary, distribute to print and broadcast media, and post on the Internet, a report that includes a detailed description of how the local educational agency used the funds consolidated under the agreement to improve student academic achievement and reduce achievement gaps.

''(c) APPROVAL.—Not later than 60 days after the receipt of a proposed performance agreement submitted by a local educational agency under this part, the Secretary shall approve the performance agreement or provide the local educational agency with a written determination that such agreement fails to satisfy the requirements of this part.

''(d) AMENDMENT TO PERFORMANCE AGREEMENT.—

''(1) IN GENERAL.—In each of the following circumstances, the Secretary shall agree to amend a performance agreement entered into with a local educational agency under this part:

''(A) REDUCTION IN SCOPE OF PERFORMANCE AGREEMENT.—Not later than 1 year after entering into the performance agreement, a State seeks to amend the agreement to remove from the scope any program described in section 7304(b).

''(B) EXPANSION OF SCOPE OF PERFORMANCE AGREEMENT.—Not later than 1 year after entering into the performance agreement, a State seeks to amend the agreement to include in its scope any additional program described in section 7304(b) or any additional achievement indicators for which the State will be held accountable.

''(2) APPROVAL OF AMENDMENT.—

''(1) IN GENERAL.—Not later than 60 days after the receipt of a proposed amendment to the performance agreement submitted by a

local educational agency, the Secretary shall approve the amendment or provide the agency with a written determination that the amendment fails to satisfy the requirements of this part.

''(B) TREATMENT AS APPROVED.—Each amendment for which the Secretary fails to take the action required in subparagraph (A) in the time period described in such subparagraph shall be considered to be approved.

''(3) TREATMENT OF PROGRAM FUNDS WITHDRAWN FROM AGREEMENT.—Beginning on the effective date of an amendment executed under paragraph (1)(A), each program requirement of each program removed from the scope of a performance agreement shall apply to the local educational agency's use of funds made available under the program.

''SEC. 7304. CONSOLIDATION AND USE OF FUNDS.

''(a) IN GENERAL.—

''(1) AUTHORITY.—Under a performance agreement entered into under this part, a local educational agency may consolidate, subject to subsection (c), Federal funds made available to the agency under the provisions listed in subsection (b) and use such funds for any educational purpose permitted under this Act.

''(2) PROGRAM REQUIREMENTS.—Except as otherwise provided in this part, a local educational agency may use funds under paragraph (1) notwithstanding the program requirements of the program under which the funds were made available to the State.

''(b) ELIGIBLE PROGRAMS.—Funds made available under programs under each of the following provisions of this Act may be consolidated and used under subsection (a):

''(1) Title II.

''(2) Part A of title IV.

''(3) Subpart 1 of part A of title V.

''(4) Part B of title V.

''SEC. 7305. LIMITATIONS ON ADMINISTRATIVE EXPENDITURES.

Each local educational agency that has entered into a performance agreement with the Secretary under this part may use for administrative purposes not more than 4 percent of the total amount of funds allocated to the agency under the programs included in the scope of the performance agreement.

''SEC. 7306. PERFORMANCE REVIEW AND PENALTIES.

''(a) MIDTERM REVIEW.—The Secretary may not enter into a performance agreement under this part unless the agreement includes a provision permitting the Secretary, after notice and an opportunity for a hearing, to terminate the agreement if, during the term of the agreement, the local educational agency that is party to the agreement fails to make adequate yearly progress for 3 consecutive years.

''(b) FINAL REVIEW.—If, at the end of the 5-year term of a performance agreement entered into under this part, a local educational agency that is party to the agreement has not met the achievement goals contained in the performance agreement, the Secretary may not renew the agreement under section 7307 and, beginning on the date on which such term ends, the local educational agency shall be required to comply with each of the program requirements in effect on such date for each program included in the performance agreement.

''SEC. 7307. RENEWAL OF PERFORMANCE AGREEMENT.

''(a) IN GENERAL.—Except as provided in section 7306(b) and in accordance with this section, the Secretary shall renew for 1 additional 5-year term a performance agreement entered into under this part if the State that is party to the agreement has met or has substantially met, by the end of the original term of the agreement, the achievement goals contained in the agreement.

''(b) NOTIFICATION.—The Secretary may not renew a performance agreement under this part unless, not less than 6 months before the end of the original term of the agreement, the local educational agency seeking the renewal notifies the Secretary of its intention to renew.

''(c) EFFECTIVE DATE.—A renewal under this section shall be effective at the end of the original term of the agreement or on the date on which the local educational agency seeking renewal provides to the Secretary all data required under the agreement, whichever is later.

''SEC. 7308. REPORTS.

''(a) TRANSMITTAL TO CONGRESS.—Not later than 60 days after the Secretary receives a report described in section 7303(c)(9), the Secretary shall make the report available to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate.

''(b) LIMITATION.—A State in which a local educational agency that is party to a performance agreement entered into under this part is located may not require such local educational agency to provide any application information with respect to the programs included within the scope of such performance agreement other than that information that is required to be included in the report described in section 7303(c)(9).

''SEC. 7309. DEFINITIONS.

''In this part, the following definitions apply:

''(1) ADEQUATE YEARLY PROGRESS.—The term 'adequate yearly progress' means the adequate yearly progress determined by the State in which a local educational agency is located pursuant to section 1111(b)(2)(C).

''(2) ALL STUDENTS.—The term 'all students' means all students attending public schools or charter schools that are participating in the State's accountability and assessment system.''.

The CHAIRMAN. Pursuant to House Resolution 143, the gentleman from Ohio (Mr. TIBERI) and the gentleman from California (Mr. GEORGE MILLER) will each control 15 minutes.

The Chair recognizes the gentleman from Ohio (Mr. TIBERI).

Mr. TIBERI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I first would like to thank the gentleman from Ohio (Mr. BOEHNER), chairman of the Committee on Education and the Workforce, and the gentleman from Delaware (Mr. CASTLE), the chairman of the Subcommittee on Education Reform, for their fine work on this piece of legislation and for their support for the amendment that I am offering at this time.

Mr. Chairman, this amendment expands upon what is already in this bill, which is a good bill; and it will make this bill a better bill.

Under this amendment sponsored by myself and the gentleman from Delaware (Mr. CASTLE), local school districts could sign performance agreements with the Secretary of Education to allow them to consolidate non-title I formula grant programs together.

Only two districts per State in all 50 States, for a total of 100 school districts, may do this. If approved by the Secretary, districts could be relieved of the requirements of those Federal programs that they consolidate.

If a school district is a failing school district, they may not apply. School districts that fail to make progress during the performance agreement contract may not continue to participate, thus the Secretary may cancel the agreement.

This piece of legislation is supported by the National School Boards Association, the Association of School Administrators, and the Council of Great City Schools. It offers local flexibility, local accountability, which will equal results.

Let us pass this amendment. Let us give additional tools to our locally elected school board members, to our local superintendents, so they can help the young men and women in our classroom.

Mr. Chairman, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to this amendment. I think basically the core problem with this amendment is that, in fact, the block grant, the manner in which it is constructed and the school districts that would, in fact, qualify for it really stands accountability on its head.

In fact, you have the ability of a school district to be failing, if you will, essentially almost 4 years out of 5 years, and at the same time receive the ability to do this.

Mr. Chairman, I realize that the amendment suggests if you make inadequate yearly progress, you can then have the block grant approach. But the fact of the matter is, you can fail to meet adequately yearly progress for 2 years, you could meet it a 3rd year or you could be back again in 2 years and you continue to get the block grant approach.

I think that that takes away much of the accountability that we have sought to have in this legislation. I think allowing the school districts to use these grants eliminates the very purpose of which we establish these priorities.

Why would we want to have a district eliminating spending on teacher quality when we continue to have large numbers of uncertified and unqualified teachers? Clearly in the legislation before us, we allow for greater flexibility. We also recognize that there is a purpose and a reason for these priorities. That is why we do not go to a block grant.

We try to provide that flexibility, but we also try to make sure that the purposes for which that money was sent is maintained by allowing school districts to move some of that money back and forth across those lines, but not too to engage in the block grant approach.

So for those reasons, Mr. Chairman, I oppose this amendment and would ask my colleagues to oppose this amendment.

I think that the arrangement that we have arrived at within the current legislation that is before us, that the gentleman from Indiana (Mr. Roemer) and

others worked on to provide a substantially greater level of flexibility for districts, is a better answer than to provide these block grants.

Mr. Chairman, I reserve the balance of my time.

Mr. TIBERI. Mr. Chairman, I yield 3 minutes to the gentleman from Delaware (Mr. CASTLE), the chairman of the Subcommittee on Education Reform.

Mr. CASTLE. Mr. Chairman, I thank the gentleman from Ohio (Mr. TIBERI), the sponsor of the amendment, for yielding the time to me.

Mr. Chairman, I join in support of it.

Before I speak to that, I would like to point out something which is very important. We are actually talking about an amendment to something else that was really created by the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce, the gentlewoman from Hawaii (Mrs. MINK), who is here on the floor right now, and various others, which is something called local Straight A's, which we have never had before.

I think it is very important that all of us understand what we are dealing with here, because I think local Straight A's was actually an ingenious concept to really introduce flexibility in the use of Federal dollars with respect to State and local governments which so many of us have talked about for so long.

First of all, it is open to all districts and States, local flexibility. Secondly, it is automatic flexibility. You can do it, you do not have to get approval. You just go about doing it.

You can transfer up to 50 percent of the funds in any of the various Federal programs with the exception of title I. Money can only be transferred into title I, and you still must meet the program requirements.

You can transfer up to 50 percent of the money and it coexists with other proposals, such as education flexibility. It is something that virtually all of us in the committee, once it was shaped, agreed upon as something which is a vast improvement to what we have now. I would hope that all of us in this Congress would understand that and would support it.

Mr. Chairman, turning to the program at hand, which is, for lack of a better term, superlocal flexibility, this is an extension beyond that. The gentleman from Ohio (Mr. TIBERI) has very carefully thought this out and deserves a lot of credit for it. And my colleagues heard the description of it here.

But there are certain things we need to understand. First of all, this is a pilot program which can only apply to 100 districts in 50 States, no more than two per State across our country. So we are not dealing with all the States.

Second, this program, unlike the local flexibility, would be subject to the approval of the Secretary. So you would have to enter into an agreement with the Secretary in order to make sure that you are carrying out your educational purposes correctly.

Next, the school district would have to make adequate, clear progress or they cannot apply for this. So they would have to be able to demonstrate that. It does include a variety of programs, the Teachers Program in title II; the title IV(A), block grant; the title V (A), safe and drug free schools; the technology programs and certain of the bilingual programs.

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But the title I accountability remains and is still part of the underlying concepts of what every school district has to do. The schools must meet the general purposes of the program.

I believe, because of the limitation on it, it is a pilot program, because of the Secretarial approval, because title I is still protected, that giving this extension to those schools who feel they can go this far, and I am not sure there are that many who feel they can, but up to these 100 districts is worthwhile.

I happen to believe in pilot programs when I think it can extend the good purpose of what we are trying to do in education. I believe that is a concept that is embodied in the super-local flexibility program which we have here before us. Remember, no school has to participate.

So I would encourage everyone to look at it to consider supporting it, hopefully supporting it, and joining in giving us more flexibility as we give more money back to the State and local education areas.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Chairman, I thank the gentleman from California for yielding me this time. I, as a member of the Committee on Education and the Workforce, reluctantly rise in opposition to the amendment.

Mr. Speaker, I have been a strong proponent for greater flexibility at the local school level and in the course of drafting H.R. 1, working in a bipartisan fashion, for the need for greater consolidation of the Federal programs. H.R. 1 contains that consolidation and flexibility.

But with that consolidation comes incredible flexibility already built into the core bill. In fact, between the various titles, excluding title I, the targeted title for disadvantaged students, the rest of the titles on H.R. 1 have 50 percent flexibility in the transfer of funds from title to title. Therefore, I really do not see the need for this amendment.

As the gentleman from Delaware (Mr. CASTLE) pointed out, I doubt there are going to be many school districts that are in a position to take advantage of it or willing to take advantage, because I believe there are merits to having some specific titles with specific goals and purposes underneath those titles.

In an era in which we are facing a 2.2 million teacher shortage over the next 10 years, it does not really make sense to allow flexibility of taking money out of the recruitment and retention and investing it in quality teaching programs when we have such a shortfall.

At a time when most of us, especially parents with kids in the school district already who are very concerned about school safety issues and the bullying that is taking place on the school grounds, whether or not schools should be taking money out of school safety programs or after-school programs, for instance, I just do not think this is a judicious use of the amendment process in asking for complete flexibility, even though it is in a limited fashion, even though it is targeted at the local school districts, because we have already built in in the underlying bill an incredible amount of flexibility that we are giving local school districts.

I do not think many of us really want to be able to answer back to the constituents who we represent and the taxpayers when it comes to accountability issues.

I think the gentleman from California (Mr. GEORGE MILLER) did point out a glaring weakness in the amendment, and that is in overriding accountability provisions that are contained in H.R. 1. We are going to deviate from that aspect with this amendment. So I encourage my colleagues to oppose this and vote for the underlying bill.

Mr. TIBERI. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. ISAKSON).

Mr. ISAKSON. Mr. Chairman, I thank the gentleman from Ohio (Mr. TIBERI) for bringing this amendment to the floor. I rise in support of it because I recognize there are unique circumstances where this type of flexibility ought to be available to our systems.

Rather than making a general speech, I would like to use two specific examples, the city of Dalton public schools in Georgia and the city of Gainesville public schools in Georgia.

Ten years ago, both these systems had a Hispanic population that was less than a fraction of a percent. Today, in the city of Dalton, the percentage of Hispanic students is almost 60 percent, as it is in the city of Gainesville.

This amendment recognizes that there are certain circumstances where the uniqueness of challenges that confront a system are overriding.

To let my colleagues know how pressing that is, in the city of Dalton, a gentleman by the name of Erwin Mitchell, 7 years ago, started something called the Georgia Project, a project that exchanges teachers from Georgia with the University of Monterey in Mexico to teach Hispanic-speaking teachers English and English-speaking teachers Spanish so when they exchange those students, and they

come to Georgia, that we have the ability to train children from their primary language of Spanish to the language of English in a rapid period of time.

This type of a circumstance directly addresses the gentleman's amendment. Those two systems could apply to the Secretary and say we have unique circumstances to which we aspire to perform. But we must and need to move resources earmarked for one program into our programs to speakers of other languages other than English.

It is a 5-year agreement. It is performance based. It allows a system that has very unique circumstances, but circumstances that are entirely troubling, to address them and confront them and use Federal funds to do so.

So I think the gentleman from Ohio (Mr. TIBERI) and the gentleman from Delaware (Mr. CASTLE) have recognized that there are places and there are times and there are circumstances where maximum flexibility should and ought to be granted. It should be based on the Department's willingness to approve the application of the local system and a contract between the two parties to address specifically the problem that they are confronted with.

I think the gentleman from Ohio (Mr. TIBERI) and the gentleman from Delaware (Mr. CASTLE) have recognized we have unique circumstances, that this local flexibility allows us to address those; and I commend the amendment to the body.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 3 minutes to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK of Hawaii. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I had the privilege of serving on the working group. From the moment that the two sides, the majority and minority met, there were two things which we laid on the table and said from the viewpoint of the minority we could not possibly ever accept. One had to do with vouchers and the other had to do with the block grants that we refer to as Straight A's. There was absolutely no possibility that our position could have been misunderstood.

So as we worked our way through all of the other matters that we were confronted with in trying to develop a core bill, to the very end we were absolutely certain that we would not accept a block grant provision.

What has been written into the bill is not a block grant position at all. It has to do with the transferability of funds from one program, keeping the identified program restrictions. One could move from teacher development into technology or into school safety, but if one did transfer the funds from one project to another, one had to be sure that the program restrictions were completely adhered to. That is not a block grant. That is not Straight A's. That was the commitment that we made on both sides in order to dispose of the possibility that we could really engage in a debate on block grants.

Yet, here we are in developing this particular debate today, struck with a block grant provision which is exactly the antithesis of what we said we were going to come out and defend on the floor.

This is a pilot program. Certainly that is what it is. Two school districts in every State is a modest beginning. It is a pilot program. But without question, it is a block grant because it completely obliterates the program definitions. One could just take the money and spend it for whatever one wanted to. That certainly obliterates the function of accountability for this Chamber.

We are accountable to taxpayers. It is our job to define what the needs of our school districts are. We have defined it as teacher quality being very, very important, the necessity to upgrade our school systems so that they can meet the challenges of the future and technology, school safety, and so forth.

We allow transferability. We are not being stiff about it. But certainly we can see this before us without all the camouflage that this is nothing more than a Straight A's on a pilot program designed to go into the States and give to school districts the opportunity to spend this particular title money for anything that they please. That is certainly not accountability for us.

If we are demanding accountability on the schools and on the teachers, on the principal, we ought to be accountable for defining how monies are to be spent and not allow it to go for a block grant kind of distribution.

Mr. TIBERI. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. KELLER).

Mr. KELLER. Mr. Chairman, I thank the gentleman for yielding me this time. I rise today in strong support of the Tiberi-Castle amendment.

For many years, the most dreaded words school board members would hear is we are from Washington D.C. and we are here to help you. Why? Because they only get 7 cents on every educational dollar from Washington, D.C., yet over half of the red tape that they have to fill out because of us. They wanted dramatic red-tape relief and flexibility.

Right now, the bill as is is pretty good. They can use up to 50 percent of their non-title I money any way they want, switching it around. But what we are saying in this particular amendment to 100 school districts is we are going to give you a chance to put your money where your mouth is. We are going to give complete flexibility to the first 100 districts who take us up on it, other than their title I money, to use it however they want, however they see fit in exchange for accountability.

That means, if a particular school does not have a problem with teacher development or have a problem with drug prevention, but they do not have computers wired to the Internet, then they can switch the money they had from teacher development and wire the computers to the Internet.

Similarly, if another school is completely wired to the Internet, but they do not have enough money to hire new teachers or teacher development, they can switch that money.

Complete flexibility, giving them the opportunity to do what is best. No longer will we have a situation, we are here from Washington and we are here to help. This gives them flexibility. It provides local control. It is a positive step to improving our children's education.

If a school district does not believe that this is in their best interest, then they certainly do not have to apply for it. I suspect that we will have 100 school districts promptly apply to this.

I urge all my colleagues to vote yes on the Tiberi-Castle amendment.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. ROEMER).

(Mr. ROEMER asked and was given permission to revise and extend his remarks.)

Mr. ROEMER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio (Mr. TIBERI) and do so for three reasons.

One reason is because we are here in this body to legislate and to write substantive legislation in order to improve education for children, not to respond with bumper sticker slogans like Straight A's that make appeals to politics.

I am afraid that this proposal that we have offered is Straight A's, plain and simple. It may be camouflaged. It may be Straight A's ultra-lite, but it is block grants.

I encourage my colleagues, I implore my colleagues to read the bill that we have worked on for 5 months. The bill we have worked on for 5 months sends Federal dollars directly to the classroom. Under this amendment, one could divert up to 4 percent of the money for administrative costs. We want the kids and the teachers getting the money.

Secondly, the priorities are set by the communities, the local community, the LEA, not the State, not a State plan, not a Governor, our local communities.

Thirdly, it targets funds to the students that need it, the poor students, the title I.

Lastly, it provides flexibility and local control.

That is all in the bill. Why do we want to change that for a bumper sticker solution like Straight A's.

The second reason we should defeat this amendment is because it flies in the face of accountability. Everything we are trying to do in this bill is trying to attach accountability and better results with flexibility. But under this amendment, one can have a school fail

to meet adequate yearly progress for 4 out of 5 years, that is a failing school; and one still gets rewarded for that failure.

One is still able to divert funds to administrative costs or do other things with the money instead of improving it for those children that are not performing adequately.

Lastly, the Achilles heel of this bill is teacher quality. That is something this Congress is going to have to continue to work on for a decade to come. I do not think this bill adequately solves and looks in innovative ways to solve that problem. This amendment exacerbates that problem even more by allowing one to transfer money out of teacher quality as well, too.

The base bill is strong. It allows transferability of up to 50 percent of funds as one meets adequate yearly progress. It is flexible. It targets money to the poorest kids. It emphasizes teacher quality.

Do not succumb to the bumper-sticker solution to complicated education problems in our communities. Vote down this amendment. Keep with the bipartisan bill.

Mr. TIBERI. Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Mr. Chairman, I rise in strong support of the Tiberi-Castle amendment.

I visit a school almost every week in my district; and I talk to a lot of teachers, parents, administrators, and, yes, school board officials, too. I have always believed in strong local control, that the folks at the local level know best what they need to do for their students and their teachers and their systems.

This is not a mandate. This amendment allows the school district to participate if they choose to participate. It is their decision, not some boilerplate language that comes down from on high.

□ 1615

Now, as I have been listening to the debate for the last few minutes, I hear a number of Members on the other side of the issue in fact saying these words. They talk about we need to look at and define what the needs of our school districts are; ''we'' being, I guess, the Federal Government. No, the locals need to decide what is best for the needs of their school districts, and that is exactly what this amendment does. The school districts themselves determine what their needs are. They alone decide whether they want to participate or not, and whether it be teacher training or the Safe and Drug Free School Act, technology training, or all those things.

No, they cannot steal money from title I, but they can put some of this money into title I to expand that program. The flexibility is there. If my colleagues are for local control, if they want those decisions made at the local level, they need to vote for the Tiberi-Castle amendment.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 3½ minutes to the gentleman from New Jersey (Mr. ANDREWS).

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Chairman, I thank the gentleman from California for yielding me this time, and I rise in support of the bipartisan agreement to this bill and in respectful opposition to this amendment.

I understand the rationale of those who support this amendment; that local school decision-makers more often than not make good decisions on behalf of their students, and I agree with that conclusion. But I believe that the flaw in this amendment is its misunderstanding of the historical reasons why we have separate Federal programs for educational needs. These programs are not borne out of a conclusion that Washington knows best. They are borne out of the historical reality that very often States and localities do not address, for a variety of reasons, particular local needs.

Two of the areas in this proposal that are of particular concern are teacher quality and technology. Many of us have read the recent research studies which show that there will be an acute and severe teacher shortage in our country in the years to come. Certainly we do not have all the answers as to how to address that demand for teacher quality, but we do know that very often, teacher quality ranks toward the bottom of concerns of local school districts because of other political considerations that are understandable. If they want to get rid of varsity football, there will be 500 parents at a school board meeting; but if they want to get rid of sabbaticals or summer programs for the teachers, probably no one will show up.

In the area of technology, a similar argument applies. If the school district decides it wants to get rid of the marching band or the drama club, dozens of parents will come out and understandably protest against such a decision; but if there is a decision to cut back on the software contract or a decision not to upgrade the computers in the learning resource center quite as quickly, we very often find no one cares.

So I believe that the importance of defeating this amendment is the recognition of the historical reality that Federal programs here are to serve a discrete and necessary purpose that still compels and demands our support. For that reason, I would ask my colleagues to join with the bipartisan consensus of this bill and defeat the amendment.

Mr. TIBERI. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Chairman, let me thank my colleague from Ohio and congratulate him on this amendment, along with his partner, the gentleman from Delaware (Mr. CASTLE).

Now, our friends across the aisle, who we have worked closely with through this whole process, are right, they do not like this, and it is why we do not have Straight A's in the bill, that is why we do not have 50 States, and that is why we do not have seven States. Now we are down to 100 school districts in America as a demonstration project for one reason, to let innovation shine.

Now, I think all my colleagues understand that title I is protected under this demonstration project. Bilingual education programs are protected. All of the targeting of resources going to school districts is protected. All of the accountability standards that we have in our bill still exist. But what it does say is that for 100 districts in America, two in every State, we are going to give them an opportunity, if they would like, in exchange for a higher accountability standard, to have more increased flexibility.

Now, think about this for a moment. What happened in American industry over the last 15 years? They began to empower their workers, and as they began to empower their workers, guess what happened? We got all kinds of new productivity in the economy. Every good company in America today does everything they can to empower every one of their workers.

What we are saying with this amendment is let us empower 100 school districts in America to bring to Washington their best innovative ideas about how they can better educate the children in their school district in exchange for more flexibility and more accountability.

I think this is an opportunity to try. This is not the camel's nose under the tent. This is an opportunity to say let us see what is happening in America. Let us give them an opportunity to see how high they can set the bar and to see what they can accomplish. It is a good amendment and it deserves our support.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield the balance of my time to the gentleman from Oregon (Mr. WU).

The CHAIRMAN. The gentleman from Oregon is recognized for 2½ minutes.

Mr. WU. Mr. Chairman, I want to say this as respectfully as I possibly can to all my friends in the Chamber. For the folks who just passed a huge, huge mandate on local schools, mandatory national testing, I find this flip-flop of positions absolutely breathtaking. It is one of the striking things we can do in this Chamber.

We debated block grants in the First Congressional District of Oregon, and the decision was pretty darn clear. Not only do Oregonians, and I think most Americans, want some accountability for public dollars spent for public purposes, that is the least that we can do for Federal funds that are spent for identifiable purposes in this bill.

Also, I think Oregonians and most Americans can recognize that block grants are step one of a cynical two-step process. First, you muddy up the waters so that you cannot identify where the money is going anymore; and then the second step is you cut. You cut the support. It is like stretching out a chicken's neck. That is step one. And then the chop comes down.

Step two. It is a cynical two-step process to cut Federal support for education. That was the debate we had in Oregon. The perspective I have on this prevailed in that debate, and I hope it does today.

I urge opposition respectfully to the gentleman's amendment.

Mr. TIBERI. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Ohio is recognized for 2½ minutes.

Mr. TIBERI. Mr. Chairman, in Ohio, we have 611 school districts. Within my Congressional District, I have urban, suburban, and rural public school districts. I know of at least one school district, the one I happened to graduate from, that would not be eligible to even apply for this program.

The point of the matter is, out of those rural, suburban, and urban school districts, those superintendents and school board members of those public schools within my district have told me what their problems are, and their problems with respect to Federal funding are, in many cases, quite different. What we are doing today with this amendment, Mr. Chairman, is giving them the elected school boards in public schools throughout America, the ability to decide how to spend the dollars that they send to Washington, D.C.

I urge this House to support the amendment.

Mr. PETRI. Mr. Chairman, I rise in support of the Tiberi-Castle amendment, which would place academic results instead of rules and regulations at the center of federal education programs.

Since enactment of the Elementary and Secondary Education Act 36 years ago, our approach to helping schools has been very inflexible and heavy-handed. We have set strict regulations as to what communities can and cannot do with federal education dollars, and what priorities they have to set.

It has become clear that this approach hasn't worked. After all the billions of dollars spent by the federal government since 1965, we haven't seen a narrowing of the rich-poor educational gap, schools are neither safe nor drug-free, and it seems that much of the ''professional development'' money is wasted. It's far past time to try another approach.

I have strongly supported previous proposals to give states and localities more flexibility in the use of federal funds, in return for real accountability, such as the ''Straight A's'' bill in the last Congress and the President's ''Charter States'' proposal in the original version of H.R. 1.

I think the Tiberi-Castle amendment is also a step forward in this regard.

Building on the ''Local A's'' provision in the Committee-reported bill, up to 100 school districts can enter into performance agreements with the Secretary of Education and consolidate programs, freeing themselves from requirements, regulations, and paperwork associated with many federal programs, and allocating resources to more closely fit local needs.

Participation is completely voluntary, and no school district will have their federal funding reduced by one penny for participating.

This amendment will apply the central premise of charter schools—freedom in return for academic results—to local educational agencies, and allow them to spend more time and resources on teaching and less on meeting requirements of various federal programs.

I urge my colleagues to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. TIBERI).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GEORGE MILLER of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair announces that, pursuant to clause 6 of rule XVIII, proceedings will resume on amendment No. 8 offered by the gentleman from Louisiana (Mr. VITTER) immediately after this vote, and that a vote on amendment No. 8, if ordered, will be reduced to 5 minutes.

The vote was taken by electronic device, and there were—ayes 217, noes 209, not voting 6, as follows:

[Roll No. 132]

AYES—217

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goss
Graham
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOES—209

Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frost
Gephardt
Gilman
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters

Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—6

Abercrombie
Cubin
Frank
Granger
Hansen
Moakley

□ 1646

Messrs. GORDON, LARSEN of Washington, and Schiff changed their vote from ''aye'' to ''no.''

Mr. HORN changed his vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. GRANGER. Mr. Chairman, on rollcall Nos. 131 and 132 I was unavoidably detained. Had I been present, I would have voted ''yea'' on both amendments.

AMENDMENT NO. 8 OFFERED BY MR. VITTER

The CHAIRMAN pro tempore (Mr. LAHOOD). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Louisiana (Mr. VITTER) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 366, noes 57, not voting 9, as follows:

[Roll No. 133]

AYES—366

Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ferguson
Flake
Fletcher
Foley
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E.B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Royce
Ryan (WI)
Ryun (KS)
Sanchez
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schiff
Schrock
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Wynn
Young (AK)
Young (FL)

NOES—57

Baldwin
Berkley
Blumenauer
Brady (PA)
Coyne
Davis (IL)
DeFazio
DeGette
Delahunt
Farr
Fattah
Filner
Gilchrest
Gutierrez
Hinchey
Holt
Honda
Hooley
Jackson (IL)
Jones (OH)
Kilpatrick
Kucinich
Lee
Lewis (GA)
Lofgren
Lowey
Markey
McDermott
McGovern
McKinney
Meehan
Meeks (NY)
Nadler
Neal
Oberstar
Pastor
Paul
Payne
Pelosi
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Schakowsky
Scott
Slaughter
Solis
Stark
Thompson (CA)
Tierney
Velazquez
Waters
Watt (NC)
Weiner
Woolsey
Wu

NOT VOTING—9

Abercrombie
Conyers
Cubin
DeMint
Frank
Hansen
Meek (FL)
Moakley
Olver

□ 1655

Mr. GILCHREST changed his vote from ''aye'' to ''no.''

Mrs. DAVIS of California, Messrs. SERRANO and SMITH of Washington changed their votes from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. BOEHNER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMPSON) having assumed the chair, Mr. LAHOOD, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1) to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind, had come to no resolution thereon.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, proceedings will now resume on the motion to suspend the rules on which further proceedings were postponed yesterday.

SMALL BUSINESS LIABILITY PROTECTION ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 1831.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. GILLMOR) that the House suspend the rules and pass the bill, H.R. 1831, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 419, nays 0, not voting 13, as follows:

[Roll No. 134]

YEAS—419

Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner