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MODIFICATION

AMENDMENT NO. _____ Calendar No. _____

Purpose: To amend the allocation of funds under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

AMENDMENT N^o 2247

By *Burr* Education Act
To: *Am. No. 2089* receives.

_____ and

23
Page(s)

printed *for himself and Mr. Burr*

GPO 2011 O-629-000-000
Burr to the amendment (No. 2089) proposed by Mr. ALEXANDER

Viz:

1 Strike sections 1009, 1010, and 1011 and insert the
2 following:

3 **SEC. 1009. GRANTS FOR THE OUTLYING AREAS AND THE**
4 **SECRETARY OF THE INTERIOR.**

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

6 (1) in subsection (a), in the matter preceding
7 paragraph (1), by striking “and 1125A(f)”; and

8 (2) in subsection (b)(3)(C)(ii), by striking
9 “challenging State academic content standards” and
10 inserting “challenging State academic standards”.

1 **SEC. 1010. ALLOCATIONS TO STATES.**

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

3 (1) by striking subsection (a) and inserting the
4 following:

5 “(a) ALLOCATION FORMULA.—

6 “(1) INITIAL ALLOCATION.—For each of fiscal
7 years 2016 through 2021 (referred to in this sub-
8 section as the ‘current fiscal year’), the Secretary
9 shall allocate \$~~14,500,000,000~~^{17,000,000,000} of the amount appro-
10 priated under section 1002(a) to carry out this part
11 (or, if the total amount appropriated for this part is
12 equal to or less than \$~~14,500,000,000~~^{17,000,000,000}, all of such
13 amount) in accordance with the following:

14 “(A) An amount equal to the amount
15 made available to carry out section 1124 for fis-
16 cal year ~~2001~~²⁰¹⁵ shall be allocated in accordance
17 with section 1124.

18 “(B) An amount equal to the amount
19 made available to carry out section 1124A for
20 fiscal year ~~2001~~²⁰¹⁵ shall be allocated in accordance
21 with section 1124A.

22 “(C) An amount equal to 100 percent of
23 the amount, if any, by which the amount made
24 available under this paragraph for the current
25 fiscal year for which the determination is made
26 exceeds the amount available to carry out sec-

1 tions 1124 and 1124A for fiscal year 2001 shall
 2 be allocated in accordance with section 1125
 3 and 1125A.

4 “(2) ALLOCATIONS IN EXCESS OF
 5 ~~\$11,500,000,000~~ ^{17,000,000,000} For each of the current fiscal years
 6 for which the amounts appropriated under section
 7 1002(a) to carry out this part exceed
 8 ~~\$11,500,000,000~~ ^{17,000,000,000}, an amount equal to such excess
 9 amount shall be allocated in accordance with section
 10 1123.”;

11 (2) in subsection (b)—

12 (A) in paragraph (1)—

13 (i) by striking “under this subpart”
 14 and inserting “under subsection (a)(1) for
 15 sections 1124, 1124A, 1125, and 1125A”;
 16 and

17 (ii) by striking “and 1125” and in-
 18 serting “1125, and 1125A”; and

19 (B) in paragraph (2)—

20 (i) by inserting “under subsection
 21 (a)(1)” after “become available”; and

22 (ii) by striking “and 1125” and in-
 23 serting “1125, and 1125A”;

1 (3) in subsection (c)(1), by inserting “and to
2 the extent amounts under subsection (a)(1) are
3 available” after “For each fiscal year”; and

4 (4) in subsection (d)(1), by striking “under this
5 subpart” and inserting “under subsection (a)(1) for
6 sections 1124, 1124A, 1125, and 1125A”.

7 **SEC. 1011. EQUITY GRANTS.**

8 Subpart 2 of part A of title I (20 U.S.C. 6331 et
9 seq.) is amended by inserting after section 1122 the fol-
10 lowing:

11 **“SEC. 1123. EQUITY GRANTS.**

12 “(a) AUTHORIZATION.—From funds appropriated
13 under section 1002(a) for a fiscal year and available for
14 allocation pursuant to section 1122(a)(2), the Secretary
15 is authorized to make grants to States, from allotments
16 under subsection (b), to carry out the programs and activi-
17 ties of this part.

18 “(b) DISTRIBUTION BASED UPON CONCENTRATIONS
19 OF POVERTY.—

20 “(1) IN GENERAL.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraphs (B) and (C), funds appropriated
23 pursuant to subsection (a) for a fiscal year shall
24 be allotted to each State based upon the num-

1 ber of children counted under section 1124(c)
2 in such State multiplied by the product of—

3 “(i) 40 percent of the average per-
4 pupil expenditure in the United States
5 (other than the Commonwealth of Puerto
6 Rico); multiplied by

7 “(ii) 1.30 minus such State’s equity
8 factor described in paragraph (2).

9 “(B) PUERTO RICO.—For each fiscal year,
10 the Secretary shall allot to the Commonwealth
11 of Puerto Rico an amount of the funds appro-
12 priated under subsection (a) that bears the
13 same relation to the total amount of funds ap-
14 propriated under such subsection as the amount
15 that the Commonwealth of Puerto Rico received
16 under this subpart for fiscal year 2015 bears to
17 the total amount received by all States for such
18 fiscal year.

19 “(C) STATE MINIMUM.—Notwithstanding
20 any other provision of this section, from the
21 total amount available for any fiscal year to
22 carry out this section, each State (except for
23 ~~Puerto Rico~~) shall be allotted at least the lesser
24 of—

except for subparagraph (B)

1 “(i) 0.35 percent of the total amount
2 available to carry out this section for such
3 fiscal year; or

4 “(ii) the average of—

5 “(I) 0.35 percent of such total
6 amount for such fiscal year; and

7 “(II) 150 percent of the national
8 average grant under this section per
9 child described in section 1124(c),
10 without application of a weighting fac-
11 tor, multiplied by the State’s total
12 number of children described in sec-
13 tion 1124(c), without application of a
14 weighting factor.

15 “(2) EQUITY FACTOR.—

16 “(A) DETERMINATION.—

17 “(i) IN GENERAL.—Except as pro-
18 vided in subparagraph (B), the Secretary
19 shall determine the equity factor under
20 this section for each State in accordance
21 with clause (ii).

22 “(ii) COMPUTATION.—

23 “(I) IN GENERAL.—For each
24 State, the Secretary shall compute a
25 weighted coefficient of variation for

1 the per-pupil expenditures of local
2 educational agencies in accordance
3 with subclauses (II), (III), and (IV).

4 “(II) VARIATION.—In computing
5 coefficients of variation, the Secretary
6 shall weigh the variation between per-
7 pupil expenditures in each local edu-
8 cational agency and the average per-
9 pupil expenditures in the State ac-
10 cording to the number of pupils
11 served by the local educational agency.

12 “(III) NUMBER OF PUPILS.—In
13 determining the number of pupils
14 under this paragraph served by each
15 local educational agency and in each
16 State, the Secretary shall multiply the
17 number of children counted under sec-
18 tion 1124(c) by a factor of 1.4.

19 “(IV) ENROLLMENT REQUIRE-
20 MENT.—In computing coefficients of
21 variation, the Secretary shall include
22 only those local educational agencies
23 with an enrollment of more than 200
24 students.

1 “(B) SPECIAL RULE.—The equity factor
2 for a State that meets the disparity standard
3 described in section 222.162 of title 34, Code of
4 Federal Regulations (as such section was in ef-
5 fect on the day preceding the date of enactment
6 of the No Child Left Behind Act of 2001) or
7 a State with only one local educational agency
8 shall be not greater than 0.10.

9 “(c) USE OF FUNDS; ELIGIBILITY OF LOCAL EDU-
10 CATIONAL AGENCIES.—All funds awarded to each State
11 under this section shall be allocated to local educational
12 agencies under the following provisions:

13 “(1) DISTRIBUTION WITHIN LOCAL EDU-
14 CATIONAL AGENCIES.—Within local educational
15 agencies, funds allocated under this section shall be
16 distributed to schools on a basis consistent with sec-
17 tion 1113, and may only be used to carry out activi-
18 ties under this part.

19 “(2) ELIGIBILITY FOR GRANT.—A local edu-
20 cational agency in a State is eligible to receive a
21 grant under this section for any fiscal year if—

22 “(A) the number of children in the local
23 educational agency counted under section
24 1124(e), before application of the weighted

1 child count described in subsection (d), is at
2 least 10; and

3 “(B) if the number of children counted for
4 grants under section 1124(c), before application
5 of the weighted child count described in sub-
6 section (d), is at least 5 percent of the total
7 number of children aged 5 to 17 years, inclu-
8 sive, in the school district of the local edu-
9 cational agency.

10 “(d) ALLOCATION OF FUNDS TO ELIGIBLE LOCAL
11 EDUCATIONAL AGENCIES.—

12 “(1) IN GENERAL.—Funds received by States
13 under this section for a fiscal year shall be allocated
14 within States to eligible local educational agencies on
15 the basis of weighted child counts calculated in ac-
16 cordance with paragraph (2), (3), or (4), as appro-
17 priate for each State.

18 “(2) STATES WITH AN EQUITY FACTOR LESS
19 THAN .10.—

20 “(A) IN GENERAL.—In States with an eq-
21 uity factor less than .10, the weighted child
22 counts referred to in paragraph (1) for a fiscal
23 year shall be the larger of the 2 amounts deter-
24 mined under subparagraphs (B) and (C).

1 “(B) BY PERCENTAGE OF CHILDREN.—

2 The amount referred to in subparagraph (A) is
3 determined by adding—

4 “(i) the number of children deter-
5 mined under section 1124(e) for that local
6 educational agency who constitute not
7 more than 17.27 percent, inclusive, of the
8 agency’s total population aged 5 to 17, in-
9 clusive, multiplied by 1.0;

10 “(ii) the number of such children who
11 constitute more than 17.27 percent, but
12 not more than 23.48 percent, of such pop-
13 ulation, multiplied by 1.75;

14 “(iii) the number of such children who
15 constitute more than 23.48 percent, but
16 not more than 29.11 percent, of such pop-
17 ulation, multiplied by 2.5;

18 “(iv) the number of such children who
19 constitute more than 29.11 percent, but
20 not more than 36.10 percent, of such pop-
21 ulation, multiplied by 3.25; and

22 “(v) the number of such children who
23 constitute more than 36.10 percent of such
24 population, multiplied by 4.0.

1 “(C) BY NUMBER OF CHILDREN.—The
2 amount referred to in subparagraph (A) is de-
3 termined by adding—

4 “(i) the number of children deter-
5 mined under section 1124(e) who con-
6 stitute not more than 834, inclusive, of the
7 agency’s total population aged 5 to 17, in-
8 clusive, multiplied by 1.0;

9 “(ii) the number of such children be-
10 tween 835 and 2,629, inclusive, in such
11 population, multiplied by 1.5;

12 “(iii) the number of such children be-
13 tween 2,630 and 7,668, inclusive, in such
14 population, multiplied by 2.0; and

15 “(iv)(I) in the case of an agency that
16 is not a high poverty percentage local edu-
17 cational agency, the number of such chil-
18 dren in excess of 7,668 in such population,
19 multiplied by 2.0; or

20 “(II) in the case of a high poverty
21 percentage local educational agency—

22 “(aa) the number of such chil-
23 dren between 7,669 and 26,412, inclu-
24 sive, in such population, multiplied by
25 2.5; and

1 “(bb) the number of such chil-
2 dren in excess of 26,412 in such pop-
3 ulation, multiplied by 3.0.

4 “(3) STATES WITH AN EQUITY FACTOR GREAT-
5 ER THAN OR EQUAL TO .10 AND LESS THAN .20.—

6 “(A) IN GENERAL.—In States with an eq-
7 uity factor greater than or equal to .10 and less
8 than .20, the weighted child counts referred to
9 in paragraph (1) for a fiscal year shall be the
10 larger of the 2 amounts determined under sub-
11 paragraphs (B) and (C):

12 “(B) BY PERCENTAGE OF CHILDREN.—
13 The amount referred to in subparagraph (A) is
14 determined by adding—

15 “(i) the number of children deter-
16 mined under section 1124(c) for that local
17 educational agency who constitute not
18 more than 17.27 percent, inclusive, of the
19 agency’s total population aged 5 to 17, in-
20 clusive, multiplied by 1.0;

21 “(ii) the number of such children who
22 constitute more than 17.27 percent, but
23 not more than 23.48 percent, of such pop-
24 ulation, multiplied by 1.5;

1 “(iii) the number of such children who
2 constitute more than 23.48 percent, but
3 not more than 29.11 percent, of such pop-
4 ulation, multiplied by 3.0;

5 “(iv) the number of such children who
6 constitute more than 29.11 percent, but
7 not more than 36.10 percent, of such pop-
8 ulation, multiplied by 4.5; and

9 “(v) the number of such children who
10 constitute more than 36.10 percent of such
11 population, multiplied by 6.0.

12 “(C) BY NUMBER OF CHILDREN.—The
13 amount referred to in subparagraph (A) is de-
14 termined by adding—

15 “(i) the number of children deter-
16 mined under section 1124(e) who con-
17 stitute not more than 834, inclusive, of the
18 agency’s total population aged 5 to 17, in-
19 clusive, multiplied by 1.0;

20 “(ii) the number of such children be-
21 tween 835 and 2,629, inclusive, in such
22 population, multiplied by 1.5;

23 “(iii) the number of such children be-
24 tween 2,630 and 7,668, inclusive, in such
25 population, multiplied by 2.25; and

1 “(iv)(I) in the case of an agency that
2 is not a high poverty percentage local edu-
3 cational agency, the number of such chil-
4 dren in excess of 7,668 in such population,
5 multiplied by 2.25; or

6 “(II) in the case of a high poverty
7 percentage local educational agency—

8 “(aa) the number of such chil-
9 dren between 7,669 and 26,412, inclu-
10 sive, in such population, multiplied by
11 3.375; and

12 “(bb) the number of such chil-
13 dren in excess of 26,412 in such pop-
14 ulation, multiplied by 4.5.

15 “(4) STATES WITH AN EQUITY FACTOR GREAT-
16 ER THAN OR EQUAL TO .20.—

17 “(A) IN GENERAL.—In States with an eq-
18 nity factor greater than or equal to .20, the
19 weighted child counts referred to in paragraph
20 (1) for a fiscal year shall be the larger of the
21 2 amounts determined under subparagraphs
22 (B) and (C).

23 “(B) BY PERCENTAGE OF CHILDREN.—
24 The amount referred to in subparagraph (A) is
25 determined by adding—

1 “(i) the number of children deter-
2 mined under section 1124(e) for that local
3 educational agency who constitute not
4 more than 17.27 percent, inclusive, of the
5 agency’s total population aged 5 to 17, in-
6 clusive, multiplied by 1.0;

7 “(ii) the number of such children who
8 constitute more than 17.27 percent, but
9 not more than 23.48 percent, of such pop-
10 ulation, multiplied by 2.0;

11 “(iii) the number of such children who
12 constitute more than 23.48 percent, but
13 not more than 29.11 percent, of such pop-
14 ulation, multiplied by 4.0;

15 “(iv) the number of such children who
16 constitute more than 29.11 percent, but
17 not more than 36.10 percent, of such pop-
18 ulation, multiplied by 6.0; and

19 “(v) the number of such children who
20 constitute more than 36.10 percent of such
21 population, multiplied by 8.0.

22 “(C) BY NUMBER OF CHILDREN.—The
23 amount referred to in subparagraph (A) is de-
24 termined by adding—

1 “(i) the number of children deter-
2 mined under section 1124(c) who con-
3 stitute not more than 834, inclusive, of the
4 agency’s total population aged 5 to 17, in-
5 clusive, multiplied by 1.0;

6 “(ii) the number of such children be-
7 tween 835 and 2,629, inclusive, in such
8 population, multiplied by 2.0;

9 “(iii) the number of such children be-
10 tween 2,630 and 7,668, inclusive, in such
11 population, multiplied by 3.0; and

12 “(iv)(I) in the case of an agency that
13 is not a high poverty percentage local edu-
14 cational agency, the number of such chil-
15 dren in excess of 7,668 in such population,
16 multiplied by 3.0; or

17 “(II) in the case of a high poverty
18 percentage local educational agency—

19 “(aa) the number of such chil-
20 dren between 7,669 and 26,412, inclu-
21 sive, in such population, multiplied by
22 4.5; and

23 “(bb) the number of such chil-
24 dren in excess of 26,412 in such pop-
25 ulation, multiplied by 6.0.

1 “(e) MAINTENANCE OF EFFORT.—

2 “(1) IN GENERAL.—A State is entitled to re-
3 ceive its full allotment of funds under this section
4 for any fiscal year if the Secretary finds that the
5 State's fiscal effort per student or the aggregate ex-
6 penditures of the State with respect to the provision
7 of free public education by the State for the pre-
8 ceding fiscal year was not less than 90 percent of
9 the fiscal effort or aggregate expenditures for the
10 second preceding fiscal year, subject to the require-
11 ments of paragraph (2).

12 “(2) REDUCTION IN CASE OF FAILURE TO
13 MEET.—

14 “(A) IN GENERAL.—The Secretary shall
15 reduce the amount of the allotment of funds
16 under this section in any fiscal year in the exact
17 proportion by which a State fails to meet the
18 requirement of paragraph (1) by falling below
19 90 percent of both the fiscal effort per student
20 and aggregate expenditures (using the measure
21 most favorable to the State), if such State has
22 also failed to meet such requirement (as deter-
23 mined using the measure most favorable to the
24 State) for 1 or more of the 5 immediately pre-
25 ceding fiscal years.

1 “(B) SPECIAL RULE.—No such lesser
2 amount shall be used for computing the effort
3 required under paragraph (1) for subsequent
4 years.

5 “(3) WAIVER.—The Secretary may waive the
6 requirements of this subsection if the Secretary de-
7 termines that a waiver would be equitable due to—

8 “(A) exceptional or uncontrollable cir-
9 cumstances, such as a natural disaster or a
10 change in the organizational structure of the
11 State; or

12 “(B) a precipitous decline in the financial
13 resources of the State.

14 “(f) ADJUSTMENTS WHERE NECESSITATED BY AP-
15 PROPRIATIONS.—

16 “(1) IN GENERAL.—If the sums available under
17 this section for any fiscal year are insufficient to pay
18 the full amounts that all local educational agencies
19 in States are eligible to receive under this section for
20 such year, the Secretary shall ratably reduce the al-
21 locations to such local educational agencies, subject
22 to paragraphs (2) and (3).

23 “(2) ADDITIONAL FUNDS.—If additional funds
24 become available for making payments under this
25 section for such fiscal year, allocations that were re-

1 duced under paragraph (1) shall be increased on the
2 same basis as they were reduced.

3 “(3) HOLD HARMLESS AMOUNTS.—Beginning
4 with the second fiscal year for which amounts are
5 appropriated to carry out this section, and if suffi-
6 cient funds are available, the amount made available
7 to each local educational agency under this section
8 for a fiscal year shall be—

9 “(A) not less than 95 percent of the
10 amount made available for the preceding fiscal
11 year if the number of children counted under
12 section 1124(c) is equal to or more than 30
13 percent of the total number of children aged 5
14 to 17 years, inclusive, in the local educational
15 agency;

16 “(B) not less than 90 percent of the
17 amount made available for the preceding fiscal
18 year if the percentage described in subpara-
19 graph (A) is less than 30 percent and equal to
20 or more than 15 percent; and

21 “(C) not less than 85 percent of the
22 amount made available for the preceding fiscal
23 year if the percentage described in subpara-
24 graph (A) is less than 15 percent.

1 “(4) APPLICABILITY.—Notwithstanding any
2 other provision of law, the Secretary shall not take
3 into consideration the hold-harmless provisions of
4 this subsection for any fiscal year for purposes of
5 calculating State or local allocations for the fiscal
6 year under any program administered by the Sec-
7 retary other than a program authorized under this
8 part.

9 “(g) DEFINITIONS.—In this section:

10 “(1) HIGH POVERTY PERCENTAGE LOCAL EDU-
11 CATIONAL AGENCY.—The term ‘high poverty per-
12 centage local educational agency’ means a local edu-
13 cational agency for which the number of children de-
14 termined under subsection (b) for a fiscal year is 20
15 percent or more of the total population aged 5 to 17,
16 inclusive, of the local educational agency for such
17 fiscal year.

18 “(2) STATE.—The term ‘State’ means each of
19 the 50 States, the District of Columbia, and the
20 Commonwealth of Puerto Rico.”.

21 **SEC. 1011A. ADEQUACY OF FUNDING RULE.**

22 Section 1125AA(b) (20 U.S.C. 6336(b)) is amended
23 by striking “section 1122(a)” and inserting “section
24 1122(a)(1)”.

1 **SEC. 1011B. EDUCATION FINANCE INCENTIVE GRANT PRO-**
2 **GRAM.**

3 In section 1125A (20 U.S.C. 6337)—

4 (1) in subsection (a), by striking “under sub-
5 section (f)” and inserting “under section 1002(a)
6 and made available under section 1122(a)(1)”;

7 (2) in subsection (b), by striking “pursuant to
8 subsection (f)” and inserting “made available for
9 this section under section 1122(a)(1)”;

10 (3) in subsection (c), by redesignating subpara-
11 graphs (A) and (B) as paragraphs (1) and (2), re-
12 spectively;

13 (4) in subsection (d)(1)(A)(ii), by striking
14 “clause “(i)” and inserting “clause (i)”;

15 (5) by striking subsection (e) and inserting the
16 following:

17 “(e) MAINTENANCE OF EFFORT.—

18 “(1) IN GENERAL.—A State is entitled to re-
19 ceive its full allotment of funds under this section
20 for any fiscal year if the Secretary finds that the
21 State’s fiscal effort per student or the aggregate ex-
22 penditures of the State with respect to the provision
23 of free public education by the State for the pre-
24 ceeding fiscal year was not less than 90 percent of
25 the fiscal effort or aggregate expenditures for the

1 second preceding fiscal year, subject to the require-
2 ments of paragraph (2).

3 “(2) REDUCTION IN CASE OF FAILURE TO
4 MEET.—

5 “(A) IN GENERAL.—The Secretary shall
6 reduce the amount of the allotment of funds
7 under this section for any fiscal year in the
8 exact proportion by which a State fails to meet
9 the requirement of paragraph (1) by falling
10 below 90 percent of both the fiscal effort per
11 student and aggregate expenditures (using the
12 measure most favorable to the State), if such
13 State has also failed to meet such requirement
14 (as determined using the measure most favor-
15 able to the State) for 1 or more of the 5 imme-
16 diately preceding fiscal years.

17 “(B) SPECIAL RULE.—No such lesser
18 amount shall be used for computing the effort
19 required under paragraph (1) for subsequent
20 years.

21 “(3) WAIVER.—The Secretary may waive the
22 requirements of this subsection if the Secretary de-
23 termines that a waiver would be equitable due to—

24 “(A) exceptional or uncontrollable cir-
25 cumstances, such as a natural disaster or a

1 change in the organizational structure of the
2 State; or

3 “(B) a precipitous decline in the financial
4 resources of the State.”;

5 (6) by striking subsection (f);

6 (7) by redesignating subsection (g) as sub-
7 section (f); and

8 (8) in subsection (f), as redesignated by para-
9 graph (7)—

10 (A) in paragraph (1), by striking “under
11 this section” and inserting “to carry out this
12 section”; and

13 (B) in subsection (f)(3), in the matter pre-
14 ceding subparagraph (A), by striking “shall be”
15 and inserting “shall be—”.

16 **SEC. 1011C. SPECIAL ALLOCATION PROCEDURES.**

17 Section 1126 (20 U.S.C. 6338) is amended by strik-
18 ing “sections 1124, 1124A, 1125, and 1125A” each place
19 the term appears and inserting “sections 1123, 1124,
20 1124A, 1125, and 1125A”.