

[DISCUSSION DRAFT]

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R.** \_\_\_\_\_

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

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IN THE HOUSE OF REPRESENTATIVES

Mr. KLINE introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

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

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

3 **SECTION 1. SHORT TITLE.**

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

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

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

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. References.
- Sec. 4. Transition.
- Sec. 5. Effective dates.

Sec. 6. Authorization of appropriations.

TITLE I—AID TO LOCAL EDUCATIONAL AGENCIES

Subtitle A—In General

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

Subtitle B—Improving the Academic Achievement of the Disadvantaged

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

Subtitle C—Additional Aid to States and School Districts

- Sec. 131. Additional aid.

Subtitle D—National Assessment

- Sec. 141. National assessment of title I.

Subtitle E—Title I General Provisions

- Sec. 151. General provisions for title I.

TITLE II—GENERAL PROVISIONS FOR THE ACT

- Sec. 201. General provisions for the Act.

**1 SEC. 3. REFERENCES.**

2 Except as otherwise expressly provided, whenever in  
3 this Act an amendment or repeal is expressed in terms

1 of an amendment to, or repeal of, a section or other provi-  
2 sion, the reference shall be considered to be made to a  
3 section or other provision of the Elementary and Sec-  
4 ondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

5 **SEC. 4. TRANSITION.**

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

14 **SEC. 5. EFFECTIVE DATES.**

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

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

23 (c) COMPETITIVE PROGRAMS.—With respect to pro-  
24 grams that are conducted by the Secretary on a competi-  
25 tive basis, this Act, and the amendments made by this Act,

1 shall take effect with respect to appropriations for use  
2 under those programs for fiscal year 2013.

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

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

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

7 “(a) TITLE I.—

8 “(1) PART A.—There are authorized to be ap-  
9 propriated to carry out part A of title I  
10 \$16,662,771,000 for fiscal year 2013.

11 “(2) PART B.—There are authorized to be ap-  
12 propriated to carry out part B of title I \$3,200,000  
13 for fiscal year 2013.

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

20 **TITLE I—AID TO LOCAL**  
21 **EDUCATIONAL AGENCIES**

22 **Subtitle A—In General**

23 **SEC. 101. TITLE HEADING.**

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

1                   **“TITLE I—AID TO LOCAL**  
2                   **EDUCATIONAL AGENCIES”.**

3   **SEC. 102. STATEMENT OF PURPOSE.**

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

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

7           “The purpose of this title is to provide all children  
8 the opportunity to graduate high school prepared for post-  
9 secondary education or the workforce. This purpose can  
10 be accomplished by—

11                   “(1) meeting the educational needs of low-  
12 achieving children in our Nation’s highest-poverty  
13 schools, English learners, migratory children, chil-  
14 dren with disabilities, Indian children, and neglected  
15 or delinquent children;

16                   “(2) closing the achievement gap between high-  
17 and low-performing children, especially the achieve-  
18 ment gaps between minority and nonminority stu-  
19 dents, and between disadvantaged children and their  
20 more advantaged peers;

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

24                   “(4) challenging States and local educational  
25 agencies to embrace meaningful, evidence-based edu-

1 cation reform, while encouraging state and local in-  
2 novation.”.

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

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

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

7 “(a) ALTERNATIVE USES OF FEDERAL FUNDS FOR  
8 STATE EDUCATIONAL AGENCIES.—

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

15 “(A) Section 1003.

16 “(B) Section 1004.

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

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

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

20 “(F) Subpart 5 of part A of title I.

21 “(G) Subpart 6 of part A of title I.

22 “(2) NOTIFICATION.—Not later than June 1 of  
23 each year, a State educational agency shall notify  
24 the Secretary of the State educational agency’s in-

1           tention to use the applicable funding for any of the  
2           alternative uses under paragraph (1).

3           “(3) APPLICABLE FUNDING DEFINED.—

4           “(A) IN GENERAL.—Except as provided in  
5           subparagraph (B), in this subsection, the term  
6           ‘applicable funding’ means funds provided to  
7           carry out State activities under one or more of  
8           the following provisions.

9           “(i) Section 1003.

10          “(ii) Section 1004.

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

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

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

14          “(vi) Subpart 5 of part A of title I.

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

20          “(i) to reserve, allocate, or spend for  
21          required activities;

22          “(ii) to allot or award to local edu-  
23          cational agencies or other entities eligible  
24          to receive such funds; or

1                   “(iii) to use for technical assistance or  
2                   monitoring.

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

10                  “(b) ALTERNATIVE USES OF FEDERAL FUNDS FOR  
11 LOCAL EDUCATIONAL AGENCIES.—

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

18                         “(A) Section 1003.

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

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

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

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

23                         “(F) Subpart 5 of part A of title I.

24                         “(G) Subpart 6 of part A of title I.



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

7           “(3) APPLICABLE FUNDING DEFINED.—

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

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

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

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

16                 “(iv) Subpart 5 of part A of title I.

17                 “(v) Subpart 6 of part A of title I.

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

23                 “(i) to reserve, allocate, or spend for  
24                 required activities;

1                   “(ii) to allot or award to entities eligi-  
2                   ble to receive such funds; or

3                   “(iii) to use for technical assistance or  
4                   monitoring.

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

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

23                  “(d) RULE OF CONSTRUCTION.—Nothing in this sec-  
24                  tion shall be construed to relieve a State educational agen-

1 cy or local educational agency of any requirements relating  
2 to—

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

5 “(2) comparability of services;

6 “(3) equitable participation of private school  
7 students and teachers;

8 “(4) applicable civil rights requirements;

9 “(5) subsections (a), (b), and (c) of section  
10 1113; or

11 “(6) section 1111.”.

12 **SEC. 104. SCHOOL IMPROVEMENT.**

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

14 (1) in subsection (a)—

15 (A) by striking “2 percent” and inserting  
16 “10 percent”; and

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

22 (2) in subsection (b)(1), by striking “for schools  
23 identified for school improvement, corrective action,  
24 and restructuring, for activities under section  
25 1116(b)” and inserting “to carry out the State’s

1 system of school improvement under section  
2 1111(b)(3)(B)(iii)”;

3 (3) in subsection (c)—

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

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

9 (C) by striking paragraph (3);

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

13 (5) in subsection (e)—

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

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

19 (C) by striking “such subpart” and insert-  
20 ing “such chapter”;

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

24 (7) by striking subsection (g).

1 **SEC. 105. STATE ADMINISTRATION.**

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

4 **“SEC. 1004. STATE ADMINISTRATION.**

5 “To carry out administrative duties under subparts  
6 1, 2, and 3 of part A, each State may reserve 1 percent  
7 of the amounts received under such subparts.”.

8 **Subtitle B—Improving the Aca-**  
9 **ademic Achievement of the Dis-**  
10 **advantaged**

11 **SEC. 111. PART A HEADINGS.**

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

15 **“PART A—IMPROVING THE ACADEMIC**  
16 **ACHIEVEMENT OF THE DISADVANTAGED”.**

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

20 **“Subpart 1—Improving Basic Programs Operated by**  
21 **Local Educational Agencies**  
22 **“CHAPTER A—BASIC PROGRAM**  
23 **REQUIREMENTS”.**

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

1           **“CHAPTER B—ALLOCATIONS”.**

2   **SEC. 112. STATE PLANS.**

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

5   **“SEC. 1111. STATE PLANS.**

6           “(a) PLANS REQUIRED.—

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

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

24           “(b) ACADEMIC STANDARDS, ACADEMIC ASSESS-  
25 MENTS, AND STATE ACCOUNTABILITY.—

1           “(1) ACADEMIC STANDARDS.—

2                   “(A) IN GENERAL.—Each State plan shall  
3 demonstrate that the State has adopted aca-  
4 demic content standards and academic achieve-  
5 ment standards aligned with such content  
6 standards that comply with the requirements of  
7 this paragraph.

8                   “(B) SUBJECTS.—The State shall have  
9 such academic standards for mathematics and  
10 reading or language arts, and may have any  
11 other subject determined by the State.

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

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

16                           “(ii) with respect to academic achieve-  
17 ment standards, include the same knowl-  
18 edge, skills, and levels of achievement ex-  
19 pected of all public school students in the  
20 State.

21                   “(D) ALTERNATE ACADEMIC ACHIEVE-  
22 MENT STANDARDS.—Notwithstanding any other  
23 provision of this paragraph, a State may,  
24 through a documented and validated standards-  
25 setting process, adopt alternate academic

1 achievement standards for students with the  
2 most severe cognitive disabilities, if—

3 “(i) the determination about whether  
4 the achievement of an individual student  
5 should be measured against such standards  
6 is made separately for each student; and

7 “(ii) such standards—

8 “(I) are aligned with the State  
9 academic standards required under  
10 subparagraph (A);

11 “(II) promote access to the gen-  
12 eral curriculum; and

13 “(III) reflect professional judg-  
14 ment as to the highest possible stand-  
15 ards achievable by such students.

16 “(E) ENGLISH LANGUAGE PROFICIENCY  
17 STANDARDS.—Each State plan shall describe  
18 how the State educational agency will establish  
19 English language proficiency standards that  
20 are—

21 “(i) derived from the four recognized  
22 domains of speaking, listening, reading,  
23 and writing; and



1                   “(ii) aligned with the State’s academic  
2                   content standards in reading or language  
3                   arts under subparagraph (A).

4                   “(2) ACADEMIC ASSESSMENTS.—

5                   “(A) IN GENERAL.—Each State plan shall  
6                   demonstrate that the State educational agency,  
7                   in consultation with local educational agencies,  
8                   has implemented a set of high-quality student  
9                   academic assessments in mathematics and read-  
10                  ing or language arts, and may have any other  
11                  subject chosen by the State.

12                  “(B) REQUIREMENTS.—Such assessments  
13                  shall—

14                   “(i) be used in determining the per-  
15                   formance of each local educational agency  
16                   and public school in the State in accord-  
17                   ance with the State’s accountability system  
18                   under paragraph (3);

19                   “(ii) be the same academic assess-  
20                   ments used to measure the academic  
21                   achievement of all public school students in  
22                   the State;

23                   “(iii) be aligned with the State’s aca-  
24                   demic standards and provide coherent in-

1 formation about student attainment of  
2 such standards;

3 “(iv) be used for purposes for which  
4 such assessments are valid and reliable, be  
5 of adequate technical quality for each pur-  
6 pose required under this Act, and be con-  
7 sistent with relevant, nationally recognized  
8 professional and technical standards;

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

13 “(II) in the case of any other subject  
14 chosen by the State, be administered at the  
15 discretion of the State;

16 “(vi) measure individual student aca-  
17 demic proficiency and growth;

18 “(vii) at the State’s discretion—

19 “(I) be administered through a  
20 single annual summative assessment;  
21 or

22 “(II) be administered through  
23 multiple assessments during the  
24 course of the academic year that re-  
25 sult in a single summative score that

1 provides valid, reliable, and trans-  
2 parent information on student  
3 achievement;

4 “(viii) include measures that assess  
5 higher-order thinking skills and under-  
6 standing;

7 “(ix) provide for—

8 “(I) the participation in such as-  
9 sessments of all students;

10 “(II) the reasonable adaptations  
11 and accommodations for students with  
12 disabilities necessary to measure the  
13 academic achievement of such stu-  
14 dents relative to the State’s academic  
15 standards; and

16 “(III) the inclusion of English  
17 learners, who shall be assessed in a  
18 valid and reliable manner and pro-  
19 vided reasonable accommodations, in-  
20 cluding, to the extent practicable, as-  
21 sessments in the language and form  
22 most likely to yield accurate and reli-  
23 able information on what such stu-  
24 dents know and can do in academic  
25 content areas, until such students

1           have achieved English language pro-  
2           ficiency, as assessed by the State  
3           under subparagraph (D);

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

24          “(xi) produce individual student inter-  
25          pretive, descriptive, and diagnostic reports

1 that allow parents, teachers, and school  
2 leaders to understand and address the spe-  
3 cific academic needs of students, and in-  
4 clude information regarding achievement  
5 on academic assessments, and that are  
6 provided to parents, teachers, and school  
7 leaders, as soon as is practicable after the  
8 assessment is given, in an understandable  
9 and uniform format, and to the extent  
10 practicable, in a language that parents can  
11 understand;

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

1 reveal personally identifiable information  
2 about an individual student; and

3 “(xiii) be administered to not less  
4 than 95 percent of all students, and not  
5 less than 95 percent of each subgroup of  
6 students described in clause (xii).

7 “(C) ALTERNATE ASSESSMENTS.—A State  
8 may provide for alternate assessments aligned  
9 with the alternate academic standards adopted  
10 in accordance with paragraph (1)(D), for stu-  
11 dents with the most severe cognitive disabilities,  
12 if the State—

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

22 “(ii) ensures that the parents of such  
23 students are informed that—

1                   “(I) their child’s academic  
2 achievement will be measured against  
3 such alternate standards; and

4                   “(II) whether participation in  
5 such assessments precludes the stu-  
6 dent from completing the require-  
7 ments for a regular high school di-  
8 ploma, as determined by the State;

9                   “(iii) demonstrates that such students  
10 are, to the extent practicable, included in  
11 the general curriculum and that such alter-  
12 nate assessments are aligned with such  
13 curriculum;

14                   “(iv) develops, disseminates informa-  
15 tion about, and promotes the use of appro-  
16 priate accommodations to increase the  
17 number of students with disabilities who  
18 are tested against academic achievement  
19 standards for the grade in which a student  
20 is enrolled; and

21                   “(v) ensures that regular and special  
22 education teachers and other appropriate  
23 staff know how to administer the alternate  
24 assessments, including making appropriate

1 use of accommodations for students with  
2 disabilities.

3 “(D) ASSESSMENTS OF ENGLISH LAN-  
4 GUAGE PROFICIENCY.—

5 “(i) IN GENERAL.—Each State plan  
6 shall demonstrate that local educational  
7 agencies in the State will provide for an  
8 annual assessment of English proficiency  
9 of all English learners in the schools  
10 served by the State educational agency.

11 “(ii) ALIGNMENT.—The assessments  
12 described in clause (i) shall be aligned with  
13 the State’s English language proficiency  
14 standards described in paragraph (1)(E).

15 “(E) LANGUAGE ASSESSMENTS.—Each  
16 State plan shall identify the languages other  
17 than English that are present in the partici-  
18 pating student population and indicate the lan-  
19 guages for which yearly student academic as-  
20 sessments are not available and are needed.  
21 The State shall make every effort to develop  
22 such assessments and may request assistance  
23 from the Secretary if linguistically accessible  
24 academic assessment measures are needed.  
25 Upon request, the Secretary shall assist with



1 the identification of appropriate academic as-  
2 sessment measures in the needed languages, but  
3 shall not mandate a specific academic assess-  
4 ment or mode of instruction.

5 “(3) STATE ACCOUNTABILITY SYSTEMS.—

6 “(A) IN GENERAL.—Each State plan shall  
7 demonstrate that the State has developed and is  
8 implementing a single, statewide accountability  
9 system to ensure that all public school students  
10 graduate from high school prepared for postsec-  
11 ondary education or the workforce without the  
12 need for remediation.

13 “(B) ELEMENTS.—Each State account-  
14 ability system described in subparagraph (A)  
15 shall at a minimum—

16 “(i) annually measure the academic  
17 achievement of all public school students in  
18 the State against the State’s academic  
19 standards adopted under paragraph (1),  
20 which may include measures of student  
21 growth toward such standards, using the  
22 assessments described in paragraph (2)  
23 and other valid and reliable academic indi-  
24 cators related to student achievement as  
25 identified by the State;

1                   “(ii) annually evaluate and identify  
2                   the academic performance of each public  
3                   school in the State based on—

4                   “(I) student academic achieve-  
5                   ment as measured in accordance with  
6                   clause (i); and

7                   “(II) overall performance of each  
8                   category of students described in  
9                   paragraph (2)(B)(xii), and achieve-  
10                  ment gaps between such categories of  
11                  students; and

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

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

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

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

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

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

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

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

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

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

7           “(6) PROHIBITION.—Nothing in this section  
8 shall be construed to authorize an officer or em-  
9 ployee of the Federal Government to mandate, di-  
10 rect, control, support, or approve a State’s academic  
11 standards adopted in accordance with this sub-  
12 section.

13           “(7) EXISTING STANDARDS.—Nothing in this  
14 subpart shall prohibit a State from revising, con-  
15 sistent with this section, any standard adopted  
16 under this section before or after the date of enact-  
17 ment of the Student Success Act.

18           “(c) OTHER PROVISIONS TO SUPPORT TEACHING  
19 AND LEARNING.—Each State plan shall contain assur-  
20 ances that—

21           “(1) the State will notify local educational  
22 agencies, schools, teachers, parents, and the public  
23 of the academic standards, academic assessments,  
24 and State accountability system developed and im-  
25 plemented under this section;

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

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

11          “(4) the State educational agency will provide  
12          the least restrictive and burdensome regulations for  
13          local educational agencies and individual schools par-  
14          ticipating in a program assisted under this subpart;

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

19          “(6) the State educational agency will modify or  
20          eliminate State fiscal and accounting barriers so  
21          that schools can easily consolidate funds from other  
22          Federal, State, and local sources for schoolwide pro-  
23          grams under section 1114; and

24          “(7) the State educational agency will inform  
25          local educational agencies in the State of the local

1 educational agency's authority to transfer funds  
2 under section 1002 and to obtain waivers under sec-  
3 tion 5401;

4 “(d) PARENTAL INVOLVEMENT.—Each State plan  
5 shall describe how the State educational agency will sup-  
6 port the collection and dissemination to local educational  
7 agencies and schools of effective parental involvement  
8 practices. Such practices shall—

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

13 “(2) be geared toward lowering barriers to  
14 greater participation by parents in school planning,  
15 review, and improvement; and

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

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

19 “(1) ESTABLISHMENT.—The Secretary shall—

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

22 “(B) appoint individuals to the peer-review  
23 process who are representative of parents,  
24 teachers, State educational agencies, and local  
25 educational agencies, and who are familiar with

1 educational standards, assessments, account-  
2 ability, the needs of low-performing schools, and  
3 other educational needs of students.

4 “(2) APPROVAL.—The Secretary shall—

5 “(A) approve a State plan within 120 days  
6 of its submission;

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

13 “(C) not decline to approve a State’s plan  
14 before—

15 “(i) offering the State an opportunity  
16 to revise its plan;

17 “(ii) providing technical assistance in  
18 order to assist the State to meet the re-  
19 quirements of this section; and

20 “(iii) providing a hearing; and

21 “(D) have the authority to disapprove a  
22 State plan for not meeting the requirements of  
23 this subpart, but shall not have the authority to  
24 require a State, as a condition of approval of  
25 the State plan, to include in, or delete from,

1           such plan one or more specific elements of the  
2           State’s academic standards or State account-  
3           ability system, or to use specific academic as-  
4           sessments or other indicators.

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

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

13                 “(A) State plans submitted or resubmitted  
14                 by a State;

15                 “(B) peer review comments;

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

18                 “(D) hearings.

19          “(f) DURATION OF THE PLAN.—

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

21                         “(A) remain in effect for the duration of  
22                         the State’s participation under this subpart;  
23                         and

24                         “(B) be periodically reviewed and revised  
25                         as necessary by the State educational agency to



1 reflect changes in the State’s strategies and  
2 programs under this subpart.

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

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

15 “(h) REPORTS.—

16 “(1) ANNUAL STATE REPORT CARD.—

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

23 “(B) IMPLEMENTATION.—The State report  
24 card shall be—

25 “(i) concise; and

1           “(ii) presented in an understandable  
2           and uniform format that is developed in  
3           consultation with parents and, to the ex-  
4           tent practicable, provided in a language  
5           that parents can understand.

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

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

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

1           “(iii) the performance of students, in  
2           the aggregate and disaggregated in accord-  
3           ance with clause (i), on other academic in-  
4           dicators described in subsection  
5           (b)(3)(B)(i);

6           “(iv) for each public high school in  
7           the State, the adjusted cohort graduation  
8           rate, and, at the State’s discretion, the  
9           extra-year adjusted cohort graduation rate,  
10          in the aggregate and disaggregated in ac-  
11          cordance with clause (i);

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

15          “(vi) the acquisition of English pro-  
16          ficiency by English learners;

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

20          “(viii) the results of the assessments  
21          described in subsection (c)(2).

22          “(D) OPTIONAL INFORMATION.—The State  
23          may include in its annual State report card  
24          such other information as the State believes will  
25          best provide parents, students, and other mem-

1           bers of the public with information regarding  
2           the progress of each of the State's public ele-  
3           mentary schools and public secondary schools.

4           “(2) ANNUAL LOCAL EDUCATIONAL AGENCY  
5           REPORT CARDS.—

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

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

18                   “(i) in the case of a local educational  
19           agency, information that shows how stu-  
20           dents served by the local educational agen-  
21           cy achieved on the statewide academic as-  
22           sessment and other academic indicators  
23           adopted in accordance with subsection  
24           (b)(3)(B)(i) compared to students in the  
25           State as a whole; and

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

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

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

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

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

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

17 “(4) PARENTS RIGHT-TO-KNOW.—

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

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

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

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

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

20          “(l) **SPECIAL RULE WITH RESPECT TO BUREAU-**  
21          **FUNDED SCHOOLS.**—In determining the assessments to be  
22          used by each school operated or funded by the Bureau  
23          of Indian Education receiving funds under this subpart,  
24          the following shall apply:

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

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

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

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

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



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

2 “(a) PLANS REQUIRED.—

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

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

16 “(b) PLAN PROVISIONS.—Each local educational  
17 agency plan shall describe—

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

22 “(2) how the local educational agency will iden-  
23 tify quickly and effectively those students who may  
24 be at risk of failing to meet the State’s academic  
25 standards;

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

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

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

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

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

20          “(8) in general, the nature of the programs to  
21          be conducted by the local educational agency’s  
22          schools under sections 1114 and 1115, and, where  
23          appropriate, educational services outside such  
24          schools for children living in local institutions for ne-  
25          glected and delinquent children, and for neglected

1 and delinquent children in community day school  
2 programs;

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

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

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

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

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

8           “(c) ASSURANCES.—Each local educational agency  
9           plan shall provide assurances that the local educational  
10          agency will—

11           “(1) participate, if selected, in biennial State  
12           academic assessments of 4th and 8th grade reading  
13           and mathematics under the National Assessment of  
14           Educational Progress carried out under section  
15           303(b)(2) of the National Assessment of Edu-  
16           cational Progress Authorization Act;

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

20           “(3) provide technical assistance to schoolwide  
21           programs;

22           “(4) provide services to eligible children attend-  
23           ing private elementary and secondary schools in ac-  
24           cordance with section 1120, and timely and mean-

1       ingful consultation with private school officials re-  
2       garding such services;

3           “(5) in the case of a local educational agency  
4       that chooses to use funds under this subpart to pro-  
5       vide early childhood development services to low-in-  
6       come children below the age of compulsory school at-  
7       tendance, ensure that such services comply with the  
8       performance standards established under section  
9       641A(a) of the Head Start Act;

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

13          “(7) ensure that the results of the academic as-  
14       sessments required under section 1111(b)(2) will be  
15       provided to parents and teachers as soon as is prac-  
16       ticably possible after the test is taken, in an under-  
17       standable and uniform format and, to the extent  
18       practicable, provided in a language that the parents  
19       can understand.

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

22           “(1) consult with the Secretary of Health and  
23       Human Services and shall establish procedures (tak-  
24       ing into consideration existing State and local laws,  
25       and local teacher contracts) to assist local edu-

1        cational agencies to comply with such subparagraph;  
2        and

3            “(2) disseminate to local educational agencies  
4        the education performance standards in effect under  
5        section 641A(a)(1)(B) of the Head Start Act, and  
6        such agencies affected by such subsection shall plan  
7        for the implementation of such subsection (taking  
8        into consideration existing State and local laws, and  
9        local teacher contracts).

10       “(e) PLAN DEVELOPMENT AND DURATION.—

11            “(1) CONSULTATION.—Each local educational  
12        agency plan shall be developed in consultation with  
13        teachers, school leaders, administrators, and other  
14        appropriate school personnel, and with parents of  
15        children in schools served under this subpart.

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

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

24        “(f) STATE APPROVAL.—

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

4           “(2) APPROVAL.—The State educational agency  
5 shall approve a local educational agency’s plan only  
6 if the State educational agency determines that the  
7 local educational agency’s plan—

8           “(A) enables schools served under this sub-  
9 part to substantially help children served under  
10 this subpart to meet the State’s academic  
11 standards described in section 1111(b)(1); and

12           “(B) meets the requirements of this sec-  
13 tion.

14           “(3) REVIEW.—The State educational agency  
15 shall review the local educational agency’s plan to  
16 determine if such agency’s activities are in accord-  
17 ance with section 1118.

18           “(g) PARENTAL NOTIFICATION.—

19           “(1) IN GENERAL.—

20           “(A) NOTICE.—Each local educational  
21 agency using funds under this subpart and sub-  
22 part 4 to provide a language instruction edu-  
23 cational program shall, not later than 30 days  
24 after the beginning of the school year, inform  
25 parents of an English learner identified for par-

1           ticipation, or participating in, such a program  
2           of—

3                   “(i) the reasons for the identification  
4                   of their child as an English learner and in  
5                   need of placement in a language instruc-  
6                   tion educational program;

7                   “(ii) the child’s level of English pro-  
8                   ficiency, how such level was assessed, and  
9                   the status of the child’s academic achieve-  
10                  ment;

11                  “(iii) the methods of instruction used  
12                  in the program in which their child is, or  
13                  will be participating, and the methods of  
14                  instruction used in other available pro-  
15                  grams, including how such programs differ  
16                  in content, instructional goals, and the use  
17                  of English and a native language in in-  
18                  struction;

19                  “(iv) how the program in which their  
20                  child is, or will be participating, will meet  
21                  the educational strengths and needs of  
22                  their child;

23                  “(v) how such program will specifi-  
24                  cally help their child learn English, and  
25                  meet age-appropriate academic achieve-



1           ment standards for grade promotion and  
2           graduation;

3                   “(vi) the specific exit requirements for  
4           the program, including the expected rate of  
5           transition from such program into class-  
6           rooms that are not tailored for English  
7           learners, and the expected rate of gradua-  
8           tion from high school for such program if  
9           funds under this subpart are used for chil-  
10          dren in secondary schools;

11                   “(vii) in the case of a child with a dis-  
12          ability, how such program meets the objec-  
13          tives of the individualized education pro-  
14          gram of the child;

15                   “(viii) information pertaining to pa-  
16          rental rights that includes written guid-  
17          ance—

18                           “(I) detailing—

19                                   “(aa) the right that parents  
20                           have to have their child imme-  
21                           diately removed from such pro-  
22                           gram upon their request; and

23                                   “(bb) the options that par-  
24                           ents have to decline to enroll  
25                           their child in such program or to

1 choose another program or meth-  
2 od of instruction, if available; and  
3 “(II) assisting parents in select-  
4 ing among various programs and  
5 methods of instruction, if more than  
6 one program or method is offered by  
7 the eligible entity.

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

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

23 “(4) PARENTAL PARTICIPATION.—Each local  
24 educational agency receiving funds under this sub-  
25 part shall implement an effective means of outreach

1 to parents of English learners to inform the parents  
2 regarding how the parents can be involved in the  
3 education of their children, and be active partici-  
4 pants in assisting their children to attain English  
5 proficiency, achieve at high levels in core academic  
6 subjects, and meet the State’s academic standards  
7 expected of all students, including holding, and send-  
8 ing notice of opportunities for, regular meetings for  
9 the purpose of formulating and responding to rec-  
10 ommendations from parents of students assisted  
11 under this subpart.

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

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

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

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

20 (2) in subsection (c)(4)—

21 (A) by striking “subpart 2” and inserting  
22 “Chapter B”; and

23 (B) by striking “school improvement, cor-  
24 rective action, and restructuring under section

1           1116(b)” and inserting “school improvement  
2           under section 1111(b)(3)(B)(iii)”.

3 **SECTION 115. SCHOOLWIDE PROGRAMS.**

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

5           (1) in subsection (a)—

6           (A) in paragraph (1)—

7           (i) by striking “part” and inserting  
8           “subpart”; and

9           (ii) by striking “in which” through  
10          “such families”;

11          (B) in paragraph (2)—

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

14          (ii) in subparagraph (B)—

15               (I) by striking “children with  
16               limited English proficiency” and in-  
17               serting “English learners”; and

18               (II) by striking “part” and in-  
19               serting “subpart”;

20          (C) in paragraph (3)(B), by striking  
21          “maintenance of effort,” after “private school  
22          children”; and

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

24          (2) in subsection (b)—

25          (A) in paragraph (1)—

- 1 (i) in subparagraph (A)—
- 2 (I) by striking “(including” and
- 3 all that follows through
- 4 “1309(2))”;and
- 5 (II) by striking “content stand-
- 6 ards and the State student academic
- 7 achievement standards” and inserting
- 8 “standards”;
- 9 (ii) in subparagraph (B)—
- 10 (I) in clause (i), by striking “pro-
- 11 ficient” and all that follows through
- 12 “section 1111(b)(1)(D)” and inserting
- 13 “academic standards described in sec-
- 14 tion 1111(b)(1)”;
- 15 (II) in clause (ii), in the matter
- 16 preceding subclause (I), by striking
- 17 “based on scientifically based re-
- 18 search” and inserting “evidence-
- 19 based”;
- 20 (III) in clause (iii)—
- 21 (aa) by striking “student
- 22 academic achievement standards”
- 23 and inserting “academic stand-
- 24 ards”; and

- 1 (bb) by striking “schoolwide  
2 program,” and all that follows  
3 through “technical education pro-  
4 grams; and” and inserting  
5 “schoolwide programs; and”; and  
6 (IV) in clause (iv), by striking  
7 “the State and local improvement  
8 plans” and inserting “school improve-  
9 ment strategies”;
- 10 (iii) in subparagraph (C), by striking  
11 “highly qualified” and inserting “effec-  
12 tive”;
- 13 (iv) in subparagraph (D)—
- 14 (I) by striking “In accordance  
15 with section 1119 and subsection  
16 (a)(4), high-quality” and inserting  
17 “High-quality”;
- 18 (II) by striking “pupil services”  
19 and inserting “specialized instruc-  
20 tional support services”; and
- 21 (III) by striking “student aca-  
22 demic achievement” and inserting  
23 “academic”;

1 (v) in subparagraph (E), by striking  
2 “high-quality highly qualified” and insert-  
3 ing “effective”;

4 (vi) in subparagraph (G), by striking  
5 “, such as Head Start, Even Start, Early  
6 Reading First, or a State-run preschool  
7 program,”;

8 (vii) in subparagraph (H), by striking  
9 “section 1111(b)(3)” and inserting “sec-  
10 tion 1111(b)(2)”;

11 (viii) in subparagraph (I), by striking  
12 “proficient or advanced levels of academic  
13 achievement standards” and inserting  
14 “State academic standards”; and

15 (ix) in subparagraph (J), by striking  
16 “vocational” and inserting “career”; and

17 (B) in paragraph (2)—

18 (i) in subparagraph (A)—

19 (I) in the matter preceding clause

20 (i)—

21 (aa) by striking “first de-  
22 velop” and all that follows  
23 through “2001)” and inserting  
24 “have in place”; and

1 (bb) by striking “and its  
2 school support team or other  
3 technical assistance provider  
4 under section 1117”;

5 (II) in clause (ii), by striking  
6 “part” and inserting “subpart”; and

7 (III) in clause (iv), by striking  
8 “section 1111(b)(3)” and inserting  
9 “section 1111(b)(2)”; and  
10 (ii) in subparagraph (B)—

11 (I) in clause (i)—

12 (aa) by striking “, after con-  
13 sidering the recommendation of  
14 the technical assistance providers  
15 under section 1117,”; and

16 (bb) by striking “the No  
17 Child Left Behind Act of 2001”  
18 and inserting “Student Success  
19 Act” ;

20 (II) in clause (ii)—

21 (aa) by striking “(including  
22 administrators of programs de-  
23 scribed in other parts of this  
24 title)”; and



- 1 (bb) by striking “pupil serv-  
2 ices” and inserting “specialized  
3 instructional support services”;  
4 (III) in clause (iii), by striking  
5 “part” and inserting “subpart”; and  
6 (IV) in clause (v), by striking  
7 “Reading First, Early Reading First,  
8 Even Start,”; and  
9 (3) in subsection (c)—  
10 (A) by striking “part” and inserting “sub-  
11 part”; and  
12 (B) by striking “, such as Even Start” and  
13 all that follows through the period at the end.

14 **SEC. 116. TARGETED ASSISTANCE SCHOOLS.**

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

- 16 (1) in subsection (a)—  
17 (A) by striking “are ineligible for a  
18 schoolwide program under section 1114, or  
19 that”;  
20 (B) by striking “operate such” and insert-  
21 ing “operate”; and  
22 (C) by striking “part” and inserting “sub-  
23 part”;  
24 (2) in subsection (b)—

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

4 (B) in paragraph (2)—

5 (i) in subparagraph (A)—

6 (I) by striking “limited English  
7 proficient children” and inserting  
8 “English learners”; and

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

11 (ii) in subparagraph (B)—

12 (I) in the heading, by striking “,  
13 EVEN START, OR EARLY READING  
14 FIRST”; and

15 (II) by striking “, Even Start, or  
16 Early Reading First”;

17 (iii) in subparagraph (C)—

18 (I) by amending the heading to  
19 read as follows: “SUBPART 3— CHIL-  
20 DREN”;

21 (II) by striking “part C” and in-  
22 serting “subpart 3”; and

23 (III) by striking “part” and in-  
24 serting “subpart”;

- 1 (iv) in subparagraphs (D) and (E), by  
2 striking “part” each place it appears and  
3 inserting “subpart”;
- 4 (C) in paragraph (3), by striking “part”  
5 and inserting “subpart”;
- 6 (3) in subsection (c)—
- 7 (A) in paragraph (1)—
- 8 (i) in the matter preceding subpara-  
9 graph (A)—
- 10 (I) by striking “part” and insert-  
11 ing “subpart”; and
- 12 (II) by striking “challenging stu-  
13 dent academic achievement” and in-  
14 serting “academic”;
- 15 (ii) in subparagraph (A)—
- 16 (I) by striking “part” and insert-  
17 ing “subpart”; and
- 18 (II) by striking “challenging stu-  
19 dent academic achievement” and in-  
20 serting “academic”;
- 21 (iii) in subparagraph (B), by striking  
22 “part” and inserting “subpart”;
- 23 (iv) in subparagraph (C)—

1 (I) by striking “based on scientif-  
2 ically based research” and inserting  
3 “evidence-based”; and

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

6 (v) in subparagraph (D), by striking  
7 “such as Head Start, Even Start, Early  
8 Reading First or State-run preschool pro-  
9 grams”;

10 (vi) in subparagraph (E), by striking  
11 “highly qualified” and inserting “effec-  
12 tive”;

13 (vii) in subparagraph (F)—

14 (I) by striking “in accordance  
15 with subsection (e)(3) and section  
16 1119,”;

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

19 (III) by striking “pupil services  
20 personnel” and inserting “specialized  
21 instructional support personnel”;

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

24 (B) in paragraph (2)—

1 (i) in the matter preceding subpara-  
2 graph (A), by striking “proficient and ad-  
3 vanced levels of achievement” and insert-  
4 ing “academic standards”;

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

7 (iii) in subparagraph (B), by striking  
8 “challenging student academic achieve-  
9 ment” and inserting “academic”;

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

13 (5) in subsection (e)—

14 (A) in paragraph (2)(B)—

15 (i) in the matter preceding clause (i),  
16 by striking “part” and inserting “sub-  
17 part”; and

18 (ii) by striking “pupil services” and  
19 inserting “specialized instructional support  
20 services”; and

21 (B) by striking paragraph (3).

1 **SEC. 117. ACADEMIC ASSESSMENT AND LOCAL EDU-**  
2 **CATIONAL AGENCY AND SCHOOL IMPROVE-**  
3 **MENT; SCHOOL SUPPORT AND RECOGNITION.**

4 The Act is amended by repealing sections 1116 and  
5 1117 (20 U.S.C. 6316; 6317).

6 **SEC. 118. PARENTAL INVOLVEMENT.**

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

8 (1) by striking “part” each place such term ap-  
9 pears and inserting “subpart”.

10 (2) in subsection (a)—

11 (A) in paragraph (2)—

12 (i) in subparagraph (A), by striking “,  
13 and” and all that follows through “1116”;  
14 and

15 (ii) in subparagraph (D), by striking  
16 “, such as” and all that follows through  
17 “preschool programs”; and

18 (B) in paragraph (3), by striking “subpart  
19 2 of this part” each place it appears and insert-  
20 ing “chapter B of this subpart”;

21 (3) in subsection (c)(4), by striking “and the  
22 proficiency levels students are expected to meet”;

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

25 (5) in subsection (e)—

1 (A) in paragraph (1), by striking “State’s  
2 academic content standards and State student  
3 academic achievement standards” and inserting  
4 “State’s academic standards”;

5 (B) in paragraph (3)—

6 (i) by striking “pupil services per-  
7 sonnel,” and inserting “specialized instruc-  
8 tional support personnel,”; and

9 (ii) by striking “principals,” and in-  
10 sserting “school leaders,”; and

11 (C) in paragraph (4), by striking “Head  
12 Start, Reading First, Early Reading First,  
13 Even Start, the Home Instruction Programs for  
14 Preschool Youngsters, the Parents as Teachers  
15 Program, and public preschool and other” and  
16 inserting “other Federal, State, and local”; and

17 (6) by amending subsection (g) to read as fol-  
18 lows:

19 “(g) FAMILY ENGAGEMENT IN EDUCATION PRO-  
20 GRAMS.—In a State operating a program under subpart  
21 3 of part A of title III, each local educational agency or  
22 school that receives assistance under this subpart shall in-  
23 form such parents and organizations of the existence of  
24 such programs.”.

1 **SEC. 119. QUALIFICATIONS FOR TEACHERS AND PARA-**  
2 **PROFESSIONALS.**

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

5 **SEC. 120. PARTICIPATION OF CHILDREN ENROLLED IN PRI-**  
6 **VATE SCHOOLS.**

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

9 **“SEC. 1120. PARTICIPATION OF CHILDREN ENROLLED IN**  
10 **PRIVATE SCHOOLS.**

11 **“(a) GENERAL REQUIREMENT.—**

12 **“(1) IN GENERAL.—**To the extent consistent  
13 with the number of eligible children identified under  
14 section 1115(b) in the school district served by a  
15 local educational agency who are enrolled in private  
16 elementary schools and secondary schools, a local  
17 educational agency shall—

18 **“(A)** after timely and meaningful consulta-  
19 tion with appropriate private school officials,  
20 provide such children, on an equitable basis and  
21 individually or in combination, as requested by  
22 the officials to best meet the needs of such chil-  
23 dren, special educational services, instructional  
24 services, counseling, mentoring, one-on-one tu-  
25 toring, or other benefits under this subpart  
26 (such as dual enrollment, educational radio and



1 television, computer equipment and materials,  
2 other technology, and mobile educational serv-  
3 ices and equipment) that address their needs;  
4 and

5 “(B) ensure that teachers and families of  
6 the children participate, on an equitable basis,  
7 in services and activities developed pursuant to  
8 this subpart.

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

13 “(3) EQUITY.—

14 “(A) IN GENERAL.—Educational services  
15 and other benefits for such private school chil-  
16 dren shall be equitable in comparison to serv-  
17 ices and other benefits for public school chil-  
18 dren participating under this subpart, and shall  
19 be provided in a timely manner.

20 “(B) OMBUDSMAN.—To help ensure such  
21 equity for such private school children, the  
22 State educational agency involved shall des-  
23 ignate an ombudsman to monitor and enforce  
24 the requirements of this subpart.

25 “(4) EXPENDITURES.—

1           “(A) IN GENERAL.—Expenditures for edu-  
2           cational services and other benefits to eligible  
3           private school children shall be equal to the ex-  
4           penditures for participating public school chil-  
5           dren, taking into account the number, and edu-  
6           cational needs, of the children to be served.

7           “(B) OBLIGATION OF FUNDS.—Funds allo-  
8           cated to a local educational agency for edu-  
9           cational services and other benefits to eligible  
10          private school children shall—

11                   “(i) be obligated in the fiscal year for  
12                   which the funds are received by the agen-  
13                   cy; and

14                   “(ii) with respect to any such funds  
15                   that cannot be so obligated, be used to  
16                   serve such children in the following fiscal  
17                   year.

18          “(5) PROVISION OF SERVICES.—The local edu-  
19          cational agency or, in a case described in subsection  
20          (b)(6)(C), the State educational agency involved,  
21          may provide services under this section directly or  
22          through contracts with public and private agencies,  
23          organizations, and institutions.

24          “(b) CONSULTATION.—

1           “(1) IN GENERAL.—To ensure timely and  
2 meaningful consultation, a local educational agency  
3 shall consult with appropriate private school officials  
4 during the design and development of such agency’s  
5 programs under this subpart in order to reach an  
6 agreement between the agency and the officials  
7 about equitable and effective programs for eligible  
8 private school children. Such process shall include  
9 consultation on issues such as—

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

12                   “(B) what services will be offered;

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

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

18                   “(E) the size and scope of the equitable  
19 services to be provided to the eligible private  
20 school children, and the proportion of funds  
21 that is allocated under subsection (a)(4) for  
22 such services and how that proportion of funds  
23 is determined under such subsection;

24                   “(F) the method or sources of data that  
25 are used under subsection (e) and section

1           1113(c)(1) to determine the number of children  
2           from low-income families in participating school  
3           attendance areas who attend private schools;

4           “(G) how and when the agency will make  
5           decisions about the delivery of services to such  
6           children, including a thorough consideration  
7           and analysis of the views of the private school  
8           officials on the provision of services through a  
9           contract with potential third-party providers;

10          “(H) how, if the agency disagrees with the  
11          views of the private school officials on the provi-  
12          sion of services through a contract, the local  
13          educational agency will provide in writing to  
14          such private school officials an analysis of the  
15          reasons why the local educational agency has  
16          chosen not to use a contractor;

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

21          “(J) whether to provide equitable services  
22          to eligible private school children—

23                 “(i) by creating a pool or pools of  
24                 funds with all of the funds allocated under  
25                 paragraph (4) based on all the children

1 from low-income families who attend pri-  
2 vate schools in a participating school at-  
3 tendance area of the agency from which  
4 the local educational agency will provide  
5 such services to all such children; or

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

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

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

1       grams under this subpart. Such meetings shall con-  
2       tinue throughout implementation and assessment of  
3       services provided under this section.

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

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

24              “(6) COMPLIANCE.—

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

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

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

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

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

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

8                   “(ii) in a case in which—

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

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

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

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



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

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

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

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

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

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

23 “(d) PUBLIC CONTROL OF FUNDS.—

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

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

5 “(2) PROVISION OF SERVICES.—

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

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

9 or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3           (3) in subsection (b)—

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

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

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

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

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

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

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

23           (2) in subsection (b)—

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

4 (B) in paragraph (3)—

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

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

12 (iii) by striking subparagraph (D);

13 and

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

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

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

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

20 “(a) RESERVATION.—

21 “(1) IN GENERAL.—Subject to section  
22 1125A(f), from the amounts appropriated under sec-  
23 tion 3(a)(1), the Secretary shall reserve 91 percent  
24 of such amounts to carry out this chapter.

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

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

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

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

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

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

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

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

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

6           (1) in subsection (a)—

7                 (A) in paragraph (3)—

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

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

12                        and

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

16           (2) in subsection (c)—

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

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

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

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

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

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

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

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

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

22 (2) in subsection (a), by striking “appro-  
23 priated” and inserting “reserved”;

24 (3) in subsection (b)(1)—

25 (A) in subparagraph (A), by striking “ap-  
26 propriated” and inserting “reserved”; and



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

5 (4) by striking subsection (e);

6 (5) by redesignating subsections (f) and (g) as  
7 subsections (e) and (f), respectively;

8 (6) by amending subsection (e) (as so redesign-  
9 nated) to read as follows:

10 “(e) RESERVATIONS.—From amounts reserved under  
11 section 1122(a)(1), the Secretary shall reserve 23 percent  
12 to carry out this section.”; and

13 (7) in subsection (f) (as so redesignated), in the  
14 subsection heading, by striking “APPROPRIATIONS”  
15 and inserting “RESERVATIONS”.

16 **SEC. 128. CARRYOVER AND WAIVER.**

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

20 **Subtitle C—Additional Aid to**  
21 **States and School Districts**

22 **SEC. 131. ADDITIONAL AID.**

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

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

3 (2) by inserting after subpart 1 of part A the  
4 following:

5 “SUBPART 2—EDUCATION OF MIGRATORY CHILDREN  
6 **“SEC. 1131. PROGRAM PURPOSES.**

7 “The purposes of this subpart are as follows:

8 “(1) To assist States in supporting high-quality  
9 and comprehensive educational programs and serv-  
10 ices during the school year, and as applicable, during  
11 summer or intercession periods, that address the  
12 unique educational needs of migratory children.

13 “(2) To ensure that migratory children who  
14 move among the States, not be penalized in any  
15 manner by disparities among the States in cur-  
16 riculum, graduation requirements, and State aca-  
17 demic standards.

18 “(3) To help such children succeed in school,  
19 meet the State academic standards that all children  
20 are expected to meet, and graduate from high school  
21 prepared for postsecondary education and the work-  
22 force without the need for remediation.

23 “(4) To help such children overcome edu-  
24 cational disruption, cultural and language barriers,  
25 social isolation, various health-related problems, and

1 other factors that inhibit the ability of such children  
2 to succeed in school.

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

5 **“SEC. 1132. PROGRAM AUTHORIZED.**

6 “(a) IN GENERAL.—From the amounts appropriated  
7 under section 3(a)(1), the Secretary shall reserve 2.5 per-  
8 cent to carry out this subpart.

9 “(b) GRANTS AWARDED.—From the amounts re-  
10 served under subsection (a) and not reserved under section  
11 1138(c), the Secretary shall make allotments for the fiscal  
12 year to State educational agencies, or consortia of such  
13 agencies, to establish or improve, directly or through local  
14 operating agencies, programs of education for migratory  
15 children in accordance with this subpart.

16 **“SEC. 1133. STATE ALLOCATIONS.**

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

21 “(1) the sum of—

22 “(A) the average number of identified eligi-  
23 ble migratory children aged 3 through 21 resid-  
24 ing in the State, based on data for the pre-  
25 ceding 3 years; and

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

6           “(2) 40 percent of the average per-pupil ex-  
7           penditure in the State, except that the amount de-  
8           termined under this paragraph shall not be less than  
9           32 percent, nor more than 48 percent, of the aver-  
10          age per-pupil expenditure in the United States.

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

15          “(c) **ALLOCATION TO PUERTO RICO.**—For each fiscal  
16 year, the grant which the Commonwealth of Puerto Rico  
17 shall be eligible to receive under this subpart shall be the  
18 amount determined by multiplying the number of children  
19 who would be counted under subsection (a)(1) if such sub-  
20 section applied to the Commonwealth of Puerto Rico by  
21 the product of—

22           “(1) the percentage that the average per-pupil  
23           expenditure in the Commonwealth of Puerto Rico is  
24           of the lowest average per-pupil expenditure of any of  
25           the 50 States, except that the percentage calculated

1 under this subparagraph shall not be less than 85  
2 percent; and

3 “(2) 32 percent of the average per-pupil ex-  
4 penditure in the United States.

5 “(d) RATABLE REDUCTIONS; REALLOCATIONS.—

6 “(1) IN GENERAL.—

7 “(A) RATABLE REDUCTIONS.—If, after the  
8 Secretary reserves funds under section 1308(c),  
9 the amount appropriated to carry out this sub-  
10 part for any fiscal year is insufficient to pay in  
11 full the amounts for which all States are eligi-  
12 ble, the Secretary shall ratably reduce each  
13 such amount.

14 “(B) REALLOCATION.—If additional funds  
15 become available for making such payments for  
16 any fiscal year, the Secretary shall allocate such  
17 funds to States in amounts that the Secretary  
18 determines will best carry out the purpose of  
19 this subpart.

20 “(2) SPECIAL RULE.—

21 “(A) FURTHER REDUCTIONS.—The Sec-  
22 retary shall further reduce the amount of any  
23 grant to a State under this subpart for any fis-  
24 cal year if the Secretary determines, based on  
25 available information on the numbers and needs

1 of migratory children in the State and the pro-  
2 gram proposed by the State to address such  
3 needs, that such amount exceeds the amount  
4 required under section 1134.

5 “(B) REALLOCATION.— The Secretary  
6 shall reallocate such excess funds to other  
7 States whose grants under this subpart would  
8 otherwise be insufficient to provide an appro-  
9 priate level of services to migratory children, in  
10 such amounts as the Secretary determines are  
11 appropriate.

12 “(e) CONSORTIUM ARRANGEMENTS.—

13 “(1) IN GENERAL.—In the case of a State that  
14 receives a grant of \$1,000,000 or less under this  
15 section, the Secretary shall consult with the State  
16 educational agency to determine whether consortium  
17 arrangements with another State or other appro-  
18 priate entity would result in delivery of services in  
19 a more effective and efficient manner.

20 “(2) PROPOSALS.—Any State, regardless of the  
21 amount of such State’s allocation, may submit a  
22 consortium arrangement to the Secretary for ap-  
23 proval.

24 “(3) APPROVAL.—The Secretary shall approve  
25 a consortium arrangement under paragraph (1) or

1       (2) if the proposal demonstrates that the arrange-  
2       ment will—

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

5               “(B) make more funds available for direct  
6               services to add substantially to the educational  
7               achievement of children to be served under this  
8               subpart.

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

13               “(1) use the most recent information that most  
14               accurately reflects the actual number of migratory  
15               children;

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

18               “(3) implement the procedure for more accu-  
19               rately reflecting cost factors for different types of  
20               summer and intersession program designs; and

21               “(4) conduct an analysis of the options for ad-  
22               justing the formula so as to better direct services to  
23               migratory children, including the most at-risk migra-  
24               tory children.

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

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

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

17           “(b) PROGRAM INFORMATION.—Each such applica-  
18 tion shall include—

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



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

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

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

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

17           “(3) a description of how the State will use  
18           funds received under this subpart to promote inter-  
19           state and intrastate coordination of services for mi-  
20           gratory children, including how the State will pro-  
21           vide for educational continuity through the timely  
22           transfer of pertinent school records, including infor-  
23           mation on health, when children move from one  
24           school to another, whether or not such a move oc-  
25           curs during the regular school year;

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

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

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

19           “(c) ASSURANCES.—Each such application shall also  
20 include assurances that—

21           “(1) funds received under this subpart will be  
22 used only—

23           “(A) for programs and projects, including  
24 the acquisition of equipment, in accordance  
25 with section 1136; and

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

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

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

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

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

24                 “(4) in planning and carrying out such pro-  
25                 grams and projects, there has been, and will be, ade-

1       quate provision for addressing the unmet education  
2       needs of preschool migratory children;

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

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

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

16               “(B) professional development programs,  
17       including mentoring, for teachers and other  
18       program personnel;

19               “(C) high-quality, evidence-based family  
20       literacy programs;

21               “(D) the integration of information tech-  
22       nology into educational and related programs;  
23       and

24               “(E) programs to facilitate the transition  
25       of secondary school students to postsecondary

1 education or employment without the need for  
2 remediation; and

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

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

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

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

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

20 “(3) secondary school students who were eligi-  
21 ble for services in secondary school may continue to  
22 be served through credit accrual programs until  
23 graduation.

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

2 “(a) SECRETARIAL APPROVAL.—The Secretary shall  
3 approve each State application that meets the require-  
4 ments of this subpart.

5 “(b) PEER REVIEW.—The Secretary may review any  
6 such application with the assistance and advice of State  
7 officials and other individuals with relevant expertise.

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

11 “(a) COMPREHENSIVE PLAN.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13          “(b) AUTHORIZED ACTIVITIES.—

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

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



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

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

14 **“SEC. 1137. BYPASS.**

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

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

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

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

3   **“SEC. 1138. COORDINATION OF MIGRANT EDUCATION AC-**  
4           **TIVITIES.**

5           “(a) IMPROVEMENT OF COORDINATION.—

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

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

19          “(b) STUDENT RECORDS.—

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

25          “(2) INFORMATION SYSTEM.—

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

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

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

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

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

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

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

19                  “(4) REPORT TO CONGRESS.—

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

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

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

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

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

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

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

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

21 **“SEC. 1139. DEFINITIONS.**

22 “As used in this subpart:

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

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

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

8           “(C) a State educational agency, if the  
9           State educational agency operates the State’s  
10          migrant education program or projects directly.

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

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

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

24                 “(C) resides in a school district of more  
25                 than 15,000 square miles, and migrates a dis-

1           tance of 20 miles or more to a temporary resi-  
2           dence to engage in a fishing activity.

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

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

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

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

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

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

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

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

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

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

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



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

2   **“SEC. 1151. ELIGIBILITY.**

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

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

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

10          “(3) in adult correctional institutions.

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

12          “(a) SUBGRANTS TO STATE AGENCIES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 “(a) STATE PLAN.—

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

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

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

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

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

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

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

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

8 “(C) contain an assurance that the State  
9 educational agency will—

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

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

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

20 “(3) DURATION OF THE PLAN.—Each such  
21 State plan shall—

22 “(A) remain in effect for the duration of  
23 the State’s participation under this chapter;  
24 and

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

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

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

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

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

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

20                 “(2) provide an assurance that in making serv-  
21                 ices available to children and youth in adult correc-  
22                 tional institutions, priority will be given to such chil-  
23                 dren and youth who are likely to complete incarcer-  
24                 ation within a 2-year period;

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

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

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

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

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

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

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

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

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

19           “(12) provides assurances that the State agency  
20           will work with parents to secure parents’ assistance  
21           in improving the educational achievement of their  
22           children and youth, and preventing their children’s  
23           and youth’s further involvement in delinquent activi-  
24           ties;



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

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

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

12           “(14) provides an assurance that the State  
13           agency will work with children and youth who  
14           dropped out of school before entering the correc-  
15           tional facility or institution for neglected or delin-  
16           quent children and youth to encourage the children  
17           and youth to reenter school and obtain a regular  
18           high school diploma once the term of the incarceration  
19           is completed, or provide the child or youth with  
20           the skills necessary to gain employment, continue  
21           the education of the child or youth, or obtain a reg-  
22           ular high school diploma or its recognized equivalent  
23           if the child or youth does not intend to return to  
24           school;

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

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

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

15 **“SEC. 1155. USE OF FUNDS.**

16           “(a) USES.—

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

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

22           “(B) concentrate on providing participants  
23 with the knowledge and skills needed to make  
24 a successful transition to secondary school com-  
25 pletion, career or technical training, further

1 education, or employment without the need for  
2 remediation.

3 “(2) PROGRAMS AND PROJECTS.—Such pro-  
4 grams and projects—

5 “(A) may include the acquisition of equip-  
6 ment;

7 “(B) shall be designed to support edu-  
8 cational services that—

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

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

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

22 “(C) shall be carried out in a manner con-  
23 sistent with section 1120A and part C (as ap-  
24 plied to programs and projects under this chap-  
25 ter).

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

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

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

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

22               “(2) provides for a comprehensive assessment  
23 of the educational needs of youth aged 20 and  
24 younger in adult facilities who are expected to com-  
25 plete incarceration within a 2-year period;

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

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

15           “(5) specifically describes how such funds will  
16 be used;

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

20           “(7) describes how the agency has planned, and  
21 will implement and evaluate, the institution-wide or  
22 program-wide project in consultation with personnel  
23 providing direct instructional services and support  
24 services in institutions or community day programs  
25 for neglected or delinquent children and youth, and

1 with personnel from the State educational agency;  
2 and

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

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

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

15 **“SEC. 1158. TRANSITION SERVICES.**

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

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

23 “(2) the successful re-entry of youth offenders,  
24 who are age 20 or younger and have received a reg-  
25 ular high school diploma or its recognized equiva-

1       lent, into postsecondary education, or career and  
2       technical training programs, through strategies de-  
3       signed to expose the youth to, and prepare the youth  
4       for, postsecondary education, or career and technical  
5       training programs, such as—

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

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

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

18               “(i) personal, career and technical,  
19               and academic counseling;

20               “(ii) placement services designed to  
21               place the youth in a university, college, or  
22               junior college program;

23               “(iii) information concerning, and as-  
24               sistance in obtaining, available student fi-  
25               nancial aid;

1 “(iv) counseling services; and

2 “(v) job placement services.

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

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

14 **“SEC. 1159. TECHNICAL ASSISTANCE.**

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

19 **“CHAPTER B—LOCAL AGENCY PROGRAMS**

20 **“SEC. 1161. PURPOSE.**

21 “The purpose of this chapter is to support the oper-  
22 ation of local educational agency programs that involve  
23 collaboration with locally operated correctional facilities—

24 “(1) to carry out high quality education pro-  
25 grams to prepare children and youth for secondary



1 school completion, training, employment, or further  
2 education;

3 “(2) to provide activities to facilitate the transi-  
4 tion of such children and youth from the correctional  
5 program to further education or employment; and

6 “(3) to operate programs in local schools for  
7 children and youth returning from correctional facili-  
8 ties, and programs which may serve at-risk children  
9 and youth.

10 **“SEC. 1162. PROGRAMS OPERATED BY LOCAL EDU-  
11 CATIONAL AGENCIES.**

12 “(a) LOCAL SUBGRANTS.—With funds made avail-  
13 able under section 1142(b), the State educational agency  
14 shall award subgrants to local educational agencies with  
15 high numbers or percentages of children and youth resid-  
16 ing in locally operated (including county operated) correc-  
17 tional facilities for children and youth (including facilities  
18 involved in community day programs).

19 “(b) SPECIAL RULE.—A local educational agency  
20 that serves a school operated by a correctional facility is  
21 not required to operate a program of support for children  
22 and youth returning from such school to a school that is  
23 not operated by a correctional agency but served by such  
24 local educational agency, if more than 30 percent of the  
25 children and youth attending the school operated by the

1 correctional facility will reside outside the boundaries  
2 served by the local educational agency after leaving such  
3 facility.

4 “(c) NOTIFICATION.—A State educational agency  
5 shall notify local educational agencies within the State of  
6 the eligibility of such agencies to receive a subgrant under  
7 this chapter.

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

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

19 “Each local educational agency desiring assistance  
20 under this chapter shall submit an application to the State  
21 educational agency that contains such information as the  
22 State educational agency may require. Each such applica-  
23 tion shall include—

24 “(1) a description of the program to be as-  
25 sisted;

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

3                   “(A) the local educational agency; and

4                   “(B) correctional facilities and alternative  
5           school programs serving children and youth in-  
6           volved with the juvenile justice system;

7           “(3) as appropriate, a description of how par-  
8           ticipating schools will coordinate with facilities work-  
9           ing with delinquent children and youth to ensure  
10          that such children and youth are participating in an  
11          education program comparable to one operating in  
12          the local school such youth would attend;

13          “(4) a description of the program operated by  
14          participating schools for children and youth return-  
15          ing from correctional facilities and, as appropriate,  
16          the types of services that such schools will provide  
17          such children and youth and other at-risk children  
18          and youth;

19          “(5) a description of the characteristics (includ-  
20          ing learning difficulties, substance abuse problems,  
21          and other needs) of the children and youth who will  
22          be returning from correctional facilities and, as ap-  
23          propriate, other at-risk children and youth expected  
24          to be served by the program, and a description of  
25          how the school will coordinate existing educational

1 programs to meet the unique educational needs of  
2 such children and youth;

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

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

17 “(8) as appropriate, a description of how the  
18 program will involve parents in efforts to improve  
19 the educational achievement of their children, assist  
20 in dropout prevention activities, and prevent the in-  
21 volvement of their children in delinquent activities;

22 “(9) a description of how the program under  
23 this chapter will be coordinated with other Federal,  
24 State, and local programs, such as programs under  
25 title I of Public Law 105–220 and career and tech-

1 nical education programs serving at-risk children  
2 and youth;

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

7 “(11) as appropriate, a description of how  
8 schools will work with probation officers to assist in  
9 meeting the needs of children and youth returning  
10 from correctional facilities;

11 “(12) a description of the efforts participating  
12 schools will make to ensure correctional facilities  
13 working with children and youth are aware of a  
14 child’s or youth’s existing individualized education  
15 program; and

16 “(13) as appropriate, a description of the steps  
17 participating schools will take to find alternative  
18 placements for children and youth interested in con-  
19 tinuing their education but unable to participate in  
20 a traditional public school program.

21 **“SEC. 1164. USES OF FUNDS.**

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

24 “(1) programs that serve children and youth re-  
25 turning to local schools from correctional facilities,

1 to assist in the transition of such children and youth  
2 to the school environment and help them remain in  
3 school in order to complete their education;

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

6 “(3) the coordination of health and social serv-  
7 ices for such individuals if there is a likelihood that  
8 the provision of such services, including day care,  
9 drug and alcohol counseling, and mental health serv-  
10 ices, will improve the likelihood such individuals will  
11 complete their education;

12 “(4) special programs to meet the unique aca-  
13 demic needs of participating children and youth, in-  
14 cluding career and technical education, special edu-  
15 cation, career counseling, curriculum-based youth  
16 entrepreneurship education, and assistance in secur-  
17 ing student loans or grants for postsecondary edu-  
18 cation; and

19 “(5) programs providing mentoring and peer  
20 mediation.

21 **“SEC. 1165. PROGRAM REQUIREMENTS FOR CORREC-**  
22 **TIONAL FACILITIES RECEIVING FUNDS**  
23 **UNDER THIS SECTION.**

24 “Each correctional facility entering into an agree-  
25 ment with a local educational agency under section

1 1163(2) to provide services to children and youth under  
2 this chapter shall—

3           “(1) where feasible, ensure that educational  
4 programs in the correctional facility are coordinated  
5 with the student’s home school, particularly with re-  
6 spect to a student with an individualized education  
7 program under part B of the Individuals with Dis-  
8 abilities Education Act;

9           “(2) if the child or youth is identified as in  
10 need of special education services while in the cor-  
11 rectional facility, notify the local school of the child  
12 or youth of such need;

13           “(3) where feasible, provide transition assist-  
14 ance to help the child or youth stay in school, in-  
15 cluding coordination of services for the family, coun-  
16 seling, assistance in accessing drug and alcohol  
17 abuse prevention programs, tutoring, and family  
18 counseling;

19           “(4) provide support programs that encourage  
20 children and youth who have dropped out of school  
21 to re-enter school and obtain a regular high school  
22 diploma once their term at the correctional facility  
23 has been completed, or provide such children and  
24 youth with the skills necessary to gain employment

1 or seek a regular high school diploma or its recog-  
2 nized equivalent;

3 “(5) work to ensure that the correctional facil-  
4 ity is staffed with effective teachers and other quali-  
5 fied staff who are trained to work with children and  
6 youth with disabilities taking into consideration the  
7 unique needs of such children and youth;

8 “(6) ensure that educational programs in the  
9 correctional facility are related to assisting students  
10 to meet the States’s academic standards;

11 “(7) to the extent possible, use technology to  
12 assist in coordinating educational programs between  
13 the correctional facility and the community school;

14 “(8) where feasible, involve parents in efforts to  
15 improve the educational achievement of their chil-  
16 dren and prevent the further involvement of such  
17 children in delinquent activities;

18 “(9) coordinate funds received under this chap-  
19 ter with other local, State, and Federal funds avail-  
20 able to provide services to participating children and  
21 youth, such as funds made available under title I of  
22 Public Law 105–220, and career and technical edu-  
23 cation funds;

24 “(10) coordinate programs operated under this  
25 chapter with activities funded under the Juvenile



1 Justice and Delinquency Prevention Act of 1974 and  
2 other comparable programs, if applicable;

3 “(11) if appropriate, work with local businesses  
4 to develop training, curriculum-based youth entre-  
5 preneurship education, and mentoring programs for  
6 children and youth; and

7 “(12) consult with the local educational agency  
8 for a period jointly determined necessary by the cor-  
9 rectional facility and local educational agency upon  
10 discharge from that facility to coordinate educational  
11 services so as to minimize disruption to the child’s  
12 or youth’s achievement.

13 **“SEC. 1166. ACCOUNTABILITY.**

14 “The State educational agency—

15 “(1) may require correctional facilities or insti-  
16 tutions for neglected or delinquent children and  
17 youth to demonstrate, after receiving assistance  
18 under this chapter for 3 years, that there has been  
19 an increase in the number of children and youth re-  
20 turning to school, obtaining a regular high school di-  
21 ploma or its recognized equivalent, or obtaining em-  
22 ployment after such children and youth are released;  
23 and

24 “(2) may reduce or terminate funding for  
25 projects under this chapter if a local educational

1 agency, or correctional facility or institution, as ap-  
2 plicable, does not show progress in the number of  
3 children and youth returning to school, obtaining a  
4 regular high school diploma or its recognized equiva-  
5 lent, or obtaining employment after such children  
6 and youth are released.

7 **“CHAPTER C—GENERAL PROVISIONS**

8 **“SEC. 1171. PROGRAM EVALUATIONS.**

9 “(a) SCOPE OF EVALUATION.—Each State agency or  
10 local educational agency that conducts a program under  
11 chapters A or B shall evaluate the program,  
12 disaggregating data on participation by gender, race, eth-  
13 nicity, and age, not less than once every 3 years, to deter-  
14 mine the program’s impact on the ability of participants—

15 “(1) to maintain and improve educational  
16 achievement;

17 “(2) to accrue school credits that meet State re-  
18 quirements for grade promotion and high school  
19 graduation;

20 “(3) to make the transition to a regular pro-  
21 gram or other education program operated by a local  
22 educational agency;

23 “(4) to complete high school (or high school  
24 equivalency requirements) and obtain employment

1 after leaving the correctional facility or institution  
2 for neglected or delinquent children and youth; and

3 “(5) as appropriate, to participate in postsec-  
4 ondary education and job training programs.

5 “(b) EXCEPTION.—The disaggregation required  
6 under subsection (a) shall not be required in a case in  
7 which the number of students in a category is insufficient  
8 to yield statistically reliable information or the results  
9 would reveal personally identifiable information about an  
10 individual student.

11 “(c) EVALUATION MEASURES.—In conducting each  
12 evaluation under subsection (a), a State agency or local  
13 educational agency shall use multiple and appropriate  
14 measures of student progress.

15 “(d) EVALUATION RESULTS.—Each State agency  
16 and local educational agency shall—

17 “(1) submit evaluation results to the State edu-  
18 cational agency and the Secretary; and

19 “(2) use the results of evaluations under this  
20 section to plan and improve subsequent programs  
21 for participating children and youth.

22 **“SEC. 1172. DEFINITIONS.**

23 “In this subpart:

24 “(1) ADULT CORRECTIONAL INSTITUTION.—

25 The term ‘adult correctional institution’ means a fa-

1           cility in which persons (including persons under 21  
2           years of age) are confined as a result of a conviction  
3           for a criminal offense.

4           “(2) AT-RISK.—The term ‘at-risk’, when used  
5           with respect to a child, youth, or student, means a  
6           school-aged individual who

7                       “(A) is at-risk of academic failure; and

8                       “(B) has a drug or alcohol problem, is  
9           pregnant or is a parent, has come into contact  
10          with the juvenile justice system in the past, is  
11          at least 1 year behind the expected grade level  
12          for the age of the individual, is an English  
13          learner, is a gang member, has dropped out of  
14          school in the past, or has a high absenteeism  
15          rate at school.

16          “(3) COMMUNITY DAY PROGRAM.—The term  
17          ‘community day program’ means a regular program  
18          of instruction provided by a State agency at a com-  
19          munity day school operated specifically for neglected  
20          or delinquent children and youth.

21          “(4) INSTITUTION FOR NEGLECTED OR DELIN-  
22          QUENT CHILDREN AND YOUTH.—The term ‘institu-  
23          tion for neglected or delinquent children and youth’  
24          means—

1           “(A) a public or private residential facility,  
2           other than a foster home, that is operated for  
3           the care of children who have been committed  
4           to the institution or voluntarily placed in the in-  
5           stitution under applicable State law, due to  
6           abandonment, neglect, or death of their parents  
7           or guardians; or

8           “(B) a public or private residential facility  
9           for the care of children who have been adju-  
10          dicated to be delinquent or in need of super-  
11          vision.

12 “SUBPART 4—ENGLISH LANGUAGE ACQUISITION, LAN-  
13        GUAGE ENHANCEMENT, AND ACADEMIC ACHIEVE-  
14        MENT

15 **“SEC. 1181. PURPOSES.**

16        “The purposes of this subpart are—

17           “(1) to help ensure that English learners, in-  
18           cluding immigrant children and youth, attain  
19           English proficiency and develop high levels of aca-  
20           demic achievement in English;

21           “(2) to assist all English learners, including im-  
22           migrant children and youth, to achieve at high levels  
23           in the core academic subjects so that those children  
24           can meet the same State academic standards that all

1 children are expected to meet, consistent with sec-  
2 tion 1111(b)(1);

3 “(3) to assist State educational agencies, local  
4 educational agencies, and schools in establishing, im-  
5 plementing, and sustaining high-quality, flexible, evi-  
6 dence-based language instruction educational pro-  
7 grams designed to assist in teaching English learn-  
8 ers, including immigrant children and youth;

9 “(4) to assist State educational agencies and  
10 local educational agencies to develop and enhance  
11 their capacity to provide high-quality, evidence-based  
12 instructional programs designed to prepare English  
13 learners, including immigrant children and youth, to  
14 enter all-English instruction settings; and

15 “(5) to promote parental and community par-  
16 ticipation in language instruction educational pro-  
17 grams for the parents and communities of English  
18 learners.

19 **“CHAPTER A—GRANTS AND SUBGRANTS FOR**  
20 **ENGLISH LANGUAGE ACQUISITION AND LAN-**  
21 **GUAGE ENHANCEMENT**

22 **“SEC. 1191. FORMULA GRANTS TO STATES.**

23 “(a) IN GENERAL.—In the case of each State edu-  
24 cational agency having a plan approved by the Secretary  
25 for a fiscal year under section 1192, the Secretary shall

1 reserve 4.4 percent of funds appropriated under section  
2 3(a)(1) to make a grant for the year to the agency for  
3 the purposes specified in subsection (b). The grant shall  
4 consist of the allotment determined for the State edu-  
5 cational agency under subsection (c).

6 “(b) USE OF FUNDS.—

7 “(1) SUBGRANTS TO ELIGIBLE ENTITIES.—The  
8 Secretary may make a grant under subsection (a)  
9 only if the State educational agency involved agrees  
10 to expend at least 95 percent of the State edu-  
11 cational agency’s allotment under subsection (c) for  
12 a fiscal year—

13 “(A) to award subgrants, from allocations  
14 under section 1193, to eligible entities to carry  
15 out the activities described in section 1194  
16 (other than subsection (e)); and

17 “(B) to award subgrants under section  
18 1193(d)(1) to eligible entities that are described  
19 in that section to carry out the activities de-  
20 scribed in section 1194(e).

21 “(2) STATE ACTIVITIES.—Subject to paragraph  
22 (3), each State educational agency receiving a grant  
23 under subsection (a) may reserve not more than 5  
24 percent of the agency’s allotment under subsection  
25 (c) to carry out the following activities:

1           “(A) Professional development activities,  
2           and other activities, which may include assisting  
3           personnel in—

4                   “(i) meeting State and local certifi-  
5                   cation and licensing requirements for  
6                   teaching English learners; and

7                   “(ii) improving teacher skills in meet-  
8                   ing the diverse needs of English learners,  
9                   including in how to implement evidence-  
10                  based programs and curricula on teaching  
11                  English learners.

12           “(B) Planning, evaluation, administration,  
13           and interagency coordination related to the sub-  
14           grants referred to in paragraph (1).

15           “(C) Providing technical assistance and  
16           other forms of assistance to eligible entities that  
17           are receiving subgrants from a State edu-  
18           cational agency under this chapter, including  
19           assistance in—

20                   “(i) identifying and implementing evi-  
21                   dence-based language instruction edu-  
22                   cational programs and curricula for teach-  
23                   ing English learners;



1           “(ii) helping English learners meet  
2           the same State academic standards that all  
3           children are expected to meet;

4           “(iii) identifying or developing, and  
5           implementing, measures of English pro-  
6           ficiency; and

7           “(iv) strengthening and increasing  
8           parent, family, and community engage-  
9           ment.

10          “(D) Developing, enhancing, aligning, and  
11          implementing the English language proficiency  
12          standards and assessments described in section  
13          1111(b).

14          “(E) Providing recognition, which may in-  
15          clude providing financial awards, to subgrantees  
16          that have significantly improved the achieve-  
17          ment and progress of English learners in—

18               “(i) reaching English language pro-  
19               ficiency, based on the State’s English lan-  
20               guage proficiency assessment under section  
21               1111(b)(2)(D); and

22               “(ii) meeting the State academic  
23               standards under section 1111(b)(1).

24          “(3) ADMINISTRATIVE EXPENSES.—From the  
25          amount reserved under paragraph (2), a State edu-

1        cational agency may use not more than 40 percent  
2        of such amount or \$175,000, whichever is greater,  
3        for the planning and administrative costs of carrying  
4        out paragraphs (1) and (2).

5        “(c) RESERVATIONS AND ALLOTMENTS.—

6                “(1) RESERVATIONS.—From the amount re-  
7        served under section 1191(a) for each fiscal year,  
8        the Secretary shall reserve—

9                        “(A) 0.5 percent of such amount for pay-  
10        ments to outlying areas, to be allotted in ac-  
11        cordance with their respective needs for assist-  
12        ance under this chapter, as determined by the  
13        Secretary, for activities, approved by the Sec-  
14        retary, consistent with this chapter; and

15                        “(B) 6.5 percent of such amount for na-  
16        tional activities under section 1211, except that  
17        not more than \$2,000,000 of such amount may  
18        be reserved for the National Clearinghouse for  
19        English Language Acquisition and Language  
20        Instruction Educational Programs described in  
21        section 1222.

22        “(2) STATE ALLOTMENTS.—

23                        “(A) IN GENERAL.—Except as provided in  
24        subparagraph (B), from the amount reserved  
25        under section 1191(a) for each fiscal year that

1 remains after making the reservations under  
2 paragraph (1), the Secretary shall allot to each  
3 State educational agency having a plan ap-  
4 proved under section 1192(c)—

5 “(i) an amount that bears the same  
6 relationship to 80 percent of the remainder  
7 as the number of English learners in the  
8 State bears to the number of such children  
9 in all States; and

10 “(ii) an amount that bears the same  
11 relationship to 20 percent of the remainder  
12 as the number of immigrant children and  
13 youth in the State bears to the number of  
14 such children and youth in all States.

15 “(B) MINIMUM ALLOTMENTS.—No State  
16 educational agency shall receive an allotment  
17 under this paragraph that is less than  
18 \$500,000.

19 “(C) REALLOTMENT.—If any State edu-  
20 cational agency described in subparagraph (A)  
21 does not submit a plan to the Secretary for a  
22 fiscal year, or submits a plan (or any amend-  
23 ment to a plan) that the Secretary, after rea-  
24 sonable notice and opportunity for a hearing,  
25 determines does not satisfy the requirements of

1           this chapter, the Secretary shall reallocate any por-  
2           tion of such allotment to the remaining State  
3           educational agencies in accordance with sub-  
4           paragraph (A).

5           “(D) SPECIAL RULE FOR PUERTO RICO.—  
6           The total amount allotted to Puerto Rico for  
7           any fiscal year under subparagraph (1) shall  
8           not exceed 0.5 percent of the total amount al-  
9           lotted to all States for that fiscal year.

10          “(3) USE OF DATA FOR DETERMINATIONS.—In  
11          making State allotments under paragraph (2), the  
12          Secretary shall determine the number of English  
13          learners in a State and in all States, and the num-  
14          ber of immigrant children and youth in a State and  
15          in all States for each fiscal year, using the most ac-  
16          curate, up-to-date data of such children and youth,  
17          which shall be—

18                 “(A) data from the American Community  
19                 Survey conducted by the Department of Com-  
20                 merce; or

21                 “(B) the number of students being as-  
22                 sessed for English language proficiency, based  
23                 on the State’s English language proficiency as-  
24                 sessment under section 1111(b)(2)(D).

1 **“SEC. 1192. STATE EDUCATIONAL AGENCY PLANS.**

2       “(a) PLAN REQUIRED.—Each State educational  
3 agency desiring a grant under this chapter shall submit  
4 a plan to the Secretary at such time and in such manner  
5 as the Secretary may require.

6       “(b) CONTENTS.—Each plan submitted under sub-  
7 section (a) shall—

8               “(1) describe the process that the agency will  
9 use in awarding subgrants to eligible entities under  
10 section 1193(d)(1);

11               “(2) describe how the agency will support local  
12 educational agencies in raising the level of English  
13 language proficiency for English learners and align-  
14 ing English language proficiency standards with  
15 State academic standards;

16               “(3) provide an assurance that—

17                       “(A) the agency will ensure that eligible  
18 entities receiving a subgrant under this chapter  
19 comply with the requirement in section  
20 1111(b)(2)(B)(x) to annually assess in English  
21 learners who have been in the United States for  
22 3 or more consecutive years;

23                       “(B) the agency will ensure that eligible  
24 entities receiving a subgrant under this chapter  
25 annually assess the English proficiency of all  
26 English learners participating in a program

1 funded under this chapter, consistent with sec-  
2 tion 1111(b)(2)(D);

3 “(C) in awarding subgrants under section  
4 1193, the agency will address the needs of  
5 school systems of all sizes and in all geographic  
6 areas, including school systems with rural and  
7 urban schools;

8 “(D) subgrants to eligible entities under  
9 section 1193(d)(1) will be of sufficient size and  
10 scope to allow such entities to carry out high-  
11 quality, evidence-based language instruction  
12 educational programs for English learners;

13 “(E) the agency will require an eligible en-  
14 tity receiving a subgrant under this chapter to  
15 use the subgrant in ways that will build such  
16 recipient’s capacity to continue to offer high-  
17 quality evidence-based language instruction edu-  
18 cational programs that assist English learners  
19 in meeting State academic standards;

20 “(F) the agency will monitor the eligible  
21 entity receiving a subgrant under this chapter  
22 for compliance with applicable Federal fiscal re-  
23 quirements; and

24 “(G) the plan has been developed in con-  
25 sultation with local educational agencies, teach-

1           ers, administrators of programs implemented  
2           under this chapter, parents, and other relevant  
3           stakeholders;

4           “(4) describe how the agency will coordinate its  
5           programs and activities under this chapter with  
6           other programs and activities under this Act and  
7           other Acts, as appropriate;

8           “(5) describe how eligible entities in the State  
9           will be given the flexibility to teach English learn-  
10          ers—

11           “(A) using a high-quality, evidence-based  
12           language instruction curriculum for teaching  
13           English learners; and

14           “(B) in the manner the eligible entities de-  
15           termine to be the most effective; and

16           “(6) describe how the agency will assist eligible  
17           entities in increasing the number of English learners  
18           who acquire English proficiency.

19          “(c) APPROVAL.—The Secretary, after using a peer  
20          review process, shall approve a plan submitted under sub-  
21          section (a) if the plan meets the requirements of this sec-  
22          tion.

23          “(d) DURATION OF PLAN.—

1           “(1) IN GENERAL.—Each plan submitted by a  
2 State educational agency and approved under sub-  
3 section (c) shall—

4           “(A) remain in effect for the duration of  
5 the agency’s participation under this chapter;  
6 and

7           “(B) be periodically reviewed and revised  
8 by the agency to reflect changes to the agency’s  
9 strategies and programs carried out under this  
10 subpart.

11           “(2) ADDITIONAL INFORMATION.—

12           “(A) AMENDMENTS.—If the State edu-  
13 cational agency amends the plan, the agency  
14 shall submit such amendment to the Secretary.

15           “(B) APPROVAL.—The Secretary shall ap-  
16 prove such amendment to an approved plan,  
17 unless the Secretary determines that the  
18 amendment will result in the agency not meet-  
19 ing the requirements, or fulfilling the purposes,  
20 of this subpart.

21           “(e) CONSOLIDATED PLAN.—A plan submitted under  
22 subsection (a) may be submitted as part of a consolidated  
23 plan under section 5302.



1           “(f) SECRETARY ASSISTANCE.—The Secretary shall  
2 provide technical assistance, if requested, in the develop-  
3 ment of English proficiency standards and assessments.

4           **“SEC. 1193. WITHIN-STATE ALLOCATIONS.**

5           “(a) IN GENERAL.—After making the reservation re-  
6 quired under subsection (d)(1), each State educational  
7 agency receiving a grant under section 1191(c)(2) shall  
8 award subgrants for a fiscal year by allocating in a timely  
9 manner to each eligible entity in the State having a plan  
10 approved under section 1195 an amount that bears the  
11 same relationship to the amount received under the grant  
12 and remaining after making such reservation as the popu-  
13 lation of English learners in schools served by the eligible  
14 entity bears to the population of English learners in  
15 schools served by all eligible entities in the State.

16           “(b) LIMITATION.—A State educational agency shall  
17 not award a subgrant from an allocation made under sub-  
18 section (a) if the amount of such subgrant would be less  
19 than \$10,000.

20           “(c) REALLOCATION.—Whenever a State educational  
21 agency determines that an amount from an allocation  
22 made to an eligible entity under subsection (a) for a fiscal  
23 year will not be used by the entity for the purpose for  
24 which the allocation was made, the agency shall, in accord-  
25 ance with such rules as it determines to be appropriate,

1 reallocate such amount, consistent with such subsection,  
2 to other eligible entities in the State that the agency deter-  
3 mines will use the amount to carry out that purpose.

4 “(d) REQUIRED RESERVATION.—A State educational  
5 agency receiving a grant under this chapter for a fiscal  
6 year—

7 “(1) shall reserve not more than 15 percent of  
8 the agency’s allotment under section 1191(c)(2) to  
9 award subgrants to eligible entities in the State that  
10 have experienced a significant increase, as compared  
11 to the average of the 2 preceding fiscal years, in the  
12 percentage or number of immigrant children and  
13 youth, who have enrolled, during the fiscal year pre-  
14 ceding the fiscal year for which the subgrant is  
15 made, in public and nonpublic elementary schools  
16 and secondary schools in the geographic areas under  
17 the jurisdiction of, or served by, such entities; and

18 “(2) in awarding subgrants under paragraph  
19 (1)—

20 “(A) shall equally consider eligible entities  
21 that satisfy the requirement of such paragraph  
22 but have limited or no experience in serving im-  
23 migrant children and youth; and

24 “(B) shall consider the quality of each  
25 local plan under section 1195 and ensure that

1           each subgrant is of sufficient size and scope to  
2           meet the purposes of this subpart.

3   **“SEC. 1194. SUBGRANTS TO ELIGIBLE ENTITIES.**

4           “(a) PURPOSES OF SUBGRANTS.—A State edu-  
5   cational agency may make a subgrant to an eligible entity  
6   from funds received by the agency under this chapter only  
7   if the entity agrees to expend the funds to improve the  
8   education of English learners, by assisting the children to  
9   learn English and meet State academic standards. In car-  
10   rying out activities with such funds, the eligible entity  
11   shall use evidence-based approaches and methodologies for  
12   teaching English learners and immigrant children and  
13   youth for the following purposes:

14           “(1) Developing and implementing new lan-  
15   guage instruction educational programs and aca-  
16   demic content instruction programs for English  
17   learners and immigrant children and youth, includ-  
18   ing programs of early childhood education, elemen-  
19   tary school programs, and secondary school pro-  
20   grams.

21           “(2) Carrying out highly focused, innovative, lo-  
22   cally designed, evidence-based activities to expand or  
23   enhance existing language instruction educational  
24   programs and academic content instruction pro-

1       grams for English learners and immigrant children  
2       and youth.

3           “(3) Implementing, within an individual school,  
4       schoolwide programs for restructuring, reforming,  
5       and upgrading all relevant programs, activities, and  
6       operations relating to language instruction edu-  
7       cational programs and academic content instruction  
8       for English learners and immigrant children and  
9       youth.

10          “(4) Implementing, within the entire jurisdic-  
11       tion of a local educational agency, agencywide pro-  
12       grams for restructuring, reforming, and upgrading  
13       all relevant programs, activities, and operations re-  
14       lating to language instruction educational programs  
15       and academic content instruction for English learn-  
16       ers and immigrant children and youth.

17          “(b) ADMINISTRATIVE EXPENSES.—Each eligible en-  
18       tity receiving funds under section 1193(a) for a fiscal year  
19       shall use not more than 2 percent of such funds for the  
20       cost of administering this chapter.

21          “(c) REQUIRED SUBGRANTEE ACTIVITIES.—An eligi-  
22       ble entity receiving funds under section 1193(a) shall use  
23       the funds—

24           “(1) to increase the English language pro-  
25       ficiency of English learners by providing high-qual-

1       ity, evidence-based language instruction educational  
2       programs that meet the needs of English learners  
3       and have demonstrated success in increasing—

4               “(A) English language proficiency; and

5               “(B) student academic achievement in the  
6       core academic subjects;

7               “(2) to provide high-quality, evidence-based  
8       professional development to classroom teachers (in-  
9       cluding teachers in classroom settings that are not  
10      the settings of language instruction educational pro-  
11      grams), school leaders, administrators, and other  
12      school or community-based organization personnel,  
13      that is—

14              “(A) designed to improve the instruction  
15      and assessment of English learners;

16              “(B) designed to enhance the ability of  
17      teachers and school leaders to understand and  
18      implement curricula, assessment practices and  
19      measures, and instruction strategies for English  
20      learners;

21              “(C) evidence-based in increasing chil-  
22      dren’s English language proficiency or substan-  
23      tially increasing the subject matter knowledge,  
24      teaching knowledge, and teaching skills of  
25      teachers; and

1           “(D) of sufficient intensity and duration  
2           (which shall not include activities such as one-  
3           day or short-term workshops and conferences)  
4           to have a positive and lasting impact on the  
5           teachers’ performance in the classroom, except  
6           that this subparagraph shall not apply to an ac-  
7           tivity that is one component of a long-term,  
8           comprehensive professional development plan  
9           established by a teacher and the teacher’s su-  
10          pervisor based on an assessment of the needs of  
11          the teacher, the supervisor, the students of the  
12          teacher, and any local educational agency em-  
13          ploying the teacher, as appropriate; and

14          “(3) to provide and implement other evidence-  
15          based activities and strategies that enhance or sup-  
16          plement language instruction educational programs  
17          for English learners, including parental and commu-  
18          nity engagement activities and strategies that serve  
19          to coordinate and align related programs.

20          “(d) AUTHORIZED SUBGRANTEE ACTIVITIES.—Sub-  
21          ject to subsection (c), an eligible entity receiving funds  
22          under section 1193(a) may use the funds to achieve one  
23          of the purposes described in subsection (a) by undertaking  
24          one or more of the following activities:

1           “(1) Upgrading program objectives and effective instruction strategies.

2           “(2) Improving the instruction program for English learners by identifying, acquiring, and upgrading curricula, instruction materials, educational software, and assessment procedures.

3           “(3) Providing to English learners—

4           “(A) tutorials and academic or career education for English learners; and

5           “(B) intensified instruction.

6           “(4) Developing and implementing elementary school or secondary school language instruction educational programs that are coordinated with other relevant programs and services.

7           “(5) Improving the English language proficiency and academic achievement of English learners.

8           “(6) Providing community participation programs, family literacy services, and parent outreach and training activities to English learners and their families—

9           “(A) to improve the English language skills of English learners; and

10           “(B) to assist parents in helping their children to improve their academic achievement

1 and becoming active participants in the edu-  
2 cation of their children.

3 “(7) Improving the instruction of English learn-  
4 ers by providing for—

5 “(A) the acquisition or development of  
6 educational technology or instructional mate-  
7 rials;

8 “(B) access to, and participation in, elec-  
9 tronic networks for materials, training, and  
10 communication; and

11 “(C) incorporation of the resources de-  
12 scribed in subparagraphs (A) and (B) into cur-  
13 ricula and programs, such as those funded  
14 under this chapter.

15 “(8) Carrying out other activities that are con-  
16 sistent with the purposes of this section.

17 “(e) ACTIVITIES BY AGENCIES EXPERIENCING SUB-  
18 STANTIAL INCREASES IN IMMIGRANT CHILDREN AND  
19 YOUTH.—

20 “(1) IN GENERAL.—An eligible entity receiving  
21 funds under section 1193(d)(1) shall use the funds  
22 to pay for activities that provide enhanced instruc-  
23 tional opportunities for immigrant children and  
24 youth, which may include—



1           “(A) family literacy, parent outreach, and  
2 training activities designed to assist parents to  
3 become active participants in the education of  
4 their children;

5           “(B) support for personnel, including para-  
6 professionals who have been specifically trained,  
7 or are being trained, to provide services to im-  
8 migrant children and youth;

9           “(C) provision of tutorials, mentoring, and  
10 academic or career counseling for immigrant  
11 children and youth;

12           “(D) identification, development, and ac-  
13 quisition of curricular materials, educational  
14 software, and technologies to be used in the  
15 program carried out with awarded funds;

16           “(E) basic instruction services that are di-  
17 rectly attributable to the presence in the local  
18 educational agency involved of immigrant chil-  
19 dren and youth, including the payment of costs  
20 of providing additional classroom supplies, costs  
21 of transportation, or such other costs as are di-  
22 rectly attributable to such additional basic in-  
23 struction services;

24           “(F) other instruction services that are de-  
25 signed to assist immigrant children and youth

1 to achieve in elementary schools and secondary  
2 schools in the United States, such as programs  
3 of introduction to the educational system and  
4 civics education; and

5 “(G) activities, coordinated with commu-  
6 nity-based organizations, institutions of higher  
7 education, private sector entities, or other enti-  
8 ties with expertise in working with immigrants,  
9 to assist parents of immigrant children and  
10 youth by offering comprehensive community  
11 services.

12 “(2) DURATION OF SUBGRANTS.—The duration  
13 of a subgrant made by a State educational agency  
14 under section 1193(d)(1) shall be determined by the  
15 agency in its discretion.

16 “(f) SELECTION OF METHOD OF INSTRUCTION.—

17 “(1) IN GENERAL.—To receive a subgrant from  
18 a State educational agency under this chapter, an el-  
19 igible entity shall select one or more methods or  
20 forms of instruction to be used in the programs and  
21 activities undertaken by the entity to assist English  
22 learners to attain English language proficiency and  
23 meet State academic standards.

24 “(2) CONSISTENCY.—Such selection shall be  
25 consistent with sections 1204 through 1206.

1       “(g) SUPPLEMENT, NOT SUPPLANT.—Federal funds  
2 made available under this chapter shall be used so as to  
3 supplement the level of Federal, State, and local public  
4 funds that, in the absence of such availability, would have  
5 been expended for programs for English learners and im-  
6 migrant children and youth and in no case to supplant  
7 such Federal, State, and local public funds.

8       **“SEC. 1195. LOCAL PLANS.**

9       “(a) PLAN REQUIRED.—Each eligible entity desiring  
10 a subgrant from the State educational agency under sec-  
11 tion 1193 shall submit a plan to the State educational  
12 agency at such time, in such manner, and containing such  
13 information as the State educational agency may require.

14       “(b) CONTENTS.—Each plan submitted under sub-  
15 section (a) shall—

16               “(1) describe the evidence-based programs and  
17 activities proposed to be developed, implemented,  
18 and administered under the subgrant that will help  
19 English learners increase their English language  
20 proficiency and meet the State academic standards;

21               “(2) describe how the eligible entity will hold el-  
22 elementary schools and secondary schools receiving  
23 funds under this chapter accountable for annually  
24 assessing the English language proficiency of all

1 children participating under this subpart, consistent  
2 with section 1111(b);

3 “(3) describe how the eligible entity will pro-  
4 mote parent and community engagement in the edu-  
5 cation of English learners;

6 “(4) contain an assurance that the eligible enti-  
7 ty consulted with teachers, researchers, school ad-  
8 ministrators, parents and community members, pub-  
9 lic or private organizations, and institutions of high-  
10 er education, in developing and implementing such  
11 plan;

12 “(5) describe how language instruction edu-  
13 cational programs carried out under the subgrant  
14 will ensure that English learners being served by the  
15 programs develop English language proficiency; and

16 “(6) contain assurances that—

17 “(A) each local educational agency that is  
18 included in the eligible entity is complying with  
19 section 1112(g) prior to, and throughout, each  
20 school year; and

21 “(B) the eligible entity is not in violation  
22 of any State law, including State constitutional  
23 law, regarding the education of English learn-  
24 ers, consistent with sections 1205 and 1206.

1           “(c) **TEACHER ENGLISH FLUENCY.**—Each eligible  
2 entity receiving a subgrant under section 1193 shall in-  
3 clude in its plan a certification that all teachers in any  
4 language instruction educational program for English  
5 learners that is, or will be, funded under this subpart are  
6 fluent in English and any other language used for instruc-  
7 tion, including having written and oral communications  
8 skills.

9                           **“CHAPTER B—ADMINISTRATION**

10 **“SEC. 1201. REPORTING.**

11           “(a) **IN GENERAL.**—Each eligible entity that receives  
12 a subgrant from a State educational agency under chapter  
13 A shall provide such agency, at the conclusion of every  
14 second fiscal year during which the subgrant is received,  
15 with a report, in a form prescribed by the agency, that  
16 includes—

17                   “(1) a description of the programs and activi-  
18 ties conducted by the entity with funds received  
19 under chapter A during the two immediately pre-  
20 ceding fiscal years, including how such programs  
21 and activities supplemented programs funded pri-  
22 marily with State or local funds;

23                   “(2) a description of the progress made by  
24 English learners in learning the English language  
25 and in meeting State academic standards;

1           “(3) the number and percentage of English  
2 learners in the programs and activities attaining  
3 English language proficiency based on the State  
4 English language proficiency standards established  
5 under section 1111(b)(1)(E) by the end of each  
6 school year, as determined by the State’s English  
7 language proficiency assessment;

8           “(4) the number of English learners who exit  
9 the language instruction educational programs based  
10 on their attainment of English language proficiency  
11 and transitioned to classrooms not tailored for  
12 English learners;

13           “(5) a description of the progress made by  
14 English learners in meeting the State academic  
15 standards for each of the 2 years after such children  
16 are no longer receiving services under this subpart;

17           “(6) the number and percentage of English  
18 learners who have not attained English language  
19 proficiency within five years of initial classification  
20 as an English learner and first enrollment in the  
21 local educational agency; and

22           “(7) any such other information as the State  
23 educational agency may require.

1           “(b) USE OF REPORT.—An report provided by an eli-  
2 gible entity under subsection (a) shall be used by the enti-  
3 ty and the State educational agency—

4                   “(1) to determine the effectiveness of programs  
5 and activities in assisting children who are English  
6 learners—

7                           “(A) to attain English language pro-  
8 ficiency; and

9                           “(B) to make progress in meeting State  
10 academic standards under section 1111(b)(1);  
11 and

12                   “(2) upon determining the effectiveness of pro-  
13 grams and activities based on the criteria in para-  
14 graph (1), to decide how to improve programs.

15 **“SEC. 1202. ANNUAL REPORT.**

16           “(a) STATES.—Based upon the reports provided to  
17 a State educational agency under section 1201, each such  
18 agency that receives a grant under this subpart shall pre-  
19 pare and submit annually to the Secretary a report on pro-  
20 grams and activities carried out by the State educational  
21 agency under this subpart and the effectiveness of such  
22 programs and activities in improving the education pro-  
23 vided to English learners.

24           “(b) SECRETARY.—Annually, the Secretary shall pre-  
25 pare and submit to the Committee on Education and the

1 Workforce of the House of Representatives and the Com-  
2 mittee on Health, Education, Labor, and Pensions of the  
3 Senate a report—

4 “(1) on programs and activities carried out to  
5 serve English learners under this subpart, and the  
6 effectiveness of such programs and activities in im-  
7 proving the academic achievement and English lan-  
8 guage proficiency of English learners;

9 “(2) on the types of language instruction edu-  
10 cational programs used by local educational agencies  
11 or eligible entities receiving funding under this sub-  
12 part to teach English learners;

13 “(3) containing a critical synthesis of data re-  
14 ported by eligible entities to States under section  
15 1201(a);

16 “(4) containing a description of technical assist-  
17 ance and other assistance provided by State edu-  
18 cational agencies under section 1191(b)(2)(C);

19 “(5) containing an estimate of the number of  
20 effective teachers working in language instruction  
21 educational programs and educating English learn-  
22 ers, and an estimate of the number of such teachers  
23 that will be needed for the succeeding 5 fiscal years;

24 “(6) containing the number of programs or ac-  
25 tivities, if any, that were terminated because the en-



1 titles carrying out the programs or activities were  
2 not able to reach program goals;

3 “(7) containing the number of English learners  
4 served by eligible entities receiving funding under  
5 this subpart who were transitioned out of language  
6 instruction educational programs funded under this  
7 subpart into classrooms where instruction is not tai-  
8 lored for English learners; and

9 “(8) containing other information gathered  
10 from other reports submitted to the Secretary under  
11 this subpart when applicable.

12 **“SEC. 1203. COORDINATION WITH RELATED PROGRAMS.**

13 “In order to maximize Federal efforts aimed at serv-  
14 ing the educational needs of children of English learners,  
15 the Secretary shall coordinate and ensure close coopera-  
16 tion with other entities carrying out programs serving lan-  
17 guage-minority and English learners that are adminis-  
18 tered by the Department and other agencies.

19 **“SEC. 1204. RULES OF CONSTRUCTION.**

20 “Nothing in this subpart shall be construed—

21 “(1) to prohibit a local educational agency from  
22 serving English learners simultaneously with chil-  
23 dren with similar educational needs, in the same  
24 educational settings where appropriate;

1           “(2) to require a State or a local educational  
2           agency to establish, continue, or eliminate any par-  
3           ticular type of instructional program for English  
4           learners; or

5           “(3) to limit the preservation or use of Native  
6           American languages.

7   **“SEC. 1205. LEGAL AUTHORITY UNDER STATE LAW.**

8           “Nothing in this subpart shall be construed to negate  
9           or supersede State law, or the legal authority under State  
10          law of any State agency, State entity, or State public offi-  
11          cial, over programs that are under the jurisdiction of the  
12          State agency, entity, or official.

13   **“SEC. 1206. CIVIL RIGHTS.**

14          “Nothing in this subpart shall be construed in a man-  
15          ner inconsistent with any Federal law guaranteeing a civil  
16          right.

17   **“SEC. 1207. PROGRAMS FOR NATIVE AMERICANS AND**  
18                   **PUERTO RICO.**

19          “Notwithstanding any other provision of this subpart,  
20          programs authorized under this subpart that serve Native  
21          American (including Native American Pacific Islander)  
22          children and children in the Commonwealth of Puerto Rico  
23          may include programs of instruction, teacher training,  
24          curriculum development, evaluation, and assessment de-  
25          signed for Native American children learning and studying

1 Native American languages and children of limited Span-  
2 ish proficiency, except that an outcome of programs serv-  
3 ing such children shall be increased English proficiency  
4 among such children.

5 **“SEC. 1208. PROHIBITION.**

6 “In carrying out this subpart, the Secretary shall nei-  
7 ther mandate nor preclude the use of a particular cur-  
8 ricular or pedagogical approach to educating English  
9 learners.

10 **“CHAPTER C—NATIONAL ACTIVITIES**

11 **“SEC. 1211. NATIONAL PROFESSIONAL DEVELOPMENT**  
12 **PROJECT.**

13 “The Secretary shall use funds made available under  
14 section 1191(e)(1)(B) to award grants on a competitive  
15 basis, for a period of not more than 5 years, to institutions  
16 of higher education or public or private organizations with  
17 relevant experience and capacity (in consortia with State  
18 educational agencies or local educational agencies) to pro-  
19 vide for professional development activities that will im-  
20 prove classroom instruction for English learners and assist  
21 educational personnel working with such children to meet  
22 high professional standards, including standards for cer-  
23 tification and licensure as teachers who work in language  
24 instruction educational programs or serve English learn-  
25 ers. Grants awarded under this subsection may be used—

1           “(1) for preservice, evidence-based professional  
2           development programs that will assist local schools  
3           and institutions of higher education to upgrade the  
4           qualifications and skills of educational personnel who  
5           are not certified or licensed, especially educational  
6           paraprofessionals;

7           “(2) for the development of curricula or other  
8           instructional strategies appropriate to the needs of  
9           the consortia participants involved;

10           “(3) to support strategies that strengthen and  
11           increase parent and community member engagement  
12           in the education of English learners; and

13           “(4) to share and disseminate evidence-based  
14           practices in the instruction of English learners and  
15           in increasing their student achievement.

16           **“CHAPTER D—GENERAL PROVISIONS**

17           **“SEC. 1221. DEFINITIONS.**

18           “Except as otherwise provided, in this subpart:

19           “(1) CHILD.—The term ‘child’ means any indi-  
20           vidual aged 3 through 21.

21           “(2) COMMUNITY-BASED ORGANIZATION.—The  
22           term ‘community-based organization’ means a pri-  
23           vate nonprofit organization of demonstrated effec-  
24           tiveness, Indian tribe, or tribally sanctioned edu-  
25           cational authority, that is representative of a com-

1 community or significant segments of a community and  
2 that provides educational or related services to indi-  
3 viduals in the community. Such term includes a Na-  
4 tive Hawaiian or Native American Pacific Islander  
5 native language educational organization.

6 “(3) ELIGIBLE ENTITY.—The term ‘eligible en-  
7 tity’ means—

8 “(A) one or more local educational agen-  
9 cies; or

10 “(B) one or more local educational agen-  
11 cies, in consortia (or collaboration) with an in-  
12 stitution of higher education, community-based  
13 organization, or State educational agency.

14 “(4) IMMIGRANT CHILDREN AND YOUTH.—The  
15 term ‘immigrant children and youth’ means individ-  
16 uals who—

17 “(A) are age 3 through 21;

18 “(B) were not born in any State; and

19 “(C) have not been attending one or more  
20 schools in any one or more States for more  
21 than 3 full academic years.

22 “(5) INDIAN TRIBE.—The term ‘Indian tribe’  
23 means any Indian tribe, band, nation, or other orga-  
24 nized group or community, including any Native vil-  
25 lage or Regional Corporation or Village Corporation

1 as defined in or established pursuant to the Alaska  
2 Native Claims Settlement Act, that is recognized as  
3 eligible for the special programs and services pro-  
4 vided by the United States to Indians because of  
5 their status as Indians.

6 “(6) LANGUAGE INSTRUCTION EDUCATIONAL  
7 PROGRAM.—The term ‘language instruction edu-  
8 cational program’ means an instruction course—

9 “(A) in which an English learner is placed  
10 for the purpose of developing and attaining  
11 English language proficiency, while meeting  
12 State academic standards, as required by sec-  
13 tion 1111(b)(1); and

14 “(B) that may make instructional use of  
15 both English and a child’s native language to  
16 enable the child to develop and attain English  
17 language proficiency, and may include the par-  
18 ticipation of English language proficient chil-  
19 dren if such course is designed to enable all  
20 participating children to become proficient in  
21 English and a second language.

22 “(7) NATIVE AMERICAN AND NATIVE AMERICAN  
23 LANGUAGE.—The terms ‘Native American’ and ‘Na-  
24 tive American language’ shall have the meanings

1 given such terms in section 103 of the Native Amer-  
2 ican Languages Act.

3 “(8) NATIVE LANGUAGE.—The term ‘native  
4 language’, when used with reference to English  
5 learner, means—

6 “(A) the language normally used by such  
7 individual; or

8 “(B) in the case of a child or youth, the  
9 language normally used by the parents of the  
10 child or youth.

11 “(9) PARAPROFESSIONAL.—The term ‘para-  
12 professional’ means an individual who is employed in  
13 a preschool, elementary school, or secondary school  
14 under the supervision of a certified or licensed teach-  
15 er, including individuals employed in language in-  
16 struction educational programs, special education,  
17 and migrant education.

18 “(10) STATE.—The term ‘State’ means each of  
19 the 50 States, the District of Columbia, and the  
20 Commonwealth of Puerto Rico.

21 **“SEC. 1222. NATIONAL CLEARINGHOUSE.**

22 “The Secretary shall establish and support the oper-  
23 ation of a National Clearinghouse for English Language  
24 Acquisition and Language Instruction Educational Pro-  
25 grams, which shall collect, analyze, synthesize, and dis-

1 seminate information about language instruction edu-  
2 cational programs for English learners, and related pro-  
3 grams. The National Clearinghouse shall—

4           “(1) be administered as an adjunct clearing-  
5           house of the Educational Resources Information  
6           Center Clearinghouses system supported by the In-  
7           stitute of Education Sciences;

8           “(2) coordinate activities with Federal data and  
9           information clearinghouses and entities operating  
10          Federal dissemination networks and systems;

11          “(3) develop a system for improving the oper-  
12          ation and effectiveness of federally funded language  
13          instruction educational programs; and

14          “(4) collect and disseminate information on—

15                 “(A) educational research and processes  
16                 related to the education of English learners;  
17                 and

18                 “(B) accountability systems that monitor  
19                 the academic progress of English learners in  
20                 language instruction educational programs, in-  
21                 cluding information on academic content and  
22                 English language proficiency assessments for  
23                 language instruction educational programs; and

24          “(5) publish, on an annual basis, a list of grant  
25          recipients under this subpart.



1 **“SEC. 1223. REGULATIONS.**

2 “In developing regulations under this subpart, the  
3 Secretary shall consult with State educational agencies  
4 and local educational agencies, organizations representing  
5 English learners, and organizations representing teachers  
6 and other personnel involved in the education of English  
7 learners.

8 “SUBPART 5—RURAL ACHIEVEMENT EDUCATION  
9 PROGRAM

10 **“SEC. 1231. PURPOSE.**

11 “It is the purpose of this subpart to address the  
12 unique needs of rural school districts that frequently—

13 “(1) lack the personnel and resources needed to  
14 compete effectively for Federal competitive grants;  
15 and

16 “(2) receive formula grant allocations in  
17 amounts too small to be effective in meeting their in-  
18 tended purposes.

19 **“SEC. 1232. GRANT PROGRAM AUTHORIZED.**

20 “(a) PROGRAM AUTHORIZED.—

21 “(1) IN GENERAL.—From amounts appro-  
22 priated under section 3(a)(1) for a fiscal year, the  
23 Secretary shall reserve one percent of such funds for  
24 the purposes of this subpart.

25 “(2) GRANTS AWARDED.—From amounts re-  
26 served under paragraph (1) and not reserved under

1 subsection (c), the Secretary shall make allotments  
2 for the fiscal year to State educational agencies that  
3 have applications submitted under section 1233 ap-  
4 proved to enable the State educational agencies to  
5 award grants to eligible local educational agencies  
6 for local authorized activities described in section  
7 1235.

8 “(b) ALLOTMENTS TO STATES.—

9 “(1) DETERMINATION OF INITIAL AMOUNTS.—

10 “(A) IN GENERAL.—Subject to subpara-  
11 graph (B), from amounts described in sub-  
12 section (a)(2), the Secretary shall allot to each  
13 State educational agency an amount that is  
14 equal to the sum of—

15 “(i) the total amount received by local  
16 educational agencies in such State under  
17 section 6212; and

18 “(ii) the amount received by such  
19 State educational agency under section  
20 6221;

21 as those sections were in effect on the day prior  
22 to the date of the enactment of the Student  
23 Success Act.

24 “(B) RATABLE REDUCTION.—If the funds  
25 described under subparagraph (A) are insuffi-

1           cient to pay the full amounts that all States are  
2           eligible to receive under subparagraph (A) for  
3           any fiscal year, the Secretary shall ratably re-  
4           duce those amounts for the fiscal year.

5           “(2)     DETERMINATION     OF     ADDITIONAL  
6           FUNDS.—For any fiscal year for which the funds re-  
7           served under subsection (a)(1) exceed the total  
8           amount required to make allotments under para-  
9           graph (1) the Secretary shall allot—

10                   “(A) 50 percent of such excess funds to  
11                   each State educational agency based on the  
12                   amount that bears the same ratio to those  
13                   amounts as the number of students in average  
14                   daily attendance served by rural, low-income  
15                   local educational agencies in the State for that  
16                   fiscal year to the number of all such students  
17                   served by rural, low-income local educational  
18                   agencies in all States for that fiscal year; and

19                   “(B) 50 percent of such excess funds to  
20                   each State educational agency based on the  
21                   amount that bears the same ratio to those  
22                   amounts as the number of students in weighted  
23                   average daily attendance served by small, rural  
24                   local educational agencies in the State for that  
25                   fiscal year to the number of all such students

1           in weighted average daily attendance served by  
2           small, rural local educational agencies in all  
3           States for that fiscal year.

4           “(c) RESERVATIONS.—From amounts reserved under  
5 subsection (a)(1) for this subpart for a fiscal year, the  
6 Secretary shall reserve—

7           “(1) one-quarter of one percent to make awards  
8           to elementary schools or secondary schools operated  
9           or supported by the Bureau of Indian Education, to  
10          carry out the activities authorized under this sub-  
11          part; and

12          “(2) one-quarter of one percent to make awards  
13          to the outlying areas in accordance with their re-  
14          spective needs, to carry out the activities authorized  
15          under this subpart.

16          “(d) DEFINITIONS.—For purposes of this subpart:

17          “(1) RURAL, LOW-INCOME LOCAL EDUCATIONAL  
18          AGENCY.—The term ‘rural, low-income local edu-  
19          cational agency’ means a local educational agency in  
20          which—

21                  “(A) all of the schools served by the local  
22                  educational agency are designated with a school  
23                  locale code of 32 or 33, as determined by the  
24                  Secretary; and

1           “(B) 20 percent or more of the children  
2           ages 5 through 17 years served by the local  
3           educational agency are from families with in-  
4           comes below the poverty line.

5           “(2) SMALL, RURAL LOCAL EDUCATIONAL  
6           AGENCY.—The term ‘small, rural local educational  
7           agency’ means a local educational agency in which—

8                   “(A)(i) the total number of students in av-  
9                   erage daily attendance at all of the schools  
10                  served by the local educational agency is fewer  
11                  than 600; or

12                   “(ii) each county in which a school served  
13                  by the local educational agency is located has a  
14                  total population density of fewer than 10 per-  
15                  sons per square mile; and

16                   “(B) all of the schools served by the local  
17                  educational agency are designated with a school  
18                  locale code of 41, 42, or 43, as determined by  
19                  the Secretary;

20           “(3) WEIGHTED AVERAGE DAILY ATTEND-  
21           ANCE.—The term ‘weighted average daily attend-  
22           ance’ means the sum of—

23                   “(A) 20,000 students; and

24                   “(B) the product of—

1                   “(i) the number of students in aver-  
2                   age daily attendance in excess of 50 stu-  
3                   dents; and

4                   “(ii) 100;  
5                   except that such term shall not exceed 60,000  
6                   students.

7                   “(4) SPECIALLY QUALIFIED AGENCY.—The  
8                   term ‘specially qualified agency’ means an eligible  
9                   local educational agency served by a State edu-  
10                  cational agency that does not participate in a pro-  
11                  gram under this subpart in a fiscal year, that may  
12                  apply directly to the Secretary for a grant in such  
13                  year under this subpart.

14                  “(e) SPECIALLY QUALIFIED AGENCY.—

15                  “(1) ELIGIBILITY AND APPLICATION.—If a  
16                  State educational agency elects not to participate in  
17                  the program under this subpart or does not have an  
18                  application submitted under section 1233 approved,  
19                  a specially qualified agency in such State desiring a  
20                  grant under this subpart may submit an application  
21                  under such section directly to the Secretary to re-  
22                  ceive an award under this subpart.

23                  “(2) DIRECT AWARDS.—The Secretary may  
24                  award, on a competitive basis or by formula, the  
25                  amount the State educational agency is eligible to

1 receive under subsection (b) directly to a specially  
2 qualified agency in the State that has submitted an  
3 application in accordance with 1233 and obtained  
4 approval of the application.

5 **“SEC. 1233. APPLICATION.**

6 “(a) IN GENERAL.—Each State educational agency  
7 or specially qualified agency desiring to receive a grant  
8 under this subpart shall submit an application to the Sec-  
9 retary at such time and in such manner as the Secretary  
10 may require.

11 “(b) CONTENTS.—Each application submitted under  
12 this section shall include information on specific activities  
13 to be carried out through the grant, which shall include  
14 activities to—

15 “(1) increase student academic achievement  
16 consistent with State academic standards under sec-  
17 tion 1111(b)(1);

18 “(2) increase graduation rates;

19 “(3) describe how the State educational agency  
20 or specially qualified agency plans to use funds allot-  
21 ted under this section; and

22 “(4) if the State educational agency or specially  
23 qualified agency will competitively award grants to  
24 eligible local educational agencies, as described in

1 section 1234(b)(2), the application under this sec-  
2 tion shall include—

3 “(A) the methods and criteria the State  
4 educational agency or specially qualified agency  
5 will use for reviewing applications and awarding  
6 funds to local educational agencies on a com-  
7 petitive basis; and

8 “(B) how the State educational agency or  
9 specially qualified agency will notify eligible  
10 local educational agencies of the grant competi-  
11 tion.

12 **“SEC. 1234. STATE USES OF FUNDS; IN-STATE ALLOTMENTS.**

13 “(a) AWARD BASIS.—A State educational agency or  
14 specially qualified agency that receives a grant under sec-  
15 tion 1232(b) shall, after making the reservation under  
16 subsection (e), award grants to rural, low-income local  
17 educational agencies and small, rural local educational  
18 agencies in accordance with this section.

19 “(b) DETERMINATION OF AMOUNTS.—

20 “(1) IN GENERAL.—The State educational  
21 agency shall allot—

22 “(A) 50 percent of the amount the State  
23 received under section 1232(b) to rural, low-in-  
24 come local educational agencies based on the  
25 amount that bears the same ratio to such



1 amount as the number of students in average  
2 daily attendance served by such local edu-  
3 cational agency for that fiscal year to the num-  
4 ber of all such students served by such local  
5 educational agencies in the State for that fiscal  
6 year; and

7 “(B) 50 percent of the amount the State  
8 received under section 1232(b) to small, rural  
9 local educational agencies based on the amount  
10 that bears the same ratio to such amount as  
11 the number of students in weighted average  
12 daily attendance served by such local edu-  
13 cational agency for that fiscal year to the num-  
14 ber of all such students in weighted average  
15 daily attendance served by such local edu-  
16 cational agencies in the State for that fiscal  
17 year.

18 “(2) ALTERNATE METHOD.—The State edu-  
19 cational agency may allot funds through a competi-  
20 tive process according to the methods and criteria  
21 described in section 1233(b)(4).

22 “(c) HOLD HARMLESS.—

23 “(1) IN GENERAL.—Notwithstanding subsection  
24 (b), each local educational agency shall receive an  
25 amount at least equal to the amount such agency re-

1 received under sections 6212 and 6221 as those sec-  
2 tions were in effect on the day prior to the date of  
3 the enactment of the Student Success Act.

4 “(2) EXCEPTION.—This subsection shall not  
5 apply to any local educational agency that received  
6 funds competitively under section 6221(b) as that  
7 section was in effect on the day prior to the date of  
8 the enactment of the Student Success Act.

9 “(d) RATABLE REDUCTION.—If the amount made  
10 available to carry out this subpart for any fiscal year is  
11 not sufficient to pay in full the amounts described in sub-  
12 section (c), the State educational agency shall ratably re-  
13 duce such amounts for such year.

14 “(e) ADMINISTRATIVE COSTS.—A State educational  
15 agency receiving a grant under this subpart shall not use  
16 more than 3 percent of the amount of the grant for State  
17 administrative costs and to provide technical assistance to  
18 eligible local educational agencies.

19 **“SEC. 1235. USES OF FUNDS.**

20 “Grant funds awarded to local educational agencies  
21 under this subpart shall be used for any of the following:

22 “(1) Teacher recruitment and retention, includ-  
23 ing the use of signing bonuses, performance pay and  
24 other financial incentives.

1           “(2) Teacher professional development, includ-  
2           ing programs that train special education teachers  
3           and provide innovative ways to teach core academic  
4           subjects to increase student achievement.

5           “(3) Parental involvement activities.

6           “(4) Activities authorized under subpart 1.

7           “(5) To support activities and programs au-  
8           thorized under title III.

9   **“SEC. 1236. LOCAL APPLICATION.**

10          “An eligible local educational agency shall notify the  
11          State educational agency of the local educational agency’s  
12          intention to use the funding in accordance with local uses  
13          described in section 1235(a), by a date that is established  
14          by the State educational agency for the notification.

15   **“SEC. 1237. ANNUAL AVERAGE DAILY ATTENDANCE DETER-**  
16                                   **MINATION.**

17          “(a) CENSUS DETERMINATION.—Each local edu-  
18          cational agency and specially qualified agency desiring a  
19          grant under this subpart shall—

20                 “(1) not later than December 1 of each year,  
21                 conduct a census to determine the number of stu-  
22                 dents in average daily attendance in kindergarten  
23                 through grade 12 at the schools served by the agen-  
24                 cy; and

1           “(2) not later than March 1 of each year, sub-  
2           mit the number described in paragraph (1) to the  
3           Secretary and to the State educational agency.

4           “(b) PENALTY.—If the Secretary determines that a  
5           local educational agency has knowingly submitted false in-  
6           formation under paragraphs (1) and (2) of subsection (a)  
7           for the purpose of gaining additional funds under section  
8           1234, then the agency shall be fined an amount equal to  
9           twice the difference between the amount the agency re-  
10          ceived under such section and the correct amount the  
11          agency would have received under such section if the agen-  
12          cy had submitted accurate information under paragraphs  
13          (1) and (2) of subsection (a).

14          **“SEC. 1238. ACCOUNTABILITY.**

15          “(a) STATE REPORT.—Each State educational agen-  
16          cy or specially qualified agency that receives a grant under  
17          this subpart shall prepare and submit an annual report  
18          to the Secretary. The report shall describe—

19                 “(1) how local educational agencies and schools  
20                 used funds provided under this subpart; and

21                 “(2) the degree to which progress has been  
22                 made toward meeting the goals and objectives of  
23                 those activities specified in paragraphs (1) and (2)  
24                 of section 1233(b).

1       “(b) REPORT TO CONGRESS.—The Secretary shall  
2 prepare and submit to the Committee on Education and  
3 the Workforce of the House of Representatives and the  
4 Committee on Health, Education, Labor, and Pensions of  
5 the Senate a biennial report. The report shall describe—

6               “(1) how State educational agencies, local edu-  
7 cational agencies, and schools used funds provided  
8 under this subpart; and

9               “(2) the degree to which progress has been  
10 made toward meeting the goals and objectives of  
11 those activities specified in paragraphs (1) and (2)  
12 of section 1233(b).

13 **“SEC. 1239. SUPPLEMENT, NOT SUPPLANT.**

14       “Funds made available under this subpart shall be  
15 used to supplement, and not supplant, any other Federal,  
16 State, or local education funds.

17 **“SEC. 1240. RULE OF CONSTRUCTION.**

18       “Nothing in this subpart shall be construed to pro-  
19 hibit a local educational agency that enters into coopera-  
20 tive arrangements with other local educational agencies for  
21 the provision of special, compensatory, or other education  
22 services, pursuant to State law or a written agreement,  
23 from entering into similar arrangements for the use, or  
24 the coordination of the use, of the funds made available  
25 under this subpart.

1                   “SUBPART 6—INDIAN EDUCATION

2   **“SEC. 1251. STATEMENT OF POLICY.**

3           “It is the policy of the United States to fulfill the  
4 Federal Government’s unique and continuing trust rela-  
5 tionship with and responsibility to the Indian people for  
6 the education of Indian children. The Federal Government  
7 will continue to work with local educational agencies, In-  
8 dian tribes and organizations, postsecondary institutions,  
9 and other entities toward the goal of ensuring that pro-  
10 grams that serve Indian children are of the highest quality  
11 and provide for not only the basic elementary and sec-  
12 ondary educational needs, but also the unique educational  
13 and culturally related academic needs of these children.

14   **“SEC. 1252. PURPOSE.**

15           “(a) PURPOSE.—It is the purpose of this subpart to  
16 support the efforts of local educational agencies, Indian  
17 tribes and organizations, postsecondary institutions, and  
18 other entities—

19                   “(1) to meet the unique educational and cul-  
20 turally related academic needs of American Indian  
21 and Alaska Native students, so that such students  
22 can meet the State academic standards that all stu-  
23 dents are expected to meet; and

24                   “(2) to ensure that school leaders, teachers, and  
25 other staff who serve Indian and Alaska Native stu-

1       dents have the ability and training to provide appro-  
2       priate instruction to meet the unique academic needs  
3       of such students.

4       **“CHAPTER A—FORMULA GRANTS TO LOCAL**  
5                                   **EDUCATIONAL AGENCIES**

6       **“SEC. 1261. PURPOSE.**

7                “It is the purpose of this chapter to support local  
8       educational agencies in their efforts to reform elementary  
9       school and secondary school programs that serve Indian  
10       students in order to ensure that such programs are de-  
11       signed to—

12                   “(1) meet the unique educational needs of such  
13       students; and

14                   “(2) ensure that such students have the oppor-  
15       tunity to meet the State academic standards.

16       **“SEC. 1262. GRANTS TO LOCAL EDUCATIONAL AGENCIES**  
17                                   **AND TRIBES.**

18                “(a) IN GENERAL.—From amounts appropriated  
19       under section 3(a)(1), the Secretary shall reserve .6 of one  
20       percent to local educational agencies and Indian tribes in  
21       accordance with this section and section 1263.

22                “(b) LOCAL EDUCATIONAL AGENCIES.—

23                   “(1) ENROLLMENT REQUIREMENTS.—A local  
24       educational agency shall be eligible for a grant under  
25       this chapter for any fiscal year if the number of In-

1       dian children eligible under section 1267 who were  
2       enrolled in the schools of the agency, and to whom  
3       the agency provided free public education, during  
4       the preceding fiscal year—

5               “(A) was at least 10; or

6               “(B) constituted not less than 25 percent  
7       of the total number of individuals enrolled in  
8       the schools of such agency.

9               “(2) EXCLUSION.—The requirement of para-  
10       graph (1) shall not apply in Alaska, California, or  
11       Oklahoma, or with respect to any local educational  
12       agency located on, or in proximity to, an Indian res-  
13       ervation.

14              “(c) INDIAN TRIBES.—

15               “(1) IN GENERAL.—If a local educational agen-  
16       cy that is otherwise eligible for a grant under this  
17       chapter does not establish a committee under section  
18       1264(c)(4) for such grant, an Indian tribe or a con-  
19       sortium of such entities that represents not less than  
20       ½ of the eligible Indian children who are served by  
21       such local educational agency may apply for such  
22       grant.

23               “(2) SPECIAL RULE.—The Secretary shall treat  
24       each Indian tribe or consortium of such entities ap-  
25       plying for a grant pursuant to paragraph (1) as if



1 such Indian tribe were a local educational agency for  
2 purposes of this chapter, except that any such tribe  
3 is not subject to section 1264(c)(4) or section 1269.

4 “(3) ELIGIBILITY.—If more than 1 Indian tribe  
5 qualifies to apply for a grant under paragraph (1),  
6 the entity that represents the most eligible Indian  
7 children who are served by the local educational  
8 agency shall be eligible to receive the grant or the  
9 tribes may choose to apply in consortium.

10 **“SEC. 1263. AMOUNT OF GRANTS.**

11 “(a) AMOUNT OF GRANT AWARDS.—

12 “(1) IN GENERAL.—Except as provided in sub-  
13 section (b) and paragraph (2), the Secretary shall  
14 allocate to each local educational agency that has an  
15 approved application under this chapter an amount  
16 equal to the product of—

17 “(A) the number of Indian children who  
18 are eligible under section 1267 and served by  
19 such agency; and

20 “(B) the greater of—

21 “(i) the average per pupil expenditure  
22 of the State in which such agency is lo-  
23 cated; or

24 “(ii) 80 percent of the average per  
25 pupil expenditure of all the States.

1           “(2) REDUCTION.—The Secretary shall reduce  
2           the amount of each allocation otherwise determined  
3           under this section in accordance with subsection (e).

4           “(b) MINIMUM GRANT.—

5           “(1) IN GENERAL.—Notwithstanding subsection  
6           (e), an entity that is eligible for a grant under sec-  
7           tion 1262, and a school that is operated or sup-  
8           ported by the Bureau of Indian Education that is el-  
9           igible for a grant under subsection (d), that submits  
10          an application that is approved by the Secretary,  
11          shall, subject to appropriations, receive a grant  
12          under this chapter in an amount that is not less  
13          than \$3,000.

14          “(2) CONSORTIA.—Local educational agencies  
15          may form a consortium with other local educational  
16          agencies or Indian tribes for the purpose of obtain-  
17          ing grants under this chapter.

18          “(3) INCREASE.—The Secretary may increase  
19          the minimum grant under paragraph (1) to not  
20          more than \$4,000 for all grantees if the Secretary  
21          determines such an increase is necessary to ensure  
22          the quality of the programs provided.

23          “(c) DEFINITION.—For the purpose of this section,  
24          the term ‘average per pupil expenditure’, used with respect  
25          to a State, means an amount equal to—

1           “(1) the sum of the aggregate current expendi-  
2           tures of all the local educational agencies in the  
3           State, plus any direct current expenditures by the  
4           State for the operation of such agencies, without re-  
5           gard to the sources of funds from which such local  
6           or State expenditures were made, during the second  
7           fiscal year preceding the fiscal year for which the  
8           computation is made; divided by

9           “(2) the aggregate number of children who  
10          were included in average daily attendance for whom  
11          such agencies provided free public education during  
12          such preceding fiscal year.

13          “(d) SCHOOLS OPERATED OR SUPPORTED BY THE  
14 BUREAU OF INDIAN EDUCATION.—

15           “(1) IN GENERAL.—Subject to subsection (e),  
16           in addition to the grants awarded under subsection  
17           (a), the Secretary shall allocate to the Secretary of  
18           the Interior an amount equal to the product of—

19                   “(A) the total number of Indian children  
20                   enrolled in schools that are operated by—

21                           “(i) the Bureau of Indian Education;

22                           or

23                           “(ii) an Indian tribe, or an organiza-  
24                           tion controlled or sanctioned by an Indian  
25                           tribal government, for the children of that

1           tribe under a contract with, or grant from,  
2           the Department of the Interior under the  
3           Indian Self-Determination Act or the Trib-  
4           ally Controlled Schools Act of 1988; and  
5           “(B) the greater of—

6                   “(i) the average per pupil expenditure  
7                   of the State in which the school is located;  
8                   or

9                   “(ii) 80 percent of the average per  
10                  pupil expenditure of all the States.

11           “(2) SPECIAL RULE.—Any school described in  
12           paragraph (1)(A) that wishes to receive an allocation  
13           under this chapter shall submit an application in ac-  
14           cordance with section 1264, and shall otherwise be  
15           treated as a local educational agency for the purpose  
16           of this subpart, except that such school shall not be  
17           subject to section 1264(c)(4) or section 1269.

18           “(e) RATABLE REDUCTIONS.—If the sums reserved  
19           for any fiscal year under section 1262 are insufficient to  
20           pay in full the amounts determined for local educational  
21           agencies under subsection (a)(1) and for the Secretary of  
22           the Interior under subsection (d), each of those amounts  
23           shall be ratably reduced.

1 **“SEC. 1264. APPLICATIONS.**

2       “(a) APPLICATION REQUIRED.—Each local edu-  
3 cational agency that desires to receive a grant under this  
4 chapter shall submit an application to the Secretary at  
5 such time and in such manner as the Secretary may rea-  
6 sonably require.

7       “(b) COMPREHENSIVE PROGRAM REQUIRED.—Each  
8 application submitted under subsection (a) shall include  
9 a description of a comprehensive program for meeting the  
10 needs of Indian children served by the local educational  
11 agency, including the language and cultural needs of the  
12 children, that—

13           “(1) describes how the comprehensive program  
14 will offer programs and activities to meet the cul-  
15 turally related academic needs of American Indian  
16 and Alaska Native students;

17           “(2)(A) is aligned with and supports the State  
18 and local plans submitted under other provisions of  
19 this Act; and

20           “(B) includes academic standards for such chil-  
21 dren that are based on the State academic standards  
22 adopted under subpart 1 for all children;

23           “(3) explains how the local educational agency  
24 will use the funds made available under this chapter  
25 to supplement other Federal, State, and local pro-

1       grams, especially programs carried out under sub-  
2       part 1, to meet the needs of such students;

3           “(4) demonstrates how funds made available  
4       under this chapter will be used for activities de-  
5       scribed in section 1265;

6           “(5) describes the professional development op-  
7       portunities that will be provided, as needed, to en-  
8       sure that—

9           “(A) teachers, school leaders, and other  
10       school professionals who are new to the Indian  
11       community are prepared to work with Indian  
12       children; and

13          “(B) all teachers who will be involved in  
14       programs assisted under this chapter have been  
15       properly trained to carry out such programs;  
16       and

17          “(6) describes how the local educational agen-  
18       cy—

19           “(A) will periodically assess the progress of  
20       all Indian children enrolled in the schools of the  
21       local educational agency, including Indian chil-  
22       dren who do not participate in programs as-  
23       sisted under this chapter, in meeting the stand-  
24       ards described in paragraph (2);

1           “(B) will provide the results of each as-  
2           sessment referred to in subparagraph (A) to—

3                   “(i) the committee described in sub-  
4                   section (c)(4); and

5                   “(ii) the community, including Indian  
6                   tribes, whose children are served by the  
7                   local educational agency; and

8           “(C) is responding to findings of any pre-  
9           vious assessments that are similar to the as-  
10          sessments described in subparagraph (A); and

11          “(7) describes the processes the local edu-  
12          cational agency used to collaborate with Indian  
13          tribes in the community in the development of the  
14          comprehensive programs.

15          “(c) ASSURANCES.—Each application submitted  
16          under subsection (a) shall include assurances that—

17                   “(1) the local educational agency will use funds  
18                   received under this chapter only to supplement the  
19                   funds that, in the absence of the Federal funds  
20                   made available under this chapter, such agency  
21                   would make available for the education of Indian  
22                   children, and not to supplant such funds;

23                   “(2) the local educational agency will prepare  
24                   and submit to the Secretary such reports in such  
25                   form as the Secretary may require to—

1           “(A) carry out the functions of the Sec-  
2           retary under this chapter; and

3           “(B) determine the extent to which activi-  
4           ties carried out with funds provided to the local  
5           educational agency under this chapter are effec-  
6           tive in improving the educational achievement  
7           of Indian students served by such agency;

8           “(3) the program for which assistance is  
9           sought—

10           “(A) is based on a comprehensive local as-  
11           sessment and prioritization of the unique edu-  
12           cational and culturally related academic needs  
13           of the American Indian and Alaska Native stu-  
14           dents for whom the local educational agency is  
15           providing an education;

16           “(B) will use the best available talents and  
17           resources, including individuals from the Indian  
18           community; and

19           “(C) was developed by such agency in open  
20           consultation with parents of Indian children  
21           and teachers, and, if appropriate, Indian stu-  
22           dents from secondary schools, including through  
23           public hearings held by such agency to provide  
24           to the individuals described in this subpara-  
25           graph a full opportunity to understand the pro-



1           gram and to offer recommendations regarding  
2           the program; and

3           “(4) the local educational agency developed the  
4           program with the participation and written approval  
5           of a committee—

6                   “(A) that is composed of, and selected  
7           by—

8                           “(i) parents of Indian children in the  
9                           local educational agency’s schools;

10                           “(ii) teachers in the schools; and

11                           “(iii) if appropriate, Indian students  
12                           attending secondary schools of the agency;

13                   “(B) a majority of whose members are  
14           parents of Indian children;

15                   “(C) that has set forth such policies and  
16           procedures, including policies and procedures  
17           relating to the hiring of personnel, as will en-  
18           sure that the program for which assistance is  
19           sought will be operated and evaluated in con-  
20           sultation with, and with the involvement of,  
21           parents of the children, and representatives of  
22           the area, to be served;

23                   “(D) with respect to an application de-  
24           scribing a schoolwide program in accordance  
25           with section 1265(c), that has—

1                   “(i) reviewed in a timely fashion the  
2                   program; and

3                   “(ii) determined that the program will  
4                   not diminish the availability of culturally  
5                   related activities for American Indian and  
6                   Alaska Native students; and

7                   “(E) that has adopted reasonable bylaws  
8                   for the conduct of the activities of the com-  
9                   mittee and abides by such bylaws.

10 **“SEC. 1265. AUTHORIZED SERVICES AND ACTIVITIES.**

11           “(a) GENERAL REQUIREMENTS.—Each local edu-  
12           cational agency that receives a grant under this chapter  
13           shall use the grant funds, in a manner consistent with the  
14           purpose specified in section 1261, for services and activi-  
15           ties that—

16                   “(1) are designed to carry out the comprehen-  
17                   sive program of the local educational agency for In-  
18                   dian students, and described in the application of  
19                   the local educational agency submitted to the Sec-  
20                   retary under section 1264(a);

21                   “(2) are designed with special regard for the  
22                   language and cultural needs of the Indian students;  
23                   and

24                   “(3) supplement and enrich the regular school  
25                   program of such agency.

1           “(b) PARTICULAR ACTIVITIES.—The services and ac-  
2 tivities referred to in subsection (a) may include—

3           “(1) culturally related activities that support  
4 the program described in the application submitted  
5 by the local educational agency;

6           “(2) early childhood and family programs that  
7 emphasize school readiness;

8           “(3) enrichment programs that focus on prob-  
9 lem solving and cognitive skills development and di-  
10 rectly support the attainment of State academic  
11 standards;

12           “(4) integrated educational services in combina-  
13 tion with other programs that meet the needs of In-  
14 dian children and their families;

15           “(5) programs that help engage parents and  
16 tribes to meet the unique educational needs of In-  
17 dian children;

18           “(6) career preparation activities to enable In-  
19 dian students to participate in programs such as the  
20 programs supported by the Carl D. Perkins Career  
21 and Technical Education Act of 2006;

22           “(7) activities to educate individuals concerning  
23 the prevention of substance abuse, violence, and sui-  
24 cide;

1           “(8) the acquisition of equipment, but only if  
2           the acquisition of the equipment is essential to  
3           achieve the purpose described in section 1261;

4           “(9) activities that promote the incorporation of  
5           culturally responsive teaching and learning strategies  
6           into the educational program of the local educational  
7           agency;

8           “(10) activities that incorporate American In-  
9           dian and Alaska Native specific curriculum content,  
10          consistent with State academic standards into the  
11          curriculum used by the local educational agency;

12          “(11) family literacy services; and

13          “(12) activities that recognize and support the  
14          unique cultural and educational needs of Indian chil-  
15          dren, and incorporate appropriately qualified tribal  
16          elders and seniors.

17          “(c) SCHOOLWIDE PROGRAMS.—Notwithstanding  
18 any other provision of law, a local educational agency may  
19 use funds made available to such agency under this chap-  
20 ter to support a schoolwide program under section 1114  
21 if—

22               “(1) the committee established pursuant to sec-  
23               tion 1264(c)(4) approves the use of the funds for  
24               the schoolwide program; and

1           “(2) the schoolwide program is consistent with  
2           the purpose described in section 1261.

3           “(d) **LIMITATION ON ADMINISTRATIVE COSTS.**—Not  
4 more than 5 percent of the funds provided to a grantee  
5 under this chapter for any fiscal year may be used for  
6 administrative purposes.

7           “(e) **LIMITATION ON USE OF FUNDS.**— Funds pro-  
8 vided to a grantee under this chapter may not be used  
9 for long-distance travel expenses for training activities  
10 available locally or regionally.

11 **“SEC. 1266. INTEGRATION OF SERVICES AUTHORIZED.**

12           “(a) **PLAN.**—An entity receiving funds under this  
13 chapter may submit a plan to the Secretary for the inte-  
14 gration of education and related services provided to In-  
15 dian students.

16           “(b) **CONSOLIDATION OF PROGRAMS.**—Upon the re-  
17 ceipt of an acceptable plan under subsection (a), the Sec-  
18 retary, in cooperation with each Federal agency providing  
19 grants for the provision of education and related services  
20 to the entity, shall authorize the entity to consolidate, in  
21 accordance with such plan, the federally funded education  
22 and related services programs of the entity and the Fed-  
23 eral programs, or portions of the programs, serving Indian  
24 students in a manner that integrates the program services  
25 involved into a single, coordinated, comprehensive pro-

1 gram and reduces administrative costs by consolidating  
2 administrative functions.

3 “(c) PROGRAMS AFFECTED.—The funds that may be  
4 consolidated in a demonstration project under any such  
5 plan referred to in subsection (a) shall include funds for  
6 any Federal program exclusively serving Indian children,  
7 or the funds reserved under any Federal program to exclu-  
8 sively serve Indian children, under which the entity is eligi-  
9 ble for receipt of funds under a statutory or administrative  
10 formula for the purposes of providing education and re-  
11 lated services that would be used to serve Indian students.

12 “(d) PLAN REQUIREMENTS.—For a plan to be ac-  
13 ceptable pursuant to subsection (b), the plan shall—

14 “(1) identify the programs or funding sources  
15 to be consolidated;

16 “(2) be consistent with the objectives of this  
17 section concerning authorizing the services to be in-  
18 tegrated in a demonstration project;

19 “(3) describe a comprehensive strategy that  
20 identifies the full range of potential educational op-  
21 portunities and related services to be provided to as-  
22 sist Indian students to achieve the objectives set  
23 forth in this chapter;

1           “(4) describe the way in which services are to  
2           be integrated and delivered and the results expected  
3           from the plan;

4           “(5) identify the projected expenditures under  
5           the plan in a single budget;

6           “(6) identify the State, tribal, or local agency  
7           or agencies to be involved in the delivery of the serv-  
8           ices integrated under the plan;

9           “(7) identify any statutory provisions, regula-  
10          tions, policies, or procedures that the entity believes  
11          need to be waived in order to implement the plan;

12          “(8) set forth measures for student academic  
13          achievement consistent with State academic stand-  
14          ards under section 1111(b)(1); and

15          “(9) be approved by a committee formed in ac-  
16          cordance with section 1264(c)(4), if such a com-  
17          mittee exists.

18          “(e) PLAN REVIEW.—Upon receipt of the plan from  
19          an eligible entity, the Secretary shall consult with the Sec-  
20          retary of each Federal department providing funds to be  
21          used to implement the plan, and with the entity submit-  
22          ting the plan. The parties so consulting shall identify any  
23          waivers of statutory requirements or of Federal depart-  
24          mental regulations, policies, or procedures necessary to en-  
25          able the entity to implement the plan. Notwithstanding

1 any other provision of law, the Secretary of the affected  
2 department shall have the authority to waive any regula-  
3 tion, policy, or procedure promulgated by that department  
4 that has been so identified by the entity or department,  
5 unless the Secretary of the affected department deter-  
6 mines that such a waiver is inconsistent with the objectives  
7 of this chapter or those provisions of the statute from  
8 which the program involved derives authority that are spe-  
9 cifically applicable to Indian students.

10       “(f) PLAN APPROVAL.—Within 90 days after the re-  
11 ceipt of an entity’s plan by the Secretary, the Secretary  
12 shall inform the entity, in writing, of the Secretary’s ap-  
13 proval or disapproval of the plan. If the plan is dis-  
14 approved, the entity shall be informed, in writing, of the  
15 reasons for the disapproval and shall be given an oppor-  
16 tunity to amend the plan or to petition the Secretary to  
17 reconsider such disapproval.

18       “(g) RESPONSIBILITIES OF DEPARTMENT OF EDU-  
19 CATION.—The Secretary of Education, the Secretary of  
20 the Interior, and the head of any other Federal depart-  
21 ment or agency identified by the Secretary of Education,  
22 shall enter into an interdepartmental memorandum of  
23 agreement providing for the implementation and coordina-  
24 tion of the demonstration projects authorized under this



1 section. The lead agency head for a demonstration project  
2 under this section shall be—

3 “(1) the Secretary of the Interior, in the case  
4 of an entity meeting the definition of a contract or  
5 grant school under title XI of the Education Amend-  
6 ments of 1978; or

7 “(2) the Secretary of Education, in the case of  
8 any other entity.

9 “(h) RESPONSIBILITIES OF LEAD AGENCY.—The re-  
10 sponsibilities of the lead agency shall include—

11 “(1) the use of a single report format related  
12 to the plan for the individual project, which shall be  
13 used by an eligible entity to report on the activities  
14 undertaken under the project;

15 “(2) the use of a single report format related  
16 to the projected expenditures for the individual  
17 project which shall be used by an eligible entity to  
18 report on all project expenditures;

19 “(3) the development of a single system of Fed-  
20 eral oversight for the project, which shall be imple-  
21 mented by the lead agency; and

22 “(4) the provision of technical assistance to an  
23 eligible entity appropriate to the project, except that  
24 an eligible entity shall have the authority to accept

1 or reject the plan for providing such technical assist-  
2 ance and the technical assistance provider.

3 “(i) REPORT REQUIREMENTS.—A single report for-  
4 mat shall be developed by the Secretary, consistent with  
5 the requirements of this section. Such report format shall  
6 require that reports described in subsection (h), together  
7 with records maintained on the consolidated program at  
8 the local level, shall contain such information as will allow  
9 a determination that the eligible entity has complied with  
10 the requirements incorporated in its approved plan, in-  
11 cluding making a demonstration of student academic  
12 achievement, and will provide assurances to each Sec-  
13 retary that the eligible entity has complied with all directly  
14 applicable statutory requirements and with those directly  
15 applicable regulatory requirements that have not been  
16 waived.

17 “(j) NO REDUCTION IN AMOUNTS.—In no case shall  
18 the amount of Federal funds available to an eligible entity  
19 involved in any demonstration project be reduced as a re-  
20 sult of the enactment of this section.

21 “(k) INTERAGENCY FUND TRANSFERS AUTHOR-  
22 IZED.—The Secretary is authorized to take such action  
23 as may be necessary to provide for an interagency transfer  
24 of funds otherwise available to an eligible entity in order  
25 to further the objectives of this section.

1 “(1) ADMINISTRATION OF FUNDS.—

2 “(1) IN GENERAL.—Program funds for the con-  
3 solidated programs shall be administered in such a  
4 manner as to allow for a determination that funds  
5 from a specific program are spent on allowable ac-  
6 tivities authorized under such program, except that  
7 the eligible entity shall determine the proportion of  
8 the funds granted that shall be allocated to such  
9 program.

10 “(2) SEPARATE RECORDS NOT REQUIRED.—

11 Nothing in this section shall be construed as requir-  
12 ing the eligible entity to maintain separate records  
13 tracing any services or activities conducted under  
14 the approved plan to the individual programs under  
15 which funds were authorized for the services or ac-  
16 tivities, nor shall the eligible entity be required to al-  
17 locate expenditures among such individual programs.

18 “(m) OVERAGE.—The eligible entity may commingle  
19 all administrative funds from the consolidated programs  
20 and shall be entitled to the full amount of such funds  
21 (under each program’s or agency’s regulations). The over-  
22 age (defined as the difference between the amount of the  
23 commingled funds and the actual administrative cost of  
24 the programs) shall be considered to be properly spent for

1 Federal audit purposes, if the overage is used for the pur-  
2 poses provided for under this section.

3 “(n) FISCAL ACCOUNTABILITY.—Nothing in this  
4 part shall be construed so as to interfere with the ability  
5 of the Secretary or the lead agency to fulfill the respon-  
6 sibilities for the safeguarding of Federal funds pursuant  
7 to chapter 75 of title 31, United States Code.

8 “(o) REPORT ON STATUTORY OBSTACLES TO PRO-  
9 GRAM INTEGRATION.—

10 “(1) IN GENERAL.—The Secretary of Education  
11 shall annually submit a report to the Committee on  
12 Health, Education, Labor, and Pensions and the  
13 Committee on Indian Affairs of the Senate, and the  
14 Committee on Education and the Workforce and the  
15 Committee on Natural Resources of the House of  
16 Representatives on the status of the implementation  
17 of the demonstration projects authorized under this  
18 section.

19 “(2) CONTENTS.—Such report shall identify—

20 “(A) statutory barriers to the ability of  
21 participants to more effectively integrate their  
22 education and related services to Indian stu-  
23 dents in a manner consistent with the objectives  
24 of this section; and

1                   “(B) the effective practices for program in-  
2                   tegration that result in increased student  
3                   achievement and other relevant outcomes for  
4                   Indian students.

5                   “(p) DEFINITIONS.—For the purposes of this section,  
6 the term ‘Secretary’ means—

7                   “(1) the Secretary of the Interior, in the case  
8                   of an entity meeting the definition of a contract or  
9                   grant school under title XI of the Education Amend-  
10                  ments of 1978; or

11                  “(2) the Secretary of Education, in the case of  
12                  any other entity.

13 **“SEC. 1267. STUDENT ELIGIBILITY FORMS.**

14                  “(a) IN GENERAL.—The Secretary shall require that,  
15 as part of an application for a grant under this chapter,  
16 each applicant shall maintain a file, with respect to each  
17 Indian child for whom the local educational agency pro-  
18 vides a free public education, that contains a form that  
19 sets forth information establishing the status of the child  
20 as an Indian child eligible for assistance under this chap-  
21 ter, and that otherwise meets the requirements of sub-  
22 section (b).

23                  “(b) FORMS.—The form described in subsection (a)  
24 shall include—

25                  “(1) either—

1           “(A)(i) the name of the tribe or band of  
2           Indians (as defined in section 1295) with re-  
3           spect to which the child claims membership;

4           “(ii) the enrollment number establishing  
5           the membership of the child (if readily avail-  
6           able); and

7           “(iii) the name and address of the organi-  
8           zation that maintains updated and accurate  
9           membership data for such tribe or band of Indi-  
10          ans; or

11          “(B) the name, the enrollment number (if  
12          readily available), and the name and address of  
13          the organization responsible for maintaining up-  
14          dated and accurate membership data, of any  
15          parent or grandparent of the child from whom  
16          the child claims eligibility under this subpart, if  
17          the child is not a member of the tribe or band  
18          of Indians (as so defined);

19          “(2) a statement of whether the tribe or band  
20          of Indians (as so defined), with respect to which the  
21          child, or parent or grandparent of the child, claims  
22          membership, is federally recognized;

23          “(3) the name and address of the parent or  
24          legal guardian of the child; and

1           “(4) a signature of the parent or legal guardian  
2           of the child that verifies the accuracy of the informa-  
3           tion supplied.

4           “(c) STATUTORY CONSTRUCTION.—Nothing in this  
5           section shall be construed to affect a definition contained  
6           in section 1295.

7           “(d) FORMS AND STANDARDS OF PROOF.—The  
8           forms and the standards of proof (including the standard  
9           of good faith compliance) that were in use during the  
10          1985–1986 academic year to establish the eligibility of a  
11          child for entitlement under the Indian Elementary and  
12          Secondary School Assistance Act shall be the forms and  
13          standards of proof used—

14                 “(1) to establish eligibility under this chapter;  
15          and

16                 “(2) to meet the requirements of subsection (a).

17          “(e) DOCUMENTATION.—For purposes of deter-  
18          mining whether a child is eligible to be counted for the  
19          purpose of computing the amount of a grant award under  
20          section 1263, the membership of the child, or any parent  
21          or grandparent of the child, in a tribe or band of Indians  
22          (as so defined) may be established by proof other than  
23          an enrollment number, notwithstanding the availability of  
24          an enrollment number for a member of such tribe or band.

1 Nothing in subsection (b) shall be construed to require  
2 the furnishing of an enrollment number.

3 “(f) MONITORING AND EVALUATION REVIEW.—

4 “(1) IN GENERAL.—

5 “(A) REVIEW.—For each fiscal year, in  
6 order to provide such information as is nec-  
7 essary to carry out the responsibility of the Sec-  
8 retary to provide technical assistance under this  
9 chapter, the Secretary shall conduct a moni-  
10 toring and evaluation review of a sampling of  
11 the recipients of grants under this chapter. The  
12 sampling conducted under this subparagraph  
13 shall take into account the size of and the geo-  
14 graphic location of each local educational agen-  
15 cy.

16 “(B) EXCEPTION.—A local educational  
17 agency may not be held liable to the United  
18 States or be subject to any penalty, by reason  
19 of the findings of an audit that relates to the  
20 date of completion, or the date of submission,  
21 of any forms used to establish, before April 28,  
22 1988, the eligibility of a child for an entitle-  
23 ment under the Indian Elementary and Sec-  
24 ondary School Assistance Act.



1           “(2) FALSE INFORMATION.—Any local edu-  
2           cational agency that provides false information in an  
3           application for a grant under this chapter shall—

4                   “(A) be ineligible to apply for any other  
5           grant under this Act; and

6                   “(B) be liable to the United States for any  
7           funds from the grant that have not been ex-  
8           pended.

9           “(3) EXCLUDED CHILDREN.—A student who  
10          provides false information for the form required  
11          under subsection (a) shall not be counted for the  
12          purpose of computing the amount of a grant under  
13          section 1263.

14          “(g) TRIBAL GRANT AND CONTRACT SCHOOLS.—  
15          Notwithstanding any other provision of this section, in cal-  
16          culating the amount of a grant under this chapter to a  
17          tribal school that receives a grant or contract from the  
18          Bureau of Indian Education, the Secretary shall use only  
19          one of the following, as selected by the school:

20                   “(1) A count of the number of students in the  
21          schools certified by the Bureau.

22                   “(2) A count of the number of students for  
23          whom the school has eligibility forms that comply  
24          with this section.

1           “(h) TIMING OF CHILD COUNTS.—For purposes of  
2 determining the number of children to be counted in calcu-  
3 lating the amount of a local educational agency’s grant  
4 under this chapter (other than in the case described in  
5 subsection (g)(1)), the local educational agency shall—

6           “(1) establish a date on, or a period not longer  
7 than 31 consecutive days during, which the agency  
8 counts those children, if that date or period occurs  
9 before the deadline established by the Secretary for  
10 submitting an application under section 1264; and

11           “(2) determine that each such child was en-  
12 rolled, and receiving a free public education, in a  
13 school of the agency on that date or during that pe-  
14 riod, as the case may be.

15 **“SEC. 1268. PAYMENTS.**

16           “(a) IN GENERAL.—Subject to subsections (b) and  
17 (c), the Secretary shall pay to each local educational agen-  
18 cy that submits an application that is approved by the Sec-  
19 retary under this chapter the amount determined under  
20 section 1263. The Secretary shall notify the local edu-  
21 cational agency of the amount of the payment not later  
22 than June 1 of the year for which the Secretary makes  
23 the payment.

24           “(b) PAYMENTS TAKEN INTO ACCOUNT BY THE  
25 STATE.—The Secretary may not make a grant under this

1 chapter to a local educational agency for a fiscal year if,  
2 for such fiscal year, the State in which the local edu-  
3 cational agency is located takes into consideration pay-  
4 ments made under this chapter in determining the eligi-  
5 bility of the local educational agency for State aid, or the  
6 amount of the State aid, with respect to the free public  
7 education of children during such fiscal year or the pre-  
8 ceding fiscal year.

9 “(c) REALLOCATIONS.—The Secretary may reallo-  
10 cate, in a manner that the Secretary determines will best  
11 carry out the purpose of this chapter, any amounts that—

12 “(1) based on estimates made by local edu-  
13 cational agencies or other information, the Secretary  
14 determines will not be needed by such agencies to  
15 carry out approved programs under this chapter; or

16 “(2) otherwise become available for reallocation  
17 under this chapter.

18 **“SEC. 1269. STATE EDUCATIONAL AGENCY REVIEW.**

19 “Before submitting an application to the Secretary  
20 under section 1264, a local educational agency shall sub-  
21 mit the application to the State educational agency, which  
22 may comment on such application. If the State educational  
23 agency comments on the application, the agency shall com-  
24 ment on all applications submitted by local educational  
25 agencies in the State and shall provide those comments

1 to the respective local educational agencies, with an oppor-  
2 tunity to respond.

3 **“CHAPTER B—SPECIAL PROGRAMS AND**  
4 **PROJECTS TO IMPROVE EDUCATIONAL OP-**  
5 **PORTUNITIES FOR INDIAN CHILDREN**

6 **“SEC. 1271. IMPROVEMENT OF EDUCATIONAL OPPORTUNI-**  
7 **TIES FOR INDIAN CHILDREN.**

8 “(a) PURPOSE.—

9 “(1) IN GENERAL.—It is the purpose of this  
10 section to support projects to develop, test, and dem-  
11 onstrate the effectiveness of services and programs  
12 to improve educational opportunities and achieve-  
13 ment of Indian children.

14 “(2) COORDINATION.—The Secretary shall take  
15 the necessary actions to achieve the coordination of  
16 activities assisted under this chapter with—

17 “(A) other programs funded under this  
18 Act; and

19 “(B) other Federal programs operated for  
20 the benefit of American Indian and Alaska Na-  
21 tive children.

22 “(b) ELIGIBLE ENTITIES.—In this section, the term  
23 ‘eligible entity’ means a State educational agency, local  
24 educational agency, Indian tribe, Indian organization, fed-  
25 erally supported elementary school or secondary school for

1 Indian students, Indian institution (including an Indian  
2 institution of higher education), or a consortium of such  
3 entities.

4 “(c) GRANTS AUTHORIZED.—

5 “(1) IN GENERAL.—From amounts appro-  
6 priated under section 3(a)(1), the Secretary shall re-  
7 serve 0.2 of one percent to award grants to eligible  
8 entities to enable such entities to carry out activities  
9 under this section and section 1272.

10 “(2) USES OF FUNDS.—An eligible entity that  
11 receives a grant under this section shall use the  
12 funds for one or more activities, including—

13 “(A) innovative programs related to the  
14 educational needs of educationally disadvan-  
15 taged children;

16 “(B) educational services that are not  
17 available to such children in sufficient quantity  
18 or quality, including remedial instruction, to  
19 raise the achievement of Indian children in one  
20 or more of the core academic subjects of  
21 English, mathematics, science, foreign lan-  
22 guages, art, history, and geography;

23 “(C) bilingual and bicultural programs and  
24 projects;

1           “(D) special health and nutrition services,  
2           and other related activities, that address the  
3           special health, social, and psychological prob-  
4           lems of Indian children;

5           “(E) special compensatory and other pro-  
6           grams and projects designed to assist and en-  
7           courage Indian children to enter, remain in, or  
8           reenter school, and to increase the rate of high  
9           school graduation for Indian children;

10          “(F) comprehensive guidance, counseling,  
11          and testing services;

12          “(G) early childhood and kindergarten pro-  
13          grams, including family-based preschool pro-  
14          grams that emphasize school readiness and pa-  
15          rental skills, and the provision of services to In-  
16          dian children with disabilities;

17          “(H) partnership projects between local  
18          educational agencies and institutions of higher  
19          education that allow secondary school students  
20          to enroll in courses at the postsecondary level to  
21          aid such students in the transition from sec-  
22          ondary to postsecondary education;

23          “(I) partnership projects between schools  
24          and local businesses for career preparation pro-  
25          grams designed to provide Indian youth with

1 the knowledge and skills such youth need to  
2 make an effective transition from school to a  
3 high-skill, high-wage career;

4 “(J) programs designed to encourage and  
5 assist Indian students to work toward, and gain  
6 entrance into, an institution of higher edu-  
7 cation;

8 “(K) family literacy services;

9 “(L) activities that recognize and support  
10 the unique cultural and educational needs of In-  
11 dian children, and incorporate appropriately  
12 qualified tribal elders and seniors; or

13 “(M) other services that meet the purpose  
14 described in this section.

15 “(3) PROFESSIONAL DEVELOPMENT.—Evidence  
16 based professional development of teaching profes-  
17 sionals and paraprofessionals may be a part of any  
18 program assisted under this section.

19 “(d) GRANT REQUIREMENTS AND APPLICATIONS.—

20 “(1) GRANT REQUIREMENTS.—

21 “(A) IN GENERAL.—The Secretary may  
22 make multiyear grants under subsection (c) for  
23 the planning, development, pilot operation, or  
24 demonstration of any activity described in sub-  
25 section (c) for a period not to exceed 5 years.

1           “(B) PRIORITY.—In making multiyear  
2 grants described in this paragraph, the Sec-  
3 retary shall give priority to entities submitting  
4 applications that present a plan for combining  
5 two or more of the activities described in sub-  
6 section (c) over a period of more than 1 year.

7           “(C) PROGRESS.—The Secretary shall  
8 make a grant payment for a grant described in  
9 this paragraph to an eligible entity after the  
10 initial year of the multiyear grant only if the  
11 Secretary determines that the eligible entity has  
12 made substantial progress in carrying out the  
13 activities assisted under the grant in accordance  
14 with the application submitted under paragraph  
15 (3) and any subsequent modifications to such  
16 application.

17           “(2) DISSEMINATION GRANTS.—

18           “(A) IN GENERAL.—In addition to award-  
19 ing the multiyear grants described in paragraph  
20 (1), the Secretary may award grants under sub-  
21 section (c) to eligible entities for the dissemina-  
22 tion of exemplary materials or programs as-  
23 sisted under this section.

24           “(B) DETERMINATION.—The Secretary  
25 may award a dissemination grant described in



1           this paragraph if, prior to awarding the grant,  
2           the Secretary determines that the material or  
3           program to be disseminated—

4                     “(i) has been adequately reviewed;

5                     “(ii) has demonstrated educational  
6                     merit; and

7                     “(iii) can be replicated.

8           “(3) APPLICATION.—

9                     “(A) IN GENERAL.—Any eligible entity  
10                    that desires to receive a grant under this sec-  
11                    tion shall submit an application to the Sec-  
12                    retary at such time and in such manner as the  
13                    Secretary may reasonably require.

14                   “(B) CONTENTS.—Each application sub-  
15                    mitted to the Secretary under subparagraph  
16                    (A), other than an application for a dissemina-  
17                    tion grant under paragraph (2), shall contain—

18                             “(i) a description of how parents of  
19                             Indian children and representatives of In-  
20                             dian tribes have been, and will be, involved  
21                             in developing and implementing the activi-  
22                             ties for which assistance is sought;

23                             “(ii) assurances that the applicant will  
24                             participate, at the request of the Secretary,

1 in any national evaluation of activities as-  
2 sisted under this section;

3 “(iii) information demonstrating that  
4 the proposed program for the activities is  
5 an evidence-based program, which may in-  
6 clude a program that has been modified to  
7 be culturally appropriate for students who  
8 will be served; and

9 “(iv) a description of how the appli-  
10 cant will incorporate the proposed activities  
11 into the ongoing school program involved  
12 once the grant period is over.

13 “(e) ADMINISTRATIVE COSTS.—Not more than 5 per-  
14 cent of the funds provided to a grantee under this chapter  
15 for any fiscal year may be used for administrative pur-  
16 poses.

17 **“SEC. 1272. PROFESSIONAL DEVELOPMENT FOR TEACHERS**  
18 **AND EDUCATION PROFESSIONALS.**

19 “(a) PURPOSES.—The purposes of this section are—

20 “(1) to increase the number of qualified Indian  
21 teachers, school leaders, or other education profes-  
22 sionals serving Indian students, including through  
23 recruitment strategies;

24 “(2) to provide training to qualified Indian indi-  
25 viduals to enable such individuals to become effective

1 teachers, school leaders, administrators, teacher  
2 aides, social workers, and ancillary educational per-  
3 sonnel; and

4 “(3) to improve the skills of qualified Indian in-  
5 dividuals who serve in the capacities described in  
6 paragraph (2).

7 “(b) ELIGIBLE ENTITIES.—For the purpose of this  
8 section, the term ‘eligible entity’ means—

9 “(1) an institution of higher education, includ-  
10 ing an Indian institution of higher education;

11 “(2) a State educational agency or local edu-  
12 cational agency, in consortium with an institution of  
13 higher education;

14 “(3) an Indian tribe or organization, in consor-  
15 tium with an institution of higher education; and

16 “(4) a Bureau-funded school (as defined in sec-  
17 tion 1146 of the Education Amendments of 1978).

18 “(c) PROGRAM AUTHORIZED.—The Secretary is au-  
19 thorized to award grants from funds reserved under sec-  
20 tion 1271(c)(1) to eligible entities having applications ap-  
21 proved under this section to enable those entities to carry  
22 out the activities described in subsection (d).

23 “(d) AUTHORIZED ACTIVITIES.—

24 “(1) IN GENERAL.—Grant funds under this sec-  
25 tion shall be used for activities to provide support

1 and training for Indian individuals in a manner con-  
2 sistent with the purposes of this section.

3 “(2) SPECIAL RULES.—

4 “(A) TYPE OF TRAINING.—For education  
5 personnel, the training received pursuant to a  
6 grant under this section may be inservice or  
7 preservice training.

8 “(B) PROGRAM.—For individuals who are  
9 being trained to enter any field other than  
10 teaching, the training received pursuant to a  
11 grant under this section shall be in a program  
12 that results in a graduate degree.

13 “(e) APPLICATION.—Each eligible entity desiring a  
14 grant under this section shall submit an application to the  
15 Secretary at such time and in such manner as the Sec-  
16 retary may reasonable require. An application shall in-  
17 clude how the eligible entity will—

18 “(1) recruit qualified Indian individuals, such  
19 as students who may not be of traditional college  
20 age, to become teachers or school leaders;

21 “(2) use funds made available under the grant  
22 to support the recruitment, preparation, and profes-  
23 sional development of Indian teachers or school lead-  
24 ers in local educational agencies that serve a high  
25 proportion of Indian students; and

1           “(3) assist participants in meeting the require-  
2           ments under subsection (h).

3           “(f) SPECIAL RULE.—In awarding grants under this  
4           section, the Secretary—

5           “(1) shall consider the prior performance of the  
6           eligible entity; and

7           “(2) may not limit eligibility to receive a grant  
8           under this section on the basis of—

9           “(A) the number of previous grants the  
10           Secretary has awarded such entity; or

11           “(B) the length of any period during which  
12           such entity received such grants.

13           “(g) GRANT PERIOD.—Each grant under this section  
14           shall be awarded for an initial period of not more than  
15           three years, and may be renewed for not more than an  
16           additional two years if the Secretary finds that the grantee  
17           is meeting the grant objectives.

18           “(h) SERVICE OBLIGATION.—

19           “(1) IN GENERAL.—The Secretary shall re-  
20           quire, by regulation, that an individual who receives  
21           training pursuant to a grant made under this sec-  
22           tion—

23           “(A) perform work—

24           “(i) related to the training received  
25           under this section; and

1 “(ii) that benefits Indian people; or

2 “(B) repay all or a prorated part of the as-  
3 sistance received.

4 “(2) REPORTING.—The Secretary shall estab-  
5 lish, by regulation, a reporting procedure under  
6 which a grant recipient under this section shall, not  
7 later than 12 months after the date of completion of  
8 the training, and periodically thereafter, provide in-  
9 formation concerning compliance with the work re-  
10 quirement under paragraph (1).

11 **“CHAPTER C—FEDERAL ADMINISTRATION**

12 **“SEC. 1281. NATIONAL ADVISORY COUNCIL ON INDIAN EDU-  
13 CATION.**

14 “(a) MEMBERSHIP.—There is established a National  
15 Advisory Council on Indian Education (hereafter in this  
16 section referred to as the ‘Council’), which shall—

17 “(1) consist of 15 Indian members, who shall  
18 be appointed by the President from lists of nominees  
19 furnished, from time to time, by Indian tribes and  
20 organizations; and

21 “(2) represent different geographic areas of the  
22 United States.

23 “(b) DUTIES.—The Council shall—

24 “(1) advise the Secretary concerning the fund-  
25 ing and administration (including the development of

1 regulations and administrative policies and prac-  
2 tices) of any program, including any program estab-  
3 lished under this subpart—

4 “(A) with respect to which the Secretary  
5 has jurisdiction; and

6 “(B)(i) that includes Indian children or  
7 adults as participants; or

8 “(ii) that may benefit Indian children  
9 or adults;

10 “(2) make recommendations to the Secretary  
11 for filling the position of Director of Indian Edu-  
12 cation whenever a vacancy occurs; and

13 “(3) submit to Congress, not later than June  
14 30 of each year, a report on the activities of the  
15 Council, including—

16 “(A) any recommendations that the Coun-  
17 cil considers appropriate for the improvement of  
18 Federal education programs that include Indian  
19 children or adults as participants, or that may  
20 benefit Indian children or adults; and

21 “(B) recommendations concerning the  
22 funding of any program described in subpara-  
23 graph (A).

1 **“SEC. 1282. PEER REVIEW.**

2 “The Secretary may use a peer review process to re-  
3 view applications submitted to the Secretary under chap-  
4 ter B.

5 **“SEC. 1283. PREFERENCE FOR INDIAN APPLICANTS.**

6 “In making grants and entering into contracts or co-  
7 operative agreements under chapter B, the Secretary shall  
8 give a preference to Indian tribes, organizations, and insti-  
9 tutions of higher education under any program with re-  
10 spect to which Indian tribes, organizations, and institu-  
11 tions are eligible to apply for grants, contracts, or coopera-  
12 tive agreements.

13 **“SEC. 1284. MINIMUM GRANT CRITERIA.**

14 “The Secretary may not approve an application for  
15 a grant, contract, or cooperative agreement under chapter  
16 B unless the application is for a grant, contract, or cooper-  
17 ative agreement that is—

18 “(1) of sufficient size, scope, and quality to  
19 achieve the purpose or objectives of such grant, con-  
20 tract, or cooperative agreement; and

21 “(2) based on relevant research findings.

22 **“CHAPTER D—DEFINITIONS**

23 **“SEC. 1291. DEFINITIONS.**

24 “For the purposes of this subpart:

25 “(1) ADULT.—The term ‘adult’ means an indi-  
26 vidual who—



1           “(A) has attained the age of 16 years; or

2           “(B) has attained an age that is greater  
3 than the age of compulsory school attendance  
4 under an applicable State law.

5           “(2) FREE PUBLIC EDUCATION.—The term  
6 ‘free public education’ means education that is—

7           “(A) provided at public expense, under  
8 public supervision and direction, and without  
9 tuition charge; and

10           “(B) provided as elementary or secondary  
11 education in the applicable State or to preschool  
12 children.

13           “(3) INDIAN.—The term ‘Indian’ means an in-  
14 dividual who is—

15           “(A) a member of an Indian tribe or band,  
16 as membership is defined by the tribe or band,  
17 including—

18           “(i) any tribe or band terminated  
19 since 1940; and

20           “(ii) any tribe or band recognized by  
21 the State in which the tribe or band re-  
22 sides;

23           “(B) a descendant, in the first or second  
24 degree, of an individual described in subpara-  
25 graph (A);

1           “(C) considered by the Secretary of the In-  
2           terior to be an Indian for any purpose;

3           “(D) an Eskimo, Aleut, or other Alaska  
4           Native; or

5           “(E) a member of an organized Indian  
6           group that received a grant under the Indian  
7           Education Act of 1988 as in effect the day pre-  
8           ceding the date of enactment of the Improving  
9           America’s Schools Act of 1994.”.

10          (b) STRIKE.—The Act is amended by striking title  
11          VII (20 U.S.C. 7401 et seq.).

## 12          **Subtitle D—National Assessment**

### 13          **SEC. 141. NATIONAL ASSESSMENT OF TITLE I.**

14          (a) IN GENERAL.—Part E of title I (20 U.S.C. 6491  
15          et seq.) is transferred and redesignated as part B of title  
16          I.

17          (b) REPEALS.—Sections 1502 and 1504 (20 U.S.C.  
18          6492; 6494) are repealed.

19          (c) REDESIGNATIONS.—Sections 1501 and 1503 (20  
20          U.S.C. 6491; 6493) are redesignated as sections 1301 and  
21          1302, respectively.

22          (d) AMENDMENTS TO SECTION 1301.—Section 1301  
23          (20 U.S.C. 6491), as so redesignated, is amended—

24                  (1) in subsection (a)—

1 (A) in paragraph (1), by inserting “, act-  
2 ing through the Director of the Institute of  
3 Education Sciences (in this section and section  
4 1302 referred to as the ‘Director’),” after “The  
5 Secretary”;

6 (B) in paragraph (2)—

7 (i) by striking “Secretary” and insert-  
8 ing “Director”;

9 (ii) in subparagraph (A), by striking  
10 “reaching the proficient level” and all that  
11 follows and inserting “graduating high  
12 school prepared for postsecondary edu-  
13 cation or the workforce.”;

14 (iii) in subparagraph (B), by striking  
15 “reach the proficient” and all that follows  
16 and inserting “meet State academic stand-  
17 ards.”;

18 (iv) by striking subparagraphs (D)  
19 and (G) and redesignating subparagraphs  
20 (E), (F), and (H) through (O) as subpara-  
21 graphs (D) through (M), respectively;

22 (v) in subparagraph (D)(v) (as so re-  
23 designated), by striking “help schools in  
24 which” and all that follows and inserting  
25 “address disparities in the percentages of

1 effective teachers teaching in low-income  
2 schools.”

3 (vi) in subparagraph (G) (as so reded-  
4 ignated)—

5 (I) by striking “section 1116”  
6 and inserting “section  
7 1111(b)(3)(B)(iii)”;

8 (II) by striking “, including the  
9 following” and all that follows and in-  
10 sserting a period;

11 (vii) in subparagraph (I) (as so reded-  
12 ignated), by striking “qualifications” and  
13 inserting “effectiveness”;

14 (viii) in subparagraph (J) (as so re-  
15 designated), by striking “, including funds  
16 under section 1002,”;

17 (ix) in subparagraph (L) (as so reded-  
18 ignated), by striking “section  
19 1111(b)(2)(C)(v)(II)” and inserting “sec-  
20 tion 1111(b)(2)(B)(xiii)”;

21 (x) in subparagraph (M) (as so reded-  
22 ignated), by striking “Secretary” and in-  
23 sserting “Director”;

24 (C) in paragraph (3), by striking “Sec-  
25 retary” and inserting “Director”;

1 (D) in paragraph (4), by striking “Sec-  
2 retary” and inserting “Director”;

3 (E) in paragraph (5), by striking “Sec-  
4 retary” and inserting “Director”; and

5 (F) in paragraph (6)—

6 (i) by striking “No Child Left Behind  
7 Act of 2001” each place it appears and in-  
8 serting “Student Success Act” ; and

9 (ii) by striking “Secretary” each place  
10 it appears and inserting “Director”;

11 (2) in subsection (b), by striking “Secretary”  
12 each place it appears and inserting “Director”;

13 (3) in subsection (c)—

14 (A) in paragraph (1)—

15 (i) by striking “Secretary” and insert-  
16 ing “Director”; and

17 (ii) by striking “part A” and inserting  
18 “subpart 1 of part A”;

19 (B) in paragraph (2)—

20 (i) by striking “Secretary” and insert-  
21 ing “Director”;

22 (ii) in subparagraph (B), by striking  
23 “challenging academic achievement stand-  
24 ards” and inserting “State academic  
25 standards”;

1 (iii) in subparagraph (E), by striking  
2 “effects of the availability” and all that  
3 follows and inserting “extent to which ac-  
4 tions authorized under section  
5 1111(b)(3)(B)(iii) improve the academic  
6 achievement of disadvantaged students and  
7 low-performing schools.”; and

8 (iv) in subparagraph (F), by striking  
9 “Secretary” and inserting “Director”; and  
10 (C) in paragraph (3)—

11 (i) by striking “Secretary” and insert-  
12 ing “Director”; and

13 (ii) by striking subparagraph (C) and  
14 inserting the following:

15 “(C) analyzes varying models or strategies  
16 for delivering school services, including  
17 schoolwide and targeted services.”; and

18 (4) in subsection (d), by striking “Secretary”  
19 each place it appears and inserting “Director”.

20 (e) AMENDMENTS TO SECTION 1302.—Section 1302  
21 (20 U.S.C. 6493), as so redesignated, is amended—

22 (1) in subsection (a)—

23 (A) by striking “Secretary” and inserting  
24 “Director”; and

1 (B) by striking “and for making decisions  
2 about the promotion and graduation of stu-  
3 dents”;

4 (2) in subsection (b)—

5 (A) by striking “Secretary” and inserting  
6 “Director”;

7 (B) by striking “process,” and inserting  
8 “process consistent with section 5534,”; and

9 (C) by striking “Assistant Secretary of  
10 Educational Research and Improvement” and  
11 inserting “Director”;

12 (3) in subsection (d)—

13 (A) in paragraph (1)—

14 (i) in subparagraph (A), by striking  
15 “to the State-defined level of proficiency”  
16 and inserting “toward meeting the State  
17 academic standards”; and

18 (ii) in subparagraph (C), by striking  
19 “pupil-services” and inserting “specialized  
20 instructional support services”;

21 (B) in paragraph (3), by striking “limited  
22 and nonlimited English proficient students”  
23 and inserting “English learners”; and

24 (C) in paragraph (6), by striking “Sec-  
25 retary” and inserting “Director”; and

1 (4) in subsection (f)—

2 (A) by striking “Secretary” and inserting  
3 “Director”; and

4 (B) by striking “authorized to be appro-  
5 priated for this part” and inserting “appro-  
6 priated under section 3(A)(2)”.

## 7 **Subtitle E—Title I General** 8 **Provisions**

### 9 **SEC. 151. GENERAL PROVISIONS FOR TITLE I.**

10 Part I of title I (20 U.S.C. 6571 et seq.)—

11 (1) is transferred to and redesignated as part  
12 C of title I of the Act; and

13 (2) is amended to read as follows:

#### 14 **“PART C—GENERAL PROVISIONS**

##### 15 **“SEC. 1401. FEDERAL REGULATIONS.**

16 “(a) IN GENERAL.—The Secretary may, in accord-  
17 ance with subsections (b) through (d), issue such regula-  
18 tions as are necessary to reasonably ensure there is com-  
19 pliance with this title.

20 “(b) NEGOTIATED RULEMAKING PROCESS.—

21 “(1) IN GENERAL.—Before publishing in the  
22 Federal Register proposed regulations to carry out  
23 this title, the Secretary shall obtain the advice and  
24 recommendations of representatives of Federal,  
25 State, and local administrators, parents, teachers,



1 and members of local school boards and other orga-  
2 nizations involved with the implementation and oper-  
3 ation of programs under this title.

4 “(2) MEETINGS AND ELECTRONIC EX-  
5 CHANGE.—Such advice and recommendations may  
6 be obtained through such mechanisms as regional  
7 meetings and electronic exchanges of information.

8 “(3) PROPOSED REGULATIONS.—After obtain-  
9 ing such advice and recommendations, and before  
10 publishing proposed regulations, the Secretary  
11 shall—

12 “(A) establish a negotiated rulemaking  
13 process;

14 “(B) select individuals to participate in  
15 such process from among individuals or groups  
16 that provided advice and recommendations, in-  
17 cluding representation from all geographic re-  
18 gions of the United States, in such numbers as  
19 will provide an equitable balance between rep-  
20 resentatives of parents and students and rep-  
21 resentatives of educators and education offi-  
22 cials; and

23 “(C) prepare a draft of proposed policy op-  
24 tions that shall be provided to the individuals  
25 selected by the Secretary under subparagraph

1 (B) not less than 15 days before the first meet-  
2 ing under such process.

3 “(c) PROPOSED RULEMAKING.—If the Secretary de-  
4 termines that a negotiated rulemaking process is unneces-  
5 sary or the individuals selected to participate in the pro-  
6 cess under paragraph (3)(B) fail to reach unanimous agree-  
7 ment, the Secretary may propose regulations under the  
8 following procedure:

9 “(1) Not less than 30 days prior to beginning  
10 a rulemaking process, the Secretary shall provide to  
11 Congress, including the Committee on Education  
12 and the Workforce of the House of Representatives  
13 and the Committee on Health, Education, Labor,  
14 and Pensions of the Senate, notice that shall in-  
15 clude—

16 “(A) a copy of the proposed regulations;

17 “(B) the need to issue regulations;

18 “(C) the anticipated burden the regula-  
19 tions will have on State educational agencies,  
20 local educational agencies, schools, and other  
21 entities that may be impacted by the regula-  
22 tions; and

23 “(D) any regulations that will be repealed  
24 when the new regulations are issued.

1           “(2) If, within 30 days of receiving the notice  
2           and report under paragraph (1), the Committee on  
3           Education and the Workforce of the House of Rep-  
4           resentatives and the Committee on Health, Edu-  
5           cation, Labor, and Pensions of the Senate has not  
6           expressed an intent to delay or prohibit the regula-  
7           tions, the Secretary may begin a rulemaking process  
8           with respect to the regulations.

9           “(3) The comment and review period for any  
10          proposed regulation shall be 90 days unless an emer-  
11          gency requires a shorter period, in which case such  
12          period shall be not less than 45 days and the Sec-  
13          retary shall—

14                 “(A) designate the proposed regulation as  
15                 an emergency with an explanation of the emer-  
16                 gency in the notice and report to Congress  
17                 under paragraph (1); and

18                 “(B) publish the length of the comment  
19                 and review period in such notice and in the  
20                 Federal Register.

21          “(4) No regulation shall be made final after the  
22          comment and review period until the Secretary has  
23          published in the Federal Register an independent as-  
24          sessment of—

1           “(A) the burden, including the cost bur-  
2           den, the regulation will impose on State edu-  
3           cational agencies, local educational agencies,  
4           schools and other entities that may be impacted  
5           by the regulation; and

6           “(B) an explanation of how the entities de-  
7           scribed in subparagraph (A) will pay for imple-  
8           menting the new regulation.

9           “(d) **LIMITATION.**—Regulations to carry out this title  
10          may not require local programs to follow a particular in-  
11          structional model, such as the provision of services outside  
12          the regular classroom or school program.

13          **“SEC. 1402. AGREEMENTS AND RECORDS.**

14          “(a) **AGREEMENTS.**—In the case in which a nego-  
15          tiated rule making process is established under subsection  
16          (b) of section 1401, all published proposed regulations  
17          shall conform to agreements that result from the rule-  
18          making described in section 1401 unless the Secretary re-  
19          opens the negotiated rulemaking process.

20          “(b) **RECORDS.**—The Secretary shall ensure that an  
21          accurate and reliable record of agreements reached during  
22          the negotiations process is maintained.

23          **“SEC. 1403. STATE ADMINISTRATION.**

24          “(a) **RULEMAKING.**—

1           “(1) IN GENERAL.—Each State that receives  
2 funds under this title shall—

3           “(A) ensure that any State rules, regula-  
4 tions, and policies relating to this title conform  
5 to the purposes of this title and provide any  
6 such proposed rules, regulations, and policies to  
7 the committee of practitioners created under  
8 subsection (b) for review and comment;

9           “(B) minimize such rules, regulations, and  
10 policies to which the State’s local educational  
11 agencies and schools are subject;

12           “(C) eliminate or modify State and local  
13 fiscal accounting requirements in order to facili-  
14 tate the ability of schools to consolidate funds  
15 under schoolwide programs;

16           “(D) identify any such rule, regulation, or  
17 policy as a State-imposed requirement; and

18           “(E)(i) identify any duplicative or con-  
19 trasting requirements between the State and  
20 Federal rules or regulations;

21           “(ii) eliminate the rules and regulations  
22 that are duplicative of Federal requirements;  
23 and

1           “(iii) report any conflicting requirements  
2           to the Secretary and determine which Federal  
3           or State rule or regulation shall be followed.

4           “(2) SUPPORT AND FACILITATION.—State  
5           rules, regulations, and policies under this title shall  
6           support and facilitate local educational agency and  
7           school-level systemic reform designed to enable all  
8           children to meet the State academic standards.

9           “(b) COMMITTEE OF PRACTITIONERS.—

10           “(1) IN GENERAL.—Each State educational  
11           agency that receives funds under this title shall cre-  
12           ate a State committee of practitioners to advise the  
13           State in carrying out its responsibilities under this  
14           title.

15           “(2) MEMBERSHIP.—Each such committee  
16           shall include—

17           “(A) as a majority of its members, rep-  
18           resentatives from local educational agencies;

19           “(B) administrators, including the admin-  
20           istrators of programs described in other parts  
21           of this title;

22           “(C) teachers from public charter schools,  
23           traditional public schools, and career and tech-  
24           nical educators;

25           “(D) parents;

1 “(E) members of local school boards;

2 “(F) representatives of private school chil-  
3 dren; and

4 “(G) specialized instructional support per-  
5 sonnel.

6 “(3) DUTIES.—The duties of such committee  
7 shall include a review, before publication, of any pro-  
8 posed or final State rule or regulation pursuant to  
9 this title. In an emergency situation where such rule  
10 or regulation must be issued within a very limited  
11 time to assist local educational agencies with the op-  
12 eration of the program under this title, the State  
13 educational agency may issue a regulation without  
14 prior consultation, but shall immediately thereafter  
15 convene the State committee of practitioners to re-  
16 view the emergency regulation before issuance in  
17 final form.

18 **“SEC. 1404. PROHIBITION AGAINST FEDERAL MANDATES,  
19 DIRECTION, OR CONTROL.**

20 “Nothing in this title shall be construed to authorize  
21 an officer or employee of the Federal Government to man-  
22 date, direct, support, or control a State, local educational  
23 agency, or school’s specific instructional content, academic  
24 standards and assessments, curriculum, or program of in-  
25 struction.

1 **“SEC. 1405. RULE OF CONSTRUCTION ON EQUALIZED**  
2 **SPENDING.**

3 “Nothing in this title shall be construed to mandate  
4 equalized spending per pupil for a State, local educational  
5 agency, or school.”.

6 **TITLE II—GENERAL PROVISIONS**  
7 **FOR THE ACT**

8 **SEC. 201. GENERAL PROVISIONS FOR THE ACT.**

9 (a) AMENDING TITLE V.—Title V (20 U.S.C. 7201  
10 et seq.) is amended to read as follows:

11 “TITLE V—GENERAL PROVISIONS

12 “PART A—DEFINITIONS

13 **“SEC. 5101. DEFINITIONS.**

14 “ Except as otherwise provided, in this Act:

15 “(1) ADJUSTED COHORT GRADUATION RATE.—

16 “(A) IN GENERAL.—The term ‘adjusted  
17 cohort graduation rate’ means the rate for the  
18 grades included in a high school in which—

19 “(i) the denominator consists of the  
20 number of students in the original cohort  
21 of students who entered the entry grade  
22 together in the entry year of high school,  
23 adjusted by—

24 “(I) adding the students who  
25 joined that cohort, after the beginning  
26 of the entry year of high school and



1 before the conclusion of the exit year  
2 of high school, by enrolling; and

3 “(II) subtracting only those stu-  
4 dents who left that cohort, after the  
5 beginning of the entry year of high  
6 school and before the conclusion of  
7 the exit year of high school, as de-  
8 scribed in subparagraph (B); and

9 “(ii) the numerator consists of the  
10 number of students in the cohort, as ad-  
11 justed under clause (i), who earned a reg-  
12 ular high school diploma before, during, or  
13 at the conclusion of—

14 “(I) the exit year of high school;  
15 or

16 “(II) a summer session imme-  
17 diately following the exit year of high  
18 school.

19 “(B) COHORT REMOVAL.—To remove a  
20 student from a cohort, a school or local edu-  
21 cational agency shall require documentation to  
22 confirm that the student has transferred out,  
23 emigrated to another country, or is deceased.

24 “(C) TRANSFERRED OUT.—

1           “(i) IN GENERAL.—For purposes of  
2 this paragraph, the term ‘transferred out’  
3 means a student who the high school or  
4 local educational agency has confirmed, ac-  
5 cording to clause (ii), has transferred—

6           “(I) to another school from which  
7 the student is expected to receive a  
8 regular high school diploma;

9           “(II) to another educational pro-  
10 gram from which the student is ex-  
11 pected to receive a regular high school  
12 diploma; or

13           “(III) to a prison or juvenile fa-  
14 cility to which the student is confined  
15 that has a school (as defined under  
16 State law) or provides an educational  
17 program that culminates in the award  
18 of a regular high school diploma.

19           “(ii) CONFIRMATION REQUIRE-  
20 MENTS.—

21           “(I) DOCUMENTATION RE-  
22 QUIRED.—The confirmation of a stu-  
23 dent’s transfer to another school or  
24 educational program described in  
25 clause (i) requires documentation

1 from the receiving school or program  
2 that the student enrolled in the receiv-  
3 ing school or program.

4 “(II) LACK OF CONFIRMATION.—  
5 A student who was enrolled, but for  
6 whom there is no confirmation of the  
7 student having transferred out, shall  
8 remain in the adjusted cohort.

9 “(iii) PROGRAMS NOT PROVIDING  
10 CREDIT.—A student enrolled in a GED or  
11 other alternative educational program that  
12 does not issue or provide credit toward the  
13 issuance of a regular high school diploma  
14 shall not be considered transferred out and  
15 shall remain in the adjusted cohort.

16 “(2) AVERAGE DAILY ATTENDANCE.—

17 “(A) IN GENERAL.—Except as provided  
18 otherwise by State law or this paragraph, the  
19 term ‘average daily attendance’ means—

20 “(i) the aggregate number of days of  
21 attendance of all students during a school  
22 year; divided by

23 “(ii) the number of days school is in  
24 session during that year.

1           “(B) CONVERSION.—The Secretary shall  
2 permit the conversion of average daily member-  
3 ship (or other similar data) to average daily at-  
4 tendance for local educational agencies in  
5 States that provide State aid to local edu-  
6 cational agencies on the basis of average daily  
7 membership (or other similar data).

8           “(C) SPECIAL RULE.—If the local edu-  
9 cational agency in which a child resides makes  
10 a tuition or other payment for the free public  
11 education of the child in a school located in an-  
12 other school district, the Secretary shall, for the  
13 purpose of this Act—

14                   “(i) consider the child to be in attend-  
15 ance at a school of the agency making the  
16 payment; and

17                   “(ii) not consider the child to be in at-  
18 tendance at a school of the agency receiv-  
19 ing the payment.

20           “(D) CHILDREN WITH DISABILITIES.—If a  
21 local educational agency makes a tuition pay-  
22 ment to a private school or to a public school  
23 of another local educational agency for a child  
24 with a disability, as defined in section 602 of  
25 the Individuals with Disabilities Education Act,

1 the Secretary shall, for the purpose of this Act,  
2 consider the child to be in attendance at a  
3 school of the agency making the payment.

4 “(3) AVERAGE PER-PUPIL EXPENDITURE.—The  
5 term ‘average per-pupil expenditure’ means, in the  
6 case of a State or of the United States—

7 “(A) without regard to the source of  
8 funds—

9 “(i) the aggregate current expendi-  
10 tures, during the third fiscal year pre-  
11 ceding the fiscal year for which the deter-  
12 mination is made (or, if satisfactory data  
13 for that year are not available, during the  
14 most recent preceding fiscal year for which  
15 satisfactory data are available) of all local  
16 educational agencies in the State or, in the  
17 case of the United States, for all States  
18 (which, for the purpose of this paragraph,  
19 means the 50 States and the District of  
20 Columbia); plus

21 “(ii) any direct current expenditures  
22 by the State for the operation of those  
23 agencies; divided by

24 “(B) the aggregate number of children in  
25 average daily attendance to whom those agen-

1           cies provided free public education during that  
2           preceding year.

3           “(4) CHARTER SCHOOL.—The term ‘charter  
4           school’ means a public school that—

5                   “(A) in accordance with a specific State  
6                   statute authorizing the granting of charters to  
7                   schools, is exempt from significant State or  
8                   local rules that inhibit the flexible operation  
9                   and management of public schools, but not  
10                  from any rules relating to the other require-  
11                  ments of this paragraph;

12                  “(B) is created by a developer as a public  
13                  school, or is adapted by a developer from an ex-  
14                  isting public school, and is operated under pub-  
15                  lic supervision and direction;

16                  “(C) operates in pursuit of a specific set of  
17                  educational objectives determined by the  
18                  school’s developer and agreed to by the author-  
19                  ized public chartering agency;

20                  “(D) provides a program of elementary or  
21                  secondary education, or both;

22                  “(E) is nonsectarian in its programs, ad-  
23                  missions policies, employment practices, and all  
24                  other operations;

25                  “(F) does not charge tuition;

1           “(G) complies with the Age Discrimination  
2 Act of 1975, title VI of the Civil Rights Act of  
3 1964, title IX of the Education Amendments of  
4 1972, section 504 of the Rehabilitation Act of  
5 1973, and part B of the Individuals with Dis-  
6 abilities Education Act;

7           “(H) is a school to which parents choose to  
8 send their children, and that admits students  
9 on the basis of a lottery, if more students apply  
10 for admission than can be accommodated;

11           “(I) agrees to comply with the same Fed-  
12 eral and State audit requirements as do other  
13 elementary schools and secondary schools in the  
14 State, unless such requirements are specifically  
15 waived for the purpose of this program;

16           “(J) meets all applicable Federal, State,  
17 and local health and safety requirements;

18           “(K) operates in accordance with State  
19 law;

20           “(L) has a written performance contract  
21 with the authorized public chartering agency in  
22 the State that includes a description of how  
23 student performance will be measured in char-  
24 ter schools pursuant to State assessments that  
25 are required of other schools and pursuant to

1 any other assessments mutually agreeable to  
2 the authorized public chartering agency and the  
3 charter school; and

4 “(M) may serve pre-kindergarten or post-  
5 secondary school students.

6 “(5) CHILD.—The term ‘child’ means any per-  
7 son within the age limits for which the State pro-  
8 vides free public education.

9 “(6) CHILD WITH A DISABILITY.—The term  
10 ‘child with a disability’ has the same meaning given  
11 that term in section 602 of the Individuals with Dis-  
12 abilities Education Act.

13 “(7) COMMUNITY-BASED ORGANIZATION.—The  
14 term ‘community-based organization’ means a public  
15 or private nonprofit organization of demonstrated ef-  
16 fectiveness that—

17 “(A) is representative of a community or  
18 significant segments of a community; and

19 “(B) provides educational or related serv-  
20 ices to individuals in the community.

21 “(8) CONSOLIDATED LOCAL APPLICATION.—  
22 The term ‘consolidated local application’ means an  
23 application submitted by a local educational agency  
24 pursuant to section 5305.



1           “(9) CONSOLIDATED LOCAL PLAN.—The term  
2           ‘consolidated local plan’ means a plan submitted by  
3           a local educational agency pursuant to section 5305.

4           “(10) CONSOLIDATED STATE APPLICATION.—  
5           The term ‘consolidated State application’ means an  
6           application submitted by a State educational agency  
7           pursuant to section 5302.

8           “(11) CONSOLIDATED STATE PLAN.—The term  
9           ‘consolidated State plan’ means a plan submitted by  
10          a State educational agency pursuant to section  
11          5302.

12          “(12) CORE ACADEMIC SUBJECTS.—The term  
13          ‘core academic subjects’ means English, reading or  
14          language arts, mathematics, science, foreign lan-  
15          guages, civics and government, economics, arts, his-  
16          tory, and geography.

17          “(13) COUNTY.—The term ‘county’ means one  
18          of the divisions of a State used by the Secretary of  
19          Commerce in compiling and reporting data regard-  
20          ing counties.

21          “(14) COVERED PROGRAM.—The term ‘covered  
22          program’ means each of the programs authorized  
23          by—

24                       “(A) part A of title I;

25                       “(B) title II; and

1                   “(C) title III.

2                   “(15) CURRENT EXPENDITURES.—The term  
3                   ‘current expenditures’ means expenditures for free  
4                   public education—

5                   “(A) including expenditures for adminis-  
6                   tration, instruction, attendance and health serv-  
7                   ices, pupil transportation services, operation  
8                   and maintenance of plant, fixed charges, and  
9                   net expenditures to cover deficits for food serv-  
10                  ices and student body activities; but

11                  “(B) not including expenditures for com-  
12                  munity services, capital outlay, and debt serv-  
13                  ice, or any expenditures made from funds re-  
14                  ceived under title I.

15                  “(16) DEPARTMENT.—The term ‘Department’  
16                  means the Department of Education.

17                  “(17) DISTANCE EDUCATION.—The term ‘dis-  
18                  tance education’ means the use of one or more tech-  
19                  nologies to deliver instruction to students who are  
20                  separated from the instructor and to support regular  
21                  and substantive interaction between the students  
22                  and the instructor synchronously or nonsyn-  
23                  chronously.

24                  “(18) EDUCATIONAL SERVICE AGENCY.—The  
25                  term ‘educational service agency’ means a regional

1 public multiservice agency authorized by State stat-  
2 ute to develop, manage, and provide services or pro-  
3 grams to local educational agencies.

4 “(19) ELEMENTARY SCHOOL.—The term ‘ele-  
5 mentary school’ means a nonprofit institutional day  
6 or residential school, including a public elementary  
7 charter school, that provides elementary education,  
8 as determined under State law.

9 “(20) ENGLISH LEARNER.—The term ‘English  
10 learner’, when used with respect to an individual,  
11 means an individual—

12 “(A) who is aged 3 through 21;

13 “(B) who is enrolled or preparing to enroll  
14 in an elementary school or secondary school;

15 “(C)(i) who was not born in the United  
16 States or whose native language is a language  
17 other than English;

18 “(ii)(I) who is a Native American or  
19 Alaska Native, or a native resident of the  
20 outlying areas; and

21 “(II) who comes from an environ-  
22 ment where a language other than  
23 English has had a significant impact  
24 on the individual’s level of English  
25 language proficiency; or

1           “(iii) who is migratory, whose native  
2           language is a language other than English,  
3           and who comes from an environment where  
4           a language other than English is domi-  
5           nant; and

6           “(D) whose difficulties in speaking, read-  
7           ing, writing, or understanding the English lan-  
8           guage may be sufficient to deny the indi-  
9           vidual—

10           “(i) the ability to meet the State’s  
11           academic standards described in section  
12           1111;

13           “(ii) the ability to successfully achieve  
14           in classrooms where the language of in-  
15           struction is English; or

16           “(iii) the opportunity to participate  
17           fully in society.

18           “(21) EXTRA-YEAR ADJUSTED COHORT GRAD-  
19           UATION RATE.—

20           “(A) IN GENERAL.—The term ‘extra-year  
21           adjusted cohort graduation rate’ means the rate  
22           for the grades included in a high school in  
23           which—

24           “(i) the denominator consists of the  
25           number of students in the original cohort

1 of students who entered the entry grade  
2 together in the entry year of high school,  
3 adjusted by—

4 “(I) adding the students who  
5 joined that cohort, after the beginning  
6 of the entry year of high school and  
7 before the conclusion of the extra year  
8 of high school, by enrolling; and

9 “(II) subtracting only those stu-  
10 dents who left that cohort, after the  
11 beginning of the entry year of high  
12 school and before the conclusion of  
13 the extra year of high school, as de-  
14 scribed in subparagraph (B); and

15 “(ii) the numerator consists of the  
16 number of students in the cohort, as ad-  
17 justed under clause (i), who earned a reg-  
18 ular high school diploma before, during, or  
19 at the conclusion of—

20 “(I) the extra year of high  
21 school; or

22 “(II) a summer session imme-  
23 diately following the extra year of  
24 high school.

1           “(B) COHORT REMOVAL.—To remove a  
2 student from a cohort, a school or local edu-  
3 cational agency shall require documentation to  
4 confirm that the student has transferred out,  
5 emigrated to another country, or is deceased.

6           “(C) TRANSFERRED OUT.—

7           “(i) IN GENERAL.—For purposes of  
8 this paragraph, the term ‘transferred out’  
9 means a student who the high school or  
10 local educational agency has confirmed, ac-  
11 cording to clause (ii), has transferred—

12           “(I) to another school from which  
13 the student is expected to receive a  
14 regular high school diploma;

15           “(II) to another educational pro-  
16 gram from which the student is ex-  
17 pected to receive a regular high school  
18 diploma; or

19           “(III) to a prison or juvenile fa-  
20 cility to which the student is confined  
21 that has a school (as defined under  
22 State law) or provides an educational  
23 program that culminates in the award  
24 of a regular high school diploma.

1                   “(ii) CONFIRMATION REQUIRE-  
2                   MENTS.—

3                   “(I) DOCUMENTATION RE-  
4                   QUIRED.—The confirmation of a stu-  
5                   dent’s transfer to another school or  
6                   educational program described in  
7                   clause (i) requires documentation  
8                   from the receiving school or program  
9                   that the student enrolled in the receiv-  
10                  ing school or program.

11                  “(II) LACK OF CONFIRMATION.—  
12                  A student who was enrolled, but for  
13                  whom there is no confirmation of the  
14                  student having transferred out, shall  
15                  remain in the extra-year adjusted co-  
16                  hort.

17                  “(iii) PROGRAMS NOT PROVIDING  
18                  CREDIT.—A student enrolled in a GED or  
19                  other alternative educational program that  
20                  does not issue or provide credit toward the  
21                  issuance of a regular high school diploma  
22                  shall not be considered transferred out and  
23                  shall remain in the extra-year adjusted co-  
24                  hort.

1           “(22) FAMILY LITERACY SERVICES.—The term  
2           ‘family literacy services’ means services provided to  
3           participants on a voluntary basis that are of suffi-  
4           cient intensity in terms of hours, and of sufficient  
5           duration, to make sustainable changes in a family,  
6           and that integrate all of the following activities:

7                   “(A) Interactive literacy activities between  
8                   parents and their children.

9                   “(B) Training for parents regarding how  
10                  to be the primary teacher for their children and  
11                  full partners in the education of their children.

12                  “(C) Parent literacy training that leads to  
13                  economic self-sufficiency.

14                  “(D) An age-appropriate education to pre-  
15                  pare children for success in school and life ex-  
16                  periences.

17           “(23) FREE PUBLIC EDUCATION.—The term  
18           ‘free public education’ means education that is pro-  
19           vided—

20                   “(A) at public expense, under public super-  
21                   vision and direction, and without tuition charge;  
22                   and

23                   “(B) as elementary school or secondary  
24                   school education as determined under applicable



1 State law, except that the term does not include  
2 any education provided beyond grade 12.

3 “(24) GRADUATION RATE.—The term ‘gradua-  
4 tion rate’ means the adjusted cohort graduation  
5 rate.

6 “(25) HIGH SCHOOL.—The term ‘high school’ ”  
7 means a secondary school that—

8 “(A) grants a diploma, as defined by the  
9 State; and

10 “(B) includes, at least, grade 12.

11 “(26) INSTITUTION OF HIGHER EDUCATION.—  
12 The term ‘institution of higher education’ has the  
13 meaning given that term in section 101(a) of the  
14 Higher Education Act of 1965.

15 “(27) LOCAL EDUCATIONAL AGENCY.—

16 “(A) IN GENERAL.—The term ‘local edu-  
17 cational agency’ means a public board of edu-  
18 cation or other public authority legally con-  
19 stituted within a State for either administrative  
20 control or direction of, or to perform a service  
21 function for, public elementary schools or sec-  
22 ondary schools in a city, county, township,  
23 school district, or other political subdivision of  
24 a State, or of or for a combination of school  
25 districts or counties that is recognized in a

1 State as an administrative agency for its public  
2 elementary schools or secondary schools.

3 “(B) ADMINISTRATIVE CONTROL AND DI-  
4 RECTION.—The term includes any other public  
5 institution or agency having administrative con-  
6 trol and direction of a public elementary school  
7 or secondary school.

8 “(C) BIE SCHOOLS.—The term includes  
9 an elementary school or secondary school fund-  
10 ed by the Bureau of Indian Education but only  
11 to the extent that including the school makes  
12 the school eligible for programs for which spe-  
13 cific eligibility is not provided to the school in  
14 another provision of law and the school does not  
15 have a student population that is smaller than  
16 the student population of the local educational  
17 agency receiving assistance under this Act with  
18 the smallest student population, except that the  
19 school shall not be subject to the jurisdiction of  
20 any State educational agency other than the  
21 Bureau of Indian Education.

22 “(D) EDUCATIONAL SERVICE AGENCIES.—  
23 The term includes educational service agencies  
24 and consortia of those agencies.

1           “(E) STATE EDUCATIONAL AGENCY.—The  
2           term includes the State educational agency in a  
3           State in which the State educational agency is  
4           the sole educational agency for all public  
5           schools.

6           “(28) NATIVE AMERICAN AND NATIVE AMER-  
7           ICAN LANGUAGE.—The terms ‘Native American’ and  
8           ‘Native American language’ have the same meaning  
9           given those terms in section 103 of the Native  
10          American Languages Act of 1990.

11          “(29) OTHER STAFF.—The term ‘other staff’  
12          means specialized instructional support personnel, li-  
13          brarians, career guidance and counseling personnel,  
14          education aides, and other instructional and admin-  
15          istrative personnel.

16          “(30) OUTLYING AREA.—The term ‘outlying  
17          area’—

18                 “(A) means American Samoa, the Com-  
19                 monwealth of the Northern Mariana Islands,  
20                 Guam, and the United States Virgin Islands;

21                 “(B) means the Republic of Palau, to the  
22                 extent permitted under section 105(f)(1)(B)(ix)  
23                 of the Compact of Free Association Amend-  
24                 ments Act of 2003 (Public Law 108–188; 117  
25                 Stat. 2751) and until an agreement for the ex-

1           tension of United States education assistance  
2           under the Compact of Free Association becomes  
3           effective for the Republic of Palau; and

4                   “(C) for the purpose of any discretionary  
5           grant program under this Act, includes the Re-  
6           public of the Marshall Islands and the Fed-  
7           erated States of Micronesia, to the extent per-  
8           mitted under section 105(f)(1)(B)(viii) of the  
9           Compact of Free Association Amendments Act  
10          of 2003 (Public Law 108–188; 117 Stat.  
11          2751).

12                   “(31) PARENT.—The term ‘parent’ includes a  
13          legal guardian or other person standing in loco  
14          parentis (such as a grandparent or stepparent with  
15          whom the child lives, or a person who is legally re-  
16          sponsible for the child’s welfare).

17                   “(32) PARENTAL INVOLVEMENT.—The term  
18          ‘parental involvement’ means the participation of  
19          parents in regular, two-way, and meaningful commu-  
20          nication involving student academic learning and  
21          other school activities, including ensuring—

22                           “(A) that parents play an integral role in  
23                           assisting in their child’s learning;

1           “(B) that parents are encouraged to be ac-  
2           tively involved in their child’s education at  
3           school;

4           “(C) that parents are full partners in their  
5           child’s education and are included, as appro-  
6           priate, in decisionmaking and on advisory com-  
7           mittees to assist in the education of their child;  
8           and

9           “(D) the carrying out of other activities,  
10          such as those described in section 1118.

11          “(33) POVERTY LINE.—The term ‘poverty line’  
12          means the poverty line (as defined by the Office of  
13          Management and Budget and revised annually in ac-  
14          cordance with section 673(2) of the Community  
15          Services Block Grant Act) applicable to a family of  
16          the size involved.

17          “(34) PROFESSIONAL DEVELOPMENT.—The  
18          term ‘professional development’—

19                 “(A) includes activities that—

20                         “(i) improve and increase teachers’  
21                         knowledge of the academic subjects the  
22                         teachers teach, and enable teachers to be-  
23                         come effective educators;



1                   “(II) strategies for improving  
2                   student academic achievement or sub-  
3                   stantially increasing the knowledge  
4                   and teaching skills of teachers; and  
5                   “(viii) are aligned with and directly  
6                   related to—

7                   “(I) State academic standards  
8                   and assessments; and

9                   “(II) the curricula and programs  
10                  tied to the standards described in sub-  
11                  clause (I);

12                  “(ix) are developed with extensive par-  
13                  ticipation of teachers, school leaders, par-  
14                  ents, and administrators of schools to be  
15                  served under this Act;

16                  “(x) are designed to give teachers of  
17                  English learners and other teachers and  
18                  instructional staff, the knowledge and  
19                  skills to provide instruction and appro-  
20                  priate language and academic support  
21                  services to those children, including the ap-  
22                  propriate use of curricula and assessments;

23                  “(xi) to the extent appropriate, pro-  
24                  vide training for teachers and school lead-  
25                  ers in the use of technology so that tech-

1 nology and technology applications are ef-  
2 fectively used in the classroom to improve  
3 teaching and learning in the curricula and  
4 core academic subjects in which the teach-  
5 ers teach;

6 “(xii) as a whole, are regularly evalu-  
7 ated for their impact on increased teacher  
8 effectiveness and improved student aca-  
9 demic achievement, with the findings of  
10 the evaluations used to improve the quality  
11 of the professional development;

12 “(xiii) provide instruction in methods  
13 of teaching children with special needs;

14 “(xiv) include instruction in the use of  
15 data and assessments to inform and in-  
16 struct classroom practice; and

17 “(xv) include instruction in ways that  
18 teachers, school leaders, specialized in-  
19 structional support personnel, and school  
20 administrators may work more effectively  
21 with parents; and

22 “(B) may include activities that—

23 “(i) involve the forming of partner-  
24 ships with institutions of higher education  
25 to establish school-based teacher training



1 programs that provide prospective teachers  
2 and new teachers with an opportunity to  
3 work under the guidance of experienced  
4 teachers and college faculty;

5 “(ii) create programs to enable para-  
6 professionals (assisting teachers employed  
7 by a local educational agency receiving as-  
8 sistance under subpart 1 of part A of title  
9 I) to obtain the education necessary for  
10 those paraprofessionals to become certified  
11 and licensed teachers; and

12 “(iii) provide follow-up training to  
13 teachers who have participated in activities  
14 described in subparagraph (A) or another  
15 clause of this subparagraph that are de-  
16 signed to ensure that the knowledge and  
17 skills learned by the teachers are imple-  
18 mented in the classroom.

19 “(35) REGULAR HIGH SCHOOL DIPLOMA.—

20 “(A) IN GENERAL.—The term ‘regular  
21 high school diploma’ means the standard high  
22 school diploma awarded to the preponderance of  
23 students in the State that is fully aligned with  
24 State standards, or a higher diploma. Such  
25 term shall not include a GED or other recog-

1 nized equivalent of a diploma, a certificate of  
2 attendance, or any lesser diploma award.

3 “(B) EXCEPTION FOR STUDENTS WITH  
4 SIGNIFICANT COGNITIVE DISABILITIES.—For a  
5 student who is assessed using an alternate as-  
6 sessment aligned to alternate academic stand-  
7 ards under section 1111(b)(1)(D), receipt of a  
8 regular high school diploma or a State-defined  
9 alternate diploma aligned with completion of  
10 the student’s right to a free appropriate public  
11 education under the Individuals with Disabil-  
12 ities Education Act shall be counted as grad-  
13 uating with a regular high school diploma for  
14 the purposes of this Act.

15 “(36) SECONDARY SCHOOL.—The term ‘sec-  
16 ondary school’ means a nonprofit institutional day or  
17 residential school, including a public secondary char-  
18 ter school, that provides secondary education, as de-  
19 termined under State law, except that the term does  
20 not include any education beyond grade 12.

21 “(37) SECRETARY.—The term ‘Secretary’  
22 means the Secretary of Education.

23 “(38) SPECIALIZED INSTRUCTIONAL SUPPORT  
24 PERSONNEL; SPECIALIZED INSTRUCTIONAL SUPPORT  
25 SERVICES.—

1           “(A) SPECIALIZED INSTRUCTIONAL SUP-  
2           PORT PERSONNEL.—The term ‘specialized in-  
3           structional support personnel’ means school  
4           counselors, school social workers, school psy-  
5           chologists, and other qualified professional per-  
6           sonnel involved in providing assessment, diag-  
7           nosis, counseling, educational, therapeutic, and  
8           other necessary services (including related serv-  
9           ices as that term is defined in section 602 of  
10          the Individuals with Disabilities Education Act)  
11          as part of a comprehensive program to meet  
12          student needs.

13          “(B) SPECIALIZED INSTRUCTIONAL SUP-  
14          PORT SERVICES.—The term ‘specialized instruc-  
15          tional support services’ means the services pro-  
16          vided by specialized instructional support per-  
17          sonnel.

18          “(39) STATE.—The term ‘State’ means each of  
19          the 50 States, the District of Columbia, the Com-  
20          monwealth of Puerto Rico, and each of the outlying  
21          areas.

22          “(40) STATE EDUCATIONAL AGENCY.—The  
23          term ‘State educational agency’ means the agency  
24          primarily responsible for the State supervision of  
25          public elementary schools and secondary schools.



1 shall be given the same consideration as a local edu-  
2 cational agency.

3 “PART B—FLEXIBILITY IN THE USE OF  
4 ADMINISTRATIVE AND OTHER FUNDS  
5 **“SEC. 5201. CONSOLIDATION OF STATE ADMINISTRATIVE**  
6 **FUNDS FOR ELEMENTARY AND SECONDARY**  
7 **EDUCATION PROGRAMS.**

8 “(a) CONSOLIDATION OF ADMINISTRATIVE FUNDS.—

9 “(1) IN GENERAL.—A State educational agency  
10 may consolidate the amounts specifically made avail-  
11 able to it for State administration under one or  
12 more of the programs under paragraph (2).

13 “(2) APPLICABILITY.—This section applies to  
14 any program under this Act under which funds are  
15 authorized to be used for administration, and such  
16 other programs as the Secretary may designate.

17 “(b) USE OF FUNDS.—

18 “(1) IN GENERAL.—A State educational agency  
19 shall use the amount available under this section for  
20 the administration of the programs included in the  
21 consolidation under subsection (a).

22 “(2) ADDITIONAL USES.—A State educational  
23 agency may also use funds available under this sec-  
24 tion for administrative activities designed to enhance  
25 the effective and coordinated use of funds under pro-

1           grams included in the consolidation under subsection  
2           (a), such as—

3                   “(A) the coordination of those programs  
4                   with other Federal and non-Federal programs;

5                   “(B) the establishment and operation of  
6                   peer-review mechanisms under this Act;

7                   “(C) the administration of this title;

8                   “(D) the dissemination of information re-  
9                   garding model programs and practices;

10                  “(E) technical assistance under any pro-  
11                  gram under this Act;

12                  “(F) State-level activities designed to carry  
13                  out this title;

14                  “(G) training personnel engaged in audit  
15                  and other monitoring activities; and

16                  “(H) implementation of the Cooperative  
17                  Audit Resolution and Oversight Initiative of the  
18                  Department.

19           “(c) RECORDS.—A State educational agency that  
20           consolidates administrative funds under this section shall  
21           not be required to keep separate records, by individual  
22           program, to account for costs relating to the administra-  
23           tion of programs included in the consolidation under sub-  
24           section (a).

1           “(d) REVIEW.—To determine the effectiveness of  
2 State administration under this section, the Secretary may  
3 periodically review the performance of State educational  
4 agencies in using consolidated administrative funds under  
5 this section and take such steps as the Secretary finds  
6 appropriate to ensure the effectiveness of that administra-  
7 tion.

8           “(e) UNUSED ADMINISTRATIVE FUNDS.—If a State  
9 educational agency does not use all of the funds available  
10 to the agency under this section for administration, the  
11 agency may use those funds during the applicable period  
12 of availability as funds available under one or more pro-  
13 grams included in the consolidation under subsection (a).

14           “(f) CONSOLIDATION OF FUNDS FOR STANDARDS  
15 AND ASSESSMENT DEVELOPMENT.—In order to develop  
16 State academic standards and assessments, a State edu-  
17 cational agency may consolidate the amounts described in  
18 subsection (a) for those purposes under title I.

19 **“SEC. 5202. SINGLE LOCAL EDUCATIONAL AGENCY STATES.**

20           “ A State educational agency that also serves as a  
21 local educational agency shall, in its applications or plans  
22 under this Act, describe how the agency will eliminate du-  
23 plication in conducting administrative functions.

1 **“SEC. 5203. CONSOLIDATED SET-ASIDE FOR DEPARTMENT**  
2 **OF THE INTERIOR FUNDS.**

3 “(a) GENERAL AUTHORITY.—

4 “(1) TRANSFER.—The Secretary shall transfer  
5 to the Department of the Interior, as a consolidated  
6 amount for covered programs, the Indian education  
7 programs under subpart 6 of part A of title I, and  
8 the education for homeless children and youth pro-  
9 gram under subtitle B of title VII of the McKinney-  
10 Vento Homeless Assistance Act, the amounts allot-  
11 ted to the Department of the Interior under those  
12 programs.

13 “(2) AGREEMENT.—

14 “(A) IN GENERAL.—The Secretary and the  
15 Secretary of the Interior shall enter into an  
16 agreement, consistent with the requirements of  
17 the programs specified in paragraph (1), for the  
18 distribution and use of those program funds  
19 under terms that the Secretary determines best  
20 meet the purposes of those programs.

21 “(B) CONTENTS.—The agreement shall—

22 “(i) set forth the plans of the Sec-  
23 retary of the Interior for the use of the  
24 amount transferred and the achievement  
25 measures to assess program effectiveness;  
26 and



1                   “(ii) be developed in consultation with  
2                   Indian tribes.

3           “(b) ADMINISTRATION.—The Department of the In-  
4 terior may use not more than 1.5 percent of the funds  
5 consolidated under this section for its costs related to the  
6 administration of the funds transferred under this section.

7 “PART C—COORDINATION OF PROGRAMS; CONSOLI-  
8 DATED STATE AND LOCAL PLANS AND APPLICA-  
9 TIONS

10 **“SEC. 5301. PURPOSES.**

11       “The purposes of this part are—

12           “(1) to improve teaching and learning by en-  
13 couraging greater cross-program coordination, plan-  
14 ning, and service delivery;

15           “(2) to provide greater flexibility to State and  
16 local authorities through consolidated plans, applica-  
17 tions, and reporting; and

18           “(3) to enhance the integration of programs  
19 under this Act with State and local programs.

20 **“SEC. 5302. OPTIONAL CONSOLIDATED STATE PLANS OR**  
21 **APPLICATIONS.**

22       “(a) GENERAL AUTHORITY.—

23           “(1) SIMPLIFICATION.—In order to simplify ap-  
24 plication requirements and reduce the burden for  
25 State educational agencies under this Act, the Sec-

1       retary, in accordance with subsection (b), shall es-  
2       tablish procedures and criteria under which, after  
3       consultation with the Governor, a State educational  
4       agency may submit a consolidated State plan or a  
5       consolidated State application meeting the require-  
6       ments of this section for—

7               “(A) each of the covered programs in  
8               which the State participates; and

9               “(B) such other programs as the Secretary  
10              may designate.

11             “(2) CONSOLIDATED APPLICATIONS AND  
12             PLANS.—After consultation with the Governor, a  
13             State educational agency that submits a consolidated  
14             State plan or a consolidated State application under  
15             this section shall not be required to submit separate  
16             State plans or applications under any of the pro-  
17             grams to which the consolidated State plan or con-  
18             solidated State application under this section ap-  
19             plies.

20             “(b) COLLABORATION.—

21             “(1) IN GENERAL.—In establishing criteria and  
22             procedures under this section, the Secretary shall  
23             collaborate with State educational agencies and, as  
24             appropriate, with other State agencies, local edu-  
25             cational agencies, public and private agencies, orga-

1 nizations, and institutions, private schools, and par-  
2 ents, students, and teachers.

3 “(2) CONTENTS.—Through the collaborative  
4 process described in paragraph (1), the Secretary  
5 shall establish, for each program under this Act to  
6 which this section applies, the descriptions, informa-  
7 tion, assurances, and other material required to be  
8 included in a consolidated State plan or consolidated  
9 State application.

10 “(3) NECESSARY MATERIALS.—The Secretary  
11 shall require only descriptions, information, assur-  
12 ances (including assurances of compliance with ap-  
13 plicable provisions regarding participation by private  
14 school children and teachers), and other materials  
15 that are absolutely necessary for the consideration of  
16 the consolidated State plan or consolidated State ap-  
17 plication.

18 **“SEC. 5303. CONSOLIDATED REPORTING.**

19 “(a) IN GENERAL.—In order to simplify reporting re-  
20 quirements and reduce reporting burdens, the Secretary  
21 shall establish procedures and criteria under which a State  
22 educational agency, in consultation with the Governor of  
23 the State, may submit a consolidated State annual report.

24 “(b) CONTENTS.—The report shall contain informa-  
25 tion about the programs included in the report, including

1 the performance of the State under those programs, and  
2 other matters as the Secretary determines are necessary,  
3 such as monitoring activities.

4 “(c) REPLACEMENT.—The report shall replace sepa-  
5 rate individual annual reports for the programs included  
6 in the consolidated State annual report.

7 **“SEC. 5304. GENERAL APPLICABILITY OF STATE EDU-  
8 CATIONAL AGENCY ASSURANCES.**

9 “(a) ASSURANCES.—A State educational agency, in  
10 consultation with the Governor of the State, that submits  
11 a consolidated State plan or consolidated State application  
12 under this Act, whether separately or under section 5302,  
13 shall have on file with the Secretary a single set of assur-  
14 ances, applicable to each program for which the plan or  
15 application is submitted, that provides that—

16 “(1) each such program will be administered in  
17 accordance with all applicable statutes, regulations,  
18 program plans, and applications;

19 “(2)(A) the control of funds provided under  
20 each such program and title to property acquired  
21 with program funds will be in a public agency, an  
22 eligible private agency, institution, or organization,  
23 or an Indian tribe, if the law authorizing the pro-  
24 gram provides for assistance to those entities; and

1           “(B) the public agency, eligible private agency,  
2           institution, or organization, or Indian tribe will ad-  
3           minister those funds and property to the extent re-  
4           quired by the authorizing law;

5           “(3) the State will adopt and use proper meth-  
6           ods of administering each such program, including—

7                   “(A) the enforcement of any obligations  
8                   imposed by law on agencies, institutions, orga-  
9                   nizations, and other recipients responsible for  
10                  carrying out each program;

11                   “(B) the correction of deficiencies in pro-  
12                   gram operations that are identified through au-  
13                   dits, monitoring, or evaluation; and

14                   “(C) the adoption of written procedures for  
15                   the receipt and resolution of complaints alleging  
16                   violations of law in the administration of the  
17                   programs;

18           “(4) the State will cooperate in carrying out  
19           any evaluation of each such program conducted by  
20           or for the Secretary or other Federal officials;

21           “(5) the State will use such fiscal control and  
22           fund accounting procedures that will ensure proper  
23           disbursement of, and accounting for, Federal funds  
24           paid to the State under each such program;

25           “(6) the State will—



1           “(2) AVAILABILITY TO GOVERNOR.—The State  
2           educational agency shall make any consolidated local  
3           plans and applications available to the Governor.

4           “(b) REQUIRED CONSOLIDATED PLANS OR APPLICA-  
5           TIONS.—A State educational agency that has an approved  
6           consolidated State plan or application under section 5302  
7           may require local educational agencies in the State receiv-  
8           ing funds under more than one program included in the  
9           consolidated State plan or consolidated State application  
10          to submit consolidated local plans or applications under  
11          those programs, but may not require those agencies to  
12          submit separate plans.

13          “(c) COLLABORATION.—A State educational agency,  
14          in consultation with the Governor, shall collaborate with  
15          local educational agencies in the State in establishing pro-  
16          cedures for the submission of the consolidated State plans  
17          or consolidated State applications under this section.

18          “(d) NECESSARY MATERIALS.—The State edu-  
19          cational agency shall require only descriptions, informa-  
20          tion, assurances, and other material that are absolutely  
21          necessary for the consideration of the local educational  
22          agency plan or application.

23          **“SEC. 5306. OTHER GENERAL ASSURANCES.**

24          “(a) ASSURANCES.—Any applicant, other than a  
25          State educational agency that submits a plan or applica-

1 tion under this Act, shall have on file with the State edu-  
2 cational agency a single set of assurances, applicable to  
3 each program for which a plan or application is submitted,  
4 that provides that—

5           “(1) each such program will be administered in  
6 accordance with all applicable statutes, regulations,  
7 program plans, and applications;

8           “(2)(A) the control of funds provided under  
9 each such program and title to property acquired  
10 with program funds will be in a public agency or in  
11 an eligible private agency, institution, organization,  
12 or Indian tribe, if the law authorizing the program  
13 provides for assistance to those entities; and

14           “(B) the public agency, eligible private agency,  
15 institution, or organization, or Indian tribe will ad-  
16 minister the funds and property to the extent re-  
17 quired by the authorizing statutes;

18           “(3) the applicant will adopt and use proper  
19 methods of administering each such program, in-  
20 cluding—

21           “(A) the enforcement of any obligations  
22 imposed by law on agencies, institutions, orga-  
23 nizations, and other recipients responsible for  
24 carrying out each program; and



1           “(B) the correction of deficiencies in pro-  
2           gram operations that are identified through au-  
3           dits, monitoring, or evaluation;

4           “(4) the applicant will cooperate in carrying out  
5           any evaluation of each such program conducted by  
6           or for the State educational agency, the Secretary,  
7           or other Federal officials;

8           “(5) the applicant will use such fiscal control  
9           and fund accounting procedures as will ensure prop-  
10          er disbursement of, and accounting for, Federal  
11          funds paid to the applicant under each such pro-  
12          gram;

13          “(6) the applicant will—

14                 “(A) submit such reports to the State edu-  
15                 cational agency (which shall make the reports  
16                 available to the Governor) and the Secretary as  
17                 the State educational agency and Secretary may  
18                 require to enable the State educational agency  
19                 and the Secretary to perform their duties under  
20                 each such program; and

21                 “(B) maintain such records, provide such  
22                 information, and afford such access to the  
23                 records as the State educational agency (after  
24                 consultation with the Governor) or the Sec-  
25                 retary may reasonably require to carry out the

1 State educational agency's or the Secretary's  
2 duties; and

3 “(7) before the application was submitted, the  
4 applicant afforded a reasonable opportunity for pub-  
5 lic comment on the application and considered such  
6 comment.

7 “(b) GEPA PROVISION.—Section 442 of the General  
8 Education Provisions Act shall not apply to programs  
9 under this Act.

10 “PART D—WAIVERS

11 “**SEC. 5401. WAIVERS OF STATUTORY AND REGULATORY RE-**  
12 **QUIREMENTS.**

13 “(a) IN GENERAL.—

14 “(1) REQUEST FOR WAIVER.—A State edu-  
15 cational agency, local educational agency, or Indian  
16 tribe that receives funds under a program authorized  
17 under this Act may submit a request to the Sec-  
18 retary to waive any statutory or regulatory require-  
19 ment of this Act.

20 “(2) RECEIPT OF WAIVER.—Except as provided  
21 in subsection (c), the Secretary shall waive any stat-  
22 utory or regulatory requirement of this Act for a  
23 State educational agency, local educational agency,  
24 Indian tribe, or school (through a local educational

1       agency), that submits a waiver request pursuant to  
2       this subsection.

3       “(b) PLAN.—

4             “(1) IN GENERAL.—A State educational agen-  
5       cy, local educational agency, or Indian tribe that de-  
6       sires a waiver under this section shall submit a waiv-  
7       er request to the Secretary, which shall include a  
8       plan that—

9             “(A) identifies the Federal programs af-  
10       fected by the requested waiver;

11            “(B) describes which Federal statutory or  
12       regulatory requirements are to be waived;

13            “(C) reasonably demonstrates that the  
14       waiver will improve instruction for students and  
15       advance student academic achievement;

16            “(D) describes the methods the State edu-  
17       cational agency, local educational agency, or In-  
18       dian tribe will use to monitor the effectiveness  
19       of the implementation of the plan;

20            “(E) describes the State educational agen-  
21       cy, local educational agency, or Indian tribe’s  
22       process for holding public schools accountable  
23       for student academic achievement and inter-  
24       vening in low performing schools; and

1           “(F) describes how schools will continue to  
2           provide assistance to the same populations  
3           served by programs for which the waiver is re-  
4           quested.

5           “(2) ADDITIONAL INFORMATION.—A waiver re-  
6           quest under this section—

7           “(A) may provide for waivers of require-  
8           ments applicable to State educational agencies,  
9           local educational agencies, Indian tribes, and  
10          schools; and

11          “(B) shall be developed and submitted—

12           “(i)(I) by local educational agencies  
13           (on behalf of those agencies and schools)  
14           to State educational agencies; and

15           “(II) by State educational agencies  
16           (on their own behalf, or on behalf of, and  
17           based on the requests of, local educational  
18           agencies in the State) to the Secretary; or

19           “(ii) by Indian tribes (on behalf of  
20           schools operated by the tribes) to the Sec-  
21           retary.

22          “(3) GENERAL REQUIREMENTS.—

23           “(A) STATE EDUCATIONAL AGENCIES.—In  
24           the case of a waiver request submitted by a  
25           State educational agency acting on its own be-

1 half, or on behalf of local educational agencies  
2 in the State, the State educational agency  
3 shall—

4 “(i) provide all interested local edu-  
5 cational agencies in the State with notice  
6 and a reasonable opportunity to comment  
7 and provide input on the request;

8 “(ii) submit the comments and input  
9 to the Secretary; and

10 “(iii) provide notice and information  
11 to the public regarding the waiver request  
12 in the manner in which the applying agen-  
13 cy customarily provides similar notices and  
14 information to the public.

15 “(B) LOCAL EDUCATIONAL AGENCIES.—In  
16 the case of a waiver request submitted by a  
17 local educational agency that receives funds  
18 under this Act—

19 “(i) the request shall be reviewed by  
20 the State educational agency and be ac-  
21 companied by the comments, if any, of the  
22 State educational agency; and

23 “(ii) notice and information regarding  
24 the waiver request shall be provided to the  
25 public by the agency requesting the waiver

1 in the manner in which that agency cus-  
2 tomarily provides similar notices and infor-  
3 mation to the public.

4 “(4) PEER REVIEW.—

5 “(A) ESTABLISHMENT.—The Secretary  
6 shall establish a multi-disciplinary peer review  
7 team to review waiver requests under this sec-  
8 tion.

9 “(B) APPLICABILITY.—The Secretary may  
10 approve a waiver request under this section  
11 without conducting a peer review of the request,  
12 but shall use the peer review process under this  
13 paragraph before disapproving such a request.

14 “(C) STANDARD AND NATURE OF RE-  
15 VIEW.—Peer reviewers shall conduct a good  
16 faith review of waiver requests submitted to  
17 them under this section. Peer reviewers shall re-  
18 view such waiver requests—

19 “(i) in their totality;

20 “(ii) in deference to State and local  
21 judgment; and

22 “(iii) with the goal of promoting  
23 State- and local-led innovation.

24 “(5) WAIVER DETERMINATION, DEMONSTRA-  
25 TION, AND REVISION.—

1           “(A) IN GENERAL.—The Secretary shall  
2 approve a waiver request not more than 60  
3 days after the date on which such request is  
4 submitted, unless the Secretary determines and  
5 demonstrates that—

6                   “(i) the waiver request does not meet  
7 the requirements of this section;

8                   “(ii) the waiver is not permitted under  
9 subsection (c);

10                   “(iii) the plan that is required under  
11 paragraph (1)(C), and reviewed with def-  
12 erence to State and local judgment, pro-  
13 vides no reasonable evidence to determine  
14 that a waiver will enhance student aca-  
15 demic achievement; or

16                   “(iv) the waiver request does not pro-  
17 vide for adequate evaluation to ensure re-  
18 view and continuous improvement of the  
19 plan.

20           “(B) WAIVER DETERMINATION AND REVI-  
21 SION.—If the Secretary determines and dem-  
22 onstrates that the waiver request does not meet  
23 the requirements of this section, the Secretary  
24 shall—

25                   “(i) immediately—

1                   “(I) notify the State educational  
2                   agency, local educational agency, or  
3                   Indian tribe of such determination;  
4                   and

5                   “(II) at the request of the State  
6                   educational agency, local educational  
7                   agency, or Indian tribe, provide de-  
8                   tailed reasons for such determination  
9                   in writing;

10                  “(ii) offer the State educational agen-  
11                  cy, local educational agency, or Indian  
12                  tribe an opportunity to revise and resubmit  
13                  the waiver request not more than 60 days  
14                  after the date of such determination; and

15                  “(iii) if the Secretary determines that  
16                  the resubmission does not meet the re-  
17                  quirements of this section, at the request  
18                  of the State educational agency, local edu-  
19                  cational agency, or Indian tribe, conduct a  
20                  public hearing not more than 30 days after  
21                  the date of such resubmission.

22                  “(C) WAIVER DISAPPROVAL.—The Sec-  
23                  retary may disapprove a waiver request if—

24                         “(i) the State educational agency,  
25                         local educational agency, or Indian tribe



1 has been notified and offered an oppor-  
2 tunity to revise and resubmit the waiver  
3 request, as described under clauses (i) and  
4 (ii) of subparagraph (B); and

5 “(ii) the State educational agency,  
6 local educational agency, or Indian tribe—

7 “(I) does not revise and resubmit  
8 the waiver request; or

9 “(II) revises and resubmits the  
10 waiver request, and the Secretary de-  
11 termines that such waiver request  
12 does not meet the requirements of this  
13 section after a hearing conducted  
14 under subparagraph (B)(iii), if re-  
15 quested.

16 “(D) EXTERNAL CONDITIONS.—The Sec-  
17 retary shall not disapprove a waiver request  
18 under this section based on conditions outside  
19 the scope of the waiver request.

20 “(c) RESTRICTIONS.—The Secretary shall not waive  
21 under this section any statutory or regulatory require-  
22 ments relating to—

23 “(1) the allocation or distribution of funds to  
24 States, local educational agencies, Indian tribes, or  
25 other recipients of funds under this Act;

- 1           “(2) comparability of services;
- 2           “(3) use of Federal funds to supplement, not
- 3           supplant, non-Federal funds;
- 4           “(4) equitable participation of private school
- 5           students and teachers;
- 6           “(5) parental participation and involvement;
- 7           “(6) applicable civil rights requirements;
- 8           “(7) the prohibitions regarding—
- 9                 “(A) State aid in section 5521;
- 10                “(B) use of funds for religious worship or
- 11                instruction in section 5505; and
- 12                “(C) activities in section 5525; or
- 13           “(8) the selection of a school attendance area or
- 14           school under subsections (a) and (b) of section 1113,
- 15           except that the Secretary may grant a waiver to
- 16           allow a school attendance area or school to partici-
- 17           pate in activities under subpart 1 of part A of title
- 18           I if the percentage of children from low-income fami-
- 19           lies in the school attendance area or who attend the
- 20           school is not more than 10 percentage points below
- 21           the lowest percentage of those children for any
- 22           school attendance area or school of the local edu-
- 23           cational agency that meets the requirements of sub-
- 24           sections (a) and (b) of section 1113.

1           “(d) DURATION AND EXTENSION OF WAIVER; LIM-  
2 TATIONS.—

3           “(1) IN GENERAL.—Except as provided in para-  
4 graph (2), a waiver approved by the Secretary under  
5 this section may be for a period not to exceed 3  
6 years.

7           “(2) EXTENSION.—The Secretary may extend  
8 the period described in paragraph (1) if the State  
9 demonstrates that—

10           “(A) the waiver has been effective in ena-  
11 bling the State or affected recipient to carry out  
12 the activities for which the waiver was re-  
13 quested and the waiver has contributed to im-  
14 proved student achievement; and

15           “(B) the extension is in the public interest.

16           “(3) SPECIFIC LIMITATIONS.—The Secretary  
17 shall not require a State educational agency, local  
18 educational agency, or Indian tribe, as a condition of  
19 approval of a waiver request, to—

20           “(A) include in, or delete from, such re-  
21 quest, specific academic standards;

22           “(B) use specific academic assessment in-  
23 struments or items; or

24           “(C) include in, or delete from, such waiv-  
25 er request any criterion that specifies, defines,

1 or prescribes the standards or measures that a  
2 State or local educational agency or Indian  
3 tribe uses to establish, implement, or improve—

4 “(i) State academic standards;

5 “(ii) academic assessments;

6 “(iii) State accountability systems; or

7 “(iv) teacher and school leader evalua-  
8 tion systems.

9 “(e) REPORTS.—

10 “(1) WAIVER REPORTS.—A State educational  
11 agency, local educational agency, or Indian tribe  
12 that receives a waiver under this section shall, at the  
13 end of the second year for which a waiver is received  
14 under this section and each subsequent year, submit  
15 a report to the Secretary that—

16 “(A) describes the uses of the waiver by  
17 the agency or by schools;

18 “(B) describes how schools continued to  
19 provide assistance to the same populations  
20 served by the programs for which waivers were  
21 granted; and

22 “(C) evaluates the progress of the agency  
23 and schools, or Indian tribe, in improving the  
24 quality of instruction or the academic achieve-  
25 ment of students.

1           “(2) REPORT TO CONGRESS.—The Secretary  
2           shall annually submit to the Committee on Edu-  
3           cation and the Workforce of the House of Rep-  
4           resentatives and the Committee on Health, Edu-  
5           cation, Labor, and Pensions of the Senate a re-  
6           port—

7                   “(A) summarizing the uses of waivers by  
8                   State educational agencies, local educational  
9                   agencies, Indian tribes, and schools; and

10                   “(B) describing the status of the waivers  
11                   in improving academic achievement.

12           “(f) TERMINATION OF WAIVERS.—The Secretary  
13           shall terminate a waiver under this section if the Secretary  
14           determines, after notice and an opportunity for a hearing,  
15           that the performance of the State or other recipient af-  
16           fected by the waiver has been inadequate to justify a con-  
17           tinuation of the waiver and the recipient of the waiver has  
18           failed to make revisions needed to carry out the purpose  
19           of the waiver, or if the waiver is no longer necessary to  
20           achieve its original purpose.

21           “(g) PUBLICATION.—A notice of the Secretary’s deci-  
22           sion to grant each waiver under subsection (a) shall be  
23           published in the Federal Register and the Secretary shall  
24           provide for the dissemination of the notice to State edu-  
25           cational agencies, interested parties, including educators,

1 parents, students, advocacy and civil rights organizations,  
2 and the public.

3 “PART E—UNIFORM PROVISIONS

4 “SUBPART 1—PRIVATE SCHOOLS

5 “SEC. 5501. PARTICIPATION BY PRIVATE SCHOOL CHIL-  
6 DREN AND TEACHERS.

7 “(a) PRIVATE SCHOOL PARTICIPATION.—

8 “(1) IN GENERAL.—Except as otherwise pro-  
9 vided in this Act, to the extent consistent with the  
10 number of eligible children in areas served by a  
11 State educational agency, local educational agency,  
12 educational service agency, consortium of those  
13 agencies, or another entity receiving financial assist-  
14 ance under a program specified in subsection (b),  
15 who are enrolled in private elementary schools and  
16 secondary schools in areas served by such agency,  
17 consortium, or entity, the agency, consortium, or en-  
18 tity shall, after timely and meaningful consultation  
19 with appropriate private school officials provide to  
20 those children and their teachers or other edu-  
21 cational personnel, on an equitable basis, special  
22 educational services or other benefits that address  
23 their needs under the program.

24 “(2) SECULAR, NEUTRAL, AND NONIDEOLOG-  
25 ICAL SERVICES OR BENEFITS.—Educational services

1 or other benefits, including materials and equipment,  
2 provided under this section, shall be secular, neutral,  
3 and nonideological.

4 “(3) SPECIAL RULE.—Educational services and  
5 other benefits provided under this section for private  
6 school children, teachers, and other educational per-  
7 sonnel shall be equitable in comparison to services  
8 and other benefits for public school children, teach-  
9 ers, and other educational personnel participating in  
10 the program and shall be provided in a timely man-  
11 ner.

12 “(4) EXPENDITURES.—

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

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

23 “(i) be obligated in the fiscal year for  
24 which the funds are received by the agen-  
25 cy; and

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

5                   “(C) NOTICE OF ALLOCATION.—Each  
6                   State educational agency shall—

7                   “(i) determine, in a timely manner,  
8                   the proportion of funds to be allocated to  
9                   each local educational agency in the State  
10                  for educational services and other benefits  
11                  under this subpart to eligible private school  
12                  children; and

13                  “(ii) provide notice, simultaneously, to  
14                  each such local educational agency and the  
15                  appropriate private school officials in the  
16                  State of such allocation of funds.

17                  “(5) PROVISION OF SERVICES.—An agency,  
18                  consortium, or entity described in subsection (a)(1)  
19                  of this section may provide those services directly or  
20                  through contracts with public and private agencies,  
21                  organizations, and institutions.

22                  “(b) APPLICABILITY.—

23                  “(1) IN GENERAL.—This section applies to pro-  
24                  grams under—

25                  “(A) part A of title II;



1 “(B) part B of title II; and

2 “(C) part B of title III.

3 “(2) DEFINITION.—For the purpose of this sec-  
4 tion, the term ‘eligible children’ means children eligi-  
5 ble for services under a program described in para-  
6 graph (1).

7 “(c) CONSULTATION.—

8 “(1) IN GENERAL.—To ensure timely and  
9 meaningful consultation, a State educational agency,  
10 local educational agency, educational service agency,  
11 consortium of those agencies, or entity shall consult  
12 with appropriate private school officials during the  
13 design and development of the programs under this  
14 Act, on issues such as—

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

17 “(B) what services will be offered;

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

20 “(D) how the services will be assessed and  
21 how the results of the assessment will be used  
22 to improve those services;

23 “(E) the size and scope of the equitable  
24 services to be provided to the eligible private  
25 school children, teachers, and other educational

1           personnel and the amount of funds available for  
2           those services;

3           “(F) how and when the agency, consor-  
4           tium, or entity will make decisions about the  
5           delivery of services, including a thorough con-  
6           sideration and analysis of the views of the pri-  
7           vate school officials on the provision of contract  
8           services through potential third-party providers;  
9           and

10          “(G) how, if the agency disagrees with the  
11          views of the private school officials on the provi-  
12          sion of services through a contract, the local  
13          educational agency will provide in writing to  
14          such private school officials an analysis of the  
15          reasons why the local educational agency has  
16          chosen not to use a contractor.

17          “(2) DISAGREEMENT.—If the agency, consor-  
18          tium, or entity disagrees with the views of the pri-  
19          vate school officials with respect to an issue de-  
20          scribed in paragraph (1), the agency, consortium, or  
21          entity shall provide to the private school officials a  
22          written explanation of the reasons why the local edu-  
23          cational agency has chosen not to adopt the course  
24          of action requested by such officials.

1           “(3) TIMING.—The consultation required by  
2 paragraph (1) shall occur before the agency, consor-  
3 tium, or entity makes any decision that affects the  
4 opportunities of eligible private school children,  
5 teachers, and other educational personnel to partici-  
6 pate in programs under this Act, and shall continue  
7 throughout the implementation and assessment of  
8 activities under this section.

9           “(4) DISCUSSION REQUIRED.—The consultation  
10 required by paragraph (1) shall include a discussion  
11 of service delivery mechanisms that the agency, con-  
12 sortium, or entity could use to provide equitable  
13 services to eligible private school children, teachers,  
14 administrators, and other staff.

15           “(5) DOCUMENTATION.—Each local educational  
16 agency shall maintain in the agency’s records and  
17 provide to the State educational agency involved a  
18 written affirmation signed by officials of each par-  
19 ticipating private school that the meaningful con-  
20 sultation required by this section has occurred. The  
21 written affirmation shall provide the option for pri-  
22 vate school officials to indicate that timely and  
23 meaningful consultation has not occurred or that the  
24 program design is not equitable with respect to eligi-  
25 ble private school children. If such officials do not

1 provide such affirmation within a reasonable period  
2 of time, the local educational agency shall forward  
3 the documentation that such consultation has, or at-  
4 tempts at such consultation have, taken place to the  
5 State educational agency.

6 “(d) PUBLIC CONTROL OF FUNDS.—

7 “(1) IN GENERAL.—The control of funds used  
8 to provide services under this section, and title to  
9 materials, equipment, and property purchased with  
10 those funds, shall be in a public agency for the uses  
11 and purposes provided in this Act, and a public  
12 agency shall administer the funds and property.

13 “(2) PROVISION OF SERVICES.—

14 “(A) IN GENERAL.—The provision of serv-  
15 ices under this section shall be provided—

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

17 or

18 “(ii) through contract by the public  
19 agency with an individual, association,  
20 agency, organization, or other entity.

21 “(B) INDEPENDENCE; PUBLIC AGENCY.—

22 In the provision of those services, the employee,  
23 person, association, agency, organization, or  
24 other entity shall be independent of the private  
25 school and of any religious organization, and

1 the employment or contract shall be under the  
2 control and supervision of the public agency.

3 “(C) COMMINGLING OF FUNDS PROHIB-  
4 ITED.—Funds used to provide services under  
5 this section shall not be commingled with non-  
6 Federal funds.

7 **“SEC. 5502. STANDARDS FOR BY-PASS.**

8 “(a) IN GENERAL.—If, by reason of any provision of  
9 law, a State educational agency, local educational agency,  
10 educational service agency, consortium of those agencies,  
11 or other entity is prohibited from providing for the partici-  
12 pation in programs of children enrolled in, or teachers or  
13 other educational personnel from, private elementary  
14 schools and secondary schools, on an equitable basis, or  
15 if the Secretary determines that the agency, consortium,  
16 or entity has substantially failed or is unwilling to provide  
17 for that participation, as required by section 5501, the  
18 Secretary shall—

19 “(1) waive the requirements of that section for  
20 the agency, consortium, or entity; and

21 “(2) arrange for the provision of equitable serv-  
22 ices to those children, teachers, or other educational  
23 personnel through arrangements that shall be sub-  
24 ject to the requirements of this section and of sec-  
25 tions 5501, 5503, and 5504.

1           “(b) DETERMINATION.—In making the determina-  
2 tion under subsection (a), the Secretary shall consider one  
3 or more factors, including the quality, size, scope, and lo-  
4 cation of the program, and the opportunity of private  
5 school children, teachers, and other educational personnel  
6 to participate in the program.

7           **“SEC. 5503. COMPLAINT PROCESS FOR PARTICIPATION OF**  
8                                   **PRIVATE SCHOOL CHILDREN.**

9           “(a) PROCEDURES FOR COMPLAINTS.—The Sec-  
10 retary shall develop and implement written procedures for  
11 receiving, investigating, and resolving complaints from  
12 parents, teachers, or other individuals and organizations  
13 concerning violations of section 5501 by a State edu-  
14 cational agency, local educational agency, educational  
15 service agency, consortium of those agencies, or entity.  
16 The individual or organization shall submit the complaint  
17 to the State educational agency for a written resolution  
18 by the State educational agency within 45 days.

19           “(b) APPEALS TO SECRETARY.—The resolution may  
20 be appealed by an interested party to the Secretary not  
21 later than 30 days after the State educational agency re-  
22 solves the complaint or fails to resolve the complaint with-  
23 in the 45-day time limit. The appeal shall be accompanied  
24 by a copy of the State educational agency’s resolution,  
25 and, if there is one, a complete statement of the reasons

1 supporting the appeal. The Secretary shall investigate and  
2 resolve the appeal not later than 90 days after receipt of  
3 the appeal.

4 **“SEC. 5504. BY-PASS DETERMINATION PROCESS.**

5 “(a) REVIEW.—

6 “(1) IN GENERAL.—

7 “(A) WRITTEN OBJECTIONS.—The Sec-  
8 retary shall not take any final action under sec-  
9 tion 5502 until the State educational agency,  
10 local educational agency, educational service  
11 agency, consortium of those agencies, or entity  
12 affected by the action has had an opportunity,  
13 for not less than 45 days after receiving written  
14 notice thereof, to submit written objections and  
15 to appear before the Secretary to show cause  
16 why that action should not be taken.

17 “(B) PRIOR TO REDUCTION.—Pending  
18 final resolution of any investigation or com-  
19 plaint that could result in a determination  
20 under this section, the Secretary may withhold  
21 from the allocation of the affected State edu-  
22 cational agency or local educational agency the  
23 amount estimated by the Secretary to be nec-  
24 essary to pay the cost of those services.

25 “(2) PETITION FOR REVIEW.—

1           “(A) PETITION.—If the affected agency,  
2 consortium, or entity is dissatisfied with the  
3 Secretary’s final action after a proceeding  
4 under paragraph (1), the agency, consortium,  
5 or entity may, within 60 days after notice of  
6 that action, file with the United States court of  
7 appeals for the circuit in which the State is lo-  
8 cated a petition for review of that action.

9           “(B) TRANSMISSION.—A copy of the peti-  
10 tion shall be forthwith transmitted by the clerk  
11 of the court to the Secretary.

12           “(C) FILING.—The Secretary, upon receipt  
13 of the copy of the petition, shall file in the court  
14 the record of the proceedings on which the Sec-  
15 retary based the action, as provided in section  
16 2112 of title 28, United States Code.

17           “(3) FINDINGS OF FACT.—

18           “(A) IN GENERAL.—The findings of fact  
19 by the Secretary, if supported by substantial  
20 evidence, shall be conclusive, but the court, for  
21 good cause shown, may remand the case to the  
22 Secretary to take further evidence and the Sec-  
23 retary may then make new or modified findings  
24 of fact and may modify the Secretary’s previous



1           action, and shall file in the court the record of  
2           the further proceedings.

3           “(B) NEW OR MODIFIED FINDINGS.—Any  
4           new or modified findings of fact shall likewise  
5           be conclusive if supported by substantial evi-  
6           dence.

7           “(4) JURISDICTION.—

8           “(A) IN GENERAL.—Upon the filing of a  
9           petition, the court shall have jurisdiction to af-  
10          firm the action of the Secretary or to set the  
11          action aside, in whole or in part.

12          “(B) JUDGMENT.—The judgment of the  
13          court shall be subject to review by the Supreme  
14          Court of the United States upon certiorari or  
15          certification as provided in section 1254 of title  
16          28, United States Code.

17          “(b) DETERMINATION.—Any determination by the  
18          Secretary under this section shall continue in effect until  
19          the Secretary determines, in consultation with that agen-  
20          cy, consortium, or entity and representatives of the af-  
21          fected private school children, teachers, or other edu-  
22          cational personnel, that there will no longer be any failure  
23          or inability on the part of the agency, consortium, or enti-  
24          ty to meet the applicable requirements of section 5501 or  
25          any other provision of this Act.

1           “(c) PAYMENT FROM STATE ALLOTMENT.—When  
2 the Secretary arranges for services pursuant to this sec-  
3 tion, the Secretary shall, after consultation with the ap-  
4 propriate public and private school officials, pay the cost  
5 of those services, including the administrative costs of ar-  
6 ranging for those services, from the appropriate allocation  
7 or allocations under this Act.

8           “(d) PRIOR DETERMINATION.—Any by-pass deter-  
9 mination by the Secretary under this Act as in effect on  
10 the day preceding the date of enactment of the Student  
11 Success Act shall remain in effect to the extent the Sec-  
12 retary determines that determination is consistent with  
13 the purpose of this section.

14 **“SEC. 5505. PROHIBITION AGAINST FUNDS FOR RELIGIOUS**  
15 **WORSHIP OR INSTRUCTION.**

16           “ Nothing contained in this Act shall be construed  
17 to authorize the making of any payment under this Act  
18 for religious worship or instruction.

19 **“SEC. 5506. PRIVATE, RELIGIOUS, AND HOME SCHOOLS.**

20           “(a) APPLICABILITY TO NONRECIPIENT PRIVATE  
21 SCHOOLS.—Nothing in this Act shall be construed to af-  
22 fect any private school that does not receive funds or serv-  
23 ices under this Act, nor shall any student who attends a  
24 private school that does not receive funds or services under

1 this Act be required to participate in any assessment ref-  
2 erenced in this Act.

3 “(b) APPLICABILITY TO HOME SCHOOLS.—Nothing  
4 in this Act shall be construed to affect a home school,  
5 whether or not a home school is treated as a home school  
6 or a private school under State law, nor shall any student  
7 schooled at home be required to participate in any assess-  
8 ment referenced in this Act.

9 “(c) RULE OF CONSTRUCTION ON PROHIBITION OF  
10 FEDERAL CONTROL OVER NONPUBLIC SCHOOLS.—Noth-  
11 ing in this Act shall be construed to permit, allow, encour-  
12 age, or authorize any Federal control over any aspect of  
13 any private, religious, or home school, whether or not a  
14 home school is treated as a private school or home school  
15 under State law. This section shall not be construed to  
16 bar private, religious, or home schools from participation  
17 in programs or services under this Act.

18 “(d) RULE OF CONSTRUCTION ON STATE AND LOCAL  
19 EDUCATIONAL AGENCY MANDATES.—Nothing in this Act  
20 shall be construed to require any State educational agency  
21 or local educational agency that receives funds under this  
22 Act to mandate, direct, or control the curriculum of a pri-  
23 vate or home school, regardless or whether or not a home  
24 school is treated as a private school under state law, nor  
25 shall any funds under this Act be used for this purpose.

## 1                   “SUBPART 2—OTHER PROVISIONS

2   **“SEC. 5521. PROHIBITION REGARDING STATE AID.**

3           “ A State shall not take into consideration payments  
4 under this Act (other than under title IV) in determining  
5 the eligibility of any local educational agency in that State  
6 for State aid, or the amount of State aid, with respect  
7 to free public education of children.

8   **“SEC. 5522. PRIVACY OF ASSESSMENT RESULTS.**

9           “ Any results from an individual assessment referred  
10 to in this Act of a student that become part of the edu-  
11 cation records of the student shall have the protections  
12 provided in section 444 of the General Education Provi-  
13 sions Act.

14   **“SEC. 5523. SCHOOL PRAYER.**

15           “(a) GUIDANCE.—The Secretary shall biannually  
16 provide guidance to State educational agencies, local edu-  
17 cational agencies, and the public on constitutionally pro-  
18 tected prayer in public elementary schools and secondary  
19 schools, including making the guidance available on the  
20 Internet. The guidance shall be reviewed, prior to distribu-  
21 tion, by the Office of Legal Counsel of the Department  
22 of Justice for verification that the guidance represents the  
23 current state of the law concerning constitutionally pro-  
24 tected prayer in public elementary schools and secondary  
25 schools.

1           “(b) CERTIFICATION.—As a condition of receiving  
2 funds under this Act, a local educational agency shall cer-  
3 tify in writing to the State educational agency involved  
4 that no policy of the local educational agency prevents,  
5 or otherwise denies participation in, constitutionally pro-  
6 tected prayer in public elementary schools and secondary  
7 schools, as detailed in the guidance required under sub-  
8 section (a). The certification shall be provided by October  
9 1 of each year. The State educational agency shall report  
10 to the Secretary by November 1 of each year a list of those  
11 local educational agencies that have not filed the certifi-  
12 cation or against which complaints have been made to the  
13 State educational agency that the local educational agen-  
14 cies are not in compliance with this section.

15           “(c) ENFORCEMENT.—The Secretary is authorized  
16 and directed to effectuate subsection (b) by issuing, and  
17 securing compliance with, rules or orders with respect to  
18 a local educational agency that fails to certify, or is found  
19 to have certified in bad faith, that no policy of the local  
20 educational agency prevents, or otherwise denies partici-  
21 tion in, constitutionally protected prayer in public elemen-  
22 tary schools and secondary schools.

23 **“SEC. 5524. EQUAL ACCESS TO PUBLIC SCHOOL FACILITIES.**

24           “(a) SHORT TITLE.—This section may be cited as the  
25 ‘Boy Scouts of America Equal Access Act’.

1 “(b) IN GENERAL.—

2 “(1) EQUAL ACCESS.—Notwithstanding any  
3 other provision of law, no public elementary school,  
4 public secondary school, local educational agency, or  
5 State educational agency that has a designated open  
6 forum or a limited public forum and that receives  
7 funds made available through the Department shall  
8 deny equal access or a fair opportunity to meet to,  
9 or discriminate against, any group officially affili-  
10 ated with the Boy Scouts of America, or any other  
11 youth group listed in title 36 of the United States  
12 Code (as a patriotic society), that wishes to conduct  
13 a meeting within that designated open forum or lim-  
14 ited public forum, including denying such access or  
15 opportunity or discriminating for reasons based on  
16 the membership or leadership criteria or oath of alle-  
17 giance to God and country of the Boy Scouts of  
18 America or of the youth group listed in title 36 of  
19 the United States Code (as a patriotic society).

20 “(2) VOLUNTARY SPONSORSHIP.—Nothing in  
21 this section shall be construed to require any school,  
22 agency, or a school served by an agency to sponsor  
23 any group officially affiliated with the Boy Scouts of  
24 America, or any other youth group listed in title 36  
25 of the United States Code (as a patriotic society).

1           “(c) TERMINATION OF ASSISTANCE AND OTHER AC-  
2 TION.—

3           “(1) DEPARTMENTAL ACTION.—The Secretary  
4 is authorized and directed to effectuate subsection  
5 (b) by issuing and securing compliance with rules or  
6 orders with respect to a public elementary school,  
7 public secondary school, local educational agency, or  
8 State educational agency that receives funds made  
9 available through the Department and that denies  
10 equal access, or a fair opportunity to meet, or dis-  
11 criminate, as described in subsection (b).

12           “(2) PROCEDURE.—The Secretary shall issue  
13 and secure compliance with the rules or orders,  
14 under paragraph (1), through the Office for Civil  
15 Rights and in a manner consistent with the proce-  
16 dure used by a Federal department or agency under  
17 section 602 of the Civil Rights Act of 1964. If the  
18 public school or agency does not comply with the  
19 rules or orders, then notwithstanding any other pro-  
20 vision of law, no funds made available through the  
21 Department shall be provided to a school that fails  
22 to comply with such rules or orders or to any agency  
23 or school served by an agency that fails to comply  
24 with such rules or orders.

1           “(3) JUDICIAL REVIEW.—Any action taken by  
2           the Secretary under paragraph (1) shall be subject  
3           to the judicial review described in section 603 of the  
4           Civil Rights Act of 1964. Any person aggrieved by  
5           the action may obtain that judicial review in the  
6           manner, and to the extent, provided in section 603  
7           of such Act.

8           “(d) DEFINITION AND RULE.—

9           “(1) DEFINITION.—In this section, the term  
10          ‘youth group’ means any group or organization in-  
11          tended to serve young people under the age of 21.

12          “(2) RULE.—For the purpose of this section,  
13          an elementary school or secondary school has a lim-  
14          ited public forum whenever the school involved  
15          grants an offering to, or opportunity for, one or  
16          more outside youth or community groups to meet on  
17          school premises or in school facilities before or after  
18          the hours during which attendance at the school is  
19          compulsory.

20       **“SEC. 5525. GENERAL PROHIBITIONS.**

21          “(a) PROHIBITION.—None of the funds authorized  
22          under this Act shall be used—

23               “(1) to develop or distribute materials, or oper-  
24          ate programs or courses of instruction directed at



1 youth, that are designed to promote or encourage  
2 sexual activity, whether homosexual or heterosexual;

3 “(2) to distribute or to aid in the distribution  
4 by any organization of legally obscene materials to  
5 minors on school grounds;

6 “(3) to provide sex education or HIV-prevention  
7 education in schools unless that instruction is age  
8 appropriate and includes the health benefits of absti-  
9 nence; or

10 “(4) to operate a program of contraceptive dis-  
11 tribution in schools.

12 “(b) LOCAL CONTROL.—Nothing in this section shall  
13 be construed to—

14 “(1) authorize an officer or employee of the  
15 Federal Government to mandate, direct, review, sup-  
16 port, or control a State, local educational agency, or  
17 school’s instructional content, curriculum, and re-  
18 lated activities;

19 “(2) limit the application of the General Edu-  
20 cation Provisions Act;

21 “(3) require the distribution of scientifically or  
22 medically false or inaccurate materials or to prohibit  
23 the distribution of scientifically or medically true or  
24 accurate materials; or

25 “(4) create any legally enforceable right.

1 **“SEC. 5526. PROHIBITIONS ON FEDERAL GOVERNMENT AND**  
2 **USE OF FEDERAL FUNDS.**

3 “(a) GENERAL PROHIBITION.—Nothing in this Act  
4 shall be construed to authorize an officer or employee of  
5 the Federal Government to mandate, direct, support, or  
6 control a State, local educational agency, or school’s cur-  
7 riculum, program of instruction, or allocation of State or  
8 local resources, or mandate a State or any subdivision  
9 thereof to spend any funds or incur any costs not paid  
10 for under this Act.

11 “(b) PROHIBITION ON ENDORSEMENT OF CUR-  
12 RICULUM.—Notwithstanding any other prohibition of Fed-  
13 eral law, no funds provided to the Department under this  
14 Act may be used by the Department to endorse, approve,  
15 develop, support, coerce, or sanction any curriculum de-  
16 signed to be used in an elementary school or secondary  
17 school.

18 “(c) PROHIBITION ON REQUIRING FEDERAL AP-  
19 PROVAL OR CERTIFICATION OF STANDARDS.—Notwith-  
20 standing any other provision of Federal law, no State shall  
21 be required to have academic standards approved or cer-  
22 tified by the Federal Government, in order to receive as-  
23 sistance under this Act.

24 “(d) RULE OF CONSTRUCTION ON BUILDING STAND-  
25 ARDS.—Nothing in this Act shall be construed to mandate

1 national school building standards for a State, local edu-  
2 cational agency, or school.

3 **“SEC. 5527. ARMED FORCES RECRUITER ACCESS TO STU-  
4 DENTS AND STUDENT RECRUITING INFORMA-  
5 TION.**

6 “(a) POLICY.—

7 “(1) ACCESS TO STUDENT RECRUITING INFOR-  
8 MATION.—Notwithstanding section 444(a)(5)(B) of  
9 the General Education Provisions Act, each local  
10 educational agency receiving assistance under this  
11 Act shall provide, upon a request made by a military  
12 recruiter or an institution of higher education, ac-  
13 cess to the name, address, and telephone listing of  
14 each secondary school student served by the local  
15 educational agency, unless the parent of such stu-  
16 dent has submitted the prior consent request under  
17 paragraph (2).

18 “(2) CONSENT.—

19 “(A) OPT-OUT PROCESS.—A parent of a  
20 secondary school student may submit a written  
21 request, to the local educational agency, that  
22 the student’s name, address, and telephone list-  
23 ing not be released for purposes of paragraph  
24 (1) without prior written consent of the parent.  
25 Upon receiving such request, the local edu-

1           cational agency may not release the student's  
2           name, address, and telephone listing for such  
3           purposes without the prior written consent of  
4           the parent.

5           “(B) NOTIFICATION OF OPT-OUT PROC-  
6           ESS.—Each local educational agency shall no-  
7           tify the parents of the students served by the  
8           agency of the option to make a request de-  
9           scribed in subparagraph (A).

10          “(3) SAME ACCESS TO STUDENTS.—Each local  
11          educational agency receiving assistance under this  
12          Act shall provide military recruiters the same access  
13          to secondary school students as is provided generally  
14          to institutions of higher education or to prospective  
15          employers of those students.

16          “(4) RULE OF CONSTRUCTION PROHIBITING  
17          OPT-IN PROCESSES.—Nothing in this subsection  
18          shall be construed to allow a local educational agen-  
19          cy to withhold access to a student's name, address,  
20          and telephone listing from a military recruiter or in-  
21          stitution of higher education by implementing an  
22          opt-in process or any other process other than the  
23          written consent request process under paragraph  
24          (2)(A).



1 other subject, unless specifically and explicitly authorized  
2 by law.

3 “(b) EXCEPTIONS.—Subsection (a) shall not apply to  
4 international comparative assessments developed under  
5 the authority of section 153(a)(5) of the Education  
6 Sciences Reform Act of 2002 and administered to only a  
7 representative sample of pupils in the United States and  
8 in foreign nations.

9 **“SEC. 5529. LIMITATIONS ON NATIONAL TESTING OR CER-**  
10 **TIFICATION FOR TEACHERS.**

11 “(a) MANDATORY NATIONAL TESTING OR CERTIFI-  
12 CATION OF TEACHERS.—Notwithstanding any other pro-  
13 vision of this Act or any other provision of law, no funds  
14 available to the Department or otherwise available under  
15 this Act may be used for any purpose relating to a manda-  
16 tory nationwide test or certification of teachers or edu-  
17 cation paraprofessionals, including any supporting, plan-  
18 ning, development, implementation, coercion or adminis-  
19 tration of such test or certification.

20 “(b) PROHIBITION ON WITHHOLDING FUNDS.—The  
21 Secretary is prohibited from withholding funds from any  
22 State educational agency or local educational agency if the  
23 State educational agency or local educational agency fails  
24 to adopt a specific method of teacher or paraprofessional  
25 certification.

1 **“SEC. 5530. PROHIBITION ON NATIONWIDE DATABASE.**

2 “ Nothing in this Act (other than section 1138(b))  
3 shall be construed to authorize the development of a na-  
4 tionwide database of personally identifiable information on  
5 individuals involved in studies or other collections of data  
6 under this Act.

7 **“SEC. 5531. PROHIBITION ON DISCRIMINATION.**

8 “ Nothing in this Act shall be construed to require,  
9 authorize, or permit, the Secretary, or a State educational  
10 agency, local educational agency, or school to grant to a  
11 student, or deny or impose upon a student, any financial  
12 or educational benefit or burden, in violation of the fifth  
13 or 14th amendments to the Constitution or other law re-  
14 lating to discrimination in the provision of federally fund-  
15 ed programs or activities.

16 **“SEC. 5532. CIVIL RIGHTS.**

17 “Nothing in this Act shall be construed to permit dis-  
18 crimination on the basis of race, color, religion, sex (except  
19 as otherwise permitted under title IX of the Education  
20 Amendments of 1972), national origin, or disability in any  
21 program funded under this Act.

22 **“SEC. 5533. RULEMAKING.**

23 “ The Secretary shall issue regulations under this Act  
24 as prescribed under section 1401 only to the extent that  
25 such regulations are necessary to ensure that there is com-

1 pliance with the specific requirements and assurances re-  
2 quired by this Act.

3 **“SEC. 5534. PEER REVIEW.**

4 “(a) IN GENERAL.—If the Secretary uses a peer re-  
5 view panel to evaluate an application for any program re-  
6 quired under this Act, the Secretary shall conduct it in  
7 accordance with this section.

8 “(b) MAKEUP.—The Secretary shall—

9 “(1) solicit nominations for peers to serve on  
10 the panel from States that are—

11 “(A) practitioners in the subject matter; or

12 “(B) experts in the subject matter; and

13 “(2) select the peers from such nominees, ex-  
14 cept that there shall be at least 75 percent practi-  
15 tioners on each panel and in each group formed  
16 from the panel.

17 “(c) GUIDANCE.—The Secretary shall issue the peer  
18 review guidance concurrently with the notice of the grant.

19 “(d) REPORTING.—The Secretary shall—

20 “(1) make the names of the peer reviewers  
21 available to the public before the final deadline for  
22 the application of the grant;

23 “(2) make the peer review notes publically  
24 available once the review has concluded; and



1           “(3) make any deviations from the peer review-  
2           ers’ recommendations available to the public with an  
3           explanation of the deviation.

4           “(e) **APPLICANT REVIEWS.**—An applicant shall have  
5           an opportunity to review the peer review notes and appeal  
6           the score to the Secretary prior to the Secretary making  
7           any final determination.

8           “(f) **PROHIBITION.**—The Secretary, and the Sec-  
9           retary’s staff, may not attempt to participate in, or influ-  
10          ence, the peer review process. No Federal employee may  
11          participate in, or attempt to influence the peer review  
12          process, except to respond to questions of a technical na-  
13          ture, which shall be publicly reported.

14          **“SEC. 5535. GUN-FREE REQUIREMENTS.**

15          “(a) **SHORT TITLE.**—This section may be cited as the  
16          ‘Gun-Free Schools Act’.

17          “(b) **REQUIREMENTS.**—

18                 “(1) **IN GENERAL.**—Each State receiving Fed-  
19                 eral funds under any title of this Act shall have in  
20                 effect a State law requiring local educational agen-  
21                 cies to expel from school for a period of not less  
22                 than 1 year a student who is determined to have  
23                 brought a firearm to a school, or to have possessed  
24                 a firearm at a school, under the jurisdiction of local  
25                 educational agencies in that State, except that such

1 State law shall allow the chief administering officer  
2 of a local educational agency to modify such expul-  
3 sion requirement for a student on a case-by-case  
4 basis if such modification is in writing.

5 “(2) CONSTRUCTION.—Nothing in this section  
6 shall be construed to prevent a State from allowing  
7 a local educational agency that has expelled a stu-  
8 dent from such a student’s regular school setting  
9 from providing educational services to such student  
10 in an alternative setting.

11 “(3) DEFINITION.—For the purpose of this sec-  
12 tion, the term ‘firearm’ has the same meaning given  
13 such term in section 921(a) of title 18, United  
14 States Code.

15 “(c) SPECIAL RULE.—The provisions of this section  
16 shall be construed in a manner consistent with the Individ-  
17 uals with Disabilities Education Act.

18 “(d) REPORT TO STATE.—Each local educational  
19 agency requesting assistance from the State educational  
20 agency that is to be provided from funds made available  
21 to the State under any title of this Act shall provide to  
22 the State, in the application requesting such assistance—

23 “(1) an assurance that such local educational  
24 agency is in compliance with the State law required  
25 by subsection (b); and

1           “(2) a description of the circumstances sur-  
2           rounding any expulsions imposed under the State  
3           law required by subsection (b), including—

4                   “(A) the name of the school concerned;

5                   “(B) the number of students expelled from  
6           such school; and

7                   “(C) the type of firearms concerned.

8           “(e) REPORTING.—Each State shall report the infor-  
9           mation described in subsection (d) to the Secretary on an  
10          annual basis.

11          “(f) DEFINITION.—For the purpose of subsection  
12          (d), the term ‘school’ means any setting that is under the  
13          control and supervision of the local educational agency for  
14          the purpose of student activities approved and authorized  
15          by the local educational agency.

16          “(g) EXCEPTION.—Nothing in this section shall  
17          apply to a firearm that is lawfully stored inside a locked  
18          vehicle on school property, or if it is for activities approved  
19          and authorized by the local educational agency and the  
20          local educational agency adopts appropriate safeguards to  
21          ensure student safety.

22          “(h) POLICY REGARDING CRIMINAL JUSTICE SYS-  
23          TEM REFERRAL.—

24                   “(1) IN GENERAL.—No funds shall be made  
25          available under any title of this Act to any local edu-

1        cational agency unless such agency has a policy re-  
2        quiring referral to the criminal justice or juvenile de-  
3        linquency system of any student who brings a fire-  
4        arm or weapon to a school served by such agency.

5            “(2) DEFINITION.—For the purpose of this  
6        subsection, the term ‘school’ has the same meaning  
7        given to such term by section 921(a) of title 18,  
8        United States Code.

9        **“SEC. 5536. PARENTAL CONSENT.**

10        “ Upon receipt of written notification from the par-  
11        ents or legal guardians of a student, the local educational  
12        agency shall withdraw such student from any program or  
13        activity funded under this Act. The local educational agen-  
14        cy shall make reasonable efforts to inform parents or legal  
15        guardians of the content of such programs or activities  
16        funded under this Act, other than classroom instruction.

17        **“SEC. 5537. PROHIBITED USES OF FUNDS.**

18        “ No funds under this Act may be used for—

19            “(1) construction, renovation, or repair of any  
20        school facility (except for those activities under sub-  
21        part 1 of part A of title III and title IV); or

22            “(2) medical services, drug treatment or reha-  
23        bilitation, except for specialized instructional support  
24        services or referral to treatment for students who

1           are victims of, or witnesses to, crime or who illegally  
2           use drugs.

3   **“SEC. 5538. TRANSFER OF SCHOOL DISCIPLINARY**  
4                           **RECORDS.**

5           “(a) NONAPPLICATION OF PROVISIONS.—This sec-  
6   tion shall not apply to any disciplinary records with re-  
7   spect to a suspension or expulsion that are transferred  
8   from a private, parochial or other nonpublic school, per-  
9   son, institution, or other entity, that provides education  
10 below the college level.

11          “(b) DISCIPLINARY RECORDS.—In accordance with  
12 the Family Educational Rights and Privacy Act of 1974  
13 (20 U.S.C. 1232g), each State receiving Federal funds  
14 under this Act shall provide an assurance to the Secretary  
15 that the State has a procedure in place to facilitate the  
16 transfer of disciplinary records, with respect to a suspen-  
17 sion or expulsion, by local educational agencies to any pri-  
18 vate or public elementary school or secondary school for  
19 any student who is enrolled or seeks, intends, or is in-  
20 structed to enroll, on a full- or part-time basis, in the  
21 school.

22   **“SEC. 5539. SEVERABILITY.**

23          “ If any provision of this Act is held invalid, the re-  
24 mainder of this Act shall be unaffected thereby.”

1           (b) STRIKE.—The Act is amended by striking title  
2 IX (20 U.S.C. 7801 et seq.).

3           (c) AMENDMENT TO IDEA.—Section 602 of the Indi-  
4 viduals with Disabilities Education Act (20 U.S.C. 1401)  
5 is amended by striking paragraph (10).