

ESEA 2001 excerpt – Innovative Programs

from any sums that the United States or the agencies or instrumentalities of the United States owe to the person against whom the penalty is assessed.

“(5) PETITION FOR REVIEW.—Any person aggrieved by a penalty assessed or an order issued, or both, by the Secretary under this section may file a petition for judicial review of the order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which the person resides or transacts business. Such person shall provide a copy of the petition to the Secretary or the Secretary’s designee. The petition shall be filed within 30 days after the Secretary’s assessment or order, or both, are final and have been provided to such person by certified mail. The Secretary shall promptly provide to the court a certified copy of the transcript of any hearing held under this section and a copy of the notice or order.

“(6) FAILURE TO COMPLY.—If a person fails to pay an assessment of a civil penalty or comply with an order, after the assessment or order, or both, are final under this section, or after a court has entered a final judgment under paragraph (5) in favor of the Secretary, the Attorney General, at the request of the Secretary, shall recover the amount of the civil penalty (plus interest at prevailing rates from the day the assessment or order, or both, are final) or enforce the order in an action brought in the appropriate district court of the United States. In such action, the validity and appropriateness of the penalty or order or the amount of the penalty shall not be subject to review.

“SEC. 4304. PREEMPTION.

“Nothing in this part is intended to preempt any provision of law of a State or political subdivision of a State that is more restrictive than a provision of this part.”.

TITLE V—PROMOTING INFORMED PARENTAL CHOICE AND INNOVATIVE PROGRAMS

SEC. 501. INNOVATIVE PROGRAMS AND PARENTAL CHOICE PROVISIONS.

Title V (20 U.S.C. 7201 et seq.) is amended to read as follows:

“TITLE V—PROMOTING INFORMED PARENTAL CHOICE AND INNOVATIVE PROGRAMS

“PART A—INNOVATIVE PROGRAMS

“SEC. 5101. PURPOSES, STATE AND LOCAL RESPONSIBILITY.

“(a) PURPOSES.—The purposes of this part are the following:
“(1) To support local education reform efforts that are consistent with and support statewide education reform efforts.

“(2) To provide funding to enable State educational agencies and local educational agencies to implement promising educational reform programs and school improvement programs based on scientifically based research.

“(3) To provide a continuing source of innovation and educational improvement, including support programs to provide library services and instructional and media materials.

“(4) To meet the educational needs of all students, including at-risk youth.

“(5) To develop and implement education programs to improve school, student, and teacher performance, including professional development activities and class size reduction programs.

“(b) STATE AND LOCAL RESPONSIBILITY.—The State educational agency shall bear the basic responsibility for the administration of funds made available under this part, but it is the intent of Congress that the responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under this part be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because local educational agencies and individuals have the most direct contact with students and are most likely to be able to design programs to meet the educational needs of students in their own school districts.

“Subpart 1—State and Local Programs

“SEC. 5111. ALLOTMENT TO STATES.

“(a) IN GENERAL.—From the sums appropriated to carry out this part for each fiscal year and not reserved under subsection (b), the Secretary shall allot, and make available in accordance with this part, to each State educational agency an amount that bears the same ratio to such sums as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to one-half of 1 percent of such sums.

“(b) RESERVATION.—From the sums appropriated to carry out this part for each fiscal year, the Secretary shall reserve not more than 1 percent for payments to the outlying areas, to be allotted in accordance with their respective needs for assistance under this part.

“SEC. 5112. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

“(a) DISTRIBUTION RULE.—

“(1) ALLOCATION OF BASE AMOUNTS.—From the amount made available to a State educational agency under this part for a fiscal year, the State educational agency shall distribute, to local educational agencies within the State, an amount that is not less than 85 percent of the amount made available to the State educational agency under this part for fiscal year 2002, according to the relative enrollments in public and in private nonprofit schools within the jurisdictions of such local educational agencies, adjusted, in accordance with criteria

approved by the Secretary, to provide higher per-pupil allocations to local educational agencies that have the greatest numbers or percentages of children whose education imposes a higher-than-average cost per child, such as—

“(A) children living in areas with high concentrations of economically disadvantaged families;

“(B) children from economically disadvantaged families;

and

“(C) children living in sparsely populated areas.

“(2) ALLOCATION OF INCREASED AMOUNTS.—From the amount made available to a State educational agency under this part for a fiscal year that exceeds the amount made available to the agency under this part for fiscal year 2002, the State educational agency shall distribute 100 percent (or, in the case of a State educational agency receiving a minimum allotment under section 5111(a), not less than 50 percent, notwithstanding subsection (b)) to local educational agencies within the State, on the same basis as the State educational agency distributes amounts under paragraph (1).

“(b) LIMITATIONS AND REQUIREMENTS.—Not more than 15 percent of funds made available under section 5111 for State programs under this part for any fiscal year may be used for State administration under section 5121.

“(c) CALCULATION OF ENROLLMENTS.—

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

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

and

“(B) the number of children enrolled in private non-profit schools that participated in programs assisted under this part, for the fiscal year preceding the fiscal year for which the determination is made.

“(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall diminish the responsibility of each local educational agency to contact, on an annual basis, appropriate officials from private nonprofit schools within the areas served by such agencies in order to determine whether such schools desire that their children participate in programs assisted under this part.

“(3) ADJUSTMENTS.—

“(A) STATE CRITERIA.—Relative enrollments calculated under subsection (a)(1) shall be adjusted, in accordance with criteria approved by the Secretary under subparagraph (B), to provide higher per-pupil allocations only to local educational agencies that serve the greatest numbers or percentages of—

“(i) children living in areas with high concentrations of economically disadvantaged families;

“(ii) children from economically disadvantaged families; or

“(iii) children living in sparsely populated areas.

“(B) REVIEW OF CRITERIA.—The Secretary shall review criteria submitted by a State educational agency for adjusting allocations under paragraph (1) and shall approve such criteria only if the Secretary determines that such criteria are reasonably calculated to produce an adjusted allocation that reflects the relative needs of the State’s

local educational agencies based on the factors set forth in subparagraph (A).

“(d) PAYMENT OF ALLOCATIONS.—

“(1) DISTRIBUTION.—From the funds paid to a State educational agency under this subpart for a fiscal year, the State educational agency shall distribute to each eligible local educational agency that has submitted an application as required by section 5133 the amount of such local educational agency’s allocation, as determined under subsection (a).

“(2) ADDITIONAL FUNDS.—

“(A) USE.—Additional funds resulting from higher per-pupil allocations provided to a local educational agency on the basis of adjusted enrollments of children described in subsection (a)(1) may, in the discretion of the local educational agency, be allocated for expenditures to provide services for children enrolled in public schools and private nonprofit schools in direct proportion to the number of children described in subsection (a)(1) and enrolled in such schools within the area served by the local educational agency.

“(B) ALLOCATION.—In any fiscal year, any local educational agency that elects to allocate such additional funds in the manner described in subparagraph (A) shall allocate all additional funds to schools within the area served by the local educational agency in such manner.

“(C) RULE OF CONSTRUCTION.—Subparagraphs (A) and (B) may not be construed to require any school to limit the use of the additional funds described in subparagraph (A) to the provision of services to specific students or categories of students.

“Subpart 2—State Programs

“SEC. 5121. STATE USES OF FUNDS.

“A State educational agency may use funds made available for State use under section 5112(b) only for one or more of the following:

“(1) State administration of programs under this part, including—

“(A) allocating funds to local educational agencies;

“(B) planning, supervising, and processing State educational agency funds; and

“(C) monitoring and evaluating programs under this part.

“(2) Support for the planning, design, and initial implementation of charter schools as described in part B.

“(3) Statewide education reform, school improvement programs and technical assistance and direct grants to local educational agencies, which assist such agencies under section 5131.

“(4) Support for the design and implementation of high-quality yearly student assessments.

“(5) Support for implementation of challenging State and local academic achievement standards.

“(6) Support for arrangements that provide for independent analysis to measure and report on school district achievement.

“(7) Support for the program described in section 321 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554).

“(8) Support for programs to assist in the implementation of the policy described in section 9507 which may include payment of reasonable transportation costs and tuition costs for such students.

“SEC. 5122. STATE APPLICATIONS.

“(a) APPLICATION REQUIREMENTS.—Any State that desires to receive assistance under this part shall submit to the Secretary an application that includes each of the following:

“(1) Designation of the State educational agency as the State agency responsible for administration and supervision of programs assisted under this part.

“(2) Provision for an annual statewide summary of how assistance under this part is contributing toward improving student academic achievement or improving the quality of education for students.

“(3) Information setting forth the allocation of funds required to implement section 5142.

“(4) A provision that the State educational agency will keep such records, and provide such information to the Secretary, as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this section).

“(5) An assurance that, apart from providing technical and advisory assistance and monitoring compliance with this part, the State educational agency has not exercised, and will not exercise, any influence in the decisionmaking processes of local educational agencies as to the expenditure made pursuant to an application submitted under section 5133.

“(6) An assurance that there is compliance with the specific requirements of this part.

“(7) Provision for timely public notice and public dissemination of the information provided under paragraph (3).

“(b) STATEWIDE SUMMARY.—The statewide summary referred to in subsection (a)(2) shall be submitted annually to the Secretary and shall be derived from the evaluation information submitted by local educational agencies to the State educational agency under section 5133(b)(8). The State educational agency shall determine the format and content of such summary and may include in the summary statistical measures, such as the number of students served by each type of innovative assistance program described in section 5131 and the number of teachers trained.

“(c) PERIOD OF APPLICATION.—An application submitted by the State educational agency under subsection (a) shall be for a period not to exceed 3 years. The agency may amend the application annually, as may be necessary to reflect changes, without filing a new application.

“(d) AUDIT RULE.—A local educational agency that receives less than an average of \$10,000 under this part for any 3 consecutive fiscal years shall not be audited more frequently than once every 5 years.

“Subpart 3—Local Innovative Education Programs

“SEC. 5131. LOCAL USES OF FUNDS.

“(a) INNOVATIVE ASSISTANCE PROGRAMS.—Funds made available to local educational agencies under section 5112 shall be used for innovative assistance programs, which may include any of the following:

“(1) Programs to recruit, train, and hire highly qualified teachers to reduce class size, especially in the early grades, and professional development activities carried out in accordance with title II, that give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State or local academic content standards and student academic achievement standards.

“(2) Technology activities related to the implementation of school-based reform efforts, including professional development to assist teachers and other school personnel (including school library media personnel) regarding how to use technology effectively in the classrooms and the school library media centers involved.

“(3) Programs for the development or acquisition and use of instructional and educational materials, including library services and materials (including media materials), academic assessments, reference materials, computer software and hardware for instructional use, and other curricular materials that are tied to high academic standards, that will be used to improve student academic achievement, and that are part of an overall education reform program.

“(4) Promising education reform projects, including magnet schools.

“(5) Programs to improve the academic achievement of educationally disadvantaged elementary school and secondary school students, including activities to prevent students from dropping out of school.

“(6) Programs to improve the literacy skills of adults, especially the parents of children served by the local educational agency, including adult education and family literacy programs.

“(7) Programs to provide for the educational needs of gifted and talented children.

“(8) The planning, design, and initial implementation of charter schools as described in part B.

“(9) School improvement programs or activities under sections 1116 and 1117.

“(10) Community service programs that use qualified school personnel to train and mobilize young people to measurably strengthen their communities through nonviolence, responsibility, compassion, respect, and moral courage.

“(11) Activities to promote consumer, economic, and personal finance education, such as disseminating information on and encouraging use of the best practices for teaching the basic principles of economics and promoting the concept of achieving financial literacy through the teaching of personal financial management skills (including the basic principles involved with earning, spending, saving, and investing).

“(12) Activities to promote, implement, or expand public school choice.

“(13) Programs to hire and support school nurses.

“(14) Expansion and improvement of school-based mental health services, including early identification of drug use and violence, assessment, and direct individual or group counseling services provided to students, parents, and school personnel by qualified school-based mental health services personnel.

“(15) Alternative educational programs for those students who have been expelled or suspended from their regular educational setting, including programs to assist students to reenter the regular educational setting upon return from treatment or alternative educational programs.

“(16) Programs to establish or enhance prekindergarten programs for children.

“(17) Academic intervention programs that are operated jointly with community-based organizations and that support academic enrichment, and counseling programs conducted during the school day (including during extended school day or extended school year programs), for students most at risk of not meeting challenging State academic achievement standards or not completing secondary school.

“(18) Programs for cardiopulmonary resuscitation (CPR) training in schools.

“(19) Programs to establish smaller learning communities.

“(20) Activities that encourage and expand improvements throughout the area served by the local educational agency that are designed to advance student academic achievement.

“(21) Initiatives to generate, maintain, and strengthen parental and community involvement.

“(22) Programs and activities that expand learning opportunities through best-practice models designed to improve classroom learning and teaching.

“(23) Programs to provide same-gender schools and classrooms (consistent with applicable law).

“(24) Service learning activities.

“(25) School safety programs, including programs to implement the policy described in section 9507 and which may include payment of reasonable transportation costs and tuition costs for such students.

“(26) Programs that employ research-based cognitive and perceptual development approaches and rely on a diagnostic-prescriptive model to improve students’ learning of academic content at the preschool, elementary, and secondary levels.

“(27) Supplemental educational services, as defined in section 1116(e).

“(b) REQUIREMENTS.—The innovative assistance programs described in subsection (a) shall be—

“(1) tied to promoting challenging academic achievement standards;

“(2) used to improve student academic achievement; and

“(3) part of an overall education reform strategy.

“(c) GUIDELINES.—Not later than 120 days after the date of enactment of the No Child Left Behind Act of 2001, the Secretary shall issue guidelines for local educational agencies seeking funding for programs described in subsection (a)(23).

“SEC. 5132. ADMINISTRATIVE AUTHORITY.

“In order to conduct the programs authorized by this part, each State educational agency or local educational agency may use funds made available under this part to make grants to, and to enter into contracts with, local educational agencies, institutions of higher education, libraries, museums, and other public and private nonprofit agencies, organizations, and institutions.

“SEC. 5133. LOCAL APPLICATIONS.

“(a) SUBMISSION OF APPLICATION.—A local educational agency may receive an allocation of funds under this part for any year for which the agency submits an application under this section that the State educational agency certifies under subsection (b).

“(b) CERTIFICATION AND CONTENTS OF APPLICATION.—The State educational agency shall certify each application submitted under subsection (a) that includes each of the following:

“(1) A description of locally identified needs relative to the purposes of this part and to the innovative assistance programs described in section 5131.

“(2) A statement that sets forth the planned allocation of funds, based on the needs identified in subparagraph (A), among innovative assistance programs described in section 5131, a description of the programs that the local educational agency intends to support, and a description of the reasons for the selection of such programs.

“(3) Information setting forth the allocation of such funds required to implement section 5142.

“(4) A description of how assistance under this part will contribute to improving student academic achievement or improving the quality of education for students.

“(5) An assurance that the local educational agency will comply with this part, including the provisions of section 5142 concerning the participation of children enrolled in private nonprofit schools.

“(6) An assurance that the local educational agency will keep such records, and provide such information to the State educational agency, as may be reasonably required for fiscal audit and program evaluation (consistent with the responsibilities of the State educational agency under this part).

“(7) Provision, in the allocation of funds for the assistance authorized by this part and in the planning, design, and implementation of such innovative assistance programs, for systematic consultation with parents of children attending elementary schools and secondary schools in the area served by the local educational agency, with teachers and administrative personnel in such schools, and with such other groups involved in the implementation of this part (such as librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency.

“(8) An assurance that—

“(A) programs carried out under this part will be evaluated annually;

“(B) the evaluation will be used to make decisions about appropriate changes in programs for the subsequent year;

“(C) the evaluation will describe how assistance under this part affected student academic achievement and will

include, at a minimum, information and data on the use of funds, the types of services furnished, and the students served under this part; and

“(D) the evaluation will be submitted to the State educational agency at the time and in the manner requested by the State educational agency.

“(9) If the local educational agency seeks funds under section 5131(a)(23), a description of how the agency will comply with the guidelines issued by the Secretary regarding same-gender schools and classrooms under section 5131(c).

“(c) PERIOD OF APPLICATION.—An application submitted by a local educational agency under subsection (a) may seek allocations under this part for a period not to exceed 3 fiscal years. The agency may amend the application annually, as may be necessary to reflect changes, without the filing of a new application.

“(d) LOCAL EDUCATIONAL AGENCY DISCRETION.—

“(1) IN GENERAL.—Subject to the limitations and requirements of this part, a local educational agency shall have complete discretion in determining how funds made available to carry out this subpart will be divided among programs described in section 5131.

“(2) LIMITATION.—In exercising the discretion described in paragraph (1), a local educational agency shall ensure that expenditures under this subpart carry out the purposes of this part and are used to meet the educational needs within the schools served by the local educational agency.

“Subpart 4—General Provisions

“SEC. 5141. MAINTENANCE OF EFFORT.

“(a) IN GENERAL.—Except as provided in subsection (b), a State educational agency is entitled to receive its full allotment of funds under this part for any fiscal year only if the Secretary determines that either the combined fiscal effort per student or the aggregate expenditures within the State, with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made, was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

“(b) REDUCTION OF FUNDS.—The Secretary shall reduce the amount of the allotment of funds under this part in any fiscal year in the exact proportion by which the State educational agency fails to meet the requirements of subsection (a) by falling below 90 percent of the fiscal effort per student or aggregate expenditures (using the measure most favorable to the State educational agency), and no such lesser amount shall be used for computing the effort or expenditures required under paragraph (1) for subsequent years.

“(c) WAIVER.—The Secretary may waive, for 1 fiscal year only, the requirements of this section, if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State educational agency.

“SEC. 5142. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

“(a) PARTICIPATION ON EQUITABLE BASIS.—

“(1) IN GENERAL.—To the extent consistent with the number of children in the school district of a local educational agency that is eligible to receive funds under this part, or that serves the area in which a program assisted under this part is located, who are enrolled in private nonprofit elementary schools and secondary schools, or, with respect to instructional or personnel training programs funded by the State educational agency from funds made available for State educational agency use, the local educational agency, after consultation with appropriate private school officials—

“(A) shall provide, as may be necessary, for the benefit of such children in such schools—

“(i) secular, neutral, and nonideological services, materials, and equipment, including the participation of the teachers of such children (and other educational personnel serving such children) in training programs; and

“(ii) the repair, minor remodeling, or construction of public facilities (consistent with subsection (c)); or

“(B) if such services, materials, and equipment are not feasible or necessary in one or more such private schools, as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this part.

“(2) OTHER PROVISIONS FOR SERVICES.—If no program is carried out under paragraph (1) in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in the district are provided with services and materials to the same extent as would have occurred if the local educational agency had received funds under this part.

“(3) APPLICATION OF REQUIREMENTS.—The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs carried out under this part by a State educational agency or local educational agency, whether directly or through grants to, or contracts with, other public or private agencies, institutions, or organizations.

“(b) EQUAL EXPENDITURES.—

“(1) IN GENERAL.—Expenditures for programs under subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this part for children enrolled in the public schools of the local educational agency.

“(2) CONCENTRATED PROGRAMS.—Taking into account the needs of the individual children and other factors that relate to the expenditures referred to in paragraph (1), and when funds available to a local educational agency under this part are used to concentrate programs on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area,

or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs.

“(c) ADMINISTRATIVE REQUIREMENTS.—

“(1) FUNDS AND PROPERTY.—The control of funds provided under this part, and title to materials, equipment, and property repaired, remodeled, or constructed with such funds, shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property.

“(2) PROVISION OF SERVICES.—Services provided under this part shall be provided by employees of a public agency or through contract by such a public agency with a person, association, agency, or corporation that, in the provision of such services, is independent of the private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such a public agency. The funds provided under this part shall not be commingled with State or local funds.

“(d) WAIVER.—

“(1) STATE PROHIBITION.—If a State educational agency or local educational agency is prohibited, by reason of any provision of law, from providing for the participation in programs of children enrolled in private elementary schools and secondary schools as required by subsections (a) through (c), the Secretary shall waive such requirements for the agency involved and shall arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section.

“(2) FAILURE TO COMPLY.—If the Secretary determines that a State educational agency or a local educational agency has substantially failed, or is unwilling, to provide for the participation on an equitable basis of children enrolled in private elementary schools and secondary schools as required by subsections (a) through (c), the Secretary may waive such requirements and shall arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section.

“(e) WITHHOLDING OF ALLOTMENT OR ALLOCATION.—Pending final resolution of any investigation or complaint that could result in a waiver under subsection (d)(1) or (d)(2), the Secretary may withhold from the allotment or allocation of the affected State educational agency or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of services to be provided by the Secretary under such subsection.

“(f) DURATION OF DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State educational agency or local educational agency to meet the requirements of subsections (a) through (c).

“(g) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services under subsection (d), the Secretary shall, after consultation with the appropriate public school and private

school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State educational agency under this part.

“(h) REVIEW OF DETERMINATION.—

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

“(2) COURT ACTION.—If a State educational agency or local educational agency is dissatisfied with the Secretary’s final action after a proceeding under paragraph (1), such agency may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the action, as provided in section 2112 of title 28, United States Code.

“(3) REMAND TO SECRETARY.—The findings of fact by the Secretary with respect to a proceeding under paragraph (1), if supported by substantial evidence, shall be conclusive. The court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may make new or modified findings of fact and may modify the Secretary’s previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive, if supported by substantial evidence.

“(4) COURT REVIEW.—Upon the filing of a petition under paragraph (2), the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

“(i) PRIOR DETERMINATION.—Any bypass determination by the Secretary under title VI (as such title was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001) shall, to the extent consistent with the purposes of this part, apply to programs under this part.

“SEC. 5143. FEDERAL ADMINISTRATION.

“(a) TECHNICAL ASSISTANCE.—The Secretary, upon request, shall provide technical assistance to State educational agencies and local educational agencies under this part.

“(b) RULEMAKING.—The Secretary shall issue regulations under this part only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this part.

“(c) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding any other provision of law, unless expressly in limitation of this subsection, funds appropriated in any fiscal year to carry out programs under this part shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

“SEC. 5144. SUPPLEMENT, NOT SUPPLANT.

“Funds made available under this part shall be used to supplement, and not supplant, any other Federal, State, or local education funds.

“SEC. 5145. DEFINITIONS.

“In this part:

“(1) LOCAL EDUCATIONAL AGENCY.—The term ‘local educational agency’ means a local educational agency or a consortium of such agencies.

“(2) PUBLIC SCHOOL.—The term ‘public school’ means a public elementary school or a public secondary school.

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

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

“SEC. 5146. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this part—

“(1) \$450,000,000 for fiscal year 2002;

“(2) \$475,000,000 for fiscal year 2003;

“(3) \$500,000,000 for fiscal year 2004;

“(4) \$525,000,000 for fiscal year 2005;

“(5) \$550,000,000 for fiscal year 2006; and

“(6) \$600,000,000 for fiscal year 2007.

“PART B—PUBLIC CHARTER SCHOOLS

“Subpart 1—Charter School Programs

“SEC. 5201. PURPOSE.

“It is the purpose of this subpart to increase national understanding of the charter schools model by—

“(1) providing financial assistance for the planning, program design, and initial implementation of charter schools;

“(2) evaluating the effects of such schools, including the effects on students, student academic achievement, staff, and parents;

“(3) expanding the number of high-quality charter schools available to students across the Nation; and

“(4) encouraging the States to provide support to charter schools for facilities financing in an amount more nearly commensurate to the amount the States have typically provided for traditional public schools.

“SEC. 5202. PROGRAM AUTHORIZED.

“(a) IN GENERAL.—The Secretary may award grants to State educational agencies having applications approved pursuant to section 5203 to enable such agencies to conduct a charter school grant program in accordance with this subpart.

“(b) SPECIAL RULE.—If a State educational agency elects not to participate in the program authorized by this subpart or does not have an application approved under section 5203, the Secretary may award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 5203(c).

“(c) PROGRAM PERIODS.—