

1 **SEC. 401. PROMOTING INFORMED PARENTAL CHOICE AND**  
2 **INNOVATIVE PROGRAMS.**

3 Title IV is amended to read as follows:

4 **“TITLE IV—PROMOTING IN-**  
5 **FORMED PARENTAL CHOICE**  
6 **AND INNOVATIVE PROGRAMS**

7 **“PART A—INNOVATIVE PROGRAMS**

8 **“Subpart 1—State and Local Innovative Programs**

9 **“SEC. 4101. FINDINGS AND STATEMENT OF PURPOSE.**

10 “(a) FINDINGS.—Congress finds that this subpart—

11 “(1) provides flexibility to meet local needs;

12 “(2) promotes local and State education re-  
13 forms;

14 “(3) contributes to the improvement of aca-  
15 demic achievement for all students;

16 “(4) provides funding for critical activities; and

17 “(5) provides services for private school stu-  
18 dents.

19 “(b) STATEMENT OF PURPOSE.—It is the purpose of  
20 programs under this subpart—

21 “(1) to provide funding to enable States and  
22 local educational agencies to implement promising  
23 educational reform programs and school improve-  
24 ment initiatives based on scientifically based re-  
25 search;

1           “(2) to provide a continuing source of innova-  
2           tion and educational improvement, including support  
3           for library services and instructional and media ma-  
4           terials; and

5           “(3) to meet the educational needs of all stu-  
6           dents, including at-risk youth.

7           “(c) STATE AND LOCAL RESPONSIBILITY.—

8           “(1) IN GENERAL.—The States shall have the  
9           basic responsibility for the administration of funds  
10          made available under this subpart, but such admin-  
11          istration shall be carried out with a minimum of pa-  
12          perwork.

13          “(2) DESIGN AND IMPLEMENTATION.—Not-  
14          withstanding paragraph (1), local educational agen-  
15          cies, school superintendents and principals, and  
16          classroom teachers and supporting personnel shall be  
17          mainly responsible for the design and implementa-  
18          tion of programs assisted under this subpart, be-  
19          cause such agencies and individuals have the most  
20          direct contact with students and are most likely to  
21          be able to design programs to meet the educational  
22          needs of students in their own school districts.

1           **“CHAPTER I—STATE AND LOCAL**  
2   **PROGRAMS**

3   **“SEC. 4111. ALLOCATION TO STATES.**

4           “(a) RESERVATIONS.—From the sums appropriated  
5 to carry out this subpart for each fiscal year, the Secretary  
6 shall reserve not more than 1 percent for payments to out-  
7 lying areas to be allotted in accordance with their respec-  
8 tive needs.

9           “(b) ALLOCATION OF REMAINDER.—From the re-  
10 mainder of such sums, the Secretary shall allocate, and  
11 make available in accordance with this subpart, to each  
12 State an amount which bears the same ratio to the  
13 amount of such remainder as the school-age population  
14 of the State bears to the school-age population of all  
15 States, except that no State shall receive less than an  
16 amount equal to  $\frac{1}{2}$  of 1 percent of such remainder.

17   **“SEC. 4112. ALLOCATION TO LOCAL EDUCATIONAL AGEN-**  
18   **CIES.**

19           “(a) DISTRIBUTION RULE.—

20                   “(1) IN GENERAL.—Subject to paragraph (2),  
21 from the sums made available each year to carry out  
22 this subpart, the State shall distribute not less than  
23 85 percent to local educational agencies within such  
24 State according to the relative enrollments in public  
25 and private, nonprofit schools within the jurisdic-

1 tions of such agencies, adjusted, in accordance with  
2 criteria approved by the Secretary, to provide higher  
3 per-pupil allocations to local educational agencies  
4 that have the greatest numbers or percentages of  
5 children whose education imposes a higher than av-  
6 erage cost per child, such as—

7 “(A) children living in areas with high con-  
8 centrations of economically disadvantaged fami-  
9 lies;

10 “(B) children from economically disadvan-  
11 taged families; and

12 “(C) children living in sparsely populated  
13 areas.

14 “(2) EXCEPTION.—100 percent of any amount  
15 by which the funds paid to a State under this sub-  
16 part for a fiscal year exceed the amount of such  
17 funds paid to the State for fiscal year 2001 shall be  
18 distributed to local educational agencies and used lo-  
19 cally for innovative assistance described in section  
20 4131(b).

21 “(3) LIMITATION ON USE OF FUNDS FOR AD-  
22 MINISTRATION.—In each fiscal year, a State may  
23 use not more than 25 percent of the funds available  
24 for State programs under this subpart for State ad-  
25 ministration under section 4121.

1       “(b) CALCULATION OF ENROLLMENTS.—

2               “(1) IN GENERAL.—The calculation of relative  
3       enrollments under subsection (a)(1) shall be on the  
4       basis of the total of—

5                       “(A) the number of children enrolled in  
6                       public schools; and

7                       “(B) the number of children enrolled in  
8                       private, nonprofit schools whose parents would  
9                       like their children to participate in programs or  
10                      projects assisted under this subpart, for the fis-  
11                      cal year preceding the fiscal year for which the  
12                      determination is made.

13               “(2) CONSTRUCTION.—Nothing in this sub-  
14       section shall diminish the responsibility of each local  
15       educational agency to contact, on an annual basis,  
16       appropriate officials from private nonprofit schools  
17       within the areas served by such agencies in order to  
18       determine whether such schools desire that their  
19       children participate in programs assisted under this  
20       chapter.

21               “(3) ADJUSTMENTS.—

22                       “(A) IN GENERAL.—Relative enrollments  
23                       calculated under subsection (a)(1) shall be ad-  
24                       justed, in accordance with criteria approved by  
25                       the Secretary under subparagraph (B), to pro-

1           vide higher per-pupil allocations only to local  
2           educational agencies that serve the greatest  
3           numbers or percentages of—

4                   “(i) children living in areas with high  
5                   concentrations of economically disadvan-  
6                   tagged families;

7                   “(ii) children from economically dis-  
8                   advantaged families; or

9                   “(iii) children living in sparsely popu-  
10                  lated areas.

11               “(B) CRITERIA.—The Secretary shall re-  
12               view criteria submitted by a State for adjusting  
13               allocations under paragraph (1) and shall ap-  
14               prove such criteria only if the Secretary deter-  
15               mines that such criteria are reasonably cal-  
16               culated to produce an adjusted allocation that  
17               reflects the relative needs of the State’s local  
18               educational agencies based on the factors set  
19               forth in subparagraph (A).

20               “(c) PAYMENT OF ALLOCATIONS.—

21                   “(1) DISTRIBUTION.—From the funds paid to a  
22               State under this subpart for a fiscal year, a State  
23               shall distribute to each eligible local educational  
24               agency that has submitted an application as required  
25               in section 4133 the amount of such local educational

1 agency's allocation, as determined under subsection  
2 (a).

3 “(2) ADDITIONAL FUNDS.—

4 “(A) IN GENERAL.—Additional funds re-  
5 sulting from higher per-pupil allocations pro-  
6 vided to a local educational agency on the basis  
7 of adjusted enrollments of children described in  
8 subsection (a)(1) may, in the discretion of the  
9 local educational agency, be allocated for ex-  
10 penditures to provide services for children en-  
11 rolled in public and private, nonprofit schools in  
12 direct proportion to the number of children de-  
13 scribed in subsection (a)(1) and enrolled in  
14 such schools within the local educational agen-  
15 cy.

16 “(B) ELECTION.—In any fiscal year, any  
17 local educational agency that elects to allocate  
18 such additional funds in the manner described  
19 in subparagraph (A) shall allocate all additional  
20 funds to schools within the local educational  
21 agency in such manner.

22 “(C) CONSTRUCTION.—Subparagraphs (A)  
23 and (B) may not be construed to require any  
24 school to limit the use of the additional funds  
25 described in subparagraph (A) to the provision

1 of services to specific students or categories of  
2 students.

3 **“CHAPTER II—STATE PROGRAMS**

4 **“SEC. 4121. STATE USE OF FUNDS.**

5 “A State may use funds made available for State use  
6 under this subpart only for—

7 “(1) State administration of programs under  
8 this subpart including—

9 “(A) supervision of the allocation of funds  
10 to local educational agencies;

11 “(B) planning, supervision, and processing  
12 of State funds; and

13 “(C) monitoring and evaluation of pro-  
14 grams and activities under this subpart;

15 “(2) support for planning, designing, and initial  
16 implementation of charter schools as described in  
17 part B;

18 “(3) statewide education reform and school im-  
19 provement activities and technical assistance and di-  
20 rect grants to local educational agencies which assist  
21 such agencies under section 4131; and

22 “(4) support for arrangements that provide for  
23 independent analysis to measure and report on  
24 school district achievement.



1 **“SEC. 4122. STATE APPLICATIONS.**

2       “(a) APPLICATION REQUIREMENTS.—If a State  
3 seeks to receive assistance under this subpart, the indi-  
4 vidual, entity, or agency responsible for public elementary  
5 and secondary education policy under the State constitu-  
6 tion or State law shall submit to the Secretary an applica-  
7 tion that—

8           “(1) provides for an annual statewide summary  
9 of how assistance under this subpart is contributing  
10 toward improving student achievement or improving  
11 the quality of education for students;

12           “(2) provides information setting forth the allo-  
13 cation of such funds required to implement section  
14 4142;

15           “(3) provides that the State will keep such  
16 records and provide such information to the Sec-  
17 retary as may be required for fiscal audit and pro-  
18 gram evaluation (consistent with the responsibilities  
19 of the Secretary under this section);

20           “(4) provides assurance that, apart from tech-  
21 nical and advisory assistance and monitoring compli-  
22 ance with this subpart, the State has not exercised  
23 and will not exercise any influence in the decision-  
24 making processes of local educational agencies as to  
25 the expenditure made pursuant to an application  
26 under section 4133;

1           “(5) contains assurances that there is compli-  
2           ance with the specific requirements of this subpart;  
3           and

4           “(6) provides for timely public notice and public  
5           dissemination of the information provided under  
6           paragraph (2).

7           “(b) STATEWIDE SUMMARY.—The statewide sum-  
8           mary referred to in subsection (a)(1) shall be submitted  
9           to the Secretary and shall be derived from the evaluation  
10          information submitted by local educational agencies to the  
11          State under section 4133(a)(8). The format and content  
12          of such summary shall be in the discretion of the State  
13          and may include statistical measures such as the number  
14          of students served by each type of innovative assistance  
15          described in section 4131(b), including the number of  
16          teachers trained.

17          “(c) PERIOD OF APPLICATION.—An application filed  
18          by the State under subsection (a) shall be for a period  
19          not to exceed 3 years, and may be amended annually as  
20          may be necessary to reflect changes without filing a new  
21          application.

22          “(d) AUDIT LIMITATION.—Each local educational  
23          agency receiving less than an average of \$5,000 under this  
24          subpart may not be audited more frequently than once  
25          every 5 years.

1           **“CHAPTER III—LOCAL INNOVATIVE**  
2                           **EDUCATION PROGRAMS**

3   **“SEC. 4131. USE OF FUNDS.**

4           “(a) IN GENERAL.—Funds made available to local  
5 educational agencies under section 4112 shall be used for  
6 innovative assistance described in subsection (b).

7           “(b) INNOVATIVE ASSISTANCE.—The innovative as-  
8 sistance programs referred to in subsection (a) may  
9 include—

10                   “(1) professional development activities and the  
11 hiring of teachers, including activities carried out in  
12 accordance with title II, that give teachers, prin-  
13 cipals, and administrators the knowledge and skills  
14 to provide students with the opportunity to meet  
15 challenging State or local content standards and stu-  
16 dent achievement standards;

17                   “(2) technology related to the implementation  
18 of school-based reform programs, including profes-  
19 sional development to assist teachers, and other  
20 school officials, regarding how to use effectively such  
21 equipment and software;

22                   “(3) programs for the development or acquisi-  
23 tion and use of instructional and educational mate-  
24 rials, including library services and materials (in-  
25 cluding media materials), assessments, reference ma-

1 materials, computer software and hardware for instruc-  
2 tional use, and other curricular materials that are  
3 tied to high academic standards, that will be used to  
4 improve student achievement, and that are part of  
5 an overall education reform program;

6 “(4) promising education reform projects, in-  
7 cluding effective schools and magnet schools;

8 “(5) programs to improve the academic skills of  
9 disadvantaged elementary and secondary school stu-  
10 dents and to prevent students from dropping out of  
11 school;

12 “(6) programs to combat illiteracy;

13 “(7) programs to provide for the educational  
14 needs of gifted and talented children;

15 “(8) planning, designing, and initial implemen-  
16 tation of charter schools as described in part B;

17 “(9) school improvement programs or activities  
18 under sections 1116 and 1117;

19 “(10) community service programs that use  
20 qualified school personnel to train and mobilize  
21 young people to measurably strengthen their com-  
22 munities through nonviolence, responsibility, com-  
23 passion, respect, and moral courage;

24 “(11) activities to promote consumer, economic,  
25 and personal finance education, such as dissemi-

1 nating and encouraging the best practices for teach-  
2 ing the basic principles of economics and promoting  
3 the concept of achieving financial literacy through  
4 the teaching of personal financial management skills  
5 (including the basic principles involved with earning,  
6 spending, saving, and investing);

7 “(12) activities to promote, implement, or ex-  
8 pand public school choice;

9 “(13) activities to promote, implement, or ex-  
10 pand private school choice for disadvantaged chil-  
11 dren in failing public schools;

12 “(14) expanding and improving school-based  
13 mental health services, including early identification  
14 of drug use and violence, assessment, and direct in-  
15 dividual or group counseling services provided to stu-  
16 dents, parents, and school personnel by qualified  
17 school based mental health services personnel; and

18 “(15) alternative educational programs for  
19 those students who have been expelled or suspended  
20 from their regular educational setting, including pro-  
21 grams to assist students to reenter the regular edu-  
22 cational setting upon return from treatment or alter-  
23 native educational programs.

1 **“SEC. 4132. ADMINISTRATIVE AUTHORITY.**

2 “In order to conduct the activities authorized by this  
3 subpart, each State or local educational agency may use  
4 funds made available under this subpart to make grants  
5 to, and to enter into contracts with, local educational  
6 agencies, institutions of higher education, libraries, muse-  
7 ums, and other public and private nonprofit agencies, or-  
8 ganizations, and institutions, including religious organiza-  
9 tions.

10 **“SEC. 4133. LOCAL APPLICATIONS.**

11 “(a) CERTIFICATION.—

12 “(1) IN GENERAL.—A local educational agency  
13 or a consortium of such agencies may receive an al-  
14 location of funds under this subpart for any year for  
15 which the agency or consortium submits an applica-  
16 tion under this section that is certified by the State  
17 under paragraph (2) to meet the requirements of  
18 this section.

19 (2) CONTENTS OF APPLICATION.—The State  
20 shall certify each application that—

21 “(1) describes locally identified needs relative to  
22 the purposes of this subpart and to the innovative  
23 assistance described in section 4131(b);

24 “(2) based on the needs identified in paragraph  
25 (1), sets forth the planned allocation of funds among  
26 innovative assistance programs described in section

1 4131 and describes the programs, projects, and ac-  
2 tivities designed to carry out such innovative assist-  
3 ance programs that the local educational agency in-  
4 tends to support;

5 “(3) contains information setting forth the allo-  
6 cation of such funds required to implement section  
7 4142;

8 “(4) describes how assistance under this sub-  
9 part will contribute to improving student academic  
10 achievement;

11 “(5) provides assurances of compliance with the  
12 provisions of this subpart, including the participa-  
13 tion of children enrolled in private, nonprofit schools  
14 in accordance with section 4142;

15 “(6) provides assurance that the local edu-  
16 cational agency will keep such records, and provide  
17 such information to the State as may be reasonably  
18 required for fiscal audit and program evaluation,  
19 consistent with the responsibilities of the State  
20 under this subpart;

21 “(7) provides in the allocation of funds for the  
22 assistance authorized by this subpart, and in the de-  
23 sign, planning, and implementation of such pro-  
24 grams, for systematic consultation with parents of  
25 children attending elementary and secondary schools

1 in the area served by the local educational agency,  
2 with teachers and administrative personnel in such  
3 schools, and with other groups involved in the imple-  
4 mentation of this subpart (such as librarians, school  
5 counselors, and other pupil services personnel) as  
6 may be considered appropriate by the local edu-  
7 cational agency; and

8 “(8) provides assurance that—

9 “(A) programs, services, and activities will  
10 be evaluated annually;

11 “(B) such evaluation will be used to deter-  
12 mine and implement appropriate changes in  
13 program services and activities for the subse-  
14 quent year;

15 “(C) such evaluation will describe how as-  
16 sistance under this subpart contributed toward  
17 improving student academic achievement; and

18 “(D) such evaluation will be submitted to  
19 the State in the time and manner requested by  
20 the State.

21 “(b) TIME PERIOD TO WHICH APPLICATION RE-  
22 LATES.—An application submitted by a local educational  
23 agency under subsection (a) may seek allocations under  
24 this part for a period of time not to exceed 3 fiscal years



1 and may be amended annually as may be necessary to re-  
2 flect changes without the filing of a new application.

3 “(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—

4 “(1) IN GENERAL.—Subject to the limitations  
5 and requirements of this subpart, a local educational  
6 agency shall have complete discretion in determining  
7 how funds made available under this chapter will be  
8 divided among programs and activities described in  
9 section 4131.

10 “(2) LIMITATION.—In exercising the discretion  
11 described in paragraph (1), a local educational agen-  
12 cy shall ensure that expenditures under this chapter  
13 carry out the purposes of this subpart and are used  
14 to meet the educational needs within the schools of  
15 such local educational agency.

16 **“CHAPTER IV—GENERAL PROVISIONS**

17 **“SEC. 4141. MAINTENANCE OF EFFORT; FEDERAL FUNDS**  
18 **SUPPLEMENTARY.**

19 “(a) MAINTENANCE OF EFFORT.—

20 “(1) IN GENERAL.—Except as provided in para-  
21 graph (2), a State is entitled to receive its full allo-  
22 cation of funds under this subpart for any fiscal  
23 year only if the Secretary determines that either the  
24 combined fiscal effort per student or the aggregate  
25 expenditures within the State with respect to the

1 provision of free public education for the fiscal year  
2 preceding the fiscal year for which the determination  
3 is made was not less than 90 percent of such com-  
4 bined fiscal effort or aggregate expenditures for the  
5 fiscal year that is 2 fiscal years before the fiscal year  
6 for which the determination is made.

7 “(2) REDUCTION OF FUNDS.—The Secretary  
8 shall reduce the amount of the allocation of funds  
9 under this subpart in any fiscal year in the exact  
10 proportion to which the State fails to meet the re-  
11 quirements of paragraph (1) by falling below 90 per-  
12 cent of both the fiscal effort per student and aggre-  
13 gate expenditures (using the measure most favorable  
14 to the State), and no such lesser amount shall be  
15 used for computing the effort required under para-  
16 graph (1) for subsequent years.

17 “(3) WAIVER.—The Secretary may waive, for 1  
18 fiscal year only, the requirements of this section if  
19 the Secretary determines that such a waiver would  
20 be equitable due to exceptional or uncontrollable cir-  
21 cumstances such as a natural disaster or a precipi-  
22 tous and unforeseen decline in the financial re-  
23 sources of the State.

24 “(b) FEDERAL FUNDS SUPPLEMENTARY.—A State  
25 or local educational agency may use and allocate funds

1 received under this subpart only to supplement and, to the  
2 extent practical, to increase the level of funds that would,  
3 in the absence of Federal funds made available under this  
4 subpart, be made available from non-Federal sources, and  
5 in no case may such funds be used so as to supplant funds  
6 from non-Federal sources.

7 **“SEC. 4142. PARTICIPATION OF CHILDREN ENROLLED IN**  
8 **PRIVATE SCHOOLS.**

9 “(a) PARTICIPATION ON EQUITABLE BASIS.—

10 “(1) IN GENERAL.—To the extent consistent  
11 with the number of children in the school district of  
12 a local educational agency which is eligible to receive  
13 funds under this subpart or which serves the area in  
14 which a program or project assisted under this sub-  
15 part is located, who are enrolled in private nonprofit  
16 elementary and secondary schools, or with respect to  
17 instructional or personnel training programs funded  
18 by the State from funds made available for State  
19 use, such agency, after consultation with appropriate  
20 private school officials—

21 “(A) shall provide for the benefit of such  
22 children in such schools secular, neutral, and  
23 nonideological services, materials, and equip-  
24 ment, including the participation of the teach-  
25 ers of such children (and other educational per-

1           sonnel serving such children) in training pro-  
2           grams, and the repair or minor remodeling of  
3           public facilities as may be necessary for their  
4           provision (consistent with subsection (c) of this  
5           section); or

6                   “(B) if such services, materials, and equip-  
7                   ment are not feasible or necessary in 1 or more  
8                   such private schools as determined by the local  
9                   educational agency after consultation with the  
10                  appropriate private school officials, shall pro-  
11                  vide such other arrangements as will assure eq-  
12                  uitable participation of such children in the  
13                  purposes and benefits of this subpart.

14                  “(2) OTHER PROVISIONS FOR SERVICES.—If no  
15                  program or project is carried out under paragraph  
16                  (1) in the school district of a local educational agen-  
17                  cy, the State shall make arrangements, such as  
18                  through contracts with nonprofit agencies or organi-  
19                  zations, under which children in private schools in  
20                  such district are provided with services and mate-  
21                  rials to the extent that would have occurred if the  
22                  local educational agency had received funds under  
23                  this subpart.

24                  “(3) APPLICATION OF REQUIREMENTS.—The  
25                  requirements of this section relating to the participa-

1       tion of children, teachers, and other personnel serv-  
2       ing such children shall apply to programs and  
3       projects carried out under this subpart by a State or  
4       local educational agency, whether directly or through  
5       grants to or contracts with other public or private  
6       agencies, institutions, or organizations.

7       “(b) EQUAL EXPENDITURES.—

8               “(1) IN GENERAL.—Expenditures for programs  
9       pursuant to subsection (a) shall be equal (consistent  
10      with the number of children to be served) to expend-  
11      itures for programs under this subpart for children  
12      enrolled in the public schools of the local educational  
13      agency.

14             “(2) CONCENTRATED PROGRAMS.—Taking into  
15      account the needs of the individual children and  
16      other factors which relate to the expenditures re-  
17      ferred to in paragraph (1), and when funds available  
18      to a local educational agency under this subpart are  
19      used to concentrate programs or projects on a par-  
20      ticular group, attendance area, or grade or age level,  
21      children enrolled in private schools who are included  
22      within the group, attendance area, or grade or age  
23      level selected for such concentration shall, after con-  
24      sultation with the appropriate private school offi-

1 cials, be assured equitable participation in the pur-  
2 poses and benefits of such programs or projects.

3 “(c) ADMINISTRATIVE RULES.—

4 “(1) FUNDS AND PROPERTY.—The control of  
5 funds provided under this subpart, and title to mate-  
6 rials, equipment, and property repaired, remodeled,  
7 or constructed with such funds, shall be in a public  
8 agency for the uses and purposes provided in this  
9 subpart, and a public agency shall administer such  
10 funds and property.

11 “(2) PROVISION OF SERVICES.—The provision  
12 of services pursuant to this subpart shall be provided  
13 by employees of a public agency or through contract  
14 by such public agency with a person, an association,  
15 agency, or corporation who or which, in the provi-  
16 sion of such services, is independent of such private  
17 school and of any religious organizations, and such  
18 employment or contract shall be under the control  
19 and supervision of such public agency, and the funds  
20 provided under this subpart shall not be commingled  
21 with State or local funds.

22 “(d) WAIVER.—

23 “(1) STATE PROHIBITION WAIVER.—If by rea-  
24 son of any provision of law a State or local edu-  
25 cational agency is prohibited from providing for the

1 participation in programs of children enrolled in pri-  
2 vate elementary and secondary schools, as required  
3 by this section, the Secretary shall waive such re-  
4 quirements and shall arrange for the provision of  
5 services to such children through arrangements  
6 which shall be subject to the requirements of this  
7 section.

8 “(2) FAILURE TO COMPLY.—If the Secretary  
9 determines that a State or a local educational agen-  
10 cy has substantially failed or is unwilling to provide  
11 for the participation on an equitable basis of chil-  
12 dren enrolled in private elementary and secondary  
13 schools as required by this section, the Secretary  
14 may waive such requirements and shall arrange for  
15 the provision of services to such children through ar-  
16 rangements which shall be subject to the require-  
17 ments of this section.

18 “(e) WITHHOLDING OF ALLOCATION.—Pending final  
19 resolution of any investigation or complaint that could re-  
20 sult in a waiver under subsection (d)(1) or (d)(2), the Sec-  
21 retary may withhold from the allocation of the affected  
22 State or local educational agency the amount estimated  
23 by the Secretary to be necessary to pay the cost of services  
24 to be provided by the Secretary under such subsection.

1       “(f) TERM OF DETERMINATIONS.—Any determina-  
2 tion by the Secretary under this section shall continue in  
3 effect until the Secretary determines that there will no  
4 longer be any failure or inability on the part of the State  
5 or local educational agency to meet the requirements of  
6 subsections (a) and (b).

7       “(g) PAYMENT FROM STATE ALLOTMENT.—When  
8 the Secretary arranges for services pursuant to this sec-  
9 tion, the Secretary shall, after consultation with the ap-  
10 propriate public and private school officials, pay the cost  
11 of such services, including the administrative costs of ar-  
12 ranging for those services, from the appropriate allotment  
13 of the State under this subpart.

14       “(h) REVIEW.—

15               “(1) WRITTEN OBJECTIONS.—The Secretary  
16 shall not take any final action under this section  
17 until the State and the local educational agency af-  
18 fected by such action have had an opportunity, for  
19 not less than 45 days after receiving written notice  
20 thereof, to submit written objections and to appear  
21 before the Secretary or the Secretary’s designee to  
22 show cause why that action should not be taken.

23               “(2) COURT ACTION.—If a State or local edu-  
24 cational agency is dissatisfied with the Secretary’s  
25 final action after a proceeding under paragraph (1),



1 such agency may, not later than 60 days after notice  
2 of such action, file with the United States court of  
3 appeals for the circuit in which such State is located  
4 a petition for review of that action. A copy of the  
5 petition shall be transmitted by the clerk of the  
6 court to the Secretary. The Secretary thereupon  
7 shall file in the court the record of the proceedings  
8 on which the Secretary based this action, as pro-  
9 vided in section 2112 of title 28, United States  
10 Code.

11 “(3) REMAND TO SECRETARY.—The findings of  
12 fact by the Secretary, if supported by substantial  
13 evidence, shall be conclusive; but the court, for good  
14 cause shown, may remand the case to the Secretary  
15 to take further evidence and the Secretary may  
16 make new or modified findings of fact and may mod-  
17 ify the Secretary’s previous action, and shall file in  
18 the court the record of the further proceedings. Such  
19 new or modified findings of fact shall likewise be  
20 conclusive if supported by substantial evidence.

21 “(4) COURT REVIEW.—Upon the filing of such  
22 petition, the court shall have jurisdiction to affirm  
23 the action of the Secretary or to set such action  
24 aside, in whole or in part. The judgment of the court  
25 shall be subject to review by the Supreme Court of

1 the United States upon certiorari or certification as  
2 provided in section 1254 of title 28, United States  
3 Code.

4 “(i) PRIOR DETERMINATION.—Any bypass deter-  
5 mination by the Secretary under chapter 2 of title I of  
6 this Act (as such chapter was in effect on the day pre-  
7 ceding the date of enactment of the Improving America’s  
8 Schools Act of 1994) shall, to the extent consistent with  
9 the purposes of this title, apply to programs under this  
10 title.

11 **“SEC. 4143. FEDERAL ADMINISTRATION.**

12 “(a) TECHNICAL ASSISTANCE.—The Secretary, upon  
13 request, shall provide technical assistance to States and  
14 local educational agencies under this subpart.

15 “(b) RULEMAKING.—The Secretary shall issue regu-  
16 lations under this subpart only to the extent that such  
17 regulations are necessary to ensure that there is compli-  
18 ance with the specific requirements and assurances re-  
19 quired by this subpart.

20 “(c) AVAILABILITY OF APPROPRIATIONS.—Notwith-  
21 standing any other provision of law, unless expressly in  
22 limitation of this subsection, funds appropriated in any  
23 fiscal year to carry out activities under this subpart shall  
24 become available for obligation on July 1 of such fiscal

1 year and shall remain available for obligation until the end  
2 of the subsequent fiscal year.

3 **“SEC. 4144. DEFINITIONS.**

4 “In this subpart, the following definitions apply:

5 “(1) SCHOOL-AGE POPULATION.—The term  
6 ‘school-age population’ means the population aged 5  
7 through 17.

8 “(2) STATE.—The term ‘State’ means each of  
9 the 50 States, the District of Columbia, and the  
10 Commonwealth of Puerto Rico.

11 **“SEC. 4145. AUTHORIZATION OF APPROPRIATIONS.**

12 “There are authorized to be appropriated to carry out  
13 this subpart \$472,000,000 for fiscal year 2002 and such  
14 sums as may be necessary for each of fiscal years 2003  
15 through 2006.

16 **“Subpart 2—Arts Education**

17 **“SEC. 4151. ASSISTANCE FOR ARTS EDUCATION.**

18 “(a) FINDINGS.—The Congress finds that—

19 “(1) every student can benefit from an edu-  
20 cation in the arts;

21 “(2) a growing body of research indicates that  
22 education in the arts may provide cognitive benefits  
23 and bolster academic achievement, beginning at an  
24 early age and continuing through secondary school;

1           “(3) qualified arts teachers and a sequential  
2 curriculum are the basis and core for substantive  
3 arts education for students;

4           “(4) the arts should be taught according to rig-  
5 orous instruction standards under arts education  
6 programs that provide mechanisms under which edu-  
7 cators are accountable to parents, school officials,  
8 and the community;

9           “(5) opportunities to participate in the arts  
10 have enabled individuals with disabilities of all ages  
11 to participate more fully in school and community  
12 activities; and

13           “(6) arts education is a valuable part of the ele-  
14 mentary and secondary school curriculum.

15           “(b) PURPOSES.—The purposes of this subpart are  
16 to—

17           “(1) support systemic education reform by  
18 strengthening arts education as an integral part of  
19 the elementary and secondary school curriculum;  
20 and

21           “(2) help ensure that all students meet chal-  
22 lenging State content standards and challenging  
23 State student performance standards in the arts.

24           “(c) AUTHORITY.—In accordance with this subpart,  
25 the Secretary may make grants to, or enter into contracts

1 or cooperative agreements with, eligible entities described  
2 in subsection (d).

3 “(d) ELIGIBLE ENTITIES.—The Secretary may make  
4 assistance available under subsection (c) to each of the  
5 following entities:

6 “(1) States.

7 “(2) Local educational agencies.

8 “(3) Institutions of higher education.

9 “(4) Museums or other cultural institutions.

10 “(5) Any other public or private agencies, insti-  
11 tutions, and organizations.

12 “(e) USE OF FUNDS.—Assistance made available  
13 under this subpart may be used only for—

14 “(1) research on arts education;

15 “(2) planning, developing, acquiring, expanding,  
16 improving, or disseminating model school-based arts  
17 education programs;

18 “(3) the development of model State arts edu-  
19 cation assessments based on State standards;

20 “(4) the development and implementation of  
21 curriculum frameworks for arts education;

22 “(5) the development of model inservice profes-  
23 sional development programs for arts educators and  
24 other instructional staff;

1           “(6) supporting collaborative activities with  
2 Federal agencies or institutions, arts educators, and  
3 organizations representing the arts, including State  
4 and local arts agencies involved in arts education;

5           “(7) supporting model projects or programs in  
6 the performing arts for children and youth or pro-  
7 grams which assure the participation in mainstream  
8 settings in arts and education programs of individ-  
9 uals with disabilities through arrangements made  
10 with organizations such as the John F. Kennedy  
11 Center for the Performing Arts and VSA arts;

12           “(8) supporting model projects or programs to  
13 integrate arts education into the regular elementary  
14 and secondary school curriculum; or

15           “(9) other activities that further the purposes  
16 of this subpart.

17           “(f) CONDITIONS.—As conditions of receiving assist-  
18 ance made available under this subpart, the Secretary  
19 shall require each entity receiving such assistance—

20           “(1) to coordinate, to the extent practicable,  
21 each project or program carried out with such assist-  
22 ance with appropriate activities of public or private  
23 cultural agencies, institutions, and organizations, in-  
24 cluding museums, arts education associations, librar-  
25 ies, and theaters.

1           “(2) to use such assistance only to supplement  
2           and not to supplant any other assistance or funds  
3           made available from non-Federal sources for the ac-  
4           tivities assisted under this subpart.

5           “(g) CONSULTATION.—In carrying out this part, the  
6           Secretary shall consult with Federal agencies or institu-  
7           tions, arts educators (including professional arts education  
8           associations), and organizations representing the arts in-  
9           cluding State and local arts agencies involved in arts edu-  
10          cation.

11          “(h) AUTHORIZATION OF APPROPRIATIONS.—There  
12          are authorized to be appropriated to carry out this subpart  
13          such sums as may be necessary for each of fiscal years  
14          2002 through 2006.

15           **“Subpart 3—Gifted and Talented Children**

16          **“SEC. 4161. SHORT TITLE.**

17          “‘This subpart may be cited as the ‘Jacob K. Javits  
18          Gifted and Talented Students Education Act of 2001’.

19          **“SEC. 4162. FINDINGS AND PURPOSE.**

20          “(a) FINDINGS.—Congress finds the following:

21           “(1) While the families and communities of  
22           some gifted and talented students can provide pri-  
23           vate educational programs with appropriately  
24           trained staff to supplement public educational offer-  
25           ings, most gifted and talented students, especially

1 those from inner cities, rural communities, or low-in-  
2 come families, must rely on the services and per-  
3 sonnel available in public schools. In order to ensure  
4 that there are equal educational opportunities for all  
5 gifted and talented students in the United States,  
6 the public schools should provide gifted and talented  
7 education programs carried out by qualified profes-  
8 sionals.

9 “(2) Due to the wide dispersal of students who  
10 are gifted and talented and the national interest in  
11 a well-educated populace, it is the Federal Govern-  
12 ment that can most effectively and appropriately  
13 conduct scientifically based research and develop-  
14 ment to ensure that there is a national capacity to  
15 educate students who are gifted and talented in the  
16 21st century.

17 “(3) Many State and local educational agencies  
18 lack the specialized resources and trained personnel  
19 necessary to consistently plan and implement effec-  
20 tive programs for the identification of gifted and tal-  
21 ented students and for the provision of educational  
22 services and programs appropriate for the needs of  
23 such students.

24 “(4) Because gifted and talented students are  
25 generally more advanced academically, are generally



1 able to learn more quickly, and generally study in  
2 more depth and complexity than others their age,  
3 they require educational opportunities and experi-  
4 ences that are different from those usually available  
5 to other students.

6 “(5) A typical elementary school student who is  
7 academically gifted and talented has already mas-  
8 tered 35 to 50 percent of the content to be learned  
9 in several subjects in any school year before that  
10 year begins. Without an advanced and challenging  
11 curriculum, such a student may lose motivation and  
12 develop poor study habits that are difficult to break.

13 “(6) Classes in elementary and secondary  
14 schools in the United States consist of students with  
15 a wide variety of traits, characteristics, and needs.  
16 Although most teachers receive some training to  
17 meet the needs of students with limited English pro-  
18 ficiency, students with disabilities, and students  
19 from diverse cultural and racial backgrounds, few re-  
20 ceive training to meet the needs of students who are  
21 gifted and talented.

22 “(b) PURPOSE.—The purpose of this subpart is to  
23 initiate a coordinated program of scientifically based re-  
24 search, demonstration projects, innovative strategies, and  
25 similar activities designed to build and enhance the ability

1 of elementary and secondary schools nationwide to meet  
2 the special educational needs of gifted and talented stu-  
3 dents.

4 **“SEC. 4163. RULE OF CONSTRUCTION.**

5 Nothing in this subpart shall be construed to prohibit  
6 a recipient of funds under this subpart from serving gifted  
7 and talented students simultaneously with students with  
8 similar educational needs, in the same educational settings  
9 where appropriate.

10 **“SEC. 4164. AUTHORIZED PROGRAMS.**

11 “(a) ESTABLISHMENT OF PROGRAM.—

12 “(1) IN GENERAL.—From the sums available to  
13 carry out this subpart in any fiscal year, the Sec-  
14 retary (after consultation with experts in the field of  
15 the education of gifted and talented students) shall  
16 make grants to, or enter into contracts with, State  
17 educational agencies, local educational agencies, in-  
18 stitutions of higher education, other public agencies,  
19 and other private agencies and organizations (includ-  
20 ing Indian tribes and Indian organizations (as such  
21 terms are defined in section 4 of the Indian Self-De-  
22 termination and Education Assistance Act (25  
23 U.S.C. 450b)) and Native Hawaiian organizations)  
24 to assist such agencies, institutions, and organiza-  
25 tions in carrying out programs or projects author-

1        ized by this subpart that are designed to meet the  
2        educational needs of gifted and talented students, in-  
3        cluding the training of personnel in the education of  
4        gifted and talented students and in the use, where  
5        appropriate, of gifted and talented services, mate-  
6        rials, and methods for all students.

7            “(2) APPLICATION.—

8            “(A) IN GENERAL.—Each entity seeking  
9            assistance under this subpart shall submit an  
10          application to the Secretary at such time, in  
11          such manner, and containing such information  
12          as the Secretary may reasonably require.

13          “(B) CONTENTS.—Each application sub-  
14          mitted under this paragraph shall describe  
15          how—

16            “(i) the proposed gifted and talented  
17            services, materials, and methods can be  
18            adapted, if appropriate, for use by all stu-  
19            dents; and

20            “(ii) the proposed programs can be  
21            evaluated.

22          “(b) USE OF FUNDS.—Programs and projects as-  
23          sisted under this section may include each of the following:

24            “(1) Conducting—

1           “(A) scientifically based research on meth-  
2           ods and techniques for identifying and teaching  
3           gifted and talented students, and for using gift-  
4           ed and talented programs and methods to serve  
5           all students; and

6           “(B) program evaluations, surveys, and the  
7           collection, analysis, and development of infor-  
8           mation needed to accomplish the purpose of this  
9           subpart.

10          “(2) Professional development (including fellow-  
11          ships) for personnel (including leadership personnel)  
12          involved in the education of gifted and talented stu-  
13          dents.

14          “(3) Establishment and operation of model  
15          projects and exemplary programs for serving gifted  
16          and talented students, including innovative methods  
17          for identifying and educating students who may not  
18          be served by traditional gifted and talented pro-  
19          grams, including summer programs, mentoring pro-  
20          grams, service learning programs, and cooperative  
21          programs involving business, industry, and edu-  
22          cation.

23          “(4) Implementing innovative strategies, such  
24          as cooperative learning, peer tutoring, and service  
25          learning.

1           “(5) Programs of technical assistance and in-  
2           formation dissemination, including assistance and  
3           information with respect to how gifted and talented  
4           programs and methods, where appropriate, may be  
5           adapted for use by all students.

6           “(c) ESTABLISHMENT OF NATIONAL CENTER.—

7           “(1) IN GENERAL.—The Secretary (after con-  
8           sultation with experts in the field of the education  
9           of gifted and talented students) shall establish a Na-  
10          tional Center for Research and Development in the  
11          Education of Gifted and Talented Children and  
12          Youth through grants to or contracts with one or  
13          more institutions of higher education or State edu-  
14          cational agencies, or a combination or consortium of  
15          such institutions and agencies and other public or  
16          private agencies and organizations, for the purpose  
17          of carrying out activities described in paragraph (1)  
18          of subsection (b).

19          “(2) DIRECTOR.—The National Center estab-  
20          lished under paragraph (1) shall be headed by a Di-  
21          rector. The Secretary may authorize the Director to  
22          carry out such functions of the National Center as  
23          may be agreed upon through arrangements with in-  
24          stitutions of higher education, State or local edu-

1           cational agencies, or other public or private agencies  
2           and organizations.

3           “(d) LIMITATION.—Not more than 30 percent of the  
4 funds available in any fiscal year to carry out the pro-  
5 grams and projects authorized by this section may be used  
6 to conduct activities pursuant to subsection (b)(1) or sub-  
7 section (c).

8           “(e) COORDINATION.—Scientifically based research  
9 activities supported under this subpart—

10           “(1) shall be carried out in consultation with  
11 the Office of Educational Research and Improve-  
12 ment to ensure that such activities are coordinated  
13 with and enhance the research and development ac-  
14 tivities supported by such Office; and

15           “(2) may include collaborative scientifically  
16 based research activities which are jointly funded  
17 and carried out with such Office.

18 **“SEC. 4165. PROGRAM PRIORITIES.**

19           “(a) GENERAL PRIORITY.—In carrying out this sub-  
20 part, the Secretary shall give highest priority to programs  
21 and projects designed to develop new information that—

22           “(1) improves the capability of schools to plan,  
23 conduct, and improve programs to identify and serve  
24 gifted and talented students; and

1           “(2) assists schools in the identification of, and  
2           provision of services to, gifted and talented students  
3           who may not be identified and served through tradi-  
4           tional assessment methods (including economically  
5           disadvantaged individuals, individuals of limited  
6           English proficiency, and individuals with disabili-  
7           ties).

8           “(b) SERVICE PRIORITY.—In approving applications  
9           for assistance under section 4164(a)(2), the Secretary  
10          shall ensure that in each fiscal year not less than 50 per-  
11          cent of the applications approved under such section ad-  
12          dress the priority described in subsection (a)(2) of this  
13          section.

14        **“SEC. 4166. GENERAL PROVISIONS.**

15          “(a) PARTICIPATION OF PRIVATE SCHOOL CHILDREN  
16          AND TEACHERS.—In making grants and entering into  
17          contracts under this subpart, the Secretary shall ensure,  
18          where appropriate, that provision is made for the equitable  
19          participation of students and teachers in private nonprofit  
20          elementary and secondary schools, including the participa-  
21          tion of teachers and other personnel in professional devel-  
22          opment programs serving such children.

23          “(b) REVIEW, DISSEMINATION, AND EVALUATION.—  
24          The Secretary shall—

1           “(1) use a peer review process in reviewing ap-  
2           plications under this subpart;

3           “(2) ensure that information on the activities  
4           and results of programs and projects funded under  
5           this subpart is disseminated to appropriate State  
6           and local educational agencies and other appropriate  
7           organizations, including nonprofit private organiza-  
8           tions; and

9           “(3) evaluate the effectiveness of programs  
10          under this subpart in accordance with section 8651,  
11          both in terms of the impact on students traditionally  
12          served in separate gifted and talented programs and  
13          on other students, and submit the results of such  
14          evaluation to the Congress not later than 2 years  
15          after the date of the enactment of the No Child Left  
16          Behind Act of 2001.

17          “(c) PROGRAM OPERATIONS.—The Secretary shall  
18          ensure that the programs under this subpart are adminis-  
19          tered within the Department by a person who has recog-  
20          nized professional qualifications and experience in the field  
21          of the education of gifted and talented students and who  
22          shall—

23                 “(1) administer and coordinate the programs  
24                 authorized under this subpart;



1           “(2) serve as a focal point of national leader-  
2           ship and information on the educational needs of  
3           gifted and talented students and the availability of  
4           educational services and programs designed to meet  
5           such needs; and

6           “(3) assist the Assistant Secretary of the Office  
7           of Educational Research and Improvement in identi-  
8           fying research priorities which reflect the needs of  
9           gifted and talented students.

10 **“SEC. 4167. AUTHORIZATION OF APPROPRIATIONS.**

11           “‘There are authorized to be appropriated to carry out  
12           this subpart such sums as may be necessary for each of  
13           fiscal years 2002 through 2006.’”.

14 **SEC. 402. CONTINUATION OF AWARDS.**

15           Notwithstanding any other provision of this Act, any  
16           person or agency that was awarded a grant under part  
17           B or D of title X (20 U.S.C. 8031 et seq., 8091 et seq.)  
18           prior to the date of the enactment of this Act shall con-  
19           tinue to receive funds in accordance with the terms of such  
20           award until the date on which the award period terminates  
21           under such terms.

22           **PART B—PUBLIC CHARTER SCHOOLS**

23 **SEC. 411. PUBLIC CHARTER SCHOOLS.**

24           Part B of title IV is amended to read as follows:

1           **“PART B—PUBLIC CHARTER SCHOOLS**

2   **“SEC. 4201. FINDINGS AND PURPOSE.**

3           “(a) FINDINGS.—The Congress finds that—

4                   “(1) enhancement of parent and student choices  
5           among public schools can assist in promoting com-  
6           prehensive educational reform and give more stu-  
7           dents the opportunity to learn to challenging State  
8           content standards and challenging State student  
9           performance standards, if sufficiently diverse and  
10          high-quality choices, and genuine opportunities to  
11          take advantage of such choices, are available to all  
12          students;

13                   “(2) useful examples of such choices can come  
14          from States and communities that experiment with  
15          methods of offering teachers and other educators,  
16          parents, and other members of the public the oppor-  
17          tunity to design and implement new public schools  
18          and to transform existing public schools;

19                   “(3) charter schools are a mechanism for test-  
20          ing a variety of educational approaches and should,  
21          therefore, be exempted from restrictive rules and  
22          regulations if the leadership of such schools commits  
23          to attaining specific and ambitious educational re-  
24          sults for educationally disadvantaged students con-  
25          sistent with challenging State content standards and

1 challenging State student performance standards for  
2 all students;

3 “(4) charter schools can embody the necessary  
4 mixture of enhanced choice, exemption from restric-  
5 tive regulations, and a focus on learning gains;

6 “(5) charter schools, including charter schools  
7 that are schools-within-schools, can help reduce  
8 school size, and this reduction can have a significant  
9 effect on student achievement;

10 “(6) the Federal Government should test, evalu-  
11 ate, and disseminate information on a variety of  
12 charter school models in order to help demonstrate  
13 the benefits of this promising educational reform;  
14 and

15 “(7) there is a strong documented need for  
16 cash-flow assistance to charter schools that are  
17 starting up, because State and local operating rev-  
18 enue streams are not immediately available.

19 “(b) PURPOSE.—It is the purpose of this part to in-  
20 crease national understanding of the charter schools model  
21 by—

22 “(1) providing financial assistance for the plan-  
23 ning, program design and initial implementation of  
24 charter schools;

1           “(2) evaluating the effects of such schools, in-  
2           cluding the effects on students, student achievement,  
3           staff, and parents; and

4           “(3) expanding the number of high-quality  
5           charter schools available to students across the Na-  
6           tion.

7   **“SEC. 4202. PROGRAM AUTHORIZED.**

8           “(a) IN GENERAL.—The Secretary may award grants  
9           to State educational agencies having applications approved  
10          pursuant to section 4203 to enable such agencies to con-  
11          duct a charter school grant program in accordance with  
12          this part.

13          “(b) SPECIAL RULE.—If a State educational agency  
14          elects not to participate in the program authorized by this  
15          part or does not have an application approved under sec-  
16          tion 4203, the Secretary may award a grant to an eligible  
17          applicant that serves such State and has an application  
18          approved pursuant to section 4203(c).

19          “(c) PROGRAM PERIODS.—

20                  “(1) GRANTS TO STATES.—Grants awarded to  
21          State educational agencies under this part shall be  
22          awarded for a period of not more than 3 years.

23                  “(2) GRANTS TO ELIGIBLE APPLICANTS.—  
24          Grants awarded by the Secretary to eligible appli-  
25          cants or subgrants awarded by State educational

1 agencies to eligible applicants under this part shall  
2 be awarded for a period of not more than 3 years,  
3 of which the eligible applicant may use—

4 “(A) not more than 18 months for plan-  
5 ning and program design;

6 “(B) not more than 2 years for the initial  
7 implementation of a charter school; and

8 “(C) not more than 2 years to carry out  
9 dissemination activities described in section  
10 4204(f)(6)(B).

11 “(d) LIMITATION.—A charter school may not  
12 receive—

13 “(1) more than one grant for activities de-  
14 scribed in subparagraphs (A) and (B) of subsection  
15 (c)(2); or

16 “(2) more than one grant for activities under  
17 subparagraph (C) of subsection (c)(2).

18 “(e) PRIORITY TREATMENT.—In awarding grants  
19 under this part from any funds appropriated under section  
20 4211, the Secretary shall give priority to States to the ex-  
21 tent that the States meet the criteria described in para-  
22 graph (2) and one or more of the criteria described in sub-  
23 paragraph (A), (B), or (C) of paragraph (3).

24 “(2) REVIEW AND EVALUATION PRIORITY CRI-  
25 TERIA.—The criteria referred to in paragraph (1) is

1 that the State provides for periodic review and eval-  
2 uation by the authorized public chartering agency of  
3 each charter school, at least once every 5 years un-  
4 less required more frequently by State law, to deter-  
5 mine whether the charter school is meeting the  
6 terms of the school's charter, and is meeting or ex-  
7 ceeding the academic performance requirements and  
8 goals for charter schools as set forth under State  
9 law or the school's charter.

10 “(3) PRIORITY CRITERIA.—The criteria referred  
11 to in paragraph (1) are the following:

12 “(A) The State has demonstrated progress,  
13 in increasing the number of high quality charter  
14 schools that are held accountable in the terms  
15 of the schools' charters for meeting clear and  
16 measurable objectives for the educational  
17 progress of the students attending the schools,  
18 in the period prior to the period for which a  
19 State educational agency or eligible applicant  
20 applies for a grant under this part.

21 “(B) The State—

22 “(i) provides for one authorized public  
23 chartering agency that is not a local edu-  
24 cational agency, such as a State chartering  
25 board, for each individual or entity seeking

1 to operate a charter school pursuant to  
2 such State law; or

3 “(ii) in the case of a State in which  
4 local educational agencies are the only au-  
5 thorized public chartering agencies, allows  
6 for an appeals process for the denial of an  
7 application for a charter school.

8 “(C) The State ensures that each charter  
9 school has a high degree of autonomy over the  
10 charter school’s budgets and expenditures.

11 “(f) AMOUNT CRITERIA.—In determining the amount  
12 of a grant to be awarded under this part to a State edu-  
13 cational agency, the Secretary shall take into consider-  
14 ation the number of charter schools that are operating,  
15 or are approved to open, in the State.

16 **“SEC. 4203. APPLICATIONS.**

17 “(a) APPLICATIONS FROM STATE AGENCIES.—Each  
18 State educational agency desiring a grant from the Sec-  
19 retary under this part shall submit to the Secretary an  
20 application at such time, in such manner, and containing  
21 or accompanied by such information as the Secretary may  
22 require.

23 “(b) CONTENTS OF A STATE EDUCATIONAL AGENCY  
24 APPLICATION.—Each application submitted pursuant to  
25 subsection (a) shall—

1           “(1) describe the objectives of the State edu-  
2           cational agency’s charter school grant program and  
3           a description of how such objectives will be fulfilled,  
4           including steps taken by the State educational agen-  
5           cy to inform teachers, parents, and communities of  
6           the State educational agency’s charter school grant  
7           program; and

8           “(2) describe how the State educational  
9           agency—

10                   “(A) will inform each charter school in the  
11                   State regarding—

12                           “(i) Federal funds that the charter  
13                           school is eligible to receive; and

14                           “(ii) Federal programs in which the  
15                           charter school may participate;

16                   “(B) will ensure that each charter school  
17                   in the State receives the charter school’s com-  
18                   mensurate share of Federal education funds  
19                   that are allocated by formula each year, includ-  
20                   ing during the first year of operation of the  
21                   charter school; and

22                   “(C) will disseminate best or promising  
23                   practices of charter schools to each local edu-  
24                   cational agency in the State; and



1           “(3) contain assurances that the State edu-  
2           cational agency will require each eligible applicant  
3           desiring to receive a subgrant to submit an applica-  
4           tion to the State educational agency containing—

5                   “(A) a description of the educational pro-  
6                   gram to be implemented by the proposed char-  
7                   ter school, including—

8                           “(i) how the program will enable all  
9                           students to meet challenging State student  
10                          performance standards;

11                          “(ii) the grade levels or ages of chil-  
12                          dren to be served; and

13                          “(iii) the curriculum and instructional  
14                          practices to be used;

15                   “(B) a description of how the charter  
16                   school will be managed;

17                   “(C) a description of—

18                           “(i) the objectives of the charter  
19                           school; and

20                           “(ii) the methods by which the charter  
21                           school will determine its progress toward  
22                           achieving those objectives;

23                   “(D) a description of the administrative re-  
24                   lationship between the charter school and the  
25                   authorized public chartering agency;

1           “(E) a description of how parents and  
2 other members of the community will be in-  
3 volved in the planning, program design and im-  
4 plementation of the charter school;

5           “(F) a description of how the authorized  
6 public chartering agency will provide for contin-  
7 ued operation of the school once the Federal  
8 grant has expired, if such agency determines  
9 that the school has met the objectives described  
10 in subparagraph (C)(i);

11           “(G) a request and justification for waivers  
12 of any Federal statutory or regulatory provi-  
13 sions that the applicant believes are necessary  
14 for the successful operation of the charter  
15 school, and a description of any State or local  
16 rules, generally applicable to public schools,  
17 that will be waived for, or otherwise not apply  
18 to, the school;

19           “(H) a description of how the subgrant  
20 funds or grant funds, as appropriate, will be  
21 used, including a description of how such funds  
22 will be used in conjunction with other Federal  
23 programs administered by the Secretary;

24           “(I) a description of how students in the  
25 community will be—

1                   “(i) informed about the charter  
2                   school; and

3                   “(ii) given an equal opportunity to at-  
4                   tend the charter school;

5                   “(J) an assurance that the eligible appli-  
6                   cant will annually provide the Secretary and the  
7                   State educational agency such information as  
8                   may be required to determine if the charter  
9                   school is making satisfactory progress toward  
10                  achieving the objectives described in subpara-  
11                  graph (C)(i);

12                  “(K) an assurance that the applicant will  
13                  cooperate with the Secretary and the State edu-  
14                  cational agency in evaluating the program as-  
15                  sisted under this part;

16                  “(L) a description of how a charter school  
17                  that is considered a local educational agency  
18                  under State law, or a local educational agency  
19                  in which a charter school is located, will comply  
20                  with sections 613(a)(5) and 613(e)(1)(B) of the  
21                  Individuals with Disabilities Education Act;

22                  “(M) if the eligible applicant desires to use  
23                  subgrant funds for dissemination activities  
24                  under section 4202(c)(2)(C), a description of  
25                  those activities and how those activities will in-

1           volve charter schools and other public schools,  
2           local educational agencies, developers, and po-  
3           tential developers; and

4                   “(N) such other information and assur-  
5           ances as the Secretary and the State edu-  
6           cational agency may require.

7           “(c) CONTENTS OF ELIGIBLE APPLICANT APPLICA-  
8   TION.—Each eligible applicant desiring a grant pursuant  
9   to section 4202(b) shall submit an application to the State  
10   educational agency or Secretary, respectively, at such  
11   time, in such manner, and accompanied by such informa-  
12   tion as the State educational agency or Secretary, respec-  
13   tively, may reasonably require.

14           “(d) CONTENTS OF APPLICATION.—Each application  
15   submitted pursuant to subsection (c) shall contain—

16                   “(1) the information and assurances described  
17           in subparagraphs (A) through (N) of subsection  
18           (b)(3), except that for purposes of this subsection  
19           subparagraphs (J), (K), and (N) of such subsection  
20           shall be applied by striking ‘and the State edu-  
21           cational agency’ each place such term appears;

22                   “(2) assurances that the State educational  
23           agency—

24                           “(A) will grant, or will obtain, waivers of  
25           State statutory or regulatory requirements; and

1           “(B) will assist each subgrantee in the  
2           State in receiving a waiver under section  
3           4204(e); and

4           “(3) assurances that the eligible applicant has  
5           provided its authorized public chartering authority  
6           timely notice, and a copy, of the application, except  
7           that the State educational agency (or the Secretary,  
8           in the case of an application submitted to the Sec-  
9           retary) may waive this requirement in the case of an  
10          application for a precharter planning grant or  
11          subgrant if the authorized public chartering author-  
12          ity to which a charter school proposal will be sub-  
13          mitted has not been determined at the time the  
14          grant or subgrant application is submitted.

15   **“SEC. 4204. ADMINISTRATION.**

16          “(a) SELECTION CRITERIA FOR STATE EDU-  
17          CATIONAL AGENCIES.—The Secretary shall award grants  
18          to State educational agencies under this part on the basis  
19          of the quality of the applications submitted under section  
20          4203(b), after taking into consideration such factors as—

21               “(1) the contribution that the charter schools  
22               grant program will make to assisting educationally  
23               disadvantaged and other students to achieving State  
24               content standards and State student performance

1 standards and, in general, a State's education im-  
2 provement plan;

3 “(2) the degree of flexibility afforded by the  
4 State educational agency to charter schools under  
5 the State's charter schools law;

6 “(3) the ambitiousness of the objectives for the  
7 State charter school grant program;

8 “(4) the quality of the strategy for assessing  
9 achievement of those objectives;

10 “(5) the likelihood that the charter school grant  
11 program will meet those objectives and improve edu-  
12 cational results for students;

13 “(6) the number of high quality charter schools  
14 created under this part in the State; and

15 “(7) in the case of State educational agencies  
16 that propose to use grant funds to support dissemi-  
17 nation activities under section 4202(c)(2)(C), the  
18 quality of those activities and the likelihood that  
19 those activities will improve student achievement.

20 “(b) SELECTION CRITERIA FOR ELIGIBLE APPLI-  
21 CANTS.—The Secretary shall award grants to eligible ap-  
22 plicants under this part on the basis of the quality of the  
23 applications submitted under section 4203(c), after taking  
24 into consideration such factors as—

1           “(1) the quality of the proposed curriculum and  
2 instructional practices;

3           “(2) the degree of flexibility afforded by the  
4 State educational agency and, if applicable, the local  
5 educational agency to the charter school;

6           “(3) the extent of community support for the  
7 application;

8           “(4) the ambitiousness of the objectives for the  
9 charter school;

10           “(5) the quality of the strategy for assessing  
11 achievement of those objectives;

12           “(6) the likelihood that the charter school will  
13 meet those objectives and improve educational re-  
14 sults for students; and

15           “(7) in the case of an eligible applicant that  
16 proposes to use grant funds to support dissemina-  
17 tion activities under section 4202(c)(2)(C), the qual-  
18 ity of those activities and the likelihood that those  
19 activities will improve student achievement.

20           “(c) PEER REVIEW.—The Secretary, and each State  
21 educational agency receiving a grant under this part, shall  
22 use a peer review process to review applications for assist-  
23 ance under this part.

24           “(d) DIVERSITY OF PROJECTS.—The Secretary and  
25 each State educational agency receiving a grant under this

1 part, shall award subgrants under this part in a manner  
2 that, to the extent possible, ensures that such grants and  
3 subgrants—

4 “(1) are distributed throughout different areas  
5 of the Nation and each State, including urban and  
6 rural areas; and

7 “(2) will assist charter schools representing a  
8 variety of educational approaches, such as ap-  
9 proaches designed to reduce school size.

10 “(e) WAIVERS.—The Secretary may waive any statu-  
11 tory or regulatory requirement over which the Secretary  
12 exercises administrative authority except any such require-  
13 ment relating to the elements of a charter school described  
14 in section 4210(1), if—

15 “(1) the waiver is requested in an approved ap-  
16 plication under this part; and

17 “(2) the Secretary determines that granting  
18 such a waiver will promote the purpose of this part.

19 “(f) USE OF FUNDS.—

20 “(1) STATE EDUCATIONAL AGENCIES.—Each  
21 State educational agency receiving a grant under  
22 this part shall use such grant funds to award sub-  
23 grants to one or more eligible applicants in the State  
24 to enable such applicant to plan and implement a  
25 charter school in accordance with this part, except



1 that the State educational agency may reserve not  
2 more than 10 percent of the grant funds to support  
3 dissemination activities described in paragraph (6).

4 “(2) ELIGIBLE APPLICANTS.—Each eligible ap-  
5 plicant receiving funds from the Secretary or a State  
6 educational agency shall use such funds to plan and  
7 implement a charter school, or to disseminate infor-  
8 mation about the charter school and successful prac-  
9 tices in the charter school, in accordance with this  
10 part.

11 “(3) ALLOWABLE ACTIVITIES.—An eligible ap-  
12 plicant receiving a grant or subgrant under this part  
13 may use the grant or subgrant funds only for—

14 “(A) post-award planning and design of  
15 the educational program, which may include—

16 “(i) refinement of the desired edu-  
17 cational results and of the methods for  
18 measuring progress toward achieving those  
19 results; and

20 “(ii) professional development of  
21 teachers and other staff who will work in  
22 the charter school; and

23 “(B) initial implementation of the charter  
24 school, which may include—

1                   “(i) informing the community about  
2                   the school;

3                   “(ii) acquiring necessary equipment  
4                   and educational materials and supplies;

5                   “(iii) acquiring or developing cur-  
6                   riculum materials; and

7                   “(iv) other initial operational costs  
8                   that cannot be met from State or local  
9                   sources.

10                  “(4) ADMINISTRATIVE EXPENSES.—Each State  
11                  educational agency receiving a grant pursuant to  
12                  this part may reserve not more than 5 percent of  
13                  such grant funds for administrative expenses associ-  
14                  ated with the charter school grant program assisted  
15                  under this part. A local educational agency may not  
16                  deduct funds for administrative fees or expenses  
17                  from a subgrant awarded to an eligible applicant.

18                  “(5) REVOLVING LOAN FUNDS.—Each State  
19                  educational agency receiving a grant pursuant to  
20                  this part may reserve not more than 10 percent of  
21                  the grant amount for the establishment of a revolv-  
22                  ing loan fund. Such fund may be used to make loans  
23                  to eligible applicants that have received a subgrant  
24                  under this part, under such terms as may be deter-  
25                  mined by the State educational agency, for the ini-

1 tial operation of the charter school grant program of  
2 such recipient until such time as the recipient begins  
3 receiving ongoing operational support from State or  
4 local financing sources.

5 “(6) DISSEMINATION.—

6 “(A) IN GENERAL.—A charter school may  
7 apply for funds under this part, whether or not  
8 the charter school has applied for or received  
9 funds under this part for planning, program de-  
10 sign, or implementation, to carry out the activi-  
11 ties described in subparagraph (B) if the char-  
12 ter school has been in operation for at least 3  
13 consecutive years and has demonstrated overall  
14 success, including—

15 “(i) substantial progress in improving  
16 student achievement;

17 “(ii) high levels of parent satisfaction;  
18 and

19 “(iii) the management and leadership  
20 necessary to overcome initial start-up prob-  
21 lems and establish a thriving, financially  
22 viable charter school.

23 “(B) ACTIVITIES.—A charter school de-  
24 scribed in subparagraph (A) may use funds re-  
25 served under paragraph (1) to assist other

1 schools in adapting the charter school's pro-  
2 gram (or certain aspects of the charter school's  
3 program), or to disseminate information about  
4 the charter school, through such activities as—

5 “(i) assisting other individuals with  
6 the planning and start-up of one or more  
7 new public schools, including charter  
8 schools, that are independent of the assist-  
9 ing charter school and the assisting charter  
10 school's developers, and that agree to be  
11 held to at least as high a level of account-  
12 ability as the assisting charter school;

13 “(ii) developing partnerships with  
14 other public schools, including charter  
15 schools, designed to improve student per-  
16 formance in each of the schools partici-  
17 pating in the partnership;

18 “(iii) developing curriculum materials,  
19 assessments, and other materials that pro-  
20 mote increased student achievement and  
21 are based on successful practices within  
22 the assisting charter school; and

23 “(iv) conducting evaluations and de-  
24 veloping materials that document the suc-  
25 cessful practices of the assisting charter

1 school and that are designed to improve  
2 student performance in other schools.

3 “(g) TRIBALLY CONTROLLED SCHOOLS.—Each State  
4 that receives a grant under this part and designates a trib-  
5 ally controlled school as a charter school shall not consider  
6 payments to a school under the Tribally Controlled  
7 Schools Act of 1988 (25 U.S.C. 2507) in determining—

8 “(1) the eligibility of the school to receive any  
9 other Federal, State, or local aid; or

10 “(2) the amount of such aid.

11 **“SEC. 4205. NATIONAL ACTIVITIES.**

12 “(a) IN GENERAL.—The Secretary shall reserve for  
13 each fiscal year the greater of 5 percent or \$5,000,000  
14 of the amount appropriated to carry out this part, except  
15 that in no fiscal year shall the total amount so reserved  
16 exceed \$8,000,000, to carry out the following activities:

17 “(1) To provide charter schools, either directly  
18 or through State educational agencies, with—

19 “(A) information regarding—

20 “(i) Federal funds that charter  
21 schools are eligible to receive; and

22 “(ii) other Federal programs in which  
23 charter schools may participate; and

24 “(B) assistance in applying for Federal  
25 education funds that are allocated by formula,

1 including assistance with filing deadlines and  
2 submission of applications.

3 “(2) To provide for other evaluations or studies  
4 that include the evaluation of the impact of charter  
5 schools on student achievement, including informa-  
6 tion regarding—

7 “(A) students attending charter schools re-  
8 ported on the basis of race, age, disability, gen-  
9 der, limited English proficiency, and previous  
10 enrollment in public school; and

11 “(B) the professional qualifications of  
12 teachers within a charter school and the turn-  
13 over of the teaching force.

14 “(3) To provide—

15 “(A) information to applicants for assist-  
16 ance under this part;

17 “(B) assistance to applicants for assistance  
18 under this part with the preparation of applica-  
19 tions under section 4203;

20 “(C) assistance in the planning and start-  
21 up of charter schools;

22 “(D) training and technical assistance to  
23 existing charter schools; and



1 school first opens, notwithstanding the fact that the iden-  
2 tity and characteristics of the students enrolling in that  
3 charter school are not fully and completely determined  
4 until that charter school actually opens. The measures  
5 similarly shall ensure that every charter school expanding  
6 its enrollment in any subsequent year of operation receives  
7 the Federal funding for which the charter school is eligible  
8 not later than 5 months after such expansion.

9 “(b) ADJUSTMENT AND LATE OPENINGS.—

10 “(1) IN GENERAL.—The measures described in  
11 subsection (a) shall include provision for appropriate  
12 adjustments, through recovery of funds or reduction  
13 of payments for the succeeding year, in cases where  
14 payments made to a charter school on the basis of  
15 estimated or projected enrollment data exceed the  
16 amounts that the school is eligible to receive on the  
17 basis of actual or final enrollment data.

18 “(2) RULE.—For charter schools that first  
19 open after November 1 of any academic year, the  
20 State, in accordance with guidance provided by the  
21 Secretary and applicable Federal statutes and regu-  
22 lations, shall ensure that such charter schools that  
23 are eligible for the funds described in subsection (a)  
24 for such academic year have a full and fair oppor-



1 tunity to receive those funds during the charter  
2 schools' first year of operation.

3 **“SEC. 4207. SOLICITATION OF INPUT FROM CHARTER**  
4 **SCHOOL OPERATORS.**

5 “To the extent practicable, the Secretary shall ensure  
6 that administrators, teachers, and other individuals di-  
7 rectly involved in the operation of charter schools are con-  
8 sulted in the development of any rules or regulations re-  
9 quired to implement this part, as well as in the develop-  
10 ment of any rules or regulations relevant to charter  
11 schools that are required to implement part A of title I,  
12 the Individuals with Disabilities Education Act (20 U.S.C.  
13 1400 et seq.), or any other program administered by the  
14 Secretary that provides education funds to charter schools  
15 or regulates the activities of charter schools.

16 **“SEC. 4208. RECORDS TRANSFER.**

17 “State educational agencies and local educational  
18 agencies, to the extent practicable, shall ensure that a stu-  
19 dent's records and, if applicable, a student's individualized  
20 education program as defined in section 602(11) of the  
21 Individuals with Disabilities Education Act (20 U.S.C.  
22 1401(11)), are transferred to a charter school upon the  
23 transfer of the student to the charter school, and to an-  
24 other public school upon the transfer of the student from

1 a charter school to another public school, in accordance  
2 with applicable State law.

3 **“SEC. 4209. PAPERWORK REDUCTION.**

4 “To the extent practicable, the Secretary and each  
5 authorized public chartering agency shall ensure that im-  
6 plementation of this part results in a minimum of paper-  
7 work for any eligible applicant or charter school.

8 **“SEC. 4210. DEFINITIONS.**

9 “As used in this part:

10 “(1) The term ‘charter school’ means a public  
11 school that—

12 “(A) in accordance with a specific State  
13 statute authorizing the granting of charters to  
14 schools, is exempted from significant State or  
15 local rules that inhibit the flexible operation  
16 and management of public schools, but not  
17 from any rules relating to the other require-  
18 ments of this paragraph;

19 “(B) is created by a developer as a public  
20 school, or is adapted by a developer from an ex-  
21 isting public school, and is operated under pub-  
22 lic supervision and direction;

23 “(C) operates in pursuit of a specific set of  
24 educational objectives determined by the

1 school's developer and agreed to by the author-  
2 ized public chartering agency;

3 "(D) provides a program of elementary or  
4 secondary education, or both;

5 "(E) is nonsectarian in its programs, ad-  
6 missions policies, employment practices, and all  
7 other operations, and is not affiliated with a  
8 sectarian school or religious institution;

9 "(F) does not charge tuition;

10 "(G) complies with the Age Discrimination  
11 Act of 1975, title VI of the Civil Rights Act of  
12 1964, title IX of the Education Amendments of  
13 1972, section 504 of the Rehabilitation Act of  
14 1973, and part B of the Individuals with Dis-  
15 abilities Education Act;

16 "(H) is a school to which parents choose to  
17 send their children, and that admits students  
18 on the basis of a lottery, or in another non-  
19 discriminatory manner consistent with State  
20 law, if more students apply for admission than  
21 can be accommodated;

22 "(I) agrees to comply with the same Fed-  
23 eral and State audit requirements as do other  
24 elementary and secondary schools in the State,

1 unless such requirements are specifically waived  
2 for the purpose of this program;

3 “(J) meets all applicable Federal, State,  
4 and local health and safety requirements;

5 “(K) operates in accordance with State  
6 law; and

7 “(L) has a written performance contract  
8 with the authorized public chartering agency in  
9 the State that includes a description of how  
10 student performance will be measured in char-  
11 ter schools pursuant to State assessments that  
12 are required of other schools and pursuant to  
13 any other assessments mutually agreeable to  
14 the authorized public chartering agency and the  
15 charter school.

16 “(2) The term ‘developer’ means an individual  
17 or group of individuals (including a public or private  
18 nonprofit organization), which may include teachers,  
19 administrators and other school staff, parents, or  
20 other members of the local community in which a  
21 charter school project will be carried out.

22 “(3) The term ‘eligible applicant’ means a de-  
23 veloper that has—

24 “(A) applied to an authorized public char-  
25 tering authority; and

1           “(B) provided adequate and timely notice  
2           to that authority under section 4203(d)(3).

3           “(4) The term ‘authorized public chartering  
4           agency’ means a State educational agency, local edu-  
5           cational agency, or other public entity that has the  
6           authority pursuant to State law and approved by the  
7           Secretary to authorize or approve a charter school.

8   **“SEC. 4211. AUTHORIZATION OF APPROPRIATIONS.**

9           “For the purpose of carrying out this part, there are  
10          authorized to be appropriated \$200,000,000 for fiscal year  
11          2002 and such sums as may be necessary for each of the  
12          4 succeeding fiscal years.”.

13   **SEC. 412. CONTINUATION OF AWARDS.**

14          Notwithstanding any other provision of this Act, any  
15          person or agency that was awarded a grant or subgrant  
16          under subpart 1 of part C of title X (20 U.S.C. 8061 et  
17          seq.) prior to the date of the enactment of this Act shall  
18          continue to receive funds in accordance with the terms of  
19          such award until the date on which the award period ter-  
20          minates under such terms.

21          **PART C—SCHOOL CHOICE RESEARCH AND**

22                           **DEMONSTRATION**

23   **SEC. 421. SCHOOL CHOICE RESEARCH AND DEMONSTRATION**

24                           **TION**

25          Part C of title IV is amended to read as follows:

1     **“PART C—EDUCATIONAL OPPORTUNITY FUND**

2     **“SEC. 4311. PURPOSE.**

3             “The purpose of this part is to determine the effec-  
4     tiveness of school choice in improving the academic  
5     achievement of disadvantaged students and the overall  
6     quality of public schools and local educational agencies.

7     **“SEC. 4312. PROGRAM AUTHORIZED.**

8             “The Secretary is authorized to make competitive  
9     awards to eligible entities to carry out and evaluate,  
10    through contracts or grants, research projects that dem-  
11    onstrate how school choice options increase the academic  
12    achievement of students, schools, and local educational  
13    agencies.

14    **“SEC. 4313. ELIGIBLE ENTITIES.**

15             “For purposes of this part an eligible entity is—

16                 “(1) a State educational agency;

17                 “(2) a county agency;

18                 “(3) a municipal agency;

19                 “(4) a local educational agency;

20                 “(5) a nonprofit corporation; or

21                 “(6) a consortia thereof.

22    **“SEC. 4314. APPLICATIONS.**

23             “Each eligible entity desiring an award under this  
24    part shall submit an application to the Secretary that shall  
25    include—

1           “(1) a description of the proposed research  
2           project, including a designation from which local  
3           educational agency or agencies eligible students will  
4           be selected to participate in a choice program;

5           “(2) a description of the annual costs of the  
6           project;

7           “(3) a description of the research design that  
8           the eligible entity will employ in carrying out the  
9           project;

10          “(4) a description of the project evaluation that  
11          will be conducted by an independent third party en-  
12          tity, including—

13                 “(A) the name and qualifications of the  
14                 independent entity that will conduct the evalua-  
15                 tion; and

16                 “(B) a description of how the evaluation  
17                 will measure the academic achievement of stu-  
18                 dents participating in the program, parental  
19                 satisfaction and the effect of the project on the  
20                 schools and agencies designated in paragraph  
21                 (1);

22          “(5) a description of how the eligible entity will  
23          ensure the participation of students selected for the  
24          control group;

1           “(6) a description of the assessment that the el-  
2           igible entity will use to assess annually the progress  
3           of participants in the research project in grades 3  
4           through 8 in mathematics and reading and how it is  
5           comparable to assessments used by the agency or  
6           agencies described under paragraph (1);

7           “(7) an assurance that the eligible entity will  
8           assess all students that are participating in the pro-  
9           gram or in the control group at the beginning of the  
10          project;

11          “(8) an assurance that the eligible entity will  
12          report annually to the Secretary on the impact of  
13          the project on student achievement, including a dis-  
14          cussion of the meaning and an attestation of validity  
15          of the achievement data;

16          “(9) an assurance that, if the number of stu-  
17          dents applying to participate in the project is greater  
18          than the number of students the project can serve,  
19          participants will be selected by lottery;

20          “(10) a description of how the amount that will  
21          be provided directly to students for tuition, fees,  
22          transportation, or supplemental services will be de-  
23          termined;



1           “(11) an assurance that schools participating  
2           under this part will abide by the nondiscrimination  
3           requirements set forth in section 4319;

4           “(12) an assurance that eligible students receiv-  
5           ing assistance under this part will not be defined by  
6           reference to religion and that grants will be allocated  
7           on the basis of neutral, secular criteria that neither  
8           favor nor disfavor religion, and will be made avail-  
9           able to children attending secular and nonsecular in-  
10          stitutions on a nondiscriminatory basis; and

11          “(13) an assurance that no private school will  
12          be required to participate in the project without its  
13          consent.

14   **“SEC. 4315. PRIORITIES.**

15          “In awarding grants under this program, the Sec-  
16          retary shall give priority to applications that—

17               “(1) provide students and families with the  
18               widest range of educational options;

19               “(2) target resources to students and families  
20               that lack the financial resources to take advantage  
21               of available educational options;

22               “(3) are of sufficient size to have a significant  
23               impact on the public and private schools of the com-  
24               munity that the project serves;

1           “(4) propose using rigorous methodologies and  
2           third party evaluators with experience in evaluating  
3           school choice proposals; and

4           “(5) propose serving students of varying age  
5           and grade levels.

6   **“SEC. 4316. USE OF FUNDS.**

7           “(a) IN GENERAL.—A grantee may reserve up to 10  
8           percent of its award for research and evaluation activities,  
9           of which not more than 2 percent may be used for admin-  
10          istrative purposes.

11          “(b) GRANTS TO STUDENTS.—A grantee shall use at  
12          least 90 percent of its award to provide grants to eligible  
13          students, who shall use the grants to—

14                  “(1) pay the eligible educational expenses, in-  
15                  cluding tuition, fees, and transportation expenses re-  
16                  quired to attend the school of their choice; or

17                  “(2) purchase supplemental educational serv-  
18                  ices.

19   **“SEC. 4317. ELIGIBLE STUDENTS.**

20          “For purposes of the activities funded under this  
21          part, an eligible student is defined as a student who—

22                  “(1) is eligible for a free or reduced-price lunch  
23                  subsidy under the National School Lunch program;  
24                  and

1           “(2) attended a public elementary or secondary  
2           school or was not yet of school age in the year pre-  
3           ceding participation in this program.

4   **“SEC. 4318. REPORTING REQUIREMENTS.**

5           “(a) IN GENERAL.—Each grantee receiving an award  
6           under this program shall, beginning with the second year  
7           of the project, report annually to the Secretary  
8           regarding—

9           “(1) the activities carried out during the pre-  
10          ceding 12 months with program funds; and

11          “(2) the results of the assessments given to stu-  
12          dents participating in the program and students se-  
13          lected for the control group.

14          “(b) PERFORMANCE REPORTS.—In addition, each  
15          grantee shall, in the third year of the research project,  
16          report annually to the Secretary regarding—

17          “(1) the academic performance of students par-  
18          ticipating in the project; and

19          “(2) parental satisfaction; and

20          “(3) changes in the overall performance and  
21          quality of public and private elementary and sec-  
22          ondary schools affected by the project, as well as  
23          other indicators such as teacher quality, innovative  
24          reforms, or special programs.

1       “(c) REPORT TO CONGRESS.—The Secretary shall  
2 submit to the appropriate congressional committees an an-  
3 nual report on the findings of the reports submitted under  
4 subsections (a) and (b), and include the comments of the  
5 independent review panel in accordance with section  
6 4019(3).

7       “SEC. 4319. NONDISCRIMINATION.

8       “(a) IN GENERAL.—A private school participating in  
9 the scholarship program under this part shall not discrimi-  
10 nate on the basis of race, color, national origin, or sex  
11 in carrying out the provisions of this part.

12       “(b) APPLICABILITY AND CONSTRUCTION WITH RE-  
13 SPECT TO DISCRIMINATION ON THE BASIS OF SEX.—

14               “(1) APPLICABILITY.—With respect to discrimi-  
15 nation on the basis of sex, subsection (a) shall not  
16 apply to a private school that is controlled by a reli-  
17 gious organization if the application of subsection  
18 (a) is inconsistent with the religious tenets of the  
19 private school.

20               “(2) SINGLE-SEX SCHOOLS, CLASSES, OR AC-  
21 TIVITIES.—With respect to discrimination on the  
22 basis of sex, nothing in subsection (a) shall be con-  
23 strued to prevent a parent from choosing, or a pri-  
24 vate school from offering, a single-sex school, class,  
25 or activity.

1       “(c) CHILDREN WITH DISABILITIES.—Nothing in  
2 this part shall be construed to alter or modify the provi-  
3 sions of the Individuals with Disabilities Education Act  
4 or the Rehabilitation Act of 1973.

5       “(d) RULE OF CONSTRUCTION.—

6           “(1) IN GENERAL.—Nothing in this part shall  
7 be construed to prevent any eligible institution which  
8 is operated by, supervised by, controlled by, or con-  
9 nected to, a religious organization from employing,  
10 admitting, or giving preference to, persons of the  
11 same religion to the extent determined by such insti-  
12 tution to promote the religious purpose for which the  
13 private school is established or maintained.

14           “(2) SECTARIAN PURPOSES.—Nothing in this  
15 part shall be construed to prohibit the use of funds  
16 made available under this part for sectarian edu-  
17 cational purposes, or to require a private school to  
18 remove religious art, icons, scripture, or other sym-  
19 bols.

20       **“SEC. 4320. INDEPENDENT REVIEW PANEL.**

21           “(a) ESTABLISHMENT.—The Secretary shall estab-  
22 lish an independent review panel to advise the Secretary  
23 on technical and methodological issues and in overseeing  
24 the activities funded under this part.

1       “(b) MEMBERSHIP.—The Secretary shall appoint  
2 members of the independent review panel from among  
3 qualified individuals who are—

4               “(A) specialists in school choice research,  
5 as well as experts in statistics, evaluation, re-  
6 search, and assessment; and

7               “(B) other individuals with technical ex-  
8 pertise who will contribute to the overall rigor  
9 and quality of the evaluations.

10       “(c) POWERS.—The independent review panel shall  
11 consult with and advise the Secretary—

12               “(1) to ensure that the evaluations funded  
13 under this part adhere to the highest possible stand-  
14 ards of quality with respect to research design and  
15 statistical analysis; and

16               “(2) to evaluate and comment on the degree to  
17 which annual reports submitted in accordance with  
18 section 4318 meet the requirements under subpara-  
19 graph (A) with such comments included with the re-  
20 port submitted to the appropriate Congressional  
21 committees.

22 **“SEC. 4321. AUTHORIZATION OF APPROPRIATIONS.**

23       “There are authorized to be appropriated  
24 \$25,000,000 for fiscal year 2002 and such sums as may  
25 be necessary for each of the 4 succeeding fiscal years.”.

1       **PART D—MAGNET SCHOOLS ASSISTANCE;**  
2               **WOMEN’S EDUCATIONAL EQUITY**

3   **SEC. 431. MAGNET SCHOOLS ASSISTANCE.**

4       Part D of title IV is amended to read as follows:

5       **“PART D—MAGNET SCHOOLS ASSISTANCE;**  
6               **WOMEN’S EDUCATIONAL EQUITY**

7               **“Subpart 1—Magnet Schools Assistance**

8   **“SEC. 4401. FINDINGS.**

9       “The Congress finds as follows:

10           “(1) Magnet schools are a significant part of  
11       the Nation’s efforts to achieve voluntary desegrega-  
12       tion in our schools.

13           “(2) The use of magnet schools has increased  
14       dramatically since the inception of the magnet  
15       schools assistance program under this Act, with ap-  
16       proximately 2,000,000 students nationwide attend-  
17       ing such schools, of whom more than 65 percent are  
18       non-white.

19           “(3) Magnet schools offer a wide range of dis-  
20       tinctive programs that have served as models for  
21       school improvement efforts.

22           “(4) It is in the best interests of the United  
23       States—

24           “(A) to continue the Federal Government’s  
25       support of local educational agencies that are  
26       implementing court-ordered desegregation plans

1 and local educational agencies that are volun-  
2 tarily seeking to foster meaningful interaction  
3 among students of different racial and ethnic  
4 backgrounds, beginning at the earliest stage of  
5 such students' education;

6 “(B) to ensure that all students have equi-  
7 table access to a quality education that will pre-  
8 pare them to function well in a highly competi-  
9 tive economy;

10 “(C) to maximize the ability of local edu-  
11 cational agencies to plan, develop, implement,  
12 and continue effective and innovative magnet  
13 schools that contribute to State and local sys-  
14 temic reform; and

15 “(D) to ensure that grant recipients pro-  
16 vide adequate data that demonstrate an ability  
17 to improve student academic achievement.

18 **“SEC. 4402. STATEMENT OF PURPOSE.**

19 “The purpose of this part is to assist in the desegre-  
20 gation of schools served by local educational agencies by  
21 providing financial assistance to eligible local educational  
22 agencies for—

23 “(1) the elimination, reduction, or prevention of  
24 minority group isolation in elementary and sec-



1       ondary schools with substantial proportions of mi-  
2       nority students;

3           “(2) the development and implementation of  
4       magnet school projects that will assist local edu-  
5       cational agencies in achieving systemic reforms and  
6       providing all students the opportunity to meet chal-  
7       lenging State content standards and challenging  
8       State student performance standards;

9           “(3) the development and design of innovative  
10      educational methods and practices that promote di-  
11      versity and increase choices in public elementary and  
12      secondary schools and educational programs; and

13          “(4) courses of instruction within magnet  
14      schools that will substantially strengthen the knowl-  
15      edge of academic subjects and the grasp of tangible  
16      and marketable vocational and technical skills of  
17      students attending such schools.

18   **“SEC. 4403. PROGRAM AUTHORIZED.**

19          “The Secretary, in accordance with this part, is au-  
20      thorized to make grants to eligible local educational agen-  
21      cies, and consortia of such agencies where appropriate, to  
22      carry out the purpose of this part for magnet schools that  
23      are—

24          “(1) part of an approved desegregation plan;  
25      and

1           “(2) designed to bring students from different  
2           social, economic, ethnic, and racial backgrounds to-  
3           gether.

4   **“SEC. 4404. DEFINITION.**

5           “For the purpose of this part, the term ‘magnet  
6           school’ means a public elementary or secondary school or  
7           public elementary or secondary education center that of-  
8           fers a special curriculum capable of attracting substantial  
9           numbers of students of different racial backgrounds.

10   **“SEC. 4405. ELIGIBILITY.**

11           “A local educational agency, or consortium of such  
12           agencies where appropriate, is eligible to receive assistance  
13           under this part to carry out the purpose of this part if  
14           such agency or consortium—

15           “(1) is implementing a plan undertaken pursu-  
16           ant to a final order issued by a court of the United  
17           States, or a court of any State, or any other State  
18           agency or official of competent jurisdiction, that re-  
19           quires the desegregation of minority-group-seg-  
20           regated children or faculty in the elementary and  
21           secondary schools of such agency; or

22           “(2) without having been required to do so, has  
23           adopted and is implementing, or will, if assistance is  
24           made available to such local educational agency or  
25           consortium of such agencies under this part, adopt

1 and implement a plan that has been approved by the  
2 Secretary as adequate under title VI of the Civil  
3 Rights Act of 1964 for the desegregation of minor-  
4 ity-group-segregated children or faculty in such  
5 schools.

6 **“SEC. 4406. APPLICATIONS AND REQUIREMENTS.**

7 “(a) APPLICATIONS.—An eligible local educational  
8 agency, or consortium of such agencies, desiring to receive  
9 assistance under this part shall submit an application to  
10 the Secretary at such time, in such manner, and con-  
11 taining such information and assurances as the Secretary  
12 may reasonably require.

13 “(b) INFORMATION AND ASSURANCES.—Each such  
14 application shall include—

15 “(1) a description of—

16 “(A) how assistance made available under  
17 this part will be used to promote desegregation,  
18 including how the proposed magnet school  
19 project will increase interaction among students  
20 of different social, economic, ethnic, and racial  
21 backgrounds;

22 “(B) the manner and extent to which the  
23 magnet school project will increase student  
24 achievement in the instructional area or areas  
25 offered by the school;

1           “(C) how an applicant will continue the  
2 magnet school project after assistance under  
3 this part is no longer available, including, if ap-  
4 plicable, an explanation of why magnet schools  
5 established or supported by the applicant with  
6 funds under this part cannot be continued with-  
7 out the use of funds under this part;

8           “(D) how funds under this part will be  
9 used to improve student academic performance  
10 for all students attending the magnet schools;  
11 and

12           “(E) the criteria to be used in selecting  
13 students to attend the proposed magnet school  
14 projects; and

15           “(2) assurances that the applicant will—

16           “(A) use funds under this part for the pur-  
17 pose specified in section 4402;

18           “(B) employ fully qualified teachers in the  
19 courses of instruction assisted under this part;

20           “(C) not engage in discrimination based on  
21 race, religion, color, national origin, sex, or dis-  
22 ability in—

23           “(i) the hiring, promotion, or assign-  
24 ment of employees of the agency or other

1 personnel for whom the agency has any ad-  
2 ministrative responsibility;

3 “(ii) the assignment of students to  
4 schools, or to courses of instruction within  
5 the school, of such agency, except to carry  
6 out the approved plan; and

7 “(iii) designing or operating extra-  
8 curricular activities for students;

9 “(D) carry out a high-quality education  
10 program that will encourage greater parental  
11 decisionmaking and involvement; and

12 “(E) give students residing in the local at-  
13 tendance area of the proposed magnet school  
14 projects equitable consideration for placement  
15 in those projects.

16 **“SEC. 4407. PRIORITY.**

17 “In approving applications under this part, the Sec-  
18 retary shall give priority to applicants that—

19 “(1) demonstrate the greatest need for assist-  
20 ance, based on the expense or difficulty of effectively  
21 carrying out an approved desegregation plan and the  
22 projects for which assistance is sought;

23 “(2) propose to carry out new magnet school  
24 projects, or significantly revise existing magnet  
25 school projects; and

1           “(3) propose to select students to attend mag-  
2           net school projects by methods such as lottery, rath-  
3           er than through academic examination.

4   **“SEC. 4408. USE OF FUNDS.**

5           “(a) IN GENERAL.—Grant funds made available  
6           under this part may be used by an eligible local edu-  
7           cational agency or consortium of such agencies—

8           “(1) for planning and promotional activities di-  
9           rectly related to the development, expansion, con-  
10          tinuation, or enhancement of academic programs  
11          and services offered at magnet schools;

12          “(2) for the acquisition of books, materials, and  
13          equipment, including computers and the mainte-  
14          nance and operation thereof, necessary for the con-  
15          duct of programs in magnet schools;

16          “(3) for the payment, or subsidization of the  
17          compensation, of elementary and secondary school  
18          teachers who are fully qualified, and instructional  
19          staff where applicable, who are necessary for the  
20          conduct of programs in magnet schools;

21          “(4) with respect to a magnet school program  
22          offered to less than the entire student population of  
23          a school, for instructional activities that—

24                  “(A) are designed to make available the  
25                  special curriculum that is offered by the magnet

1 school project to students who are enrolled in  
2 the school but who are not enrolled in the mag-  
3 net school program; and

4 “(B) further the purpose of this part; and

5 “(5) for activities, which may include profes-  
6 sional development, that will build the recipient’s ca-  
7 pacity to operate magnet school programs once the  
8 grant period has ended.

9 “(b) SPECIAL RULE.—Grant funds under this part  
10 may be used in accordance with paragraphs (2) and (3)  
11 of subsection (a) only if the activities described in such  
12 paragraphs are directly related to improving the students’  
13 academic performance based on the State’s challenging  
14 content standards and challenging student performance  
15 standards or directly related to improving the students’  
16 reading skills or knowledge of mathematics, science, his-  
17 tory, geography, English, foreign languages, art, or music,  
18 or to improving vocational and technical skills.

19 **“SEC. 4409. PROHIBITIONS.**

20 “(a) TRANSPORTATION.—Grants under this part may  
21 not be used for transportation or any activity that does  
22 not augment academic improvement.

23 “(b) PLANNING.—A local educational agency shall  
24 not expend funds under this part after the third year that

1 such agency receives funds under this part for such  
2 project.

3 **“SEC. 4410. LIMITATIONS.**

4 “(a) DURATION OF AWARDS.—A grant under this  
5 part shall be awarded for a period that shall not exceed  
6 three fiscal years.

7 “(b) LIMITATION ON PLANNING FUNDS.—A local  
8 educational agency may expend for planning not more  
9 than 50 percent of the funds received under this part for  
10 the first year of the project, 15 percent of such funds for  
11 the second such year, and 10 percent of such funds for  
12 the third such year.

13 “(c) AMOUNT.—No local educational agency or con-  
14 sortium awarded a grant under this part shall receive  
15 more than \$4,000,000 under this part in any one fiscal  
16 year.

17 “(d) TIMING.—To the extent practicable, the Sec-  
18 retary shall award grants for any fiscal year under this  
19 part not later than July 1 of the applicable fiscal year.

20 **“SEC. 4411. EVALUATIONS.**

21 “(a) RESERVATION.—The Secretary may reserve not  
22 more than 2 percent of the funds appropriated under sec-  
23 tion 4412(a) for any fiscal year to carry out evaluations,  
24 technical assistance, and dissemination projects with re-



1 spect to magnet school projects and programs assisted  
2 under this part.

3 “(b) CONTENTS.—Each evaluation described in sub-  
4 section (a), at a minimum, shall address—

5 “(1) how and the extent to which magnet school  
6 programs lead to educational quality and improve-  
7 ment;

8 “(2) the extent to which magnet school pro-  
9 grams enhance student access to quality education;

10 “(3) the extent to which magnet school pro-  
11 grams lead to the elimination, reduction, or preven-  
12 tion of minority group isolation in elementary and  
13 secondary schools with substantial proportions of mi-  
14 nority students; and

15 “(4) the extent to which magnet school pro-  
16 grams differ from other school programs in terms of  
17 the organizational characteristics and resource allo-  
18 cations of such magnet school programs.

19 **“SEC. 4412. AUTHORIZATION OF APPROPRIATIONS; RES-**  
20 **ERVATION.**

21 “(a) AUTHORIZATION.—For the purpose of carrying  
22 out this part, there are authorized to be appropriated  
23 \$110,000,000 for fiscal year 2002 and such sums as may  
24 be necessary for each of the 4 succeeding fiscal years.

1       “(b) AVAILABILITY OF FUNDS FOR GRANTS TO  
2 AGENCIES NOT PREVIOUSLY ASSISTED.—In any fiscal  
3 year for which the amount appropriated pursuant to sub-  
4 section (a) exceeds \$75,000,000, the Secretary shall give  
5 priority to using such amounts in excess of \$75,000,000  
6 to award grants to local educational agencies or consortia  
7 of such agencies that did not receive a grant under this  
8 part in the preceding fiscal year.”.

9 **SEC. 432. WOMEN'S EDUCATIONAL EQUITY.**

10       (a) TRANSFER AND REDESIGNATION.—Part B of  
11 title V (20 U.S.C. 7231 et seq.) is transferred and redesi-  
12 gnated as subpart 2 of part D of title IV. Sections 5201  
13 through 5208 are redesignated as sections 4421 through  
14 4428, respectively.

15       (b) REPORT.—Section 4426 (as so redesignated) is  
16 amended by striking “January 1, 1999,” and inserting  
17 “January 1, 2005,”.

18       (c) EVALUATION AND DISSEMINATION.—Section  
19 4427(a) (as so redesignated) is amended—

20               (1) by striking “14701,” and inserting “8651,”;

21       and

22               (2) by striking “January 1, 1998.” and insert-  
23       ing “January 1, 2004.”.

24       (d) REAUTHORIZATION.—Section 4428 (as so redesi-  
25 gnated) is amended by striking “\$5,000,000 for fiscal

1 year 1995 and such sums as may be necessary for each  
2 of the four succeeding fiscal years,” and inserting “such  
3 sums as may be necessary for fiscal year 2002 and the  
4 four succeeding fiscal years,”.

5 (e) OTHER CONFORMING AMENDMENTS.—

6 (1) SHORT TITLE.—Section 4421(a) (as so re-  
7 designated) is amended to read as follows:

8 “(a) SHORT TITLE.—This subpart may be cited as  
9 the ‘Women’s Educational Equity Act of 2001’.”.

10 (2) REFERENCES.—Subpart 2 of part D of title  
11 IV (as so redesignated) is amended—

12 (A) by striking “this part” each place such  
13 term appears and inserting “this subpart”; and

14 (B) by striking “5203(b)” each place such  
15 term appears and inserting “4423(b)”.

16 **SEC. 433. CONTINUATION OF AWARDS.**

17 Notwithstanding any other provision of this Act, any  
18 person or agency that was awarded a grant under part  
19 A of title V (20 U.S.C. 7201 et seq.), or a grant, contract,  
20 or cooperative agreement under part B of such title (20  
21 U.S.C. 7231 et seq.), prior to the date of the enactment  
22 of this Act shall continue to receive funds in accordance  
23 with the terms of such award until the date on which the  
24 award period terminates under such terms.