

112TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend the Elementary and Secondary Education Act of 1965 to provide State educational agencies and local educational agencies with flexible Federal education funding that will allow such State and local educational agencies to fund locally determined programs and initiatives that meet the varied and unique needs of individual States and localities.

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IN THE SENATE OF THE UNITED STATES

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Mr. BURR introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Elementary and Secondary Education Act of 1965 to provide State educational agencies and local educational agencies with flexible Federal education funding that will allow such State and local educational agencies to fund locally determined programs and initiatives that meet the varied and unique needs of individual States and localities.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Empowering Local  
5 Educational Decisionmaking Act of 2011”.

1 **SEC. 2. FUND FOR THE IMPROVEMENT OF TEACHING AND**  
2 **LEARNING.**

3 The Elementary and Secondary Education Act of  
4 1965 (20 U.S.C. 6301 et seq.) is amended—

5 (1) by redesignating subpart 5 of part C of title  
6 II as subpart 3 of part E of title IX and moving  
7 that subpart to follow subpart 2 of part E of title  
8 IX;

9 (2) by redesignating sections 2361 through  
10 2368 as sections 9541 through 9548, respectively;

11 (3) by redesignating subpart 4 of part D of title  
12 II as subpart 4 of part E of title IX and moving  
13 that subpart to follow subpart 3 of part E of title  
14 IX;

15 (4) by redesignating section 2441 as section  
16 9551;

17 (5) in section 9546(b), as redesignated by para-  
18 graph (2), by striking the matter following para-  
19 graph (2) and inserting the following:

20 “(3) A State law that makes a limitation of li-  
21 ability inapplicable if the civil action was brought by  
22 an officer of a State or local government pursuant  
23 to State or local law.”; and

24 (6) by striking title II and inserting the fol-  
25 lowing:

1 **“TITLE II—FUND FOR THE IM-**  
2 **PROVEMENT OF TEACHING**  
3 **AND LEARNING**

4 **“SEC. 2101. PURPOSE.**

5 “The purpose of this title is to improve student aca-  
6 demic achievement in the core academic subjects by—

7 “(1) increasing the capacity of local educational  
8 agencies, schools, teachers, and principals to provide  
9 a well-rounded and complete education for all stu-  
10 dents;

11 “(2) increasing the number of teachers and  
12 principals who are effective in increasing student  
13 academic achievement; and

14 “(3) ensuring that low-income and minority  
15 students are served by effective teachers and prin-  
16 cipals and have access to a high-quality instructional  
17 program in the core academic subjects.

18 **“SEC. 2102. DEFINITIONS.**

19 “In this title:

20 “(1) **CORE ACADEMIC SUBJECTS.**—The term  
21 ‘core academic subjects’ means English, reading or  
22 language arts, writing, science, technology, engineer-  
23 ing, mathematics, foreign languages, civics and gov-  
24 ernment, economics, arts, history, geography, and  
25 physical education.

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

4   **“SEC. 2103. FORMULA GRANTS TO STATES.**

5           “(a) RESERVATIONS.—From the total amount appro-  
6           priated under section 2109 for any fiscal year, the Sec-  
7           retary shall reserve—

8           “(1) not more than 2 percent for national ac-  
9           tivities described in section 2106;

10           “(2) one-half of 1 percent for allotments for the  
11           United States Virgin Islands, Guam, American  
12           Samoa, and the Commonwealth of the Northern  
13           Mariana Islands, to be distributed among those out-  
14           lying areas on the basis of their relative need, as de-  
15           termined by the Secretary, in accordance with the  
16           purpose of this title; and

17           “(3) one-half of 1 percent for the Secretary of  
18           the Interior for programs under this title in schools  
19           operated or funded by the Bureau of Indian Edu-  
20           cation.

21           “(b) STATE ALLOTMENTS.—

22           “(1) IN GENERAL.—From the funds appro-  
23           priated under section 2109 for any fiscal year and  
24           remaining after the Secretary makes reservations

1 under subsection (a), the Secretary shall allot to  
2 each of the States the sum of—

3 “(A) an amount that bears the same rela-  
4 tionship to 20 percent of the remaining amount  
5 as the number of individuals ages 5 through 17  
6 in the State, as determined by the Secretary on  
7 the basis of the most recent satisfactory data,  
8 bears to the number of those individuals in all  
9 such States, as so determined; and

10 “(B) an amount that bears the same rela-  
11 tionship to 80 percent of the remaining amount  
12 as the number of individuals, ages 5 through 17  
13 from families with incomes below the poverty  
14 line, in the State, as determined by the Sec-  
15 retary on the basis of the most recent satisfac-  
16 tory data, bears to the number of those individ-  
17 uals in all such States, as so determined.

18 “(2) SMALL STATE MINIMUM.—No State receiv-  
19 ing an allotment under paragraph (1) may receive  
20 less than one-half of 1 percent of the total amount  
21 allotted under such paragraph.

22 “(3) REALLOTMENT.—If a State does not re-  
23 ceive an allotment under this title for a fiscal year,  
24 the Secretary shall realLOT the amount of the State’s

1 allotment to the remaining States in accordance with  
2 this section.

3 “(c) STATE USE OF FUNDS.—

4 “(1) IN GENERAL.—Each State that receives an  
5 allotment under this section shall reserve not less  
6 than 95 percent of the amount allotted to such State  
7 under subsection (b), for each fiscal year, for sub-  
8 grants to local educational agencies under section  
9 2104.

10 “(2) STATE ADMINISTRATION.—A State edu-  
11 cational agency may use not more than 1 percent of  
12 the amount made available to the State under sub-  
13 section (b) for the administrative costs of carrying  
14 out such State educational agency’s responsibilities  
15 under this title.

16 “(3) STATE ACTIVITIES.—A State educational  
17 agency may use the amount made available to the  
18 State under subsection (b) and not reserved under  
19 paragraph (1) to carry out the following activities:

20 “(A) Developing and implementing rig-  
21 orous, transparent, and fair evaluation systems  
22 for teachers and principals that take into ac-  
23 count data on student academic achievement  
24 and growth as a significant factor.

1           “(B) Reforming teacher and principal cer-  
2           tification, recertification, licensing, and tenure  
3           systems to ensure that—

4                   “(i) each teacher has the subject mat-  
5                   ter knowledge and teaching skills necessary  
6                   to help students meet challenging State  
7                   standards; and

8                   “(ii) principals have the instructional  
9                   leadership skills to help teachers teach and  
10                  students learn.

11           “(C) Carrying out programs that establish,  
12           expand, or improve alternative routes for State  
13           certification or licensure of teachers and prin-  
14           cipals, including such programs for—

15                   “(i) mid-career professionals from  
16                   other occupations;

17                   “(ii) former military personnel; and

18                   “(iii) recent graduates of an institu-  
19                   tion of higher education, with a record of  
20                   academic distinction, who demonstrate the  
21                   potential to become effective teachers or  
22                   principals.

23           “(D) Developing, or assisting local edu-  
24           cational agencies in developing—

1                   “(i) performance-based pay systems  
2                   for teachers and principals;

3                   “(ii) strategies that provide differen-  
4                   tial, incentive, and bonus pay for teachers  
5                   in high-need academic subjects and spe-  
6                   cialty areas, and teachers in high-poverty  
7                   schools or high-poverty local educational  
8                   agencies; or

9                   “(iii) teacher advancement initiatives  
10                  that promote professional growth and em-  
11                  phasize multiple career paths and pay dif-  
12                  ferentiation.

13                  “(E) Developing, or assisting local edu-  
14                  cational agencies in developing, new teacher and  
15                  principal induction and mentoring programs  
16                  that are designed to—

17                         “(i) improve instruction and student  
18                         learning and achievement; and

19                         “(ii) increase the retention of effective  
20                         teachers and principals.

21                  “(F) Providing high-quality professional  
22                  development for teachers and principals that is  
23                  focused on improving teaching and student  
24                  learning and achievement in the core academic  
25                  subjects.



1           “(G) Supporting efforts to train teachers  
2           and principals to effectively integrate tech-  
3           nology into curricula and instruction.

4           “(H) Providing training, technical assist-  
5           ance, and capacity building to local educational  
6           agencies that receive a subgrant under this  
7           title.

8           “(I) Other activities identified by the State  
9           that meet the purpose of this title.

10       “(d) STATE APPLICATION.—

11           “(1) IN GENERAL.—In order to receive an allot-  
12           ment under this section for any fiscal year, a State  
13           shall submit an application to the Secretary, at such  
14           time, in such manner, and containing such informa-  
15           tion as the Secretary may reasonably require.

16           “(2) CONTENTS.—Each application described  
17           under paragraph (1) shall include the following:

18           “(A) A description of how the State edu-  
19           cational agency will use funds received under  
20           this title for State-level activities described in  
21           subsection (c)(3).

22           “(B) An assurance that the State edu-  
23           cational agency will monitor the implementation  
24           of activities under this title and provide tech-

1 nical assistance to local educational agencies in  
2 carrying out such activities.

3 “(C) An assurance that, apart from pro-  
4 viding technical and advisory assistance and  
5 monitoring compliance with this title, the State  
6 educational agency has not exercised, and will  
7 not exercise, any influence in the decision-  
8 making processes of local educational agencies  
9 as to the expenditure of funds made pursuant  
10 to an application submitted under section 2104.

11 **“SEC. 2104. SUBGRANTS TO LOCAL EDUCATIONAL AGEN-**  
12 **CIES.**

13 “(a) ALLOCATIONS TO LOCAL EDUCATIONAL AGEN-  
14 CIES.—

15 “(1) IN GENERAL.—A State that receives an al-  
16 lotment under this title for a fiscal year shall provide  
17 the amount made available under section 2103(c)(1)  
18 for subgrants to local educational agencies in accord-  
19 ance with this section.

20 “(2) FUNDS TO LOCAL EDUCATIONAL AGEN-  
21 CIES.—From the funds reserved by a State under  
22 section 2103(c)(1), the State shall allocate to each  
23 local educational agency in the State the sum of—

24 “(A) an amount that bears the same rela-  
25 tionship to 20 percent of the remaining amount

1 as the number of individuals ages 5 through 17  
2 in the geographic area served by the local edu-  
3 cational agency, as determined by the Secretary  
4 on the basis of the most recent satisfactory  
5 data, bears to the number of those individuals  
6 in the geographic areas served by all the local  
7 educational agencies in the State, as so deter-  
8 mined; and

9 “(B) an amount that bears the same rela-  
10 tionship to 80 percent of the remaining amount  
11 as the number of individuals ages 5 through 17  
12 from families with incomes below the poverty  
13 line in the geographic area served by the local  
14 educational agency, as determined by the Sec-  
15 retary on the basis of the most recent satisfac-  
16 tory data, bears to the number of those individ-  
17 uals in the geographic areas served by all the  
18 local educational agencies in the State, as so  
19 determined.

20 “(3) ADMINISTRATIVE COSTS.—Of the amount  
21 received under paragraph (2), a local educational  
22 agency may use not more than 2 percent for the di-  
23 rect administrative costs of carrying out its respon-  
24 sibilities under this title.

25 “(b) LOCAL APPLICATIONS.—

1           “(1) IN GENERAL.—To be eligible to receive a  
2           subgrant under this section, a local educational  
3           agency shall submit an application to the State edu-  
4           cational agency at such time, in such manner, and  
5           containing such information as the State educational  
6           agency may reasonably require.

7           “(2) CONSULTATION.—

8           “(A) IN GENERAL.—A local educational  
9           agency shall conduct the needs assessment de-  
10          scribed in paragraph (3), and develop its appli-  
11          cation, through consultation with teachers, prin-  
12          cipals, pupil services personnel, parents, stu-  
13          dents, community-based organizations, local  
14          government representatives, and others with  
15          relevant and demonstrated expertise in pro-  
16          grams and activities designed to meet the pur-  
17          pose of this title.

18          “(B) CONTINUED CONSULTATION.—On an  
19          ongoing basis, the local educational agency shall  
20          consult with the individuals and organizations  
21          described in subparagraph (A) in order to seek  
22          advice regarding how best to improve the local  
23          educational agency’s activities to meet the pur-  
24          pose of this title and to coordinate the local  
25          educational agency’s activities under this title

1 with other related strategies, programs, and ac-  
2 tivities being conducted in the community.

3 “(3) NEEDS ASSESSMENT.—

4 “(A) IN GENERAL.—To be eligible to re-  
5 ceive a subgrant under this section, a local edu-  
6 cational agency shall conduct a comprehensive  
7 needs assessment of the local educational agen-  
8 cy and of all schools within the jurisdiction of  
9 the local educational agency.

10 “(B) REQUIREMENTS.—Such needs assess-  
11 ment shall be designed to determine the schools  
12 with the most acute staffing needs related to—

13 “(i) increasing the number of teachers  
14 and principals who are effective in improv-  
15 ing student academic achievement; and

16 “(ii) ensuring that low-income and mi-  
17 nority students are served by effective  
18 teachers and principals and have access to  
19 a high-quality instructional program in the  
20 core academic subjects.

21 “(4) CONTENTS.—Each application submitted  
22 under this subsection shall be based on the needs as-  
23 sessment described in paragraph (3) and shall in-  
24 clude the following:

1           “(A) The results of the needs assessment  
2 described in paragraph (3) and an identification  
3 of each school that will be served through a  
4 subgrant under this section.

5           “(B) A description of the activities to be  
6 carried out by the local educational agency  
7 under this section and how these activities are  
8 aligned with the results of such needs assess-  
9 ment.

10           “(C) A description of the performance in-  
11 dicators that will be used to evaluate the effec-  
12 tiveness of the activities carried out under this  
13 section.

14           “(D) An assurance that such activities will  
15 comply with the principles of effectiveness de-  
16 scribed in section 2105(b).

17           “(E) An assurance that the local edu-  
18 cational agency will prioritize funds to schools  
19 within the jurisdiction of the local educational  
20 agency that—

21                   “(i)(I) are among the schools with the  
22 greatest needs as identified through the  
23 needs assessment described in paragraph  
24 (3); and

1                   “(II) have the highest percentages or  
2                   numbers of children counted under section  
3                   1124(c); or

4                   “(ii) are identified for school improve-  
5                   ment under section 1116.

6                   “(F) An assurance that the local edu-  
7                   cational agency will comply with section 9501  
8                   (regarding participation by private school chil-  
9                   dren and teachers).

10 **“SEC. 2105. LOCAL EDUCATIONAL AGENCY AUTHORIZED**  
11 **ACTIVITIES.**

12                   “(a) IN GENERAL.—Local educational agencies shall  
13 use funds made available under section 2104 to develop,  
14 implement, and evaluate comprehensive programs and ac-  
15 tivities, which are coordinated with other school and com-  
16 munity-based services and programs, that are in accord-  
17 ance with the purpose of this title and—

18                   “(1) are consistent with the principles of effec-  
19 tiveness described in subsection (b); and

20                   “(2) may include, among other programs and  
21 activities—

22                   “(A) developing and implementing rig-  
23 orous, transparent, and fair evaluation systems  
24 for teachers and principals that take into ac-

1 count data on student academic achievement  
2 and growth as a significant factor;

3 “(B) developing and implementing initia-  
4 tives to assist in recruiting, hiring, and retain-  
5 ing highly effective teachers and principals, par-  
6 ticularly in high-poverty schools with high per-  
7 centages of ineffective teachers and high per-  
8 centages of students who do not meet proficient  
9 levels of achievement in the core academic sub-  
10 jects, including initiatives that provide—

11 “(i) differential, incentive, or bonus  
12 pay for teachers in high-need academic  
13 subject areas and specialty areas;

14 “(ii) performance-based pay systems  
15 for teachers and principals;

16 “(iii) teacher advancement, profes-  
17 sional growth, and emphasis on multiple  
18 career paths and pay differentiation; and

19 “(iv) new teacher and principal induc-  
20 tion and mentoring programs that are de-  
21 signed to improve instruction, student  
22 learning and achievement, and to increase  
23 teacher and principal retention;

24 “(C) reeruiting qualified individuals from  
25 other fields, including mid-career professionals



1 from other occupations, former military per-  
2 sonnel, and recent graduates of an institution  
3 of higher education with a record of academic  
4 distinction who demonstrate the potential to be-  
5 come highly effective teachers or principals;

6 “(D) establishing, improving, or expanding  
7 model instructional programs in the core aca-  
8 demic subjects to ensure that all children re-  
9 ceive a well-rounded and complete education;

10 “(E) providing high-quality professional  
11 development for teachers and principals focused  
12 on improving teaching and student learning and  
13 achievement in the core academic subjects, in-  
14 cluding supporting efforts to train teachers and  
15 principals to effectively integrate technology  
16 into curricula and instruction;

17 “(F) programs and activities that increase  
18 the ability of teachers and other school per-  
19 sonnel to implement positive behavioral inter-  
20 ventions and supports and early intervening  
21 services to improve academic achievement and  
22 reduce student disciplinary actions;

23 “(G) providing students with increased ac-  
24 cess to up-to-date school library materials, a  
25 well-equipped, technologically advanced school

1 library media center, and well-trained profes-  
2 sionally certified school library media special-  
3 ists;

4 “(H) programs and activities to help stu-  
5 dents prepare for postsecondary level  
6 coursework in the core academic subjects, in-  
7 cluding early college or dual enrollment pro-  
8 grams, Advanced Placement and International  
9 Baccalaureate programs, and other advanced  
10 learning programs, including programs to meet  
11 the educational needs of gifted and talented  
12 students;

13 “(I) programs that support extended learn-  
14 ing opportunities in the core academic subjects,  
15 including before and after school programs,  
16 summer school programs, and programs that  
17 extend the school day, week, or school-year cal-  
18 endar;

19 “(J) recruiting effective teachers to reduce  
20 class size, particularly for the early grades; and

21 “(K) other activities and programs identi-  
22 fied as necessary by the local educational agen-  
23 cy through the needs assessment conducted  
24 under section 2104(b)(3) that meet the purpose  
25 of this title.

1 “(b) PRINCIPLES OF EFFECTIVENESS.—

2 “(1) IN GENERAL.—For a program or activity  
3 developed pursuant to this title to meet the prin-  
4 ciples of effectiveness, such program or activity  
5 shall—

6 “(A) be based upon an assessment of ob-  
7 jective data regarding the need for programs  
8 and activities in the elementary schools and sec-  
9 ondary schools to be served to—

10 “(i) increase the number of teachers  
11 and principals who are effective in improv-  
12 ing student academic achievement; and

13 “(ii) ensure that low-income and mi-  
14 nority students are served by effective  
15 teachers and principals and have access to  
16 a high-quality instructional program in the  
17 core academic subjects;

18 “(B) be based upon an established set of  
19 performance measures aimed at ensuring that  
20 all students receive a high-quality education in  
21 the core academic subjects, taught by effective  
22 teachers, that results in improved student aca-  
23 demic achievement in the elementary schools  
24 and secondary schools to be served by the pro-  
25 gram;



1                   “(ii) made available to the public upon  
2                   request, with public notice of such avail-  
3                   ability provided.

4 **“SEC. 2106. NATIONAL ACTIVITIES.**

5           “(a) TECHNICAL ASSISTANCE AND NATIONAL EVAL-  
6 UATION.—Of the funds reserved by the Secretary under  
7 section 2103(a)(1), the Secretary may carry out directly  
8 or through grants and contracts—

9                   “(1) technical assistance to States and local  
10                  educational agencies carrying out activities under  
11                  this title; and

12                   “(2) national evaluations of activities carried  
13                  out by States and local educational agencies under  
14                  this title.

15           “(b) PROGRAMS OF NATIONAL SIGNIFICANCE.—Of  
16 the funds reserved by the Secretary under section  
17 2103(a)(1), the Secretary may award grants, on a com-  
18 petitive basis, for teacher preparation and professional de-  
19 velopment activities and programs to national nonprofit  
20 organizations with a demonstrated track record of meeting  
21 the purpose of this title.

22 **“SEC. 2107. SUPPLEMENT, NOT SUPPLANT.**

23           “Funds made available under this title shall be used  
24 to supplement, and not supplant, non-Federal funds that

1 would otherwise be used for activities authorized under  
2 this title.

3 **“SEC. 2108. PROHIBITION AGAINST FEDERAL MANDATES,  
4 DIRECTION, OR CONTROL.**

5 “Nothing in this title shall be construed to authorize  
6 the Secretary or any other officer or employee of the Fed-  
7 eral Government to mandate, direct, control, or exercise  
8 any direction or supervision over a State, local educational  
9 agency, or school’s instructional content or materials, cur-  
10 riculum, program of instruction, academic content and  
11 student academic achievement standards, or academic as-  
12 sessments.

13 **“SEC. 2109. AUTHORIZATION OF APPROPRIATIONS.**

14 “There are authorized to be appropriated to carry out  
15 this title \$3,285,993,842 for each of fiscal years 2012  
16 through 2016.”.

17 **SEC. 3. SAFE AND HEALTHY STUDENTS.**

18 The Elementary and Secondary Education Act of  
19 1965 (20 U.S.C. 6301 et seq.) is amended—

20 (1) in title IV (20 U.S.C. 7101)—

21 (A) by redesignating subpart 3 of part A  
22 as subpart 5 of part E of title IX and moving  
23 that subpart to follow subpart 4 of part E of  
24 title IX;

1 (B) by redesignating section 4141 as sec-  
2 tion 9561;

3 (C) by redesignating section 4155 as sec-  
4 tion 9537 and moving that section so as to fol-  
5 low section 9536;

6 (D) by redesignating part C as subpart 6  
7 of part E of title IX and moving that subpart  
8 to the end of part E of title IX; and

9 (E) by redesignating sections 4301, 4302,  
10 4303, and 4304, as sections 9571, 9572, 9573,  
11 and 9574, respectively; and

12 (2) by striking title IV (20 U.S.C. 7101) and  
13 inserting the following:

14 **“TITLE IV—SAFE AND HEALTHY**  
15 **STUDENTS**

16 **“SEC. 4101. PURPOSE.**

17 “The purpose of this title is to improve students’  
18 safety, health, and well-being during and after the school  
19 day by—

20 “(1) increasing the capacity of local educational  
21 agencies, schools, and local communities to create  
22 safe, healthy, supportive, and drug-free environ-  
23 ments;

24 “(2) carrying out programs designed to improve  
25 school safety and promote students’ physical and

1 mental health well-being, healthy eating and nutri-  
2 tion, and physical fitness;

3 “(3) preventing and reducing substance abuse,  
4 school violence, and bullying; and

5 “(4) strengthening parent and community en-  
6 gagement to ensure a healthy, safe, and supportive  
7 school environment.

8 **“SEC. 4102. DEFINITIONS.**

9 “In this title:

10 “(1) CONTROLLED SUBSTANCE.—The term  
11 ‘controlled substance’ means a drug or other sub-  
12 stance identified under Schedule I, II, III, IV, or V  
13 in section 202(c) of the Controlled Substances Act  
14 (21 U.S.C. 812(c)).

15 “(2) DRUG.—The term ‘drug’ includes con-  
16 trolled substances, the illegal use of alcohol or to-  
17 bacco, and the harmful, abusive, or addictive use of  
18 substances, including inhalants and anabolic  
19 steroids.

20 “(3) DRUG AND VIOLENCE PREVENTION.—The  
21 term ‘drug and violence prevention’ means—

22 “(A) with respect to drugs, prevention,  
23 early intervention, rehabilitation referral, or  
24 education related to the illegal use of drugs;  
25 and



1           “(B) with respect to violence, the pro-  
2           motion of school safety, such that students and  
3           school personnel are free from violent and dis-  
4           ruptive acts, including sexual harassment and  
5           abuse, and victimization associated with preju-  
6           dice and intolerance, on school premises, going  
7           to and from school, and at school-sponsored ac-  
8           tivities, though the creation and maintenance of  
9           a school environment that is free of weapons  
10          and fosters individual responsibility and respect  
11          for the rights of others.

12          “(4) SCHOOL-BASED MENTAL HEALTH SERV-  
13          ICES PROVIDER.—The term ‘school-based mental  
14          health services provider’ includes a State licensed or  
15          State certified school counselor, school psychologist,  
16          school social worker, or other State licensed or cer-  
17          tified mental health professional qualified under  
18          State law to provide such services to children and  
19          adolescents.

20          “(5) STATE.—The term ‘State’ means each of  
21          the 50 States, the District of Columbia, and the  
22          Commonwealth of Puerto Rico.

1 **“SEC. 4103. FORMULA GRANTS TO STATES.**

2 “(a) RESERVATIONS.—From the total amount appro-  
3 priated under section 4108 for a fiscal year, the Secretary  
4 shall reserve—

5 “(1) not more than 1 percent for national ac-  
6 tivities, which the Secretary may carry out directly  
7 or through grants and contracts, such as providing  
8 technical assistance to States and local educational  
9 agencies carrying out activities under this title or  
10 conducting a national evaluation;

11 “(2) one-half of 1 percent for allotments for the  
12 United States Virgin Islands, Guam, American  
13 Samoa, and the Commonwealth of the Northern  
14 Mariana Islands, to be distributed among those out-  
15 lying areas on the basis of their relative need, as de-  
16 termined by the Secretary, in accordance with the  
17 purpose of this title; and

18 “(3) one-half of 1 percent for the Secretary of  
19 the Interior for programs under this title in schools  
20 operated or funded by the Bureau of Indian Edu-  
21 cation.

22 “(b) STATE ALLOTMENTS.—

23 “(1) ALLOTMENT.—

24 “(A) IN GENERAL.—In accordance with  
25 subparagraph (B), the Secretary shall allot  
26 among each of the States the total amount

1           made available to carry out this title for any  
2           fiscal year and not reserved under subsection  
3           (a).

4                   “(B) DETERMINATION OF STATE ALLOT-  
5           MENT AMOUNTS.—Subject to paragraph (2),  
6           the Secretary shall allot the amount made avail-  
7           able under subparagraph (A) for a fiscal year  
8           among the States in proportion to the number  
9           of children, aged 5 to 17, who reside within the  
10          State and are from families with incomes below  
11          the poverty line for the most recent fiscal year  
12          for which satisfactory data are available, com-  
13          pared to the number of such individuals who re-  
14          side in all such States for that fiscal year.

15                   “(2) SMALL STATE MINIMUM.—No State receiv-  
16          ing an allotment under paragraph (1) may receive  
17          less than one-half of 1 percent of the total amount  
18          allotted under such paragraph.

19                   “(3) REALLOTMENT.—If a State does not re-  
20          ceive an allotment under this title for a fiscal year,  
21          the Secretary shall reallocate the amount of the State’s  
22          allotment to the remaining States in accordance with  
23          this section.

24                   “(c) STATE USE OF FUNDS.—

1           “(1) IN GENERAL.—Each State that receives an  
2 allotment under this section shall reserve not less  
3 than 98 percent of the amount allotted to such State  
4 under subsection (b), for each fiscal year for sub-  
5 grants to local educational agencies under section  
6 4104.

7           “(2) STATE ADMINISTRATION.—A State edu-  
8 cational agency may use not more than 1 percent of  
9 the amount made available to the State under sub-  
10 section (b) for the administrative costs of carrying  
11 out its responsibilities under this title.

12           “(3) STATE ACTIVITIES.—A State educational  
13 agency may use the amount made available to the  
14 State under subsection (b) and not reserved under  
15 paragraph (1) for the following activities:

16           “(A) Providing training, technical assist-  
17 ance, and capacity building to local educational  
18 agencies that are recipients of awards under  
19 this title.

20           “(B) Other activities identified by the  
21 State that meet the purpose of this title.

22           “(d) STATE APPLICATION.—

23           “(1) IN GENERAL.—In order to receive an allot-  
24 ment under this section for any fiscal year, a State  
25 shall submit an application to the Secretary, at such

1 time, in such manner, and containing such informa-  
2 tion that the Secretary may reasonably require.

3 “(2) CONTENTS.—Each application submitted  
4 by a State under this section shall include the fol-  
5 lowing:

6 “(A) A description of how the State edu-  
7 cational agency will use funds received under  
8 this title for State-level activities.

9 “(B) An assurance that the State edu-  
10 cational agency will monitor the implementation  
11 of activities under this title and provide tech-  
12 nical assistance to local educational agencies in  
13 carrying out such activities.

14 “(C) An assurance that, apart from pro-  
15 viding technical and advisory assistance and  
16 monitoring compliance with this title, the State  
17 educational agency has not exercised, and will  
18 not exercise, any influence in the decision-  
19 making processes of local educational agencies  
20 as to the expenditure of funds made pursuant  
21 to an application submitted under section 4104.

22 **“SEC. 4104. SUBGRANTS TO LOCAL EDUCATIONAL AGEN-**  
23 **CIES.**

24 “(a) ALLOCATIONS TO LOCAL EDUCATIONAL AGEN-  
25 CIES.—

1           “(1) IN GENERAL.—A State that receives an al-  
2           lotment under this title for a fiscal year shall provide  
3           the amount made available under section 4103(c)(1)  
4           for subgrants to local educational agencies in accord-  
5           ance with this section.

6           “(2) FUNDS TO LOCAL EDUCATIONAL AGEN-  
7           CIES.—From the funds reserved by a State under  
8           section 4103(c)(1), the State shall allocate to each  
9           local educational agency in the State an amount that  
10          bears the same relationship to such funds as the  
11          number of individuals ages 5 to 17 from families  
12          with incomes below the poverty line in the geo-  
13          graphic area served by the agency, as determined by  
14          the Secretary on the basis of the most recent satis-  
15          factory data, bears to the number of such individuals  
16          in the geographic areas served by all the local edu-  
17          cational agencies in the State, as so determined.

18          “(3) ADMINISTRATIVE COSTS.—Of the amount  
19          received under paragraph (2), a local educational  
20          agency may use not more than 2 percent for the di-  
21          rect administrative costs of carrying out its respon-  
22          sibilities under this title.

23          “(b) LOCAL APPLICATIONS.—

24                 “(1) IN GENERAL.—To be eligible to receive a  
25                 subgrant under this section, a local educational

1 agency shall submit an application to the State edu-  
2 cational agency at such time, in such manner, and  
3 containing such information as the State educational  
4 agency may reasonably require.

5 “(2) CONSULTATION.—

6 “(A) IN GENERAL.—A local educational  
7 agency shall conduct the needs assessment de-  
8 scribed in paragraph (3), and develop its appli-  
9 cation, through consultation with parents,  
10 teachers, principals, pupil services personnel,  
11 students, community-based organizations, local  
12 government representatives, and others with  
13 relevant and demonstrated expertise in pro-  
14 grams and activities designed to meet the pur-  
15 pose of this title.

16 “(B) CONTINUED CONSULTATION.—On an  
17 ongoing basis, the local educational agency shall  
18 consult with the individuals and organizations  
19 described in subparagraph (A) in order to seek  
20 advice regarding how best—

21 “(i) to improve the local educational  
22 agency’s activities in order to meet the  
23 purpose of this title; and

24 “(ii) to coordinate such agency’s ac-  
25 tivities under this title with other related

1 strategies, programs, and activities being  
2 conducted in the community.

3 “(3) NEEDS ASSESSMENT.—

4 “(A) IN GENERAL.—To be eligible to re-  
5 ceive a subgrant under this section, a local edu-  
6 cational agency shall conduct a comprehensive  
7 needs assessment of the local educational agen-  
8 cy and of all schools within the jurisdiction of  
9 the local educational agency.

10 “(B) REQUIREMENTS.—The needs assess-  
11 ment required under subparagraph (A) shall  
12 take into account risk factors of the community,  
13 school, family, or peer-individual domains that  
14 are known, through prospective, longitudinal re-  
15 search efforts, to be predictive of drug use, vio-  
16 lent behavior, and the physical and mental  
17 health and well-being of youth in the school and  
18 community.

19 “(4) CONTENTS.—Each application submitted  
20 under this subsection shall be based on the needs as-  
21 sessment described in paragraph (3) and shall in-  
22 clude the following:

23 “(A) The results of the needs assessment  
24 described in paragraph (3) and an identification



1 of each school that will be served by a subgrant  
2 under this section.

3 “(B) A description of the activities to be  
4 carried out by the local educational agency  
5 under this title and how these activities are  
6 aligned with the results of the needs assessment  
7 conducted under paragraph (3).

8 “(C) A description of the performance in-  
9 dicators that will be used to evaluate the effec-  
10 tiveness of the activities carried out under this  
11 section.

12 “(D) An assurance that the activities will  
13 comply with the principles of effectiveness de-  
14 scribed in section 4105(b), and foster a healthy,  
15 safe, and supportive school environment that  
16 improves students’ safety, health, and well-  
17 being during and after the school day.

18 “(E) An assurance that the local edu-  
19 cational agency will prioritize funds to schools  
20 served by the local educational agency that—

21 “(i) are among the schools with the  
22 greatest needs as identified through the  
23 needs assessment conducted under para-  
24 graph (3);

1                   “(ii) have the highest percentages or  
2                   numbers of children counted under section  
3                   1124(e);

4                   “(iii) are identified for school im-  
5                   provement under section 1116; or

6                   “(iv) are identified as a persistently  
7                   dangerous public elementary school or sec-  
8                   ondary school under section 9532.

9                   “(F) An assurance that the local edu-  
10                  cational agency will comply with section 9501  
11                  (regarding participation by private school chil-  
12                  dren and teachers).

13   **“SEC. 4105. LOCAL EDUCATIONAL AGENCY AUTHORIZED**  
14                   **ACTIVITIES.**

15                  “(a) LOCAL EDUCATIONAL AGENCY ACTIVITIES.—A  
16                  local educational agency that receives a subgrant under  
17                  section 4104 shall use the subgrant funds to develop, im-  
18                  plement, and evaluate comprehensive programs and activi-  
19                  ties, which are coordinated with other schools and commu-  
20                  nity-based services and programs, that are in accordance  
21                  with the purpose of this title and—

22                  “(1) foster safe, healthy, supportive, and drug-  
23                  free environments that support student academic  
24                  achievement;

1           “(2) are consistent with the principles of effec-  
2           tiveness described in subsection (b);

3           “(3) promote the involvement of parents in the  
4           activity or program; and

5           “(4) may include, among other programs and  
6           activities—

7                   “(A) drug and violence prevention activi-  
8                   ties and programs, including professional devel-  
9                   opment and training for school and pupil serv-  
10                  ices personnel, and interested community mem-  
11                  bers in prevention, education, early identifica-  
12                  tion, and intervention mentoring, or rehabilita-  
13                  tion referral, as related to drug and violence  
14                  prevention;

15                  “(B) before and after school programs and  
16                  activities, including during summer recess peri-  
17                  ods, and programs to extend the school day,  
18                  week, or school-year calendar;

19                  “(C) school-based mental health services,  
20                  including early identification of drug use and vi-  
21                  olence, and direct individual or group coun-  
22                  seling services provided by qualified school-  
23                  based mental health services providers;

24                  “(D) emergency intervention services fol-  
25                  lowing traumatic crisis events;

1           “(E) programs that train school personnel  
2 to identify warning signs of youth suicide;

3           “(F) mentoring programs and activities for  
4 children who are at risk of academic failure,  
5 dropping out of school, or involvement in crimi-  
6 nal or delinquent activities, or who lack strong  
7 positive role models;

8           “(G) elementary school and secondary  
9 school counseling programs;

10          “(H) programs or activities that support a  
11 healthy, active lifestyle, including nutritional  
12 education and regular, structured physical edu-  
13 cation programs for elementary school and sec-  
14 ondary school students;

15          “(I) implementation of schoolwide positive  
16 behavioral interventions and supports, including  
17 through coordination with similar activities car-  
18 ried out under the Individuals with Disabilities  
19 Education Act; and

20          “(J) other activities and programs identi-  
21 fied as necessary by the local educational agen-  
22 cy through the needs assessment conducted  
23 under section 4104(b)(3) that meet the purpose  
24 of this title.

25          “(b) PRINCIPLES OF EFFECTIVENESS.—

1           “(1) IN GENERAL.—For a program or activity  
2 developed pursuant to this title to meet the prin-  
3 ciples of effectiveness, such program or activity  
4 shall—

5           “(A) be based upon an assessment of ob-  
6 jective data regarding the need for programs  
7 and activities in the elementary schools and sec-  
8 ondary schools and communities to be served  
9 to—

10           “(i) improve school safety and pro-  
11 mote students’ physical and mental health  
12 well-being, healthy eating and nutrition,  
13 and physical fitness; and

14           “(ii) strengthen parent and commu-  
15 nity engagement to ensure a healthy, safe,  
16 and supportive school environment;

17           “(B) be based upon an established set of  
18 performance measures aimed at ensuring a  
19 healthy, safe, and supportive school environ-  
20 ment for students in the elementary schools and  
21 secondary schools and communities to be served  
22 by the program;

23           “(C) reflect, to the extent practicable, sci-  
24 entificallly valid research, or in the absence of a  
25 strong research base, reflect best practices in

1 the field, that provides evidence that the pro-  
2 gram or activity will provide students a healthy,  
3 safe, and supportive school environment; and

4 “(D) include meaningful and ongoing con-  
5 sultation with and input from parents in the de-  
6 velopment of the application and administration  
7 of the program or activity.

8 “(2) PERIODIC EVALUATION.—

9 “(A) IN GENERAL.—The program or activ-  
10 ity shall undergo a periodic evaluation to assess  
11 its progress toward achieving its goal of pro-  
12 viding students a healthy, safe, and supportive  
13 school environment that promotes school safety  
14 and students’ physical and mental health and  
15 well-being, healthy eating and nutrition, and  
16 physical fitness.

17 “(B) USE OF RESULTS.—The results of  
18 evaluations under subparagraph (A) shall be—

19 “(i) used to refine, improve, and  
20 strengthen the program or activity, and to  
21 refine the performance measures; and

22 “(ii) made available to the public upon  
23 request, with public notice of such avail-  
24 ability provided.

1 **“SEC. 4106. SUPPLEMENT, NOT SUPPLANT.**

2 “Funds made available under this title shall be used  
3 to supplement, and not supplant, non-Federal funds that  
4 would otherwise be used for activities authorized under  
5 this title.

6 **“SEC. 4107. PROHIBITED USE OF FUNDS.**

7 “No funds under this title may be used for—

8 “(1) construction; or

9 “(2) medical services, drug treatment or reha-  
10 bilitation, except for pupil services or referral to  
11 treatment for students who are victims of, or wit-  
12 nesses to, crime or who illegally use drugs.

13 **“SEC. 4108. AUTHORIZATION OF APPROPRIATIONS.**

14 “There are authorized to be appropriated to carry out  
15 this title \$1,453,172,830 for each of fiscal years 2012  
16 through 2016.”.

17 **SEC. 4. TRANSFERABILITY OF FUNDS.**

18 Section 6123 of the Elementary and Secondary Edu-  
19 cation Act of 1965 (20 U.S.C. 7305b) is amended—

20 (1) in subsection (a)—

21 (A) in paragraph (1)—

22 (i) in the matter preceding subpara-  
23 graph (A), by striking “not more than 50  
24 percent” and inserting “all, or any por-  
25 tion,”; and

1 (ii) by striking subparagraphs (A)  
2 through (D) and inserting the following:  
3 “(A) Section 2103(c)(3).  
4 “(B) Section 4103(c)(2)(B).”; and  
5 (B) in paragraph (2), by striking “and  
6 subject to the 50 percent limitation described in  
7 paragraph (1)”; and  
8 (2) in subsection (b)—  
9 (A) in paragraph (1)—  
10 (i) in subparagraph (A)—  
11 (I) by striking “(except” and all  
12 that follows through “50 percent” and  
13 inserting “may transfer all, or any  
14 portion, of”; and  
15 (II) by striking “subparagraph  
16 (C)” and inserting “subparagraph  
17 (B)”;  
18 (ii) by striking subparagraph (B);  
19 (iii) by redesignating subparagraph  
20 (C) as subparagraph (B); and  
21 (iv) in subparagraph (B) (as redesign-  
22 dated by clause (iii)), by striking “and  
23 subject” and all that follows through “as  
24 applicable”; and  
25 (B) in paragraph (2)—



1 (i) in the matter preceding subpara-  
2 graph (A), by striking “,(B), or (C)” and  
3 inserting “or (B)”; and

4 (ii) by striking subparagraphs (A)  
5 through (D) and inserting the following:

6 “(A) Section 2104.

7 “(B) Section 4104.”.

8 **SEC. 5. APPLICATION APPROVAL PROCESSES.**

9 Title IX of the Elementary and Secondary Education  
10 Act of 1965 (20 U.S.C. 7801 et seq.) is amended by add-  
11 ing at the end the following:

12 **“PART G—APPROVAL AND DISAPPROVAL OF**  
13 **STATE AND LOCAL APPLICATIONS**

14 **“SEC. 9701. APPROVAL AND DISAPPROVAL OF STATE APPLI-**  
15 **CATIONS.**

16 “(a) DEEMED APPROVAL.—An application submitted  
17 by a State pursuant to section 2103(d) or section 4103(d)  
18 shall be deemed to be approved by the Secretary unless  
19 the Secretary makes a written determination, prior to the  
20 expiration of the 120-day period beginning on the date on  
21 which the Secretary received the application, that the ap-  
22 plication is not in compliance with section 2103(d) or sec-  
23 tion 4103(d), as applicable.

24 “(b) DISAPPROVAL PROCESS.—

1           “(1) IN GENERAL.—The Secretary shall not fi-  
2 nally disapprove an application submitted under sec-  
3 tion 2103(d) or section 4103(d), except after giving  
4 the State educational agency notice and an oppor-  
5 tunity for a hearing.

6           “(2) NOTIFICATION.—If the Secretary finds  
7 that the application is not in compliance, in whole or  
8 in part, with section 2103(d) or section 4103(d), as  
9 applicable, the Secretary shall—

10                   “(A) give the State educational agency no-  
11 tice and an opportunity for a hearing; and

12                   “(B) notify the State educational agency of  
13 the finding of noncompliance and, in such noti-  
14 fication, shall—

15                           “(i) cite the specific provisions in the  
16 application that are not in compliance; and

17                           “(ii) request additional information,  
18 only as to the noncompliant provisions,  
19 needed to make the application compliant.

20           “(3) RESPONSE.—If the State educational  
21 agency responds to the Secretary’s notification de-  
22 scribed in paragraph (2)(B) during the 45-day pe-  
23 riod beginning on the date on which the State edu-  
24 cational agency received the notification, and resub-  
25 mits the application with the requested information

1 described in paragraph (2)(B)(ii), the Secretary  
2 shall approve or disapprove such application prior to  
3 the later of—

4 “(A) the expiration of the 45-day period  
5 beginning on the date on which the application  
6 is resubmitted; or

7 “(B) the expiration of the 120-day period  
8 described in subsection (a).

9 “(4) FAILURE TO RESPOND.—If the State edu-  
10 cational agency does not respond to the Secretary’s  
11 notification described in paragraph (2)(B) during  
12 the 45-day period beginning on the date on which  
13 the State educational agency received the notifica-  
14 tion, such application shall be deemed to be dis-  
15 approved.

16 **“SEC. 9702. APPROVAL AND DISAPPROVAL OF LOCAL EDU-  
17 CATIONAL AGENCY APPLICATIONS.**

18 “(a) DEEMED APPROVAL.—An application submitted  
19 by a local educational agency pursuant to section 2104(b)  
20 or section 4104(b) shall be deemed to be approved by the  
21 State educational agency unless the State educational  
22 agency makes a written determination, prior to the expira-  
23 tion of the 120-day period beginning on the date on which  
24 the State educational agency received the application, that

1 the application is not in compliance with section 2104(b)  
2 or section 4104(b), as applicable.

3 “(b) DISAPPROVAL PROCESS.—

4 “(1) IN GENERAL.—The State educational  
5 agency shall not finally disapprove an application  
6 submitted under section 2104(b) or section 4104(b),  
7 except after giving the local educational agency no-  
8 tice and opportunity for a hearing.

9 “(2) NOTIFICATION.—If the State educational  
10 agency finds that the application is not in compli-  
11 ance, in whole or in part, with section 2104(b) or  
12 section 4104(b), as applicable, the State educational  
13 agency shall—

14 “(A) give the local educational agency no-  
15 tice and an opportunity for a hearing; and

16 “(B) notify the local educational agency of  
17 the finding of noncompliance, and in such noti-  
18 fication, shall—

19 “(i) cite the specific provisions in the  
20 application that are not in compliance; and

21 “(ii) request additional information,  
22 only as to the noncompliant provisions,  
23 needed to make the application compliant.

24 “(3) RESPONSE.—If the local educational agen-  
25 cy responds to the State educational agency’s notifi-

1 cation described in paragraph (2)(B) during the 45-  
2 day period beginning on the date on which the local  
3 educational agency received the notification, and re-  
4 submits the application with the requested informa-  
5 tion described in paragraph (2)(B)(ii), the State  
6 educational agency shall approve or disapprove such  
7 application prior to the later of—

8 “(A) the expiration of the 45-day period  
9 beginning on the date on which the application  
10 is resubmitted; or

11 “(B) the expiration of the 120-day period  
12 described in subsection (a).

13 “(4) FAILURE TO RESPOND.—If the local edu-  
14 cational agency does not respond to the State edu-  
15 cational agency’s notification described in paragraph  
16 (2)(B) during the 45-day period beginning on the  
17 date on which the local educational agency received  
18 the notification, such application shall be deemed to  
19 be disapproved.”.

20 **SEC. 6. PROGRAM ELIMINATIONS.**

21 The Elementary and Secondary Education Act of  
22 1965 (20 U.S.C. 6301 et seq.) is amended—

23 (1) in title I (20 U.S.C. 6301 et seq.)—

1 (A) by repealing part B (20 U.S.C. 6361  
2 et seq.), part F (20 U.S.C. 6511 et seq.), and  
3 part G (20 U.S.C. 6531 et seq.);

4 (B) by striking section 1504 (20 U.S.C.  
5 6494); and

6 (C) in section 1002 (20 U.S.C. 6302)—

7 (i) by striking subsections (b), (f), and  
8 (g);

9 (ii) by redesignating subsections (c)  
10 through (e), (h), and (i) as subsections (b)  
11 through (d), (e), and (f), respectively; and

12 (iii) in subsection (d) (as redesignated  
13 by subparagraph (B))—

14 (I) by striking paragraph (2);

15 and

16 (II) by striking “ACTIVITIES.—”

17 and all that follows through “For”

18 and inserting the following: “ACTIVI-

19 TIES—. For”; and

20 (2) in title V (20 U.S.C. 7201 et seq.) by re-

21 pealing part A and striking part D.