

Memorandum November 17, 2003

SUBJECT: Individuals with Disabilities Education Act (IDEA) and S. 1248, 108th

Congress: A Side by Side Comparison with Comments

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Congress is currently considering the reauthorization of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1400 *et seq.* ¹ H.R. 1350, 108th Congress, passed the House on April 30, 2003. ² The Senate bill, S. 1248, 108th Congress, was reported out of the Health, Education, Labor and Pensions Committee on June 25, 2003.

The following chart compares the current provisions of IDEA with the provisions of S. 1248 as reported. In most cases, the provisions in current law that would be deleted or changed by S. 1248 are underlined while the provisions in S. 1248 that would be added to current law are italicized. Comments are also provided in a separate column. For a more complete discussion of the changes that S. 1248 would make to current law see "The Individuals with Disabilities Education Act (IDEA): Selected Changes that Would be Made to the Law by S. 1248, 108th Congress," CRS Rep. No. RL31971.

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¹ For an overview of IDEA see Nancy Lee Jones and Richard N. Apling, *The Individuals with Disabilities Education Act: Statutory Provisions and Selected Issues*, CRS Rep. No. RL31259. Numerous other CRS reports are available on various aspects of IDEA.

² For a discussion of the House passed bill see Nancy Lee Jones and Richard N. Apling, *The Individuals with Disabilities Education Act (IDEA): Selected Changes that Would be Made to the Law by H.R. 1350, 108th Congress, CRS Rep. No. RL31830.*

The Individuals with Disabilities Education Act (IDEA) and S. 1248, 108th Congress: A Side by Side Comparison with Comments

Table 1. Part A—GENERAL PROVISIONS

Current Law	S. 1248	Comments on Selected Changes
601(a) SHORT TITLEThis Act may be cited as the "Individuals with Disabilities Education Act."	601(a) Same as current law.	
601(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows: PART A—GENERAL PROVISIONS Sec. 601. Short title; table of contents; findings; purposes. Sec. 602. Definitions. Sec. 603. Office of Special Education Programs. Sec. 604. Abrogation of State sovereign immunity. Sec. 605. Acquisition of equipment; construction or alteration of facilities. Sec. 606. Employment of individuals with disabilities. Sec. 607. Requirements for prescribing regulations. PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES Sec. 611. Authorization; allotment; use of funds; authorization of appropriations.	findings; purposes. Sec. 602. Definitions. Sec. 603. Office of Special Education Programs. Sec. 604. Abrogation of State sovereign immunity. Sec. 605. Acquisition of equipment; construction or alteration of facilities. Sec. 606. Employment of individuals with disabilities. Sec. 607. Requirements for prescribing regulations. Sec. 608. State administration. Sec. 609. Report to Congress. PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES	differences in structures of current law and S. 1248.

Current Law	S. 1248	Comments Changes	on	Selected
Sec. 612. State eligibility.	Sec. 612. State eligibility.			
Sec. 613. Local educational agency eligibility.	Sec. 613. Local educational agency eligibility.			
Sec. 614. Evaluations, eligibility	Sec. 614. Evaluations, eligibility			
determinations, individualized education	determinations, individualized education			
programs, and educational placements.	programs, and educational placements.			
Sec. 615. Procedural safeguards.	Sec. 615. Procedural safeguards.			
Sec. 616. Withholding and judicial review.	Sec. 616. Monitoring, technical assistance, and			
	enforcement.			
Sec. 617. Administration.	Sec. 617. Administration.			
Sec. 618. Program information.	Sec. 618. Program information.			
Sec. 619. Preschool grants.	Sec. 619. Preschool grants.			
PART C—INFANTS AND TODDLERS	PART C—INFANTS AND TODDLERS			
WITH DISABILITIES	WITH DISABILITIES			
Sec. 631. Findings and policy.	Sec. 631. Findings and policy.			
Sec. 632. Definitions.	Sec. 632. Definitions.			
Sec. 633. General authority.	Sec. 633. General authority.			
Sec. 634. Eligibility.	Sec. 634. Eligibility.			
Sec. 635. Requirements for statewide system.	Sec. 635. Requirements for statewide system.			
Sec. 636. Individualized family service plan.	Sec. 636. Individualized family service plan.			
Sec. 637. State application and assurances.	Sec. 637. State application and assurances.			
Sec. 638. Uses of funds.	Sec. 638. Uses of funds.			
Sec. 639. Procedural safeguards.	Sec. 639. Procedural safeguards.			
Sec. 640. Payor of last resort.	Sec. 640. Payor of last resort.			
Sec. 641. State Interagency Coordinating	Sec. 641. State Interagency Coordinating			
Council.	Council.			
Sec. 642. Federal administration.	Sec. 642. Federal administration.			
Sec. 643. Allocation of funds.	Sec. 643. Allocation of funds.			
Sec. 644. Federal Interagency Coordinating				
Council.				
Sec. 645. Authorization of appropriations.	Sec. 644. Authorization of appropriations.			
PART D—NATIONAL ACTIVITIES TO	PART D—NATIONAL ACTIVITIES TO			
IMPROVE EDUCATION OF CHILDREN	IMPROVE EDUCATION OF CHILDREN			
WITH DISABILITIES	WITH DISABILITIES			
	Sec. 650. Findings.			

Current Law	S. 1248	Comments on Selected Changes
SUBPART 1—State Program Improvement Grants for Children with Disabilities Sec. 651. Findings and purpose. Sec. 652. Eligibility and collaborative process. Sec. 653. Applications. Sec. 654. Use of funds. Sec. 655. Minimum State grant amounts. Sec. 656. Authorization of appropriations. SUBPART 2—Coordinated Research, Personnel Preparation, Technical Assistance, Support, and Dissemination of Information	Subpart 1—State Personnel Preparation and Professional Development Grants Sec. 651. Purpose; definition; program authority. Sec. 652. Eligibility and collaborative process. Sec. 653. Applications. Sec. 654. Use of funds. Sec. 655. Authorization of appropriations. Subpart 2—Scientifically Based Research, Technical Assistance, Model Demonstration	
Sec. 661. Administrative provisions. CHAPTER 1— Improving Early Intervention, Educational, and Transitional Services and Results for Children with Disabilities Through Coordinated Research and Personnel Preparation Sec. 671. Findings and purpose. Sec. 672. Research and innovation to improve services and results for children	Projects, and Dissemination of Information Sec. 660. Purpose. Sec. 661. Administrative provisions. Sec. 662. Research to improve results for children with disabilities.	
Sec. 673. Personnel preparation to improve services and results for children with disabilities.	Sec. 663. Technical assistance, demonstration projects, dissemination of information, and implementation of scientifically based research. Sec. 664. Personnel development to improve services and results for children with disabilities.	
Sec. 674. Studies and evaluations.	Sec. 665. Studies and evaluations.	

Current Law	S. 1248	Comments on Selected Changes
CHAPTER 2—Improving Early Intervention, Educational, and Transitional Services and Results for Children with Disabilities Through Coordinated Technical Assistance, Support, and Dissemination of Information	Subpart 3—Supports To Improve Results for Children With Disabilities	
Sec. 681. Findings and purposes. Sec. 682. Parent training and information centers. Sec. 683. Community parent resource centers. Sec. 684. Technical assistance for parent training and information centers. Sec. 685. Coordinated technical assistance and dissemination. Sec. 686. Authorization of appropriations.	Sec. 670. Purposes. Sec. 671. Parent training and information centers. Sec. 672. Community parent resource centers. Sec. 673. Technical assistance for parent training and information centers.	
Sec. 687. Technology development, demonstration, and utilization, and media services.	Sec. 674. Technology development, demonstration, and utilization; and media services. Sec. 675. Accessibility of instructional materials. Sec. 676. Authorization of appropriations. Subpart 4—Interim Alternative Educational Settings, Behavioral Supports, and Whole School Interventions Sec. 681. Purpose. Sec. 682. Definition of eligible entity. Sec. 683. Program authorized. Sec. 684. Program evaluations. Sec. 685. Authorization of appropriations.	
601(c) FINDINGS.—The Congress finds the following: (1) Disability is a natural part of the human experience and in no way diminishes the right	601 (c) FINDINGS.—Congress finds the following: (1) Disability is a natural part of the human experience and in no way diminishes the right	several changes in the findings section. Most of

Current Law	S. 1248	Comments on Selected
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of individuals to participate in or contribute to	of individuals to participate in or contribute to	statistical information
society. Improving educational results for	society. Improving educational results for	regarding children with
children with disabilities is an essential	children with disabilities is an essential	disabilities.
element of our national policy of ensuring	element of our national policy of ensuring	
equality of opportunity, full participation,	equality of opportunity, full participation,	
independent living, and economic self-	independent living, and economic self-	
sufficiency for individuals with disabilities.	sufficiency for individuals with disabilities.	
(2) Before the date of the enactment of the	(2) Before the date of the enactment of the	
Education for All Handicapped Children Act	Education for All Handicapped Children Act	
of 1975 (Public Law 94–142)—(A) the special	of 1975 (Public Law 94–142), the educational	
educational needs of children with disabilities	needs of millions of children with disabilities	
were not being fully met; (B) more than one-	were not being fully met because— (A) the	
half of the children with disabilities in the	children did not receive appropriate	
United States did not receive appropriate	educational services; (B) the children were	
educational services that would enable such	excluded entirely from the public school	
children to have full equality of opportunity;	system and from being educated with their	
(C) 1,000,000 of the children with disabilities	peers; (C) undiagnosed disabilities prevented	
in the United States were excluded entirely	the children from having a successful	
from the public school system and did not go	educational experience; or (D) a lack of	
through the educational process with their	adequate resources within the public school	
peers; (D) there were many children with	system forced families to find services outside	
disabilities throughout the United States	the public school system.	
participating in regular school programs whose		
disabilities prevented such children from		
having a successful educational experience		
because their disabilities were undetected; and		
(E) because of the lack of adequate services		
within the public school system, families were		
often forced to find services outside the public		
school system, often at great distance from		
their residence and at their own expense.		
(3) Since the enactment and implementation of	1	
the Education for All Handicapped Children	the Education for All Handicapped Children	
Act of 1975, this Act has been successful in	Act of 1975, this Act has been successful in	

Current Law	S. 1248	Comments	on	Selected
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ensuring children with disabilities and the	ensuring children with disabilities and the			
families of such children access to a free	families of such children access to a free			
appropriate public education and in improving	appropriate public education and in improving			
educational results for children with	educational results for children with			
disabilities.	disabilities.			
(4) However, the implementation of this Act	(4) However, the implementation of this Act			
has been impeded by low expectations, and an	has been impeded by low expectations, and an			
insufficient focus on applying replicable	insufficient focus on applying replicable			
research on proven methods of teaching and	research on proven methods of teaching and			
learning for children with disabilities.	learning for children with disabilities.			
(5) Over 20 years of research and experience	(5) Over 25 years of research and experience			
has demonstrated that the education of children	has demonstrated that the education of children			
with disabilities can be made more effective	with disabilities can be made more effective			
by—(A) having high expectations for such	by— (A) having high expectations for such			
children and ensuring their access in the general curriculum to the maximum extent	children and ensuring their access to the general education curriculum <i>in the regular</i>			
possible; (B) strengthening the role of parents	classroom to the maximum extent possible in			
and ensuring that families of such children	order to—(i) meet developmental goals and, to			
have meaningful opportunities to participate in	the maximum extent possible, the challenging			
the education of their children at school and at	expectations that have been established for all			
home; (C) coordinating this Act with other	children; and (ii) be prepared to lead			
local, educational service agency, State, and	productive and independent adult lives, to the			
Federal school improvement efforts in order to	maximum extent possible; (B) strengthening			
ensure that such children benefit from such	the role and responsibility of parents and			
efforts and that special education can become a	ensuring that families of such children have			
service for such children rather than a place	meaningful opportunities to participate in the			
where they are sent; (D) providing appropriate	education of their children at school and at			
special education and related services and aids	home; (C) coordinating this Act with other			
and supports in the regular classroom to such	local, educational service agency, State, and			
children, whenever appropriate; (E) supporting	Federal school improvement efforts, including			
high-quality, intensive professional	improvement efforts under the Elementary and			
development for all personnel who work with	Secondary Education Act of 1965, in order to			
such children in order to ensure that they have	ensure that such children benefit from such			
the skills and knowledge necessary to enable	efforts and that special education can become a			

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them— (i) to meet developmental goals and, to	service for such children rather than a place			
the maximum extent possible, those	where they are sent; (D) providing appropriate			
challenging expectations that have been	special education and related services, and aids			
established for all children; and (ii) to be	and supports in the regular classroom, to such			
prepared to lead productive, independent, adult	children, whenever appropriate; (E) supporting			
lives, to the maximum extent possible; (F)	high-quality, intensive preservice preparation			
providing incentives for whole-school	and professional development for all personnel			
approaches and pre-referral intervention to	who work with children with disabilities in			
reduce the need to label children as disabled in	order to ensure that such personnel have the			
order to address their learning needs; and (G)	skills and knowledge necessary to improve the			
focusing resources on teaching and learning	academic achievement and functional			
while reducing paperwork and requirements	performance of children with disabilities,			
that do not assist in improving educational	including the use of scientifically based			
results.	instructional practices, to the maximum extent			
	possible; (F) providing incentives for whole-			
	school approaches, scientifically based early			
	reading programs, positive behavioral			
	interventions and supports, and prereferral			
	interventions to reduce the need to label			
	children as disabled in order to address their			
	learning and behavioral needs; (G) focusing			
	resources on teaching and learning while			
	reducing paperwork and requirements that do			
	not assist in improving educational results; and			
	(H) supporting the development and use of			
	technology, including assistive technology			
	devices and assistive technology services, to			
	maximize accessibility for children with			
(C) William Chatan land advantage 1	disabilities.			
(6) While States, local educational agencies,	(6) While States, local educational agencies,			
and educational service agencies are	and educational service agencies are <i>primarily</i>			
responsible for providing an education for all	responsible for providing an education for all			
children with disabilities, it is in the national	children with disabilities, it is in the national			
interest that the Federal Government have a	interest that the Federal Government have a			

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supporting role in assisting State and local efforts to educate children with disabilities in order to improve results for such children and to ensure equal protection of the law. (7) A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals. (8) Parents and schools should be given expanded opportunities to resolve their disagreements in positive and constructive ways. (9) Teachers, schools, local educational agencies, and States should be relieved of irrelevant and unnecessary paperwork burdens				
that do not lead to improved educational outcomes. (10)(A) The Federal Government must be responsive to the growing needs of an increasingly more diverse society. (B) America's ethnic profile is rapidly changing. In the year 2000, 1 of every 3 persons in the United States was a member of a minority group or was limited English proficient. (C) Minority children comprise an increasing percentage of public school students. (D) With such changing demographics, recruitment efforts for special education personnel should focus on increasing the participation of minorities in the teaching profession.				
	supporting role in assisting State and local efforts to educate children with disabilities in order to improve results for such children and to ensure equal protection of the law. (7) A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals. (8) Parents and schools should be given expanded opportunities to resolve their disagreements in positive and constructive ways. (9) Teachers, schools, local educational agencies, and States should be relieved of irrelevant and unnecessary paperwork burdens that do not lead to improved educational outcomes. (10)(A) The Federal Government must be responsive to the growing needs of an increasingly more diverse society. (B) America's ethnic profile is rapidly changing. In the year 2000, 1 of every 3 persons in the United States was a member of a minority group or was limited English proficient. (C) Minority children comprise an increasing percentage of public school students. (D) With such changing demographics, recruitment efforts for special education personnel should focus on increasing the participation of	supporting role in assisting State and local efforts to educate children with disabilities in order to improve results for such children and to ensure equal protection of the law. (7) A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals. (8) Parents and schools should be given expanded opportunities to resolve their disagreements in positive and constructive ways. (9) Teachers, schools, local educational agencies, and States should be relieved of irrelevant and unnecessary paperwork burdens that do not lead to improved educational outcomes. (10)(A) The Federal Government must be responsive to the growing needs of an increasingly more diverse society. (B) America's ethnic profile is rapidly changing. In the year 2000, 1 of every 3 persons in the United States was a member of a minority group or was limited English proficient. (C) Minority children comprise an increasing percentage of public school students. (D) With such changing demographics, recruitment efforts for special education personnel should focus on increasing the participation of	supporting role in assisting State and local efforts to educate children with disabilities in order to improve results for such children and to ensure equal protection of the law. (7) A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals. (8) Parents and schools should be given expanded opportunities to resolve their disagreements in positive and constructive ways. (9) Teachers, schools, local educational agencies, and States should be relieved of irrelevant and unnecessary paperwork burdens that do not lead to improved educational outcomes. (10)(A) The Federal Government must be responsive to the growing needs of an increasingly more diverse society. (B) America's ethnic profile is rapidly changing. In the year 2000, 1 of every 3 persons in the United States was a member of a minority group or was limited English proficient. (C) Minority children comprise an increasing percentage of public school students. (D) With such changing demographics, recruitment efforts for special education personnel should focus on increasing the participation of	

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Hispanic, Asian-American, or American				
Indian. (D) Taken together as a group,				
minority children are comprising an ever larger				
percentage of public school students. Large-				
city school populations are overwhelmingly				
minority, for example: for fall 1993, the figure				
for Miami was 84 percent; Chicago, 89				
percent; Philadelphia, 78 percent; Baltimore,				
84 percent; Houston, 88 percent; and Los				
Angeles, 88 percent. (E) Recruitment efforts				
within special education must focus on				
bringing larger numbers of minorities into the				
profession in order to provide appropriate				
practitioner knowledge, role models, and				
sufficient manpower to address the clearly	(11)(A) The limited English proficient			
changing demography of special education. (F)	population is the fastest growing in our Nation,			
The limited English proficient population is	and the growth is occurring in many parts of			
the fastest growing in our Nation, and the	our Nation. (B) Studies have documented			
growth is occurring in many parts of our	apparent discrepancies in the levels of referral			
Nation. In the Nation's 2 largest school	and placement of limited English proficient			
districts, limited English proficient students	children in special education. (C) <i>This</i> poses <i>a</i>			
make up almost half of all students initially	special challenge for special education in the			
entering school at the kindergarten level.	referral of, assessment of, and services for, our			
Studies have documented apparent	Nation's students from non-English language			
discrepancies in the levels of referral and	backgrounds.			
placement of limited English proficient				
children in special education. The Department				
of Education has found that services provided				
to limited English proficient students often do				
not respond primarily to the pupil's academic				
needs. These trends pose special challenges for				
special education in the referral, assessment,	(12)(4) (2)			
and services for our Nation's students from	(12)(A) Greater efforts are needed to prevent			
non-English language backgrounds.	the intensification of problems connected with			

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(8)(A) Greater efforts are needed to prevent the				
intensification of problems connected with	minority children with disabilities. (B) More			
mislabeling and high dropout rates among	minority children continue to be served in			
minority children with disabilities. (B) More	special education than would be expected from			
minority children continue to be served in	the percentage of minority students in the			
special education than would be expected from	general school population.			
the percentage of minority students in the	(C) African-American children are identified			
general school population.	as having mental retardation and emotional			
(C) <u>Poor African-American children are 2.3</u>	disturbance at rates greater than their white			
times more likely to be identified by their	counterparts. (D) In the 1998–1999 school			
teacher as having mental retardation than their	year, AfricanAmerican children represented			
white counterpart. (D) Although African-	just 14.8 percent of the population aged 6			
Americans represent 16 percent of elementary	through 21, but comprised 20.2 percent of all			
and secondary enrollments, they constitute 21	children with disabilities. (E) Studies have			
percent of total enrollments in special	found that schools with predominately			
education. (E) The drop-out rate is 68 percent	Caucasian students and teachers have placed			
higher for minorities than for whites. (F) More	disproportionately high numbers of their			
than 50 percent of minority students in large	minority students into special education.			
cities drop out of school.				
	(13)(A) As the number of minority students in			
	special education increases, the number of			
(9)(A) The opportunity for full participation in	minority teachers and related services			
awards for grants and contracts; boards of	personnel produced in colleges and			
organizations receiving funds under this Act;	universities continues to decrease. (B) The			
and peer review panels; and training of	opportunity for minority individuals,			
professionals in the area of special education	organizations, and Historically Black Colleges			
by minority individuals, organizations, and	and Universities to participate fully in awards			
historically black colleges and universities is	for grants and contracts, boards of			
essential if we are to obtain greater success in	organizations receiving funds under this Act,			
the education of minority children with	and peer review panels, and in the training of			
disabilities. (B) In 1993, of the 915,000 college	professionals in the area of special education			
and university professors, 4.9 percent were	is essential if we are to obtain greater success			
African-American and 2.4 percent were	in the education of minority children with			
Hispanic. Of the 2,940,000 teachers,	disabilities.			

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prekindergarten through high school, 6.8	(14) As the graduation rates for children with			
percent were African-American and 4.1	disabilities continue to climb, providing			
percent were Hispanic. (C) Students from	effective transition services to promote			
minority groups comprise more than 50	successful post-school employment or			
percent of K-12 public school enrollment in	education is an important measure of			
seven States yet minority enrollment in teacher	accountability for children with disabilities.			
training programs is less than 15 percent in all				
but six States. (D) As the number of African-				
American and Hispanic students in special				
education increases, the number of minority				
teachers and related service personnel				
produced in our colleges and universities				
continues to decrease.				
(E) Ten years ago, 12 percent of the United				
States teaching force in public elementary and				
secondary schools were members of a minority				
group. Minorities comprised 21 percent of the				
national population at that time and were				
<u>clearly</u> <u>underrepresented</u> then among				
employed teachers. Today, the elementary and				
secondary teaching force is 13 percent				
minority, while one-third of the students in				
public schools are minority children. (F) As				
recently as 1991, historically black colleges				
and universities enrolled 44 percent of the				
African-American teacher trainees in the				
Nation. However, in 1993, historically black				
colleges and universities received only 4				
percent of the discretionary funds for special				
education and related services personnel				
training under this Act.				
(G) While African-American students				
constitute 28 percent of total enrollment in				
special education, only 11.2 percent of				

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individuals enrolled in preservice training programs for special education are African-American. (H) In 1986–87, of the degrees conferred in education at the B.A., M.A., and Ph.D. levels, only 6, 8, and 8 percent, respectively, were awarded to African-American or Hispanic students. (10) Minorities and underserved persons are socially disadvantaged because of the lack of opportunities in training and educational programs, undergirded by the practices in the private sector that impede their full participation in the mainstream of society.		
601(d) PURPOSES.—The purposes of this title are— (1)(A) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living; (B) to ensure that the rights of children with disabilities and parents of such children are protected; and (C) to assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities; (2) to assist States in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families; (3) to ensure that educators and parents have	601(d) PURPOSES.—The purposes of this title are— (1)(A) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment, further education, and independent living; (B) to ensure that the rights of children with disabilities and parents of such children are protected; and (C) to assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities; (2) to assist States in the implementation of a Statewide, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families; (3) to ensure that educators and parents have	S. 1248 would add "further education" to the list of what special education is designed to prepare students for and would delete the adjective "comprehensive" from the description of the State interagency system of early intervention services for infants and toddlers.

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the necessary tools to improve educational results for children with disabilities by supporting systemic change activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and (4) to assess, and ensure the effectiveness of, efforts to educate children with disabilities.	the necessary tools to improve educational results for children with disabilities by supporting systemic change activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and (4) to assess, and ensure the effectiveness of, efforts to educate children with disabilities.	
SEC. 602. DEFINITIONS. Except as otherwise provided, as used in this Act: (1) ASSISTIVE TECHNOLOGY DEVICE.— The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.	SEC. 602. DEFINITIONS. Except as otherwise provided, as used in this Act: (1) ASSISTIVE TECHNOLOGY DEVICE.— The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the post-surgical maintenance, programming, or replacement of such device, or an external device connected with the use of a surgically implanted medical device (other than the costs of performing routine maintenance and monitoring of such external device at the same time the child is receiving other services under this Act).	S. 1248 would not include surgically implanted medical devices in the definition of assistive technology.
602(2) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology	602(2) Same as current law.	

Current Law	S. 1248	Comments on Selected
device. Such term includes— (A) the evaluation of the needs of such child, including a functional evaluation of the child in the child's customary environment; (B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by such child; (C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices; (D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs; (E) training or technical assistance for such child, or, where appropriate, the family of such child;	S. 1248	Comments on Selected Changes
and (F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of such child.		
602(3) CHILD WITH A DISABILITY.— (A) IN GENERAL.—The term 'child with a disability' means a child— (i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (hereinafter referred to as 'emotional disturbance'), orthopedic impairments, autism, traumatic brain injury, other health impairments, or	602(3) CHILD WITH A DISABILITY.— (A) IN GENERAL.—The term 'child with a disability' means a child— (i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (hereinafter referred to as 'emotional disturbance'), orthopedic impairments, autism, traumatic brain injury, other health impairments, or	S. 1248 would add the phrase "or any subset of that age range, including ages 3 through 5" to the discretionary authority of the state or local educational agency.

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specific learning disabilities; and (ii) who, by reason thereof, needs special education and related services. (B) CHILD AGED 3 THROUGH 9.—The term 'child with a disability' for a child aged 3 through 9 may, at the discretion of the State and the local educational agency, include a child— (i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and (ii) who, by reason thereof, needs special education and related services.	specific learning disabilities; and (ii) who, by reason thereof, needs special education and related services. (B) CHILD AGED 3 THROUGH 9.—The term 'child with a disability' for a child aged 3 through 9 (or any subset of that age range, including ages 3 through 5), may, at the discretion of the State and the local educational agency, include a child—(i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in 1 or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and (ii) who, by reason thereof, needs special education and related services.	
No provision.	602(4) CORE ACADEMIC SUBJECT.—The term 'core academic subject' has the meaning given the term in section 9101(11) of the Elementary and Secondary Education Act of 1965.	This is a new definition, which would help align IDEA with No Child Left Behind Act (NCLBA).
602(4) EDUCATIONAL SERVICE AGENCY.—The term 'educational service agency'— (A) means a regional public multiservice agency—(i) authorized by State law to develop, manage, and provide services or programs to local educational agencies; and (ii) recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary and secondary schools of the State;	602(5) EDUCATIONAL SERVICE AGENCY.—The term 'educational service agency'— (A) means a regional public multiservice agency— (i) authorized by State law to develop, manage, and provide services or programs to local educational agencies; and (ii) recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of	S. 1248 would make no substantive changes to this subsection.

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and (B) includes any other public institution or agency having administrative control and direction over a public elementary or secondary school.	the State; and (B) includes any other public institution or agency having administrative control and direction over a public elementary <i>school</i> or secondary school.	
602(5) ELEMENTARY SCHOOL.—The term 'elementary school' means a nonprofit institutional day or residential school that provides elementary education, as determined under State law.	602(6) Same as current law.	
602(6) EQUIPMENT.—The term 'equipment' includes—(A) machinery, utilities, and built-in equipment and any necessary enclosures or structures to house such machinery, utilities, or equipment; and (B) all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published, and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.	602(7) Same as current law.	
602(7) EXCESS COSTS.—The term 'excess costs' means those costs that are in excess of the average annual per-student expenditure in a local educational agency during the preceding school year for an elementary or secondary school student, as may be appropriate, and which shall be computed after deducting—(A) amounts received—(i) under part B of this title; (ii) under part A of title I of the	602(8) EXCESS COSTS.—The term 'excess costs' means those costs that are in excess of the average annual per-student expenditure in a local educational agency during the preceding school year for an elementary school or secondary school student, as may be appropriate, and which shall be computed after deducting—(A) amounts received—(i) under part B of this title; (ii) under part A of title I of	S. 1248 would make no substantive changes to this subsection. The change takes into account the re-designation of Title VII of ESEA as Title III of that Act.

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Elementary and Secondary Education Act of 1965; or (iii) under part A of title <u>VII</u> of that Act; and (B) any State or local funds expended for programs that would qualify for assistance under any of those parts.	the Elementary and Secondary Education Act of 1965; and (iii) under parts A <i>and B</i> of title <i>III</i> of that Act; and (B) any State or local funds expended for programs that would qualify for assistance under any of those parts.	
602(8) FREE APPROPRIATE PUBLIC EDUCATION.—The term 'free appropriate public education' means special education and related services that—(A) have been provided at public expense, under public supervision and direction, and without charge; (B) meet the standards of the State educational agency; (C) include an appropriate preschool, elementary, or secondary school education in the State involved; and (D) are provided in conformity with the individualized education program required under section 614(d).	602(9) FREE APPROPRIATE PUBLIC EDUCATION.—The term 'free appropriate public education' means special education and related services that— (A) have been provided at public expense, under public supervision and direction, and without charge; (B) meet the standards of the State educational agency;(C) include an appropriate preschool, elementary school, or secondary school education in the State involved; and (D) are provided in conformity with the individualized education program required under section 614(d).	S. 1248 would make no substantive changes to this subsection.
No provision.	602(10) (A) HIGHLY QUALIFIED.—The term 'highly qualified' means the following: (A) ALL SPECIAL EDUCATION TEACHERS. When used with respect to any public elementary school or secondary school special education teacher teaching in a State, 'highly qualified' means that the teacher holds at least a bachelor's degree and that— (i) the teacher has obtained full State certification as a special education teacher through a State-approved special education teacher-preparation program (including certification obtained through alternative routes to certification) or other comparably rigorous methods or passed the State teacher	This is a new provision added to help align IDEA with the No Child Left Behind Act.

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	special education licensing examination, and			
	holds a license to teach in the State as a special			
	education teacher, except that when used with			
	respect to any teacher teaching in a public			
	charter school, 'highly qualified' means that the			
	teacher meets the requirements set forth in the			
	State's public charter school law; (ii) the			
	teacher has not had certification or licensure			
	requirements waived on an emergency,			
	temporary, or provisional basis; and (iii) the			
	teacher demonstrates knowledge of special			
	education and the teaching skills necessary to			
	teach children with disabilities.			
	(B) NEW ELEMENTARY SPECIAL			
	EDUCATION TEACHERS. When used with			
	respect to a special education elementary			
	school teacher who is new to the profession,			
	'highly qualified' means that the teacher			
	demonstrated, by passing a rigorous State test,			
	subject knowledge and teaching skills in			
	reading, writing, mathematics and other areas			
	of the basic elementary school curriculum			
	(which may consist of passing a State-required			
	certification or licensing test or tests in			
	reading, writing, mathematics, and other areas			
	of the basic elementary school curriculum).			
	(C) NEW MIDDLE AND SECONDARY			
	SPECIAL EDUCATION TEACHERS. When			
	used with respect to a special education middle			
	or secondary teacher school who is new to the			
	profession, 'highly qualified' means that the			
	teacher has demonstrated a high level of			
	competency in each of the academic subjects			
	in which the teacher teaches by-			

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	(i) passing a rigorous State academic subjec	t
	test in each of the academic subjects in which	1
	the teacher teaches (which may consist of a	ı
	passing level of performance on a State-	-
	required certification or licensing test or tests	
	in each of the academic subjects in which the	>
	teacher teaches); or (ii) successful completion	,
	in each of the academic subjects in which the	>
	teacher teaches, of an academic major	,
	graduate degree, coursework equivalent to ar	
	undergraduate academic major, or advanced	1
	certification or credentialing.	
	(D) VETERAN SPECIAL EDUCATION	1
	TEACHERS. When used with respect to ar	1
	elementary, middle, or secondary schoo	
	special education teacher who is not new to the	
	profession, 'highly qualified' means that the	>
	teacher has-	
	(i) met the applicable standard in subparagraph	1
	(B) or (C), which includes an option for a test	
	or (ii) has demonstrated competence in all the	
	academic subjects in which the teacher teacher	3
	based on a high objective uniform State	>
	standard of evaluation for special education	1
	teachers that-	
	(I) is set by the State for both grade-	-
	appropriate academic subject-matter	r
	knowledge and special education teaching	5
	skills; (II) is aligned with challenging State	
	academic content and student academic	;
	achievement standards and developed in	1
	consultation with special education teachers	,
	core content specialists, teachers, principals	,
	and school administrators; (III) provides	3

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	objective, coherent information about the			
	teachers' attainment of knowledge of core			
	content knowledge in the academic subjects in			
	which a teacher teaches; (IV) is applied			
	uniformly to all special education teachers who			
	teach in the same academic subject and the			
	same grade level throughout the State; (V)			
	takes into consideration, but is not based			
	primarily on, the time the teacher has been			
	teaching in the academic subject; (VI) is made			
	available to the public on request; and (VII)			
	may involve multiple objective measures of			
	teacher competency.			
	(E) TEACHERS PROVIDING			
	CONSULTATIVE SERVICES.			
	(i) Notwithstanding subparagraphs (B) through			
	(D), when used with respect to a special			
	education teacher who provides only			
	consultative services to a highly qualified			
	regular education teacher (as the term highly			
	qualified is defined in section 9101(23) of the			
	Elementary and Secondary Education Act of			
	1965), means that the teacher meets the			
	requirements of subparagraph (A). (ii) As used			
	in clause (i), the term 'consultative services'			
	means adjusting the learning environment,			
	modifying instructional methods, adapting			
	curricula, using positive behavior supports and			
	interventions, and selecting and implementing			
	appropriate accommodations to meet the needs			
	of individual children.			
	(F) EXCEPTION. Notwithstanding			
	subparagraphs (B) through (D), when used			
	with respect to a special education teacher who			

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	teaches more than one subject, primarily to middle school and secondary school-aged children with significant cognitive disabilities, 'highly qualified' means that the teacher has demonstrated subject knowledge and teaching skills in reading, mathematics, and other areas of the basic elementary school curriculum by- (i) passing a rigorous State test (which may consist of passing a State-required certification or licensing test or tests in those areas); or (ii) demonstrating competency in all the academic subjects in which the teacher teaches, based on a high objective uniform State standard as described in subparagraph (D)(ii).			
602(9) INDIAN.—The term 'Indian' means an individual who is a member of an Indian tribe.	602(11) Same as current law.			
602(10) INDIAN TRIBE.—The term 'Indian tribe' means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act).	602(12) Same as current law.			
602(11) INDIVIDUALIZED EDUCATION PROGRAM.—The term 'individualized education program' or 'IEP' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with section 614(d).	602(13) Same as current law.			
602(12) INDIVIDUALIZED FAMILY SERVICE PLAN.—The term 'individualized family service plan' has the meaning given	602(14) Same as current law.			

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such term in section 636.		
602(13) INFANT OR TODDLER WITH A DISABILITY.—The term 'infant or toddler with a disability ' has the meaning given such term in section 632.	602(15) Same as current law.	
602(14) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education'—(A) has the meaning given that term in section 1201(a)of the Higher Education Act of 1965; and (B) also includes any community college receiving funding from the Secretary of the Interior under the Tribally Controlled Community College Assistance Act of 1978.	602(16) INSTITUTION OF HIGHER EDUCATION.— The term 'institution of higher education'— (A) has the meaning given such term in section 101 (a) and (b) of the Higher Education Act of 1965; and (B) also includes any community college receiving funding from the Secretary of the Interior under the Tribally Controlled College or University Assistance Act of 1978.	substantive changes to this subsection. The change incorporates the current citation for the definition of an 'institution of higher education' in the Higher Education Act of 1965.
No provision.	602(17) LIMITED ENGLISH PROFICIENT.—The term 'limited English proficient' has the meaning given the term in section 9101(25) of the Elementary and Secondary Education Act of 1965.	S. 1248 would add a new definition by cross-referencing the definition in ESEA.
602(15) LOCAL EDUCATIONAL AGENCY.— (A) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. (B) The term includes—	602(18) LOCAL EDUCATIONAL AGENCY.— (A) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary <i>schools</i> or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary <i>schools</i> or secondary schools. (B)	S. 1248 would make no substantive changes to this subsection.

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(i) an educational service agency, as defined in paragraph (4); and (ii) any other public institution or agency having administrative control and direction of a public elementary or secondary school. (C) The term includes an elementary or secondary school funded by the Bureau of Indian Affairs, but only to the extent that such inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.	The term includes— (i) an educational service agency, as defined in paragraph (5); and (ii) any other public institution or agency having administrative control and direction of a public elementary school or secondary school. (C) The term includes an elementary school or secondary school funded by the Bureau of Indian Affairs, but only to the extent that such inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.		
602(16) NATIVE LANGUAGE.—The term 'native language', when used with reference to an individual of limited English proficiency, means the language normally used by the individual, or in the case of a child, the language normally used by the parents of the child.	602(19) Same as current law.		
602(17) NONPROFIT.—The term 'nonprofit', as applied to a school, agency, organization, or institution, means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of	602(20) Same as current law.		

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which inures, or may lawfully inure, to the benefit of any private shareholder or individual.		
602(18) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.	602(21) Same as current law.	
602(19) PARENT.—The term 'parent'— (A) includes a legal guardian; and (B) except as used in sections 615(b)(2) and 639(a)(5), includes an individual assigned under either of those sections to be a surrogate parent.	602(22) Same as current law.	
602(20) PARENT ORGANIZATION.—The term 'parent organization' has the meaning given that term in section <u>682(g)</u> .	602(23) PARENT ORGANIZATION.—The term 'parent organization' has the meaning given such term in section 671(g).	S. 1248 would cross-reference the new citation for this definition, which is similar to the current-law definition. (See below.)
602(21) PARENT TRAINING AND INFORMATION CENTER.—The term 'parent training and information center' means a center assisted under section 682 or 683.	602(24) PARENT TRAINING AND INFORMATION CENTER.—The term 'parent training and information center' means a center assisted under section 671 or 672.	S. 1248 would make no substantive changes to this subsection.
602(22) RELATED SERVICES.—The term 'related services' means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, psychological services, physical and	602(25) RELATED SERVICES.—The term 'related services' means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, interpreting services, psychological services,	interpreting services, school health services, and travel training instruction to the current

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occupational therapy, recreation, including therapeutic recreation, social work services, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.	physical and occupational therapy, recreation, including therapeutic recreation, social work services, school health services, counseling services, including rehabilitation counseling, orientation and mobility services, travel training instruction, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children. The term does not include a medical device that is surgically implanted, or the post-surgical maintenance, programming, or replacement of such device, or an external device connected with the use of a surgically implanted medical device (other than the costs of performing routine maintenance and monitoring of such external device at the same time the child is receiving other services under this Act).	services. The term would not include surgically implanted medical devices.
602(23) SECONDARY SCHOOL.—The term 'secondary school' means a nonprofit institutional day or residential school that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12.	602(26) Same as current law.	
602(24) SECRETARY.—The term 'Secretary' means the Secretary of Education.	602(27) Same as current law.	
602(25) SPECIAL EDUCATION.—The term 'special education' means specially designed	602(28) Same as current law.	

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instruction, at no cost to parents, to meet the unique needs of a child with a disability, including—(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and (B) instruction in physical education.		
602(26) SPECIFIC LEARNING DISABILITY.—(A) IN GENERAL.—The term 'specific learning disability' means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. (B) DISORDERS INCLUDED.—Such term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. (C) DISORDERS NOT INCLUDED.—Such term does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.	602(29) Same as current law.	
602(27) STATE.—The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.	602(30) Same as current law.	
602(28) STATE EDUCATIONAL AGENCY.—The term 'State educational	602(31) Same as current law.	

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agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.		
602(29) SUPPLEMENTARY AIDS AND SERVICES.—The term 'supplementary aids and services' means, aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with section 612(a)(5).	602(32) Same as current law.	
term 'transition services' means a coordinated set of activities for a student with a disability that—(A) is designed within an <u>outcome</u> oriented process, <u>which promotes</u> movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation; (B) is based upon the individual student's needs, taking into account the student's preferences and interests; and (C) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational	term 'transition services' means a coordinated set of activities for a child with a disability (as defined in paragraph (3)(A)) that—(A) is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation; (B) is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and (C) includes instruction, related services,	S. 1248 would add language emphasizing that transition services are designed to be focused on improving the academic and functional achievement of the child with a disability.

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evaluation.	community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.		
SEC. 603. OFFICE OF SPECIAL EDUCATION PROGRAMS. (a) ESTABLISHMENT.—There shall be, within the Office of Special Education and Rehabilitative Services in the Department of Education, an Office of Special Education Programs, which shall be the principal agency in such Department for administering and carrying out this Act and other programs and activities concerning the education of children with disabilities. (b) DIRECTOR.—The Office established under subsection (a) shall be headed by a Director who shall be selected by the Secretary and shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services. (c) VOLUNTARY AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary is authorized to accept voluntary and uncompensated services in furtherance of the purposes of this Act.	SEC. 603 Same as current law.		
SEC. 604. ABROGATION OF STATE SOVEREIGN IMMUNITY. (a) IN GENERAL.—A State shall not be immune under the <u>eleventh</u> amendment to the Constitution of the United States from suit in Federal court for a violation of this Act. (b)	SEC. 604. ABROGATION OF STATE SOVEREIGN IMMUNITY. (a) IN GENERAL.—A State shall not be immune under the <i>11th</i> amendment to the Constitution of the United States from suit in Federal court for a violation of this Act. (b) REMEDIES.—	S. 1248 would n substantive chan this subsection.	

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REMEDIES.—In a suit against a State for a violation of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as those remedies are available for such a violation in the suit against any public entity other than a State. (c) EFFECTIVE DATE.—Subsections (a) and (b) apply with respect to violations that occur in whole or part after the date of the enactment of the Education of the Handicapped Act Amendments of 1990.	In a suit against a State for a violation of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as those remedies are available for such a violation in the suit against any public entity other than a State. (c) EFFECTIVE DATE.—Subsections (a) and (b) apply with respect to violations that occur in whole or part after the date of enactment of the Education of the Handicapped Act Amendments of 1990.	
SEC. 605. ACQUISITION OF EQUIPMENT; CONSTRUCTION OR ALTERATION OF FACILITIES. (a) IN GENERAL.—If the Secretary determines that a program authorized under this Act would be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes. (b) COMPLIANCE WITH CERTAIN REGULATIONS.—Any construction of new facilities or alteration of existing facilities under subsection (a) shall comply with the requirements of—(1) appendix A of part 36 of title 28, Code of Federal Regulations (commonly known as the 'Americans with Disabilities Accessibility Guidelines for Buildings and Facilities'); or (2) appendix A of part 101-19.6 of title 41, Code of Federal Regulations (commonly known as the 'Uniform Federal Accessibility Standards').	SEC. 605. ACQUISITION OF EQUIPMENT; CONSTRUCTION OR ALTERATION OF FACILITIES. (a) IN GENERAL.—If the Secretary determines that a program authorized under this Act will be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes. (b) COMPLIANCE WITH CERTAIN REGULATIONS.—Any construction of new facilities or alteration of existing facilities under subsection (a) shall comply with the requirements of—(1) appendix A of part 36 of title 28, Code of Federal Regulations (commonly known as the 'Americans with Disabilities Accessibility Guidelines for Buildings and Facilities'); or (2) appendix A of subpart 101–19.6 of title 41, Code of Federal Regulations (commonly known as the 'Uniform Federal Accessibility Standards').	S. 1248 would make no substantive changes to this subsection.

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SEC. 606. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES. The Secretary shall ensure that each recipient of assistance under this Act makes positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under this Act.	SEC. 606 Same as current law.		
SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULATIONS. (a) PUBLIC COMMENT PERIOD.—The Secretary shall provide a public comment period of at least 90 days on any regulation proposed under part B or part C of this Act on which an opportunity for public comment is otherwise required by law. (b) PROTECTIONS PROVIDED TO CHILDREN.—The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this Act that would procedurally or substantively lessen the protections provided to children with disabilities under this Act, as embodied in regulations in effect on July 20, 1983 (particularly as such protections relate to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in	SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULATIONS. (a) IN GENERAL.—In carrying out the provisions of this Act, the Secretary shall issue regulations under this Act only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements of this Act. (b) PROTECTIONS PROVIDED TO CHILDREN.—The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this Act that—(1) violates or contradicts any provision of this Act; and (2) procedurally or substantively lessens the protections provided to children with disabilities under this Act, as embodied in regulations in effect on July 20, 1983 (particularly as such protections related to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at individualized education program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in	S. 1248 would make several changes to current law. First, the bill would limit the Secretary's rule-making authority to situations where "such regulations are necessary to ensure that there is compliance with the specific requirements of this Act." The bill specifically prohibits the Secretary from implementing or publishing regulations that violate or contradict any provision of the Act. The bill also makes changes in the current law regarding issues of national significance. S. 1248 would also add specific mention of the rule making requirements of 5 U.S.C. §553 which	

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STATEMENTS.—The Secretary may not,	PERIOD.—The Secretary shall provide a	of proposed rule-making
through policy letters or other statements,	public comment period of not more than 90	be published in the
establish a rule that is required for compliance	days on any regulation proposed under part B	Federal Register.
with, and eligibility under, this part without	or part C of this Act on which an opportunity	
following the requirements of section 553 of	for public comment is otherwise required by	
title 5, United States Code. (d)	law. (d) POLICY LETTERS AND	
CORRESPONDENCE FROM	STATEMENTS.—The Secretary may not	
DEPARTMENT OF EDUCATION	issue policy letters or other statements	
DESCRIBING INTERPRETATIONS OF	(including letters or statements regarding	
THIS PART.—(1) IN GENERAL.—The	issues of national significance) that—(1)	
Secretary shall, on a quarterly basis, publish in	violate or contradict any provision of this Act;	
the Federal Register, and widely disseminate	or (2) establish a rule that is required for	
to interested entities through various additional	compliance with, and eligibility under, this Act	
forms of communication, a list of	without following the requirements of section	
correspondence from the Department of	553 of title 5, United States Code. (e)	
Education received by individuals during the	EXPLANATION AND ASSURANCES.—Any	
previous quarter that describes the	written response by the Secretary under	
interpretations of the Department of Education	subsection (d) regarding a policy, question, or	
of this Act or the regulations implemented	interpretation under part B of this Act shall	
pursuant to this Act. (2) ADDITIONAL	include an explanation in the written response	
INFORMATION.—For each item of	that—(1) such response is provided as	
correspondence published in a list under	informal guidance and is not legally binding;	
paragraph (1), the Secretary shall identify the	(2) when required, such response is issued in	
topic addressed by the correspondence and	compliance with the requirements of section	
shall include such other summary information	553 of title 5, United States Code; and (3) such	
as the Secretary determines to be appropriate.	response represents the interpretation by the	
(e) ISSUES OF NATIONAL	Department of Education of the applicable	
SIGNIFICANCE.—If the Secretary receives a	statutory or regulatory requirements in the	
written request regarding a policy, question, or	context of the specific facts presented. (f)	
interpretation under part B of this Act, and	CORRESPONDENCE FROM	
determines that it raises an issue of general	DEPARTMENT OF EDUCATION	
interest or applicability of national significance	DESCRIBING INTERPRETATIONS OF	
to the implementation of part B, the Secretary	THIS ACT.—(1) IN GENERAL.—The	
shall—(1) include a statement to that effect in	Secretary shall, on a quarterly basis, publish in	

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any written response; (2) widely disseminate that response to State educational agencies, local educational agencies, parent and advocacy organizations, and other interested organizations, subject to applicable laws relating to confidentiality of information; and (3) not later than one year after the date on which the Secretary responds to the written request, issue written guidance on such policy, question, or interpretation through such means as the Secretary determines to be appropriate and consistent with law, such as a policy memorandum, notice of interpretation, or notice of proposed rulemaking. (f) EXPLANATION.— Any written response by the Secretary under subsection (e) regarding a policy, question, or interpretation under part B of this Act shall include an explanation that the written response—(1) is provided as informal guidance and is not legally binding; and (2) represents the interpretation by the Department of Education of the applicable statutory or regulatory requirements in the context of the specific facts presented. Federal Register, publication.	to interested entities through various additional forms of communication, a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of this Act or the regulations implemented pursuant to this Act. (2) ADDITIONAL INFORMATION.—For each item of correspondence published in a list under paragraph (1), the Secretary shall—(A) identify the topic addressed by the correspondence and shall include such other summary information as the Secretary determines to be appropriate; and (B) ensure that all such correspondence is issued, where applicable, in compliance with the requirements of section 553 of title 5, United States Code.			

Table 2. PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

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PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES SEC. 611. AUTHORIZATION; ALLOTMENT; USE OF FUNDS; AUTHORIZATION OF APPROPRIATIONS. (a) GRANTS TO STATES.—(1) PURPOSE OF GRANTS.—The Secretary shall make grants to States and the outlying areas, and provide funds to the Secretary of the Interior, to assist them to provide special education and related apprises to shildren with disabilities in	PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES SEC. 611. Same as current law. Same as current law.	
related services to children with disabilities in accordance with this part. (2) MAXIMUM AMOUNTS.—The maximum amount of the grant a State may receive under this section for any fiscal year is— (A) the number of children with disabilities in the State who are receiving special education and related services (i) aged 3 through 5 if the State is eligible for a grant under section 619; and (ii) aged 6 through 21; multiplied by	(2) MAXIMUM AMOUNT.—The maximum amount available for awarding grants under this part for any fiscal year is— (A) the total number of children with disabilities in the 2002–2003 school year in the States who received special education and related services and who were— (i) aged 3 through 5, if the State was eligible for a grant under section 619; and (ii) aged 6 through 21; multiplied by	S. 1248 would make significant changes to the maximum grant provision. Under current law, the maximum amount a state may receive under the grants-to-states program is 40% of the national average per pupil expenditure
(B) 40 percent of the average per-pupil expenditure in public elementary and secondary schools in the United States.	(B) 40 percent of the average per-pupil expenditure in public elementary schools and secondary schools in the United States; adjusted by; (C) the rate of change in the sum of— (i) 85 percent of the change in the nationwide total of the population described in subsection	times the number of children with disabilities in the state receiving special education and related services. S. 1248 would remove this '40% maximum'

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	(d)(3)(A)(i)(II); and (ii) 15 percent of the change in the nationwide total of the population described in subsection (d)(3)(A)(i)(III).	state grant. Instead, the bill would authorize a maximum for all state grants. This amount would be the total of all state maximum grants for FY2003 increased by the growth rates of relevant child population and the relevant children in poverty. This total amount would continue to be distributed according to the state formula provided below in subsection (d).
611(b) OUTLYING AREAS AND FREELY ASSOCIATED STATES.— (1) FUNDS RESERVED.—From the amount appropriated for any fiscal year under subsection (j), the Secretary shall reserve not more than one percent, which shall be used— (A) to provide assistance to the outlying areas in accordance with their respective populations of individuals aged 3 through 21; and (B) for fiscal years 1998 through 2001, to carry out the competition described in paragraph (2), except that the amount reserved to carry out that competition shall not exceed the amount reserved for fiscal year 1996 for the competition under part B of this Act described under the heading "SPECIAL EDUCATION"	611(b) OUTLYING AREAS AND FREELY ASSOCIATED STATES.— (1) FUNDS RESERVED.—From the amount appropriated for any fiscal year under subsection (i), the Secretary shall reserve not more than 1 percent, which shall be used— (A) to provide assistance to the outlying areas in accordance with their respective populations of individuals aged 3 through 21; and (B) to provide each freely associated State a grant in the amount that such freely associated State received for fiscal year 2003 under this part, but only if the freely associated State meets the applicable requirements of this part, as well as the requirements of section 611(b)(2)(C) as such section was in effect on the day before the date of enactment of the	maximum reserve for the outlying areas but would significantly change the funding provision for the freely associated states. Current law provides that a portion of the reserve is distributed by competition through the Pacific Regional Educational Laboratory. The freely associated states have been funded

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in Public Law 104–134.(2) LIMITATION FOR FREELY ASSOCIATED STATES.— (A) COMPETITIVE GRANTS.—The Secretary shall use funds described in paragraph (1)(B) to award grants, on a competitive basis, to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the freely associated States to carry out the purposes of this part. (B) AWARD BASIS.—The Secretary shall award grants under subparagraph (A) on a competitive basis, pursuant to the recommendations of the Pacific Region Educational Laboratory in Honolulu, Hawaii. Those recommendations shall be made by experts in the field of special education and related services. (C) ASSISTANCE REQUIREMENTS.—Any freely associated State that wishes to receive funds under this part shall include, in its application for assistance— (i) information demonstrating that it will meet all conditions that apply to States under this part; (ii) an assurance that, notwithstanding any other provision of this part, it will use those funds only for the direct provision of special education and related services to children with disabilities and to enhance its capacity to make a free appropriate public education available to all children with disabilities; (iii) the identity of the source and amount of funds, in addition to funds under this part, that it will make available to ensure that a free	Improvement Act of 2003.	Education	S. 1248 would eliminate the competition and would designate part of the reserve to provide grants to the freely associated states at their FY2003 funding amounts.

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appropriate public education is available to all			
children with disabilities within its			
jurisdiction; and			
(iv) such other information and assurances as			
the Secretary may require.			
(D) TERMINATION OF ELIGIBILITY.—			
Notwithstanding any other provision of law,			
the freely associated States shall not receive			
any funds under this part for any program year			
that begins after September 30, 2001.			
(E) ADMINISTRATIVE COSTS.—The			
Secretary may provide not more than five			
percent of the amount reserved for grants			
under this paragraph to pay the administrative			
costs of the Pacific Region Educational			
Laboratory under subparagraph (B). (3)			
LIMITATION.—An outlying area is not			
eligible for a competitive award under			
paragraph (2) unless it receives assistance			
under paragraph (1)(A).	(2) CDECIAL DILLE The manificant of		
(4) SPECIAL RULE.—The provisions of	` /		
Public Law 95–134, permitting the	Public Law 95–134, permitting the		
consolidation of grants by the outlying areas,	consolidation of grants by the outlying areas,		
shall not apply to funds provided to those areas	shall not apply to funds provided to the		
or to the freely associated States under this section.	outlying areas or the freely associated States under this section.		
(5) ELIGIBILITY FOR DISCRETIONARY	under this section.		
PROGRAMS.—The freely associated States			
shall be eligible to receive assistance under			
subpart 2 of part D of this Act until September			
30, 2001.			
(6) DEFINITION.—As used in this	(3) DEFINITION.—As used in this		
subsection, the term 'freely associated States'	subsection, the term 'freely associated States'		
means the Republic of the Marshall Islands,	means the Republic of the Marshall Islands,		

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the Federated States of Micronesia, and the Republic of Palau.	the Federated States of Micronesia, and the Republic of Palau.	
611(c) SECRETARY OF THE INTERIOR.— From the amount appropriated for any fiscal year under subsection (j), the Secretary shall reserve 1.226 percent to provide assistance to the Secretary of the Interior in accordance with subsection (i).	611(c) Same as current law.	
(1) IN GENERAL.—After reserving funds for studies and evaluations under section 674(e), and for payments to the outlying areas and the Secretary of the Interior under subsections (b) and (c), the Secretary shall allocate the remaining amount among the States in accordance with paragraph (2) or subsection (e), as the case may be. (2) INTERIM FORMULA.—Except as provided in subsection (e), the Secretary shall allocate the amount described in paragraph (1) among the States in accordance with section 611(a)(3), (4), and (5) and (b)(1), (2), and (3) of this Act, as in effect prior to the enactment of the Individuals with Disabilities Education Act Amendments of 1997, except that the determination of the number of children with disabilities receiving special education and related services under such section 611(a)(3) may, at the State's discretion, be calculated as of the last Friday in October or as of December 1 of the fiscal year for which the funds are appropriated.	611(d) ALLOCATIONS TO STATES.— (1) IN GENERAL.—After reserving funds for studies and evaluations under section 665, and for payments to the outlying areas, the freely associated States, and the Secretary of the Interior under subsections (b) and (c) for a fiscal year, the Secretary shall allocate the remaining amount among the States in accordance with this subsection. no comparable provision	S. 1248 would eliminate the interim formula, which is no longer relevant.

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611(e) PERMANENT FORMULA.— (1) ESTABLISHMENT OF BASE YEAR.— The Secretary shall allocate the amount described in subsection (d)(1) among the States in accordance with this subsection for each fiscal year beginning with the first fiscal year for which the amount appropriated under subsection (j) is more than \$4,924,672,200. (2) USE OF BASE YEAR.— (A) DEFINITION.—As used in this subsection, the term'base year' means the fiscal year preceding the first fiscal year in		S. 1248 would no longer differentiate between an interim and a permanent formula because the 'trigger' appropriation was surpassed in FY2000 and the permanent formula went into effect. The base year has been set as FY1999; thus S. 1248 would eliminate language related to the
which this subsection applies. (B)SPECIAL RULE FOR USE OF BASE YEAR AMOUNT.—If a State received any funds under this section for the base year on the basis of children aged 3 through 5, but does not make a free appropriate public education available to all children with disabilities aged 3 through 5 in the State in any subsequent fiscal year, the Secretary shall compute the State's base year amount, solely for the purpose of calculating the State's allocation in that subsequent year under paragraph (3) or (4), by subtracting the amount allocated to the State for the base year on the basis of those children.	(2) SPECIAL RULE FOR USE OF FISCAL YEAR 1999 AMOUNT.—If a State received any funds under this section for <i>fiscal year 1999</i> on the basis of children aged 3 through 5, but does not make a free appropriate public education available to all children with disabilities aged 3 through 5 in the State in any subsequent fiscal year, the Secretary shall compute the State's amount <i>for fiscal year 1999</i> , solely for the purpose of calculating the State's allocation in that subsequent year under paragraph (3) or (4), by subtracting the amount allocated to the State for <i>fiscal year 1999</i> on the basis of those children.	base year. S. 1248 would replace references to the base year with FY1999.
(3) INCREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is equal to or greater than the amount allocated to the States under this paragraph for the preceding fiscal year, those allocations shall be calculated as follows:	(3) INCREASE IN FUNDS.—If the amount available for allocations to States under	Language is nearly identical.

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(A)(i) Except as provided in subparagraph (B), the Secretary shall— (I) allocate to each State the amount it received for the base year; (II) allocate 85 percent of any remaining funds to States on the basis of their relative populations of children aged 3 through 21 who are of the same age as children with disabilities for whom the State ensures the availability of a free appropriate public education under this part; and (III) allocate 15 percent of those remaining funds to States on the basis of their relative populations of children described in subclause (II) who are living in poverty. (ii) For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary. (B) Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following: (i) No State's allocation shall be less than its allocation for the preceding fiscal year. (ii) No State's allocation shall be less than the greatest of— (I) the sum of— (aa) the amount it received for the base year; and	follows: (A) ALLOCATION OF INCREASE.— (i) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall allocate for the fiscal year— (I) to each State the amount the State received under this section for fiscal year 1999; (II) 85 percent of any remaining funds to States on the basis of the States' relative populations of children aged 3 through 21 who are of the same age as children with disabilities for whom the State ensures the availability of a free appropriate public education under this part; and (III) 15 percent of those remaining funds to States on the basis of the States' relative populations of children described in subclause (II) who are living in poverty. (ii) DATA.—For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary. (B) LIMITATIONS.—Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following: (i) PRECEDING YEAR ALLOCATION.—No State's allocation shall be less than its allocation under this section for the preceding fiscal year. (ii) MINIMUM.—No State's allocation shall be less than the greatest of— (I) the sum of—	S. 1248 would make minor changes to state allocation formula used when appropriations are increasing. Most of these changes reflect the overall change from a 'base year' to FY1999, which is the permanent base year under current circumstances and under S. 1248.

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	(aa) the amount the State received under this			
(bb) one third of one percent of the amount by	section for fiscal year 1999; and			
which the amount appropriated under	(bb) 1/3 of 1 percent of the amount by which			
subsection (j) exceeds the amount appropriated	the amount appropriated under subsection (i)			
under this section for the base year;	for the fiscal year exceeds the amount			
(II) the sum of—	appropriated for this section for fiscal year			
(aa) the amount it received for the preceding	1999;			
fiscal year; and	(II) the sum of—			
(bb) that amount multiplied by the percentage	(aa) the amount the State received under this			
by which the increase in the funds	section for the preceding fiscal year; and			
appropriated from the preceding fiscal year	(bb) that amount multiplied by the percentage			
exceeds 1.5 percent; or	by which the increase in the funds			
(III) the sum of—	appropriated for this section from the			
(aa) the amount it received for the preceding	preceding fiscal year exceeds 1.5 percent; or			
fiscal year; and	(III) the sum of—			
(bb) that amount multiplied by 90 percent of	(aa) the amount the State received under this			
the percentage increase in the amount	section for the preceding fiscal year; and			
appropriated from the preceding fiscal year.	(bb) that amount multiplied by 90 percent of			
(iii) Notwithstanding clause (ii), no State's	the percentage increase in the amount			
allocation under this paragraph shall exceed	appropriated for this section from the			
the sum of—	preceding fiscal year.			
(I) the amount it received for the preceding	(iii) MAXIMUM.—Notwithstanding clause			
fiscal year; and	(ii), no State's allocation under this paragraph			
(II) that amount multiplied by the sum of 1.5	shall exceed the sum of—			
percent and the percentage increase in the	(I) the amount the State received under this			
amount appropriated.	section for the preceding fiscal year; and			
	(II) that amount multiplied by the sum of 1.5			
(C) If the amount available for allocations	percent and the percentage increase in the			
under this paragraph is insufficient to pay	amount appropriated under this section from			
those allocations in full, those allocations shall	the preceding fiscal year.			
be ratably reduced, subject to subparagraph	(C) RATABLE REDUCTION.—If the amount			
(B)(i).	available for allocations under this paragraph			
	is insufficient to pay those allocations in full,			
(4) DECREASE IN FUNDS.—If the amount	those allocations shall be ratably reduced,	S. 1248 wou	ld n	nake only

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available for allocations to States under paragraph (1) is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows: (A) If the amount available for allocations is greater than the amount allocated to the States for the base year, each State shall be allocated the sum of— (i) the amount it received for the base year; and	subject to subparagraph (B)(i). (4) DECREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) for a fiscal year is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows: (A) AMOUNTS GREATER THAN FISCAL YEAR 1999 ALLOCATIONS.—If the amount available for allocations is greater than the amount allocated to the States for <i>fiscal year 1999</i> , each State shall be allocated the sum of—	minor, non-substantive changes.
(ii) an amount that bears the same relation to any remaining funds as the increase the State received for the preceding fiscal year over the base year bears to the total of all such increases for all States.	(i) the amount the State received under this section for <i>fiscal year 1999</i> ; and (ii) an amount that bears the same relation to any remaining funds as the increase the State received under this section for the preceding fiscal year over <i>fiscal year 1999</i> bears to the total of all such increases for all States. (B) AMOUNTS EQUAL TO OR LESS	
(B)(i) If the amount available for allocations is equal to or less than the amount allocated to the States for the base year, each State shall be allocated the amount it received for the base year. (ii) If the amount available is insufficient to make the allocations described in clause (i), those allocations shall be ratably reduced.	THAN FISCAL YEAR 1999 ALLOCATIONS.— (i) IN GENERAL.—If the amount available for allocations under this paragraph is equal to or less than the amount allocated to the States for <i>fiscal year 1999</i> , each State shall be allocated the amount the State received for <i>fiscal year 1999</i> . (ii) RATABLE REDUCTION.—If the amount available for allocations under this paragraph is insufficient to make the allocations described in clause (i), those allocations shall be ratably reduced.	

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(1) GENERAL.— (A) Each State may retain not more than the amount described in subparagraph (B) for administration and other State-level activities in accordance with paragraphs (2) and (3). (B) For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of— (i) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or (ii) the rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.	(2) OTHER STATE-LEVEL ACTIVITIES.— (A) STATE-LEVEL ACTIVITIES.— (i) IN GENERAL.—For the purpose of carrying out State-level activities, each State may reserve for each of the fiscal years 2004 and 2005, not more than 10 percent of the amount that remains after subtracting the amount reserved under paragraph (1) from the amount of the State's allocation under subsection (d) for fiscal years 2004 and 2005, respectively. For fiscal years 2004, 2007, 2008, and 2009, the State may reserve the maximum amount the State was eligible to reserve under the preceding sentence for fiscal year 2005 (adjusted by the cumulative rate of inflation since fiscal year 2005 as measured by the percentage increase, if any, in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor).	Current law and S. 1248 have substantially different provisions for determining the maximum amount states may reserve for state-level activities. Current law sets this amount based on 25% of a state's 1997 grant increased by the lesser of the rate of inflation or the growth rate of the state's overall Sec. 611 grant. For FY2004 and FY2005, S. 1248 would allow up to 10% (12% for small states) of the overall state grant for state-level activities after subtracting the amount reserved for state administration from the total grant. For FY2006-FY2009, the maximum amount is the prior year amount increased by the rate of inflation.
(C) A State may use funds it retains under subparagraph (A) without regard to—	Sec. 611(e)(4) INAPPLICABILITY OF CERTAIN PROHIBITIONS.—A State may	
(i) the prohibition on commingling of funds in	use funds the State reserves under paragraphs	
section 612(a)(18)(B); and	(1), (2), and (3) without regard to—	
(ii) the prohibition on supplanting other funds	(A) the prohibition on commingling of funds	
in section 612(a)(18)(C).	in section 612(a)(17)(B); and	

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	(B) the prohibition on supplanting other funds in section 612(a)(17)(C).	
no comparable provision	(ii) SMALL STATE ADJUSTMENT.— Notwithstanding clause (i), in the case of a State for which the maximum amount reserved for State administration under paragraph (1) is not greater than \$800,000 (as adjusted pursuant to paragraph (1)(A)(i)), the State may reserve for the purpose of carrying out Statelevel activities for each of the fiscal years 2004 and 2005, not more than 12 percent of the amount that remains after subtracting the amount of the State's allocation under subsection (d) for fiscal years 2004 and 2005, respectively. For each of the fiscal years 2006, 2007, 2008, and 2009, each such State may reserve for such purpose the maximum amount the State was eligible to reserve under the preceding sentence for fiscal year 2005 (adjusted by the cumulative rate of inflation since fiscal year 2005 as measured by the percentage increase, if any, in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor).	differentiation based on state size regarding state reserves for state-level activities except regarding the reserve for state administration. (See below.)
(3) OTHER STATE-LEVEL ACTIVITIES.— Each State shall use any funds it retains under paragraph (1) and does not use for administration under paragraph (2) for any of the following:	(B) REQUIRED ACTIVITIES.—Funds reserved under subparagraph (A) shall be used to carry out the following activities:	Current law and S. 1248 have some state-level activities in common, but many that are different. In addition, S. 1248 would have 3 required

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technical assistance and personnel	[This is a permitted activity under (C)(i) below.]	state level activities; current law does not specify any required activities.	
development and training. (B) Administrative costs of monitoring and complaint investigation, but only to the extent that those costs exceed the costs incurred for those activities during fiscal year 1985.	(i) For monitoring, enforcement and complaint investigation.		
(C) To establish and implement the mediation process required by section 615(e), including providing for the costs of mediators and support personnel.	(ii) To establish and implement the mediation, processes required by section 615(e)(1), including providing for the costs of mediators and support personnel; (iii) To support the State protection and		
no comparable activity	advocacy system to advise and assist parents in the areas of— (I) dispute resolution and due process; (II) voluntary mediation; and (III) the opportunity to resolve complaints.		
(D) To assist local educational agencies in meeting personnel shortages.	[permitted activity under (C)(vii) below]	Except where noted,	
	(C) AUTHORIZED ACTIVITIES.—Funds reserved under subparagraph (A) may be used to carry out the following activities:	activities in current law and S. 1248 are not comparable.	
 (E) To develop a State Improvement Plan under subpart 1 of part D. (F) Activities at the State and local levels to meet the performance goals established by the State under section 612(a)(16) and to support 	 (i) For support and direct services, including technical assistance, personnel <i>preparation and professional</i> development and training. (ii) To support paperwork reduction activities, including expanding the use of technology in the IEP process. 	See (A) in current law.	

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implementation of the State Improvement Plan under subpart 1 of part D if the State receives funds under that subpart. (G) To supplement other amounts used to develop and implement a Statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not to exceed one percent of the amount received by the State under this section. This system shall be coordinated with and, to the extent appropriate, build on the system of coordinated services developed by the State under part C of this Act.	(iii) To assist local educational agencies in providing positive behavioral interventions and supports and mental health services for children with disabilities. (iv) To improve the use of technology in the classroom by children with disabilities to enhance learning. (v) To support the development and use of technology, including universally designed technologies and assistive technology devices, to maximize accessibility to the general curriculum for children with disabilities. (vi) Development and implementation of transition programs, including coordination of services with agencies involved in supporting the transition of students with disabilities to post-secondary activities. (vii) To assist local educational agencies in	
(H) For subgrants to local educational agencies for the purposes described in paragraph (4)(A).	meeting personnel shortages. (viii) To support capacity building activities and improve the delivery of services by local educational agencies to improve results for children with disabilities.	See (D) in current law. Current law requires local capacity-building grants in (4)(H) below; S. 1248 would permit states to support these activities.
	 (ix) Alternative programming for children who have been expelled from school, and services for children in correctional facilities, children enrolled in State operated or State-supported schools, and children in charter schools. (x) To support the development and provision of appropriate accommodations for children with disabilities, or the development and provision of alternate assessments that are 	

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	valid and reliable for assessing the performance of children with disabilities, in accordance with sections 1111(b) and 6111 of the Elementary and Secondary Education Act of 1965.	
(5) REPORT ON USE OF FUNDS.—As part of the information required to be submitted to the Secretary under section 612, each State shall annually describe— (A) how amounts retained under paragraph (1) will be used to meet the requirements of this part; (B) how those amounts will be allocated among the activities described in paragraphs (2) and (3) to meet State priorities based on input from local educational agencies; and (C) the percentage of those amounts, if any, that will be distributed to local educational agencies by formula.	Sec. 611(e)(5) REPORT ON USE OF FUNDS.—As part of the information required to be submitted to the Secretary under section 612, each State shall annually describe how amounts under this section— (A) will be used to meet the requirements of this Act; and (B) will be allocated among the activities described in this section to meet State priorities based on input from local educational agencies.	S. 1248 would modify this state reporting requirement.
(2) STATE ADMINISTRATION.— (A) For the purpose of administering this part, including section 619 (including the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities)— (i) each State may use not more than twenty	(1) STATE ADMINISTRATION.— (A) IN GENERAL.—For the purpose of administering this part, including paragraph (3), section 619, and the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities— (i) each State may reserve not more than the	The calculation of the maximum states may reserve for administration differs between current law and S. 1248. Current law permits a
percent of the maximum amount it may retain under paragraph (1)(A) for any fiscal year or \$500,000 (adjusted by the cumulative rate of inflation since fiscal year 1998, as measured by the percentage increase, if any, in the Consumer Price Index For All Urban	maximum amount the State was eligible to reserve for State administration for fiscal year 2003 or \$800,000 (adjusted by the cumulative rate of inflation since fiscal year 2003 as measured by the percentage increase, if any, in the Consumer Price Index For All Urban	maximum of 20% of the overall state reserve calculated in (1)(A) above with a minimum amount of \$500,000 increased annually by the rate of

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Consumers, published by the Bureau of Labor Statistics of the Department of Labor), whichever is greater; and (ii) each outlying area may use up to five percent of the amount it receives under this	Consumers, published by the Bureau of Labor Statistics of the Department of Labor), whichever is greater; and (ii) each outlying area may reserve not more than 5 percent of the amount the outlying area	inflation. S. 1248 would peg the maximum amount to the amount reserved for administration in FY2003 with a \$800,000 minimum amount. It is somewhat unclear whether both amounts or just the \$800,000 is increased annually by the rate of inflation.
section for any fiscal year or \$35,000, whichever is greater. (B) Funds described in subparagraph (A) may also be used for the administration of part C of this Act, if the State educational agency is the lead agency for the State under that part. no comparable provision	receives under subsection (b) for any fiscal year or \$35,000, whichever is greater. (B) PART C.—Funds reserved under subparagraph (A) may be used for the administration of part C, if the State educational agency is the lead agency for the State under that part. (C) CERTIFICATION.—Prior to expenditure of funds under this paragraph, the State shall certify to the Secretary that the arrangements to establish responsibility for services pursuant to section 612(a)(12)(A) are current.	S. 1248 would require that states certify the interagency agreement regarding obligations related to and methods of ensuring services is up to date.
(4)(A) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES FOR CAPACITY-BUILDING AND IMPROVEMENT.—In any fiscal year in which the percentage increase in the State's allocation under this section exceeds the rate of inflation (as measured by the percentage	no comparable provision	Current law requires states, when states' overall Part B grants to states are increasing, to provide capacity-building and improvement grants to local educational

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increase, if any, from the preceding fiscal year		agencies. S. 1248 would
in the Consumer Price Index For All Urban		eliminate these so-called
Consumers, published by the Bureau of Labor		"sliver" grants but would
Statistics of the Department of Labor), each		permit state reserves to be
State shall reserve, from its allocation under		used for a similar
this section, the amount described in		purpose.
subparagraph		In addition, S. 1248
(B) to make subgrants to local educational		would require that states
agencies, unless that amount is less than		create risk pools to assist
\$100,000, to assist them in providing direct		LEAs that serve "high-
services and in making systemic change to		need" children with
improve results for children with disabilities		disabilities. (See below.)
through one or more of the following:		
(i) Direct services, including alternative		
programming for children who have been		
expelled from school, and services for children		
in correctional facilities, children enrolled in		
State-operated or State-supported schools, and		
children in charter schools.		
(ii) Addressing needs or carrying out		
improvement strategies identified in the State's		
Improvement Plan under subpart 1 of part D.		
(iii) Adopting promising practices, materials,		
and technology, based on knowledge derived		
from education research and other sources.		
(iv) Establishing, expanding, or implementing		
interagency agreements and arrangements		
between local educational agencies and other		
agencies or organizations concerning the		
provision of services to children with		
disabilities and their families.		
(v) Increasing cooperative problem-solving		
between parents and school personnel and		
promoting the use of alternative dispute		

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resolution. (B) MAXIMUM SUBGRANT.— For each fiscal year, the amount referred to in subparagraph (A) is— (i) the maximum amount the State was allowed to retain under paragraph (1)(A) for the prior fiscal year, or for fiscal year 1998, 25 percent of the State's allocation for fiscal year 1997 under this section; multiplied by (ii) the difference between the percentage increase in the State's allocation under this section and the rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.		
No comparable provision.	(3) LOCAL EDUCATIONAL AGENCY RISK POOL.— (A) IN GENERAL.—For the purpose of assisting local educational agencies (and charter schools that are local educational agencies) in addressing the needs of high-need children and the unanticipated enrollment of other children eligible for services under this part, each State shall reserve for each of the fiscal years 2004 through 2009, 2 percent of the amount that remains after subtracting the amount reserved under paragraph (1) from the amount of the State's allocation under subsection (d) for each of the fiscal years 2004 through 2009, respectively, to— (i) establish a high-cost fund; and (ii) make disbursements from the high-cost	states to use a portion of

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	fund to local educational agencies	in
	accordance with this paragraph.	
	(B) REQUIRED DISBURSEMENTS FRO	OM
	THE FUND.—	
	(i) IN GENERAL.—Each State educatio	
	agency shall make disbursements from	the
	fund established under subparagraph (A)	
	local educational agencies to pay	the
	percentage, described in subparagraph (D),	, of
	the costs of providing a free appropriate pub	olic
	education to high-need children.	
	(ii) SPECIAL RULE.—If funds reserved for	or a
	fiscal year under subparagraph (A)	are
	insufficient to pay the percentage described	l in
	subparagraph (D) to assist all the lo	ocal
	educational agencies having application	ons
	approved under subparagraph (C), then	the
	State educational agency shall ratably redu	uce
	the amount paid to each local educatio	nal
	agency that receives a disbursement for t	hat
	fiscal year.	
	(C) APPLICATION.—A local educatio	onal
	agency that desires a disbursement under t	this
	subsection shall submit an application to	the
	State educational agency at such time, in su	uch
	manner, and containing such information	as
	the State educational agency may requi	ire.
	Such application shall include assurances t	
	funds provided under this paragraph shall	
	be used to pay costs that otherwise would	
	reimbursable as medical assistance for a ch	
	with a disability under the State medic	
	program under title XIX of the Social Secur	
	Act.	

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	(D) DISBURSEMENTS.—		
	(i) IN GENERAL.—A State educational	L	
	agency shall make a disbursement to a local	L	
	educational agency that submits an application	1	
	under subparagraph (C) in an amount that is	5	
	equal to 75 percent of the costs that are in	1	
	excess of 4 times the average per-pupil		
	expenditure in the United States or in the State	;	
	where the child resides (whichever average	;	
	per-pupil expenditure is lower) associated with		
	educating each high need child served by such		
	local educational agency in a fiscal year for		
	whom such agency desires a disbursement.		
	(ii) APPROPRIATE COSTS.—The costs	5	
	associated with educating a high need child	i	
	under clause (i) are only those costs associated	i	
	with providing direct special education and	i	
	related services to such child that are identified	i	
	in such child's appropriately developed IEP.		
	(E) LEGAL FEES.—The disbursements under		
	subparagraph (D) shall not support legal fees.	,	
	court costs, or other costs associated with a		
	cause of action brought on behalf of such child	i	
	to ensure a free appropriate public education	1	
	for such child.		
	(F) PERMISSIBLE DISBURSEMENTS	,	
	FROM REMAINING FUNDS.—A State	,	
	educational agency may make disbursements	5	
	to local educational agencies from any funds		
	that are remaining in the high cost fund after		
	making the required disbursements under		
	subparagraph (D) for a fiscal year for the		
	following purposes:		
	(i) To pay the costs associated with serving	,	

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	children with disabilities who moved into the			
	areas served by such local			
	agencies after the budget for the following			
	school year had been finalized to assist the			
	local educational agencies in providing a free			
	appropriate public education for such children			
	in such year.			
	(ii) To compensate local educational agencies			
	for extraordinary costs, as determined by the			
	State, of any children eligible for services			
	under this part due to—			
	(I) unexpected enrollment or placement of			
	children eligible for services under this part; or			
	(II) a significant underestimate of the average			
	cost of providing services to children eligible			
	for services under this part.			
	(G) REMAINING FUNDS.—Funds reserved			
	under subparagraph (A) in any fiscal year but			
	not expended in that fiscal year pursuant to			
	subparagraph (D) or subparagraph (F) shall—			
	(i) be allocated to local educational agencies			
	pursuant to subparagraphs (D) or (F) for the			
	next fiscal year; or			
	(ii) be allocated to local educational agencies			
	in the same manner as funds are			
	allocated to local educational agencies under			
	subsection (f).			
	(H) ASSURANCE OF A FREE			
	APPROPRIATE PUBLIC EDUCATION.—			
	Nothing in this section shall be construed—			
	(i) to limit or condition the right of a child with			
	a disability who is assisted under this part to			
	receive a free appropriate public education			
	pursuant to section 612(a)(1) in a least			

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	restrictive environment pursuant to section		
	612(a)(5); or		
	(ii) to authorize a State educational agency or		
	local educational agency to indicate a limit on		
	what is expected to be spent on the education		
	of a child with a disability.		
	(I) MEDICAID SERVICES NOT		
	AFFECTED.—Disbursements provided under		
	this subsection shall not be used to pay costs		
	that otherwise would be reimbursable as		
	medical assistance for a child with a disability		
	under the State medicaid program under title		
	XIX of the Social Security Act.		
	(J) DEFINITIONS.—In this paragraph:		
	(i) AVERAGE PER-PUPIL		
	EXPENDITURE.—The term 'average per-		
	pupil expenditure' has the meaning given the		
	term in section 9101 of the Elementary and		
	Secondary Education Act of 1965.		
	(ii) HIGH-NEED CHILD.—The term 'high-		
	need', when used with respect to a child with a		
	disability, means a child with a disability for		
	whom a free appropriate public education in a		
	fiscal year costs more than 4 times the average		
	per-pupil expenditure for such fiscal year.		
	(K) SPECIAL RULE FOR RISK POOL AND		
	HIGH-NEED ASSISTANCE PROGRAMS IN		
	EFFECT AS OF JANUARY 1, 2003.—		
	Notwithstanding the provisions of		
	subparagraphs (A) through (J), a State may use		
	funds reserved pursuant to this paragraph for		
	administering and implementing a placement-		
	neutral cost-sharing and reimbursement		
	program of high-need, low-incidence,		

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	emergency, catastrophic, or extraordinary aid to local educational agencies that provides services to students eligible under this part based on eligibility criteria for such programs that were operative on January 1, 2003.	
	(6) FLEXIBILITY IN USING FUNDS FOR PART C.—Any State eligible to receive a grant under section 619 may use funds made available under paragraph (1)(A), subsection (f)(3), or section 619(f)(5) to develop and implement a State policy jointly with the lead agency under part C and the State educational agency to provide early intervention services (which shall include an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills) in accordance with part C to children with disabilities who are eligible for services under section 619 and who previously received services under part C until such children enter, or are eligible under State law to enter, kindergarten.	
611(g) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—(1) SUBGRANTS REQUIRED.—Each State that receives a grant under this section for any fiscal year shall distribute any funds it does not retain under subsection (f) (at least 75 percent of the grant funds) to local educational agencies in the State that have established their eligibility under section 613, and to State agencies that received funds under section	611(f) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.— (1) SUBGRANTS REQUIRED.—Each State that receives a grant under this section for any fiscal year shall distribute any funds the State does not reserve under subsection (e) to local educational agencies (including public charter schools that operate as local educational agencies) in the State that have established their eligibility under section 613 for use in	The subgrant formulas under current law and S. 1248 are the same, except for minor changes, such as references to 'base year' vs. 'fiscal year 1999'.

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614A(a) of this Act for fiscal year 1997, as then in effect, and have established their eligibility under section 613, for use in accordance with this part.	accordance with this part.			
(2) ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—(A) INTERIM PROCEDURE.—For each fiscal year for which funds are allocated to States under subsection (d)(2), each State shall allocate funds under paragraph (1) in accordance with section 611(d) of this Act, as in effect prior to the enactment of the Individuals with Disabilities Education Act	S. 1248 would eliminate the interim procedure, which is no longer applicable.			
Amendments of 1997.	(2) PROCEDURE FOR ALLOCATIONS TO			
(B) PERMANENT PROCEDURE.—For each	LOCAL EDUCATIONAL AGENCIES.—			
fiscal year for which funds are allocated to	(A) PROCEDURE.—For each fiscal year for			
States under subsection (e), each State shall allocate funds under paragraph (1) as follows:	which funds are allocated to States under subsection (d), each State shall allocate funds under paragraph (1) as follows: (i) BASE PAYMENTS.—The State shall first			
(i) BASE PAYMENTS.—The State shall first	award each local educational agency described			
award each agency described in paragraph (1)	in paragraph (1) the amount the local			
the amount that agency would have received	educational agency would have received under			
under this section for the base year, as defined in subsection (a)(2)(A) if the State had	this section for <i>fiscal year 1999</i> , if the State			
in subsection (e)(2)(A), if the State had distributed 75 percent of its grant for that year	had distributed 75 percent of its grant for that year under section 611(d) as section 611(d)			
under section 611(d), as then in effect.	was then in effect.			
and section of I(a), as then in effect.	(ii) ALLOCATION OF REMAINING			
(ii) ALLOCATION OF REMAINING	FUNDS.—After making allocations under			
FUNDS.—After making allocations under	clause (i), the State shall—			
clause (i), the State shall—	(I) allocate 85 percent of any remaining funds			
(I) allocate 85 percent of any remaining funds	to those local educational agencies on the basis			
to those agencies on the basis of the relative	of the relative numbers of children enrolled in			
numbers of children enrolled in public and	public and private elementary schools and			

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private elementary and secondary schools within the agency's jurisdiction; and (II) allocate 15 percent of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.	secondary schools within the local educational agency's jurisdiction; and (II) allocate 15 percent of those remaining funds to those local educational agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency. S. 1248 would eliminate this paragraph.			
(3) FORMER CHAPTER 1 STATE AGENCIES.— (A) To the extent necessary, the State— (i) shall use funds that are available under subsection (f)(1)(A) to ensure that each State agency that received fiscal year 1994 funds under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 receives, from the combination of funds under subsection (f)(1)(A) and funds provided under paragraph (1) of this subsection, an amount equal to— (I) the number of children with disabilities, aged 6 through 21, to whom the agency was providing special education and related services on December 1 of the fiscal year for which the funds were appropriated, subject to the limitation in subparagraph (B); multiplied by (II) the per-child amount provided under such subpart for fiscal year 1994; and (ii) may use those funds to ensure that each local educational agency that received fiscal year 1994 funds under that subpart for children who had transferred from a State-operated or State-				

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supported school or program assisted under that subpart receives, from the combination of funds available under subsection (f)(1)(A) and funds provided under paragraph (1) of this subsection, an amount for each such child, aged 3 through 21 to whom the agency was providing special education and related services on December 1 of the fiscal year for which the funds were appropriated, equal to the per-child amount the agency received under that subpart for fiscal year 1994. (B) The number of children counted under subparagraph (A)(i)(I) shall not exceed the number of children aged 3 through 21 for whom the agency received fiscal year 1994 funds under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965. (4) REALLOCATION OF FUNDS.—If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by that agency with State and local funds, the State educational agency may reallocate any portion of the funds under this part that are not needed by that local agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas they serve.	(3) REALLOCATION OF FUNDS.—If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by that local educational agency with State and local funds, the State educational agency may reallocate any portion of the funds under this part that are not needed by that local educational agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas served by those other local educational agencies.	

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611(h) DEFINITIONS.—For the purpose of this section— (1) the term 'average per-pupil expenditure in public elementary and secondary schools in the United States' means— (A) without regard to the source of funds— (i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the 50 States and the District of Columbia); plus (ii) any direct expenditures by the State for the operation of those agencies; divided by (B) the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year; and (2) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.	611(g) DEFINITIONS.—For the purpose of this section— (1) the term 'average per-pupil expenditure in public elementary schools and secondary schools in the United States' means— (A) without regard to the source of funds— (i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the 50 States and the District of Columbia; plus (ii) any direct expenditures by the State for the operation of those local educational agencies; divided by (B) the aggregate number of children in average daily attendance to whom those local educational agencies provided free public education during that preceding year; and (2) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.	
611(i) USE OF AMOUNTS BY SECRETARY OF THE INTERIOR.— (1) PROVISION OF AMOUNTS FOR ASSISTANCE.— (A) IN GENERAL.—The Secretary of Education shall provide amounts to the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations aged 5 to 21,	611(h) USE OF AMOUNTS BY SECRETARY OF THE INTERIOR.— (1) PROVISION OF AMOUNTS FOR ASSISTANCE.— (A) IN GENERAL.—The Secretary of Education shall provide amounts to the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations aged 5 through 21	subsection (i) of current law and subsection (h) of

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inclusive, enrolled in elementary and	who are enrolled in elementary schools and			
secondary schools for Indian children operated	secondary schools for Indian children operated			
or funded by the Secretary of the Interior. The	or funded by the Secretary of the Interior. The			
amount of such payment for any fiscal year	amount of such payment for any fiscal year			
shall be equal to 80 percent of the amount	shall be equal to 80 percent of the amount			
allotted under subsection (c) for that fiscal	allotted under subsection (c) for that fiscal			
year.	year.			
(B) CALCULATION OF NUMBER OF	(B) CALCULATION OF NUMBER OF			
CHILDREN.—In the case of Indian students	CHILDREN.—In the case of Indian students			
aged 3 to 5, inclusive, who are enrolled in	aged 3 through 5 who are enrolled in programs			
programs affiliated with the Bureau of Indian	affiliated with the Bureau of Indian Affairs			
Affairs (hereafter in this subsection referred to	(hereafter in this subsection referred to as			
as 'BIA') schools and that are required by the	'BIA') schools, and that are required by the			
States in which such schools are located to	States in which such schools are located to			
attain or maintain State accreditation, and	attain or maintain State accreditation, and			
which schools have such accreditation prior to	which schools had such accreditation prior to			
the date of enactment of the Individuals with	the date of enactment of the Individuals with			
Disabilities Education Act Amendments of	Disabilities Education Act Amendments of			
1991, the school shall be allowed to count	1991, the school shall be allowed to count			
those children for the purpose of distribution	those children for the purpose of distribution			
of the funds provided under this paragraph to	of the funds provided under this paragraph to			
the Secretary of the Interior. The Secretary of	the Secretary of the Interior. The Secretary of			
the Interior shall be responsible for meeting all	the Interior shall be responsible for meeting all			
of the requirements of this part for these	of the requirements of this part for these			
children, in accordance with paragraph (2)	children, in accordance with paragraph (2).			
(C) ADDITIONAL REQUIREMENT.—With	(C) ADDITIONAL REQUIREMENT.—With			
respect to all other children aged 3 to 21,	respect to all other children aged 3 through 21			
inclusive, on reservations, the State	on reservations, the State educational agency			
educational agency shall be responsible for	shall be responsible for ensuring that all of the			
ensuring that all of the requirements of this	requirements of this part are implemented.			
part are implemented.	(2) SUBMISSION OF INFORMATION.—			
(2) SUBMISSION OF INFORMATION.—	The Secretary of Education may provide the			
The Secretary of Education may provide the	Secretary of the Interior amounts under			
Secretary of the Interior amounts under	paragraph (1) for a fiscal year only if the			

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paragraph (1) for a fiscal year only if the	Secretary of the Interior submits to the		
Secretary of the Interior submits to the	Secretary of Education information that—		
Secretary of Education information that—	(A) demonstrates that the Department of the		
(A) demonstrates that the Department of the	Interior meets the appropriate requirements, as		
Interior meets the appropriate requirements, as	determined by the Secretary of Education, of		
determined by the Secretary of Education, of	sections 612 (including monitoring and		
sections 612 (including monitoring and	evaluation activities) and 613;		
evaluation activities) and 613;	(B) includes a description of how the Secretary		
(B) includes a description of how the Secretary	of the Interior will coordinate the provision of		
of the Interior will coordinate the provision of	services under this part with local educational		
services under this part with local educational	agencies, tribes and tribal organizations, and		
agencies, tribes and tribal organizations, and	other private and Federal service providers;		
other private and Federal service providers;	(C) includes an assurance that there are public		
(C) includes an assurance that there are public	hearings, adequate notice of such hearings, and		
hearings, adequate notice of such hearings, and	an opportunity for comment afforded to		
an opportunity for comment afforded to	members of tribes, tribal governing bodies, and		
members of tribes, tribal governing bodies, and	affected local school boards before the		
affected local school boards before the	adoption of the policies, programs, and		
adoption of the policies, programs, and	procedures described in subparagraph (A);		
procedures described in subparagraph (A);	(D) includes an assurance that the Secretary of		
(D) includes an assurance that the Secretary of	the Interior will provide such information as		
the Interior will provide such information as	the Secretary of Education may require to		
the Secretary of Education may require to	comply with section 618;		
comply with section 618;	(E) includes an assurance that the Secretary of		
(E) includes an assurance that the Secretary of	the Interior and the Secretary of Health and		
the Interior and the Secretary of Health and	Human Services have entered into a		
Human Services have entered into a	memorandum of agreement, to be provided to		
memorandum of agreement, to be provided to	the Secretary of Education, for the		
the Secretary of Education, for the	coordination of services, resources, and		
coordination of services, resources, and	personnel between their respective Federal,		
personnel between their respective Federal,	State, and local offices and with State and		
State, and local offices and with State and	local educational agencies and other entities to		
local educational agencies and other entities to	facilitate the provision of services to Indian		
facilitate the provision of services to Indian	children with disabilities residing on or near		

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children with disabilities residing on or near reservations (such agreement shall provide for the apportionment of responsibilities and costs including, but not limited to, child find, evaluation, diagnosis, remediation or therapeutic measures, and (where appropriate) equipment and medical or personal supplies as needed for a child to remain in school or a program); and (F) includes an assurance that the Department of the Interior will cooperate with the Department of Education in its exercise of monitoring and oversight of this application, and any agreements entered into between the Secretary of the Interior and other entities under this part, and will fulfill its duties under this part.	reservations (such agreement shall provide for the apportionment of responsibilities and costs including, but not limited to, child find, evaluation, diagnosis, remediation or therapeutic measures, and (where appropriate) equipment and medical or personal supplies as needed for a child to remain in school or a program); and (F) includes an assurance that the Department of the Interior will cooperate with the Department of Education in its exercise of monitoring and oversight of this application, and any agreements entered into between the Secretary of the Interior and other entities under this part, and will fulfill its duties under this part.	Changes		
Section 616(a) shall apply to the information described in this paragraph.	(3) APPLICABILITY.—Section 616(a) shall apply to the information described in this paragraph. [Sec. 616(a) deals with federal and state monitoring]			
(3) PAYMENTS FOR EDUCATION AND SERVICES FOR INDIAN CHILDREN WITH DISABILITIES AGED 3 THROUGH 5.— (A) IN GENERAL.—With funds appropriated under subsection (j), the Secretary of Education shall make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act) or consortia of the	(4) PAYMENTS FOR EDUCATION AND SERVICES FOR INDIAN CHILDREN WITH DISABILITIES AGED 3 THROUGH 5.— (A) IN GENERAL.—With funds appropriated under subsection (i), the Secretary of Education shall make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act) or consortia of the			

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above to provide for the coordination of	above to provide for the coordination of		
assistance for special education and related	assistance for special education and related		
services for children with disabilities aged 3	services for children with disabilities aged 3		
through 5 on reservations served by	through 5 on reservations served by		
elementary and secondary schools for Indian	elementary schools and secondary schools for		
children operated or funded by the Department	Indian children operated or funded by the		
of the Interior. The amount of such payments	Department of the Interior. The amount of		
under subparagraph (B) for any fiscal year	such payments under subparagraph (B) for any		
shall be equal to 20 percent of the amount	fiscal year shall be equal to 20 percent of the		
allotted under subsection (c).	amount allotted under subsection (c).		
(B) DISTRIBUTION OF FUNDS.—The	(B) DISTRIBUTION OF FUNDS.—The		
Secretary of the Interior shall distribute the	Secretary of the Interior shall distribute the		
total amount of the payment under	total amount of the payment under		
subparagraph (A) by allocating to each tribe or	subparagraph (A) by allocating to each tribe or		
tribal organization an amount based on the	tribal organization an amount based on the		
number of children with disabilities ages 3	number of children with disabilities ages 3		
through 5 residing on reservations as reported	through 5 residing on reservations as reported		
annually, divided by the total of those children	annually, divided by the total of those children		
served by all tribes or tribal organizations.	served by all tribes or tribal organizations.		
(C) SUBMISSION OF INFORMATION.—To	(C) SUBMISSION OF INFORMATION.—To		
receive a payment under this paragraph, the	receive a payment under this paragraph, the		
tribe or tribal organization shall submit such	tribe or tribal organization shall submit such		
figures to the Secretary of the Interior as	figures to the Secretary of the Interior as		
required to determine the amounts to be	required to determine the amounts to be		
allocated under subparagraph (B). This	allocated under subparagraph (B). This		
information shall be compiled and submitted to	information shall be compiled and submitted to		
the Secretary of Education.	the Secretary of Education.		
(D) USE OF FUNDS.—The funds received by	(D) USE OF FUNDS.—The funds received by		
a tribe or tribal organization shall be used to	a tribe or tribal organization shall be used to		
assist in child find, screening, and other	assist in child find, screening, and other		
procedures for the early identification of	procedures for the early identification of		
children aged 3 through 5, parent training, and	children aged 3 through 5, parent training, and		
the provision of direct services. These	the provision of direct services. These		
activities may be carried out directly or	activities may be carried out directly or		

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through contracts or cooperative agreements	through contracts or cooperative agreements			
with the BIA, local educational agencies, and	with the BIA, local educational agencies, and			
other public or private nonprofit organizations.	other public or private nonprofit organizations.			
The tribe or tribal organization is encouraged	The tribe or tribal organization is encouraged			
to involve Indian parents in the development	to involve Indian parents in the development			
and implementation of these activities. The	and implementation of these activities. The			
above entities shall, as appropriate, make	above entities shall, as appropriate, make			
referrals to local, State, or Federal entities for	referrals to local, State, or Federal entities for			
the provision of services or further diagnosis.	the provision of services or further diagnosis.			
(E) BIENNIAL REPORT.—To be eligible to	(E) BIENNIAL REPORT.—To be eligible to			
receive a grant pursuant to subparagraph (A),	receive a grant pursuant to subparagraph (A),			
the tribe or tribal organization shall provide to	the tribe or tribal organization shall provide to			
the Secretary of the Interior a biennial report of	the Secretary of the Interior a biennial report of			
activities undertaken under this paragraph,	activities undertaken under this paragraph,			
including the number of contracts and	including the number of contracts and			
cooperative agreements entered into, the	cooperative agreements entered into, the			
number of children contacted and receiving	number of children contacted and receiving			
services for each year, and the estimated	services for each year, and the estimated			
number of children needing services during the	number of children needing services during the			
2 years following the one in which the report is	2 years following the year in which the report			
made. The Secretary of the Interior shall	is made. The Secretary of the Interior shall			
include a summary of this information on a	include a summary of this information on a			
biennial basis in the report to the Secretary of	biennial basis in the report to the Secretary of			
Education required under this subsection. The	Education required under this subsection. The			
Secretary of Education may require any	Secretary of Education may require any			
additional information from the Secretary of	additional information from the Secretary of			
the Interior.	the Interior.			
(F) PROHIBITIONS.—None of the funds	(F) PROHIBITIONS.—None of the funds			
allocated under this paragraph may be used by	allocated under this paragraph may be used by			
the Secretary of the Interior for administrative	the Secretary of the Interior for administrative			
purposes, including child count and the	purposes, including child count and the			
provision of technical assistance.	provision of technical assistance.			
(4) PLAN FOR COORDINATION OF	(5) PLAN FOR COORDINATION OF			
SERVICES.—The Secretary of the Interior	SERVICES.— The Secretary of the Interior			

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shall develop and implement a plan for the	shall develop and implement a plan for the			
coordination of services for all Indian children	coordination of services for all Indian children			
with disabilities residing on reservations	with disabilities residing on reservations			
covered under this Act. Such plan shall	covered under this Act. Such plan shall			
provide for the coordination of services	provide for the coordination of services			
benefiting these children from whatever	benefiting these children from whatever			
source, including tribes, the Indian Health	source, including tribes, the Indian Health			
Service, other BIA divisions, and other Federal	Service, other BIA divisions, and other Federal			
agencies. In developing the plan, the Secretary	agencies. In developing the plan, the Secretary			
of the Interior shall consult with all interested	of the Interior shall consult with all interested			
and involved parties. It shall be based on the	and involved parties. The plan shall be based			
needs of the children and the system best	on the needs of the children and the system			
suited for meeting those needs, and may	best suited for meeting those needs, and may			
involve the establishment of cooperative	involve the establishment of cooperative			
agreements between the BIA, other Federal	agreements between the BIA, other Federal			
agencies, and other entities. The plan shall also	agencies, and other entities. The plan shall			
be distributed upon request to States, State and	also be distributed upon request to States, State			
local educational agencies, and other agencies	and local educational agencies, and other			
providing services to infants, toddlers, and	agencies providing services to infants,			
children with disabilities, to tribes, and to other	toddlers, and children with disabilities, to			
interested parties.	tribes, and to other interested parties.			
(5) ESTABLISHMENT OF ADVISORY	(6) ESTABLISHMENT OF ADVISORY			
BOARD.—To meet the requirements of	BOARD.— To meet the requirements of			
section $612(a)(\underline{21})$, the Secretary of the Interior	section 612(a)(20), the Secretary of the Interior			
shall establish, <u>not later than 6 months after the</u>	shall establish,			
date of the enactment of the Individuals with				
Disabilities Education Act Amendments of				
<u>1997,</u>				
under the BIA, an advisory board composed of	under the BIA, an advisory board composed of			
individuals involved in or concerned with the	individuals involved in or concerned with the			
education and provision of services to Indian	education and provision of services to Indian			
infants, toddlers, children, and youth with	infants, toddlers, children, and youth with			
disabilities, including Indians with disabilities,	disabilities, including Indians with disabilities,			
Indian parents or guardians of such children,	Indian parents or guardians of such children,			

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teachers, service providers, State and local	teachers, service providers, State and local			
educational officials, representatives of tribes	educational officials, representatives of tribes			
or tribal organizations, representatives from	or tribal organizations, representatives from			
State Interagency Coordinating Councils under	State Interagency Coordinating Councils under			
section 641 in States having reservations, and	section 641 in States having reservations, and			
other members representing the various	other members representing the various			
divisions and entities of the BIA. The	divisions and entities of the BIA. The			
chairperson shall be selected by the Secretary	chairperson shall be selected by the Secretary			
of the Interior. The advisory board shall—	of the Interior. The advisory board shall—			
(A) assist in the coordination of services	(A) assist in the coordination of services			
within the BIA and with other local, State, and	within the BIA and with other local, State, and			
Federal agencies in the provision of education	Federal agencies in the provision of education			
for infants, toddlers, and children with	for infants, toddlers, and children with			
disabilities;	disabilities;			
(B) advise and assist the Secretary of the	(B) advise and assist the Secretary of the			
Interior in the performance of the Secretary's	Interior in the performance of the Secretary's			
responsibilities described in this subsection;	responsibilities described in this subsection;			
(C) develop and recommend policies	(C) develop and recommend policies			
concerning effective inter- and intra-agency	concerning effective inter and intra-agency			
collaboration, including modifications to	collaboration, including modifications to			
regulations, and the elimination of barriers to	regulations, and the elimination of barriers to			
inter- and intra-agency programs and	interand intra-agency programs and activities;			
activities;	(D) provide assistance and disseminate			
(D) provide assistance and disseminate	information on best practices, effective			
information on best practices, effective	program coordination strategies, and			
program coordination strategies, and	recommendations for improved educational			
recommendations for improved educational	programming for Indian infants, toddlers, and			
programming for Indian infants, toddlers, and	children with disabilities; and			
children with disabilities; and	(E) provide assistance in the preparation of			
(E) provide assistance in the preparation of	information required under paragraph (2)(D).			
information required under paragraph (2)(D).	(7) ANNUAL REPORTS.—			
(6) ANNUAL REPORTS.—	(A) IN GENERAL.—The advisory board			
(A) IN GENERAL.—The advisory board	established under paragraph (6) shall prepare			
established under paragraph (5) shall prepare	and submit to the Secretary of the Interior and			

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and submit to the Secretary of the Interior and to the Congress an annual report containing a description of the activities of the advisory board for the preceding year. (B) AVAILABILITY.—The Secretary of the Interior shall make available to the Secretary of Education the report described in subparagraph (A).	to Congress an annual report containing a description of the activities of the advisory board for the preceding year. (B) AVAILABILITY.—The Secretary of the Interior shall make available to the Secretary of Education the report described in subparagraph (A).	
611(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, other than section 619, there are authorized to be appropriated such sums as may be necessary.	611(i) Same as current law.	
SEC. 612. STATE ELIGIBILITY. 612(a) IN GENERAL.—A State is eligible for assistance under this part for a fiscal year if the State demonstrates to the satisfaction of the Secretary that the State has in effect policies and procedures to ensure that it meets each of the following conditions:	SEC. 612. STATE ELIGIBILITY. 612(a) IN GENERAL.—A State is eligible for assistance under this part for a fiscal year if the State submits a plan that provides assurances to the Secretary that the State has in effect policies and procedures to ensure that the State meets each of the following conditions:	Current law requires that states, to be eligible under Part B, must demonstrate to the Secretary that policies and procedures are in effect; S. 1248 would require that states submit a plan that
(1) FREE APPROPRIATE PUBLIC EDUCATION.— (A) IN GENERAL.—A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children	The S. 1248 FAPE requirements in subparagraphs (A) and (B) are the same as current law except that S. 1248 adds the following subparagraph at the end of paragraph (1):	provides assurances that policies and procedures are in effect.
with disabilities who have been suspended or expelled from school. (B) LIMITATION.—The obligation to make a free appropriate public education available to all children with disabilities does not apply	(C) STATE FLEXIBILITY.—A State that provides early intervention services in accordance with part C to a child who is eligible for services under section 619, is not required to provide such child with a free	S. 1248 would permit services under Part C (the Infants and Toddlers program) to continue (at

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with respect to children: (i) aged 3 through 5 and 18 through 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or the order of any court, respecting the provision of public education to children in those age ranges; and (ii) aged 18 through 21 to the extent that State law does not require that special education and related services under this part be provided to children with disabilities who, in the educational placement prior to their incarceration in an adult correctional facility: (I) were not actually identified as being a child with a disability under section 602(3) of this Act; or (II) did not have an individualized education program under this part.	appropriate public education.	the parents' discretion) for older children who are eligible for services under the preschool program (Sec. 619). This new provision states that the early intervention services of Part C, not the requirement of a free appropriate public education, are applicable to such children.
612(a)(2) FULL EDUCATIONAL OPPORTUNITY GOAL.—The State has established a goal of providing full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal.	612(a)(2) Same as current law.	
612(a)(3) CHILD FIND.— (A) IN GENERAL.—All children with disabilities residing in the State, including children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine	612(a)(3) Same as current law.	

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which children with disabilities are currently receiving needed special education and related services. (B) CONSTRUCTION.—Nothing in this Act requires that children be classified by their disability so long as each child who has a disability listed in section 602 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under this part.		
612(a)(4) INDIVIDUALIZED EDUCATION PROGRAM.—An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with section 614(d).	612(a)(4) Same as current law.	
612(a)(5) LEAST RESTRICTIVE ENVIRONMENT.— (A) IN GENERAL.—To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (B) ADDITIONAL REQUIREMENT.—	612(a)(5) LEAST RESTRICTIVE ENVIRONMENT.— (A) Same as current law. (B) ADDITIONAL REQUIREMENT.— (i) IN GENERAL.—A State funding mechanism shall not result in placements that	S. 1248 would change, and appear to strengthen, the protections for

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(i) IN GENERAL.—If the State uses a funding mechanism by which the State distributes State funds on the basis of the type of setting in which a child is served, the funding mechanism does not result in placements that violate the requirements of subparagraph (A)	violate the requirements of subparagraph (A), and a State shall not use a funding mechanism by which the State distributes funds on the basis of the type of setting in which a child is served that will result in the failure to provide a child with a disability a free appropriate public education according to the unique needs of the child as described in the child's IEP. (B)(ii) same as current law	children with disabilities in the provision related to state special education formulas based on the settings in which children with disabilities are served.
(ii) ASSURANCE.—If the State does not have policies and procedures to ensure compliance with clause (i), the State shall provide the Secretary an assurance that it will revise the funding mechanism as soon as feasible to ensure that such mechanism does not result in such placements.		
612(a)(6) PROCEDURAL SAFEGUARDS.— (A) IN GENERAL.—Children with disabilities and their parents are afforded the procedural safeguards required by section 615. (B) ADDITIONAL PROCEDURAL SAFEGUARDS.—Procedures to ensure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the	612(a)(6) Same as current law.	

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sole criterion for determining an appropriate educational program for a child.		
612(a)(7) EVALUATION.—Children with disabilities are evaluated in accordance with subsections (a) through (c) of section 614.	612(a)(7) EVALUATION.—Children with disabilities are evaluated in accordance with subsections (a) and (b) of section 614.	S. 1248's language is the same except for revised references to subsections of Sec. 614.
612(a)(8) CONFIDENTIALITY.—Agencies in the State comply with section 617(c) (relating to the confidentiality of records and information).	612(a)(8) Same as current law.	
612(a)(9) TRANSITION FROM PART C TO PRESCHOOL PROGRAMS.—Children participating in early-intervention programs assisted under part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(8). By the third birthday of such a child, an individualized education program or, if consistent with sections 614(d)(2)(B) and 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 637(a)(8).	612(a)(9) TRANSITION FROM PART C TO PRESCHOOL PROGRAMS.—Children participating in early-intervention programs assisted under part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(8). By the third birthday of such a child, an individualized education program or, if consistent with sections 614(d)(2)(B) and 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10).	Same as current law except for a revised cross-reference to Part C.
612(a)(10) CHILDREN IN PRIVATE SCHOOLS.—(A) CHILDREN ENROLLED IN PRIVATE SCHOOLS BY THEIR PARENTS.—(i) IN GENERAL.—To the extent consistent with the number and location	612(a)(10) CHILDREN IN PRIVATE SCHOOLS.— (A) CHILDREN ENROLLED IN PRIVATE SCHOOLS BY THEIR PARENTS.—(i) IN	S. 1248 would keep the general provision in current law that children with disabilities enrolled in private school by their

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of children with disabilities in the State who are enrolled by their parents in private elementary and secondary schools, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the following requirements, unless the Secretary has arranged for services to those children under subsection (f): (I) Amounts expended for the provision of those services by a local educational agency shall be equal to a proportionate amount of Federal funds made available under this part. (II) Such services may be provided to children with disabilities on the premises of private, including parochial. schools, to the extent consistent with law.

(ii) CHILD-FIND REQUIREMENT.—The requirements of paragraph (3) of this subsection (relating to child find) shall apply with respect to children with disabilities in the State who are enrolled in private, including parochial, elementary and secondary schools.

GENERAL.—To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in elementary schools private secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the following requirements, unless the Secretary has arranged for services to those children under subsection (f): (I) Amounts to be expended for the provision of those services (including direct services to parentally placed children) by the local educational agency shall be equal to a proportionate amount of Federal funds made available under this part. (II) Such services may be provided to children with disabilities on the premises of private, including *religious*, schools, to the extent consistent with law. (III) Each local educational agency shall maintain in its records and provide to State educational agency the

participate parents **IDEA** programs with expended being funds equal to a proportional amount of federal funds available under IDEA. However, S. 1248 would make significant changes limiting this requirement to children who are enrolled by their in private parents schools elementary and secondary schools in the school district served by a local educational agency. New provisions would be added by S. 1248 regarding record keeping, and child-find requirements. There also would be new provisions requiring consultation with representatives of children who are parentally placed in private schools, written affirmation of this consultation, and compliance procedures. S. 1248 would require that the control of funds

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	number of children evaluated under this paragraph, the number of children determined to be children with disabilities, and the number of children served under this subsection. (ii) CHILD-FIND REQUIREMENT.— (I) IN GENERAL.—The requirements of paragraph (3) of this subsection (relating to child find) shall apply with respect to children with disabilities in the State who are enrolled in private, including religious, elementary schools and secondary schools. Such child find process shall be conducted in a comparable time period as for other students attending public schools in the local educational agency. (II) EQUITABLE PARTICIPATION.—The child find process shall be designed to ensure the equitable participation of parentally placed private school children and an accurate count of such children. (III) ACTIVITIES.—In carrying out this clause, the local educational agency, or where applicable, the State educational agency, shall undertake activities similar to those activities undertaken for its public school children. (IV) COST.—	used to provide special education and related services as well as title to materials, equipment, and property purchased with those funds, shall be in and administered by a

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	The cost of carrying out this claus	
	including individual evaluations, m	-
	not be considered in determini	C
	whether a local education agency h	as
	met its obligations under clause (i).	
	(iii) CONSULTATION.—To ensu	
	timely and meaningful consultation,	
	local educational agency, or whe	
	appropriate, a State education	
	agency, shall consult, wi	
	representatives of children wi	
	disabilities who are parentally placed	
	private schools, during the design as	
	development of special education as	
	related services for these childre	
	including consultation regarding—	
	the child find process and ho	
	parentally placed private scho	
	children suspected of having a disabili	
	can participate equitably, including ho	
	parents, teachers, and private scho	
	officials will be informed of the proces	
		he
	proportionate share of Federal fund	
	available to serve parentally place	
	private school children with disabiliti	
	under this paragraph, including the	he
	determination of how the proportiona	ite
	share of those funds were calculate	d;

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(III) the consultation process among the school district, private school officials, and parents of parentally placed private school children with disabilities, including how such process will operate throughout the school year to ensure that parentally placed children with disabilities identified through the child find process can meaningfully participate in special education and related services; (IV) how, where, and by whom special education and related services will be provided for parentally placed private school children, including a discussion of alternate service delivery mechanisms, how such services will be apportioned if funds are insufficient to serve all children, and how and when these decisions will be made; and (V) how, if the local educational agency disagrees with the views of the private school officials on the provision of services through a contract, the local educational agency shall provide to the private school officials a written explanation of the reasons why the local educational agency chose not to provide services through a contract.		

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(B) CHILDREN PLACED IN, OR REFERRED TO, PRIVATE SCHOOLS BY PUBLIC AGENCIES.—(i) IN GENERAL.—Children with disabilities in private schools and facilities are provided special education and related services, in accordance with an individualized education program, at no cost to their parents, if such children are placed in, or referred to, such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this part or any other applicable law requiring the provision of special education and related services to all children with disabilities within such State. (ii) STANDARDS.—In all cases described in clause (i), the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local	(iv) WRITTEN AFFIRMATION.—When timely and meaningful consultation as required by this section has occurred, the local educational agency shall obtain a written affirmation signed by the representatives of participating private schools, and if such officials do not provide such affirmations within a reasonable period of time, the local educational agency shall forward the documentation of the consultation process to the State educational agency. (v) COMPLIANCE.— (I) IN GENERAL.—A private school official shall have the right to complain to the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school official. (II) PROCEDURE.—If the private school official wishes to complain, the official shall provide the basis of the noncompliance with this section by the local educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency. If the private			

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educational agencies and that children so served have all the rights they would have if served by such agencies. (C) PAYMENT FOR EDUCATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS WITHOUT CONSENT OF OR REFERRAL BY THE PUBLIC AGENCY.— (i) IN GENERAL.—Subject to subparagraph (A), this part does not require a local educational agency to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made a free appropriate public education available to the child and the parents elected to place the child in such private school or facility.(ii) REIMBURSEMENT FOR PRIVATE SCHOOL PLACEMENT.—If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private elementary or secondary school without the consent of or referral by the public agency, a court or a hearing officer may	school official is dissatisfied with the decision of the State educational agency, such official may complain to the Secretary by providing the basis of the noncompliance with this section by the local educational agency to the Secretary, and the State educational agency shall forward the appropriate documentation to the Secretary. (vi) PROVISION OF EQUITABLE SERVICES.— (I) DIRECT SERVICES.—To the extent practicable, the local educational agency shall provide direct services to children with disabilities parentally placed in private schools. (II) DIRECTLY OR THROUGH CONTRACTS.—A public agency may provide special education and related services directly or through contracts with public and private agencies, organizations, and		n Selected
require the agency to reimburse the parents for the cost of that enrollment if the court or	institutions. (III) SECULAR, NEUTRAL, NONIDEOLOGICAL.—		
hearing officer finds that the agency had not made a free appropriate public education available to the child in a timely manner prior to that enrollment (iii) LIMITATION ON REIMBURSEMENT.—The cost of reimbursement described in clause (ii)may be reduced or denied— (I) if—(aa) at the most	Special education and related services provided to children with disabilities attending private schools, including materials and equipment, shall be secular, neutral, and nonideological. (vii) PUBLIC CONTROL OF		

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recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the public agency to provide a free appropriate public education to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or (bb) 10 business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in division (aa); (II) if, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in section 615(b)(7), of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for such evaluation; or (III) upon a judicial finding of unreasonableness with respect to actions taken by the parents. (iv) EXCEPTION.—Notwithstanding the notice requirement in clause (iii)(I), the cost of reimbursement may not be reduced or denied for failure to provide such notice if—(I) the parent is illiterate and cannot write in English; (II) compliance with clause (iii)(I) would likely result in physical or serious emotional harm to the child; (III) the school prevented the parents had not received notice, pursuant to	FUNDS.— The control of funds used to provide special education and related services under this section, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer the funds and property. (B) CHILDREN PLACED IN, OR REFERRED TO, PRIVATE SCHOOLS BY PUBLIC AGENCIES.— (i) IN GENERAL.—Children with disabilities in private schools and facilities are provided special education and related services, in accordance with an individualized education program, at no cost to their parents, if such children are placed in, or referred to, such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this part or any other applicable law requiring the provision of special education and related services to all children with disabilities within such State. (ii)STANDARDS.—In all cases described in clause (i), the State educational agency shall determine			

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section 615, of the notice requirement in clause	whether such schools and facilities meet			
(iii)(I).	standards that apply to State and local			
	educational agencies and that children			
	so served have all the rights <i>the children</i>			
	would have if served by such agencies.			
	(C) PAYMENT FOR EDUCATION			
	OF CHILDREN ENROLLED IN			
	PRIVATE SCHOOLS WITHOUT			
	CONSENT OF OR REFERRAL BY			
	THE PUBLIC AGENCY.—(i) IN			
	GENERAL.—Subject to subparagraph			
	(A), this part does not require a local			
	educational agency to pay for the cost of			
	education, including special education			
	and related services, of a child with a			
	disability at a private school or facility			
	if that agency made a free appropriate			
	public education available to the child			
	and the parents elected to place the child			
	in such private school or facility. (ii)			
	REIMBURSEMENT FOR PRIVATE			
	SCHOOL PLACEMENT.—If the			
	parents of a child with a disability, who			
	previously received special education			
	and related services under the authority			
	of a public agency, enroll the child in a			
	private elementary school or secondary			
	school without the consent of or referral			

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	by the public agency, a court or	a
	hearing officer may require the agend	cy
	to reimburse the parents for the cost	of
	that enrollment if the court or hearing	ng
	officer finds that the agency had n	ot
	made a free appropriate publ	lic
	education available to the child in	a
	timely manner prior to that enrollmen	at.
	(iii) LIMITATION O	N
	REIMBURSEMENT.—The cost	of
	reimbursement described in clause (ii)
	may be reduced or denied—(I) if—(a	a)
	at the most recent IEP meeting that the	he
	parents attended prior to removal of the	he
	child from the public school, the parer	ıts
	did not inform the IEP Team that the	ey
	were rejecting the placement propose	ed
	by the public agency to provide a fr	ee
	appropriate public education to the	eir
	child, including stating their concer-	ns
	and their intent to enroll their child in	a
	private school at public expense;	or
	(bb) 10 business days (including a	ny
	holidays that occur on a business da	y)
	prior to the removal of the child fro	m
	the public school, the parents did n	ot
	give written notice to the public agend	cy
	of the information described in division	on
	(aa); (II) if, prior to the parents' remov	al

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	of the child from the public school, the			
	public agency informed the parents,			
	through the notice requirements			
	described in section 615(b)(3), of its			
	intent to evaluate the child (including a			
	statement of the purpose of the			
	evaluation that was appropriate and			
	reasonable), but the parents did not			
	make the child available for such			
	evaluation; or (III) upon a judicial			
	finding of unreasonableness with			
	respect to actions taken by the parents.			
	(iv) EXCEPTION.—Notwithstanding			
	the notice requirement in clause (iii)(I),			
	the cost of reimbursement—(I) shall not			
	be reduced or denied for failure to			
	provide such notice if— (aa) the school			
	prevented the parent from providing			
	such notice; or (bb) the parents had not			
	received notice, pursuant to section 615,			
	of the notice requirement in clause			
	(iii)(I); and (II) may, in the discretion of			
	a court or a hearing officer, not be			
	reduced or denied for failure to provide			
	such notice if— (aa) the parent is			
	illiterate and cannot write in English;			
	or (bb) compliance with clause (iii)(I)			
	would likely have resulted in physical or			

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	serious emotional harm to the child.	
612(a)(11) STATE EDUCATIONAL AGENCY RESPONSIBLE FOR GENERAL SUPERVISION.— (A) IN GENERAL.—The State educational agency is responsible for ensuring that— (i) the requirements of this part are met; and (ii) all educational programs for children with disabilities in the State, including all such programs administered by any other State or local agency— (I) are under the general supervision of individuals in the State who are responsible for educational programs for children with disabilities; and (II) meet the educational standards of the State educational agency. (B) LIMITATION.—Subparagraph (A) shall not limit the responsibility of agencies in the State other than the State educational agency to provide, or pay for some or all of the costs of, a free appropriate public education for any child with a disability in the State. (C) EXCEPTION.—Notwithstanding subparagraphs (A) and (B), the Governor (or another individual pursuant to State law), consistent with State law, may assign to any public agency in the State the responsibility of ensuring that the requirements of this part are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons.		

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612(a)(12) OBLIGATIONS RELATED TO AND METHODS OF ENSURING SERVICES.— (A) ESTABLISHING RESPONSIBILITY FOR SERVICES.—The Chief Executive Officer or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (B) and the State educational agency, in order to ensure that all services described in subparagraph (B)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under clause (iii). Such agreement or mechanism shall include the following: (i) AGENCY FINANCIAL RESPONSIBILITY.—An identification of, or a method for defining, the financial responsibility of each agency for providing services described in subparagraph (B)(i) to ensure a free appropriate public education to children with disabilities, provided that the financial responsibility of each public agency described in subparagraph (B), including the State Medicaid agency and other public insurers of children with disabilities, shall precede the financial responsibility of the local educational agency (or the State agency responsible for developing the child's IEP). (ii) CONDITIONS AND TERMS OF REIMBURSEMENT.—The conditions, terms, and procedures under which a local	612(a)(12) OBLIGATIONS RELATED TO AND METHODS OF ENSURING SERVICES.— (A) ESTABLISHING RESPONSIBILITY FOR SERVICES.—The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (B) and the State educational agency, in order to ensure that all services described in subparagraph (B)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under clause (iii). Such agreement or mechanism shall include the following: (i) AGENCY FINANCIAL RESPONSIBILITY.—An identification of, or a method for defining, the financial responsibility of each agency for providing services described in subparagraph (B)(i) to ensure a free appropriate public education to children with disabilities, provided that the financial responsibility of each public agency described in subparagraph (B), including the State Medicaid agency and other public insurers of children with disabilities, shall precede the financial responsibility of the local educational agency (or the State agency responsible for developing the child's IEP). (ii) CONDITIONS AND TERMS OF REIMBURSEMENT.—The conditions, terms, and procedures under which a local	Language in current law and in S. 1248 is essentially identical related to ensuring services. Minor wording changes are indicated.

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educational agency shall be reimbursed by	educational agency shall be reimbursed by		
other agencies.	other agencies.		
(iii) INTERAGENCY DISPUTES.—	(iii) INTERAGENCY DISPUTES.—		
Procedures for resolving interagency disputes	Procedures for resolving interagency disputes		
(including procedures under which local	(including procedures under which local		
educational agencies may initiate proceedings)	educational agencies may initiate proceedings)		
under the agreement or other mechanism to	under the agreement or other mechanism to		
secure reimbursement from other agencies or	secure reimbursement from other agencies or		
otherwise implement the provisions of the	otherwise implement the provisions of the		
agreement or mechanism	agreement or mechanism.		
(iv) COORDINATION OF SERVICES	(iv) COORDINATION OF SERVICES		
PROCEDURES.—Policies and procedures for	PROCEDURES.—Policies and procedures for		
agencies to determine and identify the	agencies to determine and identify the		
interagency coordination responsibilities of	interagency coordination responsibilities of		
each agency to promote the coordination and	each agency to promote the coordination and		
timely and appropriate delivery of services	timely and appropriate delivery of services		
described in subparagraph (B)(i).	described in subparagraph (B)(i).		
(B) OBLIGATION OF PUBLIC AGENCY.—	(B) OBLIGATION OF PUBLIC AGENCY.—		
(i) IN GENERAL.—If any public agency other	(i) IN GENERAL.—If any public agency other		
than an educational agency is otherwise	than an educational agency is otherwise		
obligated under Federal or State law, or	obligated under Federal or State law, or		
assigned responsibility under State policy or	assigned responsibility under State policy		
pursuant to subparagraph (A), to provide or	pursuant to subparagraph (A), to provide or		
pay for any services that are also considered	pay for any services that are also considered		
special education or related services (such as,	special education or related services (such as,		
but not limited to, services described in	but not limited to, services described in section		
sections 602(1) relating to assistive technology	602(1) relating to assistive technology devices,		
devices, 602(2) relating to assistive technology	602(2) relating to assistive technology		
services, 602(22) relating to related services,	services, 602(25) relating to related services,		
602(29) relating to supplementary aids and	602(32) relating to supplementary aids and		
services, and 602(30) relating to transition	services, and 602(33) relating to transition		
services) that are necessary for ensuring a free	services) that are necessary for ensuring a free		
appropriate public education to children with	appropriate public education to children with		
disabilities within the State, such public	disabilities within the State, such public		

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agency shall fulfill that obligation or	agency shall fulfill that obligation or			
responsibility, either directly or through	responsibility, either directly or through			
contract or other arrangement.	contract or other arrangement pursuant to subparagraph (A) or an agreement pursuant to			
(") DEIMBLIDGEMENT FOR GERMANG DY	subparagraph (C).			
(ii) REIMBURSEMENT FOR SERVICES BY	(ii) REIMBURSEMENT FOR SERVICES BY			
PUBLIC AGENCY.—If a public agency other	PUBLIC AGENCY.—If a public agency other			
than an educational agency fails to provide or	than an educational agency fails to provide or			
pay for the special education and related services described in clause (i), the local	pay for the special education and related services described in clause (i), the local			
educational agency (or State agency	educational agency (or State agency			
responsible for developing the child's IEP)	responsible for developing the child's IEP)			
shall provide or pay for such services to the	shall provide or pay for such services to the			
child. Such local educational agency or State	child. Such local educational agency or State			
agency may then claim reimbursement for the	agency is authorized to claim reimbursement			
services from the public agency that failed to	for the services from the public agency that			
provide or pay for such services and such	failed to provide or pay for such services and			
public agency shall reimburse the local	such public agency shall reimburse the local			
educational agency or State agency pursuant to	educational agency or State agency pursuant to			
the terms of the interagency agreement or	the terms of the interagency agreement or			
other mechanism described in subparagraph	other mechanism described in subparagraph			
(A)(i) according to the procedures established	(A)(i) according to the procedures established			
in such agreement pursuant to subparagraph	in such agreement pursuant to subparagraph			
(A)(ii).	(A)(ii).			
	(C) SPECIAL RULE.—The requirements of			
(C) SPECIAL RULE.—The requirements of	subparagraph (A) may be met through—			
subparagraph (A) may be met through—	(i) State statute or regulation;			
(i) state statute or regulation;	(ii) signed agreements between respective			
(ii) signed agreements between respective	agency officials that clearly identify the			
agency officials that clearly identify the	responsibilities of each agency relating to the			
responsibilities of each agency relating to the	provision of services; or			
provision of services; or (iii) other appropriate	(iii) other appropriate written methods as			
written methods as determined by the Chief	determined by the Chief Executive Officer of			
Executive Officer of the State or designee of	the State or designee of the officer and			

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the officer.	approved by the Secretary.	
REQUIREMENTS RELATING TO LOCAL EDUCATIONAL AGENCY ELIGIBILITY.—The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing.	612(a)(13) Same as current law.	
612(a)(14) COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT. —The State has in effect, consistent with the purposes of this Act and with section 635(a)(8), a comprehensive system of personnel development that is designed to ensure an adequate supply of qualified special education, regular education, and related services personnel that meets the requirements for a State improvement plan relating to personnel development in subsections (b)(2)(B) and (c)(3)(D) of section 653.	No comparable provision.	S. 1248 would eliminate the state requirement for a comprehensive personnel development system.
612(a)(15) PERSONNEL STANDARDS.— (A) IN GENERAL.—The State educational agency has established and maintains standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained. (B) STANDARDS DESCRIBED.—Such standards shall—	612(a)(14) PERSONNEL STANDARDS.— (A) IN GENERAL.—The State educational agency has established and maintains standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities. (B) RELATED SERVICES PERSONNEL AND PARAPROFESSIONALS.—The	S. 1248 would make substantial changes in requirements for state personnel standards to more closely align IDEA with NCLBA

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(i) be consistent with any State-approved or State recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services;	standards under subparagraph (A) include standards for related services personnel and paraprofessionals that— (i) are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services;	Clause (i) in current law and clause (i) in S. 1248 are similar.
(ii) to the extent the standards described in subparagraph (A) are not based on the highest requirements in the State applicable to a specific profession or discipline, the State is taking steps to require retraining or hiring of personnel that meet appropriate professional requirements in the State; and	no comparable provision	S. 1248 would remove the "highest requirements" provision.
no comparable provision	(ii) ensure that related services personnel who deliver services in their discipline or profession meet the requirements of clause (i) and have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and	
(iii) allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulations, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services to children with disabilities under this part. no comparable provision	(iii) allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services <i>under this part</i> to children with disabilities. (C) STANDARDS FOR SPECIAL EDUCATION TEACHERS.—	

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no comparable provision	(i) IN GENERAL.—The standards described in subparagraph (A) shall ensure that each person employed as a special education teacher in the State who teaches in an elementary, middle, or secondary school is highly qualified not later than the end of the 2006–2007 school year. (ii) COMPLIANCE.—Compliance with clause (i) by the deadline established in such clause shall be deemed to be compliance with section 1119(a)(2) of the Elementary and Secondary Education Act of 1965 with respect to such teachers. (iii) PARENTS' RIGHT TO KNOW. In	Changes		
(C) POLICY.—In implementing this paragraph, a State may adopt a policy that includes a requirement that local educational agencies in the State make an ongoing good faith effort to recruit and hire appropriately and adequately trained personnel to provide special education and related services to children with disabilities,	carrying out section 1111(h)(6) of the Elementary and Secondary Education Act of 1965 with respect to special education teachers, a local educational agency shall-(I) include, consistent with the deadline in clause (i) of this subparagraph, any additional information needed to show that the teacher meets the applicable requirements of section 602(10) relating to certification or licensure as a special education teacher; and (II) apply the definition in section 602(10) in carrying out section 1111(h)(6)(B)(ii). (D) POLICY.—In implementing this section, a State shall adopt a policy that includes a requirement that local educational agencies in the State take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services under this part to children with disabilities.			

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including, in a geographic area of the State where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in subparagraph (B)(i), consistent with State law, and the steps described in subparagraph (B)(ii) within three years.	[language eliminated]	
no comparable provision	(E)RULE OF CONSTRUCTION.— Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this subsection shall be construed to create a right of action on behalf of an individual student for the failure of a particular State educational agency or local educational agency staff person to be highly qualified, or to prevent a parent from filing a complaint about staff qualifications with the State educational agency as provided for under this part.	S. 1248 would add a rule of construction to ensure that no individual right of action is created with respect to failure to meet personnel standards and that a parent's ability to file a complaint with the SEA regarding staff qualifications is not abridged.
612(a)(16) PERFORMANCE GOALS AND INDICATORS.—The State— (A) has established goals for the performance of children with disabilities in the State that— (i) will promote the purposes of this Act, as stated in section 601(d); and (ii) are consistent, to the maximum extent appropriate, with other goals and standards for children established by the State;	612(a)(15) PERFORMANCE GOALS AND INDICATORS.—The State— (A) has established goals for the performance of children with disabilities in the State that— (i) promote the purposes of this Act, as stated in section 601(d); (ii) are the same as the State's definition of adequate yearly progress, including the State's objectives for progress by children with disabilities, under section 1111(b)(2)(C) of the	

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(B) has established performance indicators the State will use to assess progress toward achieving those goals that, at a minimum, address the performance of children with disabilities on assessments, drop-out rates, and graduation rates; (C) will, every two years, report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under subparagraph (A); and (D) based on its assessment of that progress, will revise its State improvement plan under subpart 1 of part D as may be needed to improve its performance, if the State receives assistance under that subpart.	Elementary and Secondary Education Act of 1965; (iii) address graduation rates and drop out rates, as well as such other factors as the State may determine; and (iv) are consistent, to the extent appropriate, with any other goals and standards for children established by the State; (B) has established performance indicators the State will use to assess progress toward achieving the goals described in subparagraph (A), including measurable annual objectives for progress by children with disabilities under section 1111(b)(2)(C)(v)(II)(cc) of the Elementary and Secondary Education Act of 1965; and (C) will annually report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under subparagraph (A).	state goals and indicators requirements with the Elementary and Secondary Education Act (ESEA) as amended by No Child Left Behind Act (NCLBA) and would add requirements. S. 1248 would eliminate reference to the state improvement plan, which would be eliminated in Part D.
612(a)(17) PARTICIPATION IN ASSESSMENTS.—(A) IN GENERAL.— Children with disabilities are included in general State and district-wide assessment programs, with appropriate accommodations, where necessary. As appropriate, the State or local educational agency—	612(a)(16) PARTICIPATION IN ASSESSMENTS.— (A) IN GENERAL.— All children with disabilities are included in all general State and districtwide assessment programs and accountability systems, including assessments and accountability systems described under section 1111 of the	S. 1248 would modify the assessment participation requirement to align it with ESEA / NCLBA requirements.

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(i) <u>develops</u> guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in State and district-wide assessment programs; and (ii) develops and, <u>beginning not later than July 1, 2000</u> , conducts those alternate assessments.	Elementary and Secondary Education Act of 1965, with appropriate accommodations, alternate assessments where necessary, and as indicated in their respective individualized education programs. (B) ACCOMMODATION GUIDELINES.—The State (or, in the case of a districtwide assessment, the local educational agency) has developed guidelines for the provision of appropriate accommodations. (C) ALTERNATE ASSESSMENTS.— (i) IN GENERAL.—The State (or, in the case of a districtwide assessment, the local educational agency) has developed and implemented guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments under subparagraph (B) as indicated in their respective individualized education programs. (ii) REQUIREMENTS FOR ALTERNATE ASSESSMENTS.—The guidelines under clause (i) shall provide for alternate assessments that— (I) are aligned with the State's challenging academic content and academic achievement standards; and (II) if the State has adopted alternate academic achievement standards permitted under section 1111(b)(1) of the Elementary and Secondary Education Act oof 1965, measure the achievement of students against those standards. (iii) CONDUCT OF ALTERNATIVE ASSESSMENTS.—The	S. 1248 would add a requirement for state accommodation guidelines. S. 1248 would modify the alternative assessment requirement, in part to recognize that states and LEAs should have developed these and to align the requirement with ESEA/NCLBA. S. 1248 would modify the reporting requirements on
	State conducts the alternate assessments	assessments.

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(B) REPORTS.—The State educational agency makes available to the public, and reports to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:	described in this subparagraph. (D) REPORTS.—The State educational agency (or, in the case of a districtwide assessment, the local educational agency) makes available to the public, and reports to the public with the same frequency and in the same detail as it reports on the assessment of			
(i) The number of children with disabilities participating in regular assessments.	nondisabled children, the following: (i) The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations in order to participate in those assessments.			
(ii) The number of those children participating in alternate assessments.	(ii) The number of children with disabilities participating in alternate assessments described in subparagraph (C)(ii)(I). (iii) The number of children with disabilities participating in alternate assessments described in subparagraph (C)(ii)(II).			
(iii)(I) The performance of those children on regular assessments (beginning not later than July 1, 1998) and on alternate assessments (not later than July 1, 2000), if doing so would be statistically sound and would not result in the disclosure of performance results identifiable to individual children.	(iv) The performance of children with disabilities on regular assessments and on alternate assessments (if the number of children with disabilities participating in those assessments is sufficient to yield statistically reliable information and reporting that information will not reveal personally identifiable information about an individual student), compared with the achievement of all children, including children with disabilities, on those assessments.			
(II) Data relating to the performance of children described under subclause (I) shall be disaggregated— (aa) for assessments conducted after July 1,				

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1998; and (bb) for assessments conducted before July1, 1998, if the State is required to disaggregate such data prior to July 1, 1998. no comparable provision	(E) UNIVERSAL DESIGN.—The State educational agency (or, in the case of a districtwide assessment, the local educational agency) shall, to the extent feasible, use universal design principles in developing and administering any assessments under this paragraph.	S. 1248 would add a requirement related to universal design.
612(a)(18) SUPPLEMENTATION OF STATE, LOCAL, AND OTHER FEDERAL FUNDS.— (A) EXPENDITURES.—Funds paid to a State under this part will be expended in accordance with all the provisions of this part. (B) PROHIBITION AGAINST COMMINGLING.—Funds paid to a State under this part will not be commingled with State funds. (C) PROHIBITION AGAINST SUPPLANTATION AND CONDITIONS FOR WAIVER BY SECRETARY.—Except as provided in section 613, funds paid to a State under this part will be used to supplement the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to children with disabilities under this part and in no case to supplant such Federal, State, and local funds, except that, where the State provides clear and	612(a)(17) Same as current law.	

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convincing evidence that all children with disabilities have available to them a free appropriate public education, the Secretary may waive, in whole or in part, the requirements of this subparagraph if the Secretary concurs with the evidence provided by the State.		
612(a)(19) MAINTENANCE OF STATE FINANCIAL SUPPORT.— (A) IN GENERAL.—The State does not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year. (B) REDUCTION OF FUNDS FOR FAILURE TO MAINTAIN SUPPORT.—The Secretary shall reduce the allocation of funds under section 611 for any fiscal year following the fiscal year in which the State fails to comply with the requirement of subparagraph (A) by the same amount by which the State fails to meet the requirement. (C) WAIVERS FOR EXCEPTIONAL OR UNCONTROLLABLE CIRCUMSTANCES.—The Secretary may waive the requirement of subparagraph (A) for a State, for one fiscal year at a time, if the Secretary determines that— (i) granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and	612(18)(A)-(D) of S. 1248 same as current law.	

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unforeseen decline in the financial resources of the State; or (ii) the State meets the standard in paragraph (18)(C) of this section for a waiver of the requirement to supplement, and not to supplant, funds received under this part. (D) SUBSEQUENT YEARS.—If, for any year, a State fails to meet the requirement of subparagraph (A), including any year for which the State is granted a waiver under subparagraph (C), the financial support required of the State in future years under subparagraph (A) shall be the amount that would have been required in the absence of that failure and not the reduced level of the State's support. (E) REGULATIONS.— (i) The Secretary shall, by regulation, establish procedures (including objective criteria and consideration of the results of compliance reviews of the State conducted by the Secretary) for determining whether to grant a waiver under subparagraph (C)(ii). (ii) The Secretary shall publish proposed regulations under clause (i) not later than 6 months after the date of the enactment of the Individuals with Disabilities Education Act Amendments of 1997, and shall issue final regulations under clause (i) not later than 1 year after such date of enactment.	No comparable provision.	S. 1248 would eliminate subparagraph (E) because the Secretary has issued regulations on this provision.
612(a)(20) PUBLIC PARTICIPATION.— Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies	612(a)(19) Same as current law.	

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and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.		
(A) IN GENERAL.—The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State. (B) MEMBERSHIP.—Such advisory panel shall consist of members appointed by the Governor, or any other official authorized under State law to make such appointments, that is representative of the State population and that is composed of individuals involved in, or concerned with, the education of children with disabilities, including— (i) parents of children with disabilities; (ii) individuals with disabilities; (iii) teachers; (iv) representatives of institutions of higher education that prepare special education and related services personnel; (v) State and local education officials; (vi) administrators of programs for children with disabilities; (vii) representatives of other State agencies involved in the financing or delivery of related	(A) IN GENERAL.—The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State. (B) MEMBERSHIP.—Such advisory panel shall consist of members appointed by the Governor, or any other official authorized under State law to make such appointments, that is representative of the State population and that is composed of individuals involved in, or concerned with, the education of children with disabilities, including— (i) parents of children with disabilities ages birth through 26; (ii) individuals with disabilities; (iii) teachers; (iv) representatives of institutions of higher education that prepare special education and related services personnel; (v) State and local education officials; (vi) administrators of programs for children with disabilities; (vii) representatives of other State agencies involved in the financing or delivery of related	S. 1248 language is identical to current law, except for the indicated modification to parents and children with disabilities as members of the panel.

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services to children with disabilities; (viii) representatives of private schools and public charter schools; (ix) at least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities; and (x) representatives from the State juvenile and adult corrections agencies. (C) SPECIAL RULE.—A majority of the members of the panel shall be individuals with disabilities or parents of children with disabilities. (D) DUTIES.—The advisory panel shall— (i) advise the State educational agency of unmet needs within the State in the education of children with disabilities; (ii) comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities; (iii) advise the State educational agency in developing evaluations and reporting on data to the Secretary under section 618; (iv) advise the State educational agency in developing corrective action plans to address findings identified in Federal monitoring reports under this part; and (v) advise the State educational agency in developing and implementing policies relating to the coordination of services for children with disabilities.	services to children with disabilities; (viii) representatives of private schools and public charter schools; (ix) at least 1 representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities; and (x) representatives from the State juvenile and adult corrections agencies. (C) SPECIAL RULE.—A majority of the members of the panel shall be individuals with disabilities ages birth through 26 or parents of such individuals. (D) DUTIES.—The advisory panel shall— (i) advise the State educational agency of unmet needs within the State in the education of children with disabilities; (ii) comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities; (iii) advise the State educational agency in developing evaluations and reporting on data to the Secretary under section 618; (iv) advise the State educational agency in developing corrective action plans to address findings identified in Federal monitoring reports under this part; and (v) advise the State educational agency in developing and implementing policies relating to the coordination of services for children with disabilities.		
612(a)(22) SUSPENSION AND EXPULSION RATES.—	612(a)(21) Same as current law.		

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(A) IN GENERAL.—The State educational agency examines data to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities— (i) among local educational agencies in the State; or (ii) compared to such rates for nondisabled children within such agencies. (B) REVIEW AND REVISION OF POLICIES.—If such discrepancies are occurring, the State educational agency reviews and, if appropriate, revises (or requires the affected State or local educational agency to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of behavioral interventions, and procedural safeguards, to ensure that such policies, procedures, and practices comply with this Act.		
No comparable provision.	612(a)(22) ACCESS TO INSTRUCTIONAL MATERIALS.— (A) IN GENERAL.—The State adopts the national Instructional Materials Accessibility Standard described in section 675(a) for the purposes of providing instructional materials to blind persons or other persons with print disabilities in a timely manner after the publication of the standard in the Federal Register. (B) PREPARATION AND DELIVERY OF FILES.—Not later than 2 years after the date of enactment of the Individuals with Disabilities Education Improvement Act of	S. 1248 would add a state requirement on materials accessibility.

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	2003, a State educational agency, as part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials, enters into a written contract with the publisher of the print instructional materials to— (i) prepare, and on or before delivery of the print instructional materials, provide to the National Instructional Materials Access Center, established pursuant to section 675(b), electronic files containing the contents of the print instructional materials using the Instructional Materials Accessibility Standard; or (ii) purchase instructional materials from a publisher that are produced in or may be rendered in the specialized formats described in section 675(a)(4)(C). (C) ASSISTIVE TECHNOLOGY.—In carrying out subparagraph (B), the State educational agency, to the maximum extent possible, shall work collaboratively with the State agency responsible for assistive technology programs.		
612(b) STATE EDUCATIONAL AGENCY AS PROVIDER OF FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT SERVICES.—If the State educational agency provides free appropriate public education to children with disabilities, or provides direct services to such children, such agency— (1) shall comply with any additional	612(b) Same as current law.		

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requirements of section 613(a), as if such agency were a local educational agency; and (2) may use amounts that are otherwise available to such agency under this part to serve those children without regard to section 613(a)(2)(A)(i) (relating to excess costs).				
612(c) EXCEPTION FOR PRIOR STATE PLANS.— (1) IN GENERAL.—If a State has on file with the Secretary policies and procedures that demonstrate that such State meets any requirement of subsection (a), including any policies and procedures filed under this part as in effect before the effective date of the Individuals with Disabilities Education Act Amendments of 1997, the Secretary shall consider such State to have met such requirement for purposes of receiving a grant under this part. (2) MODIFICATIONS MADE BY STATE.—Subject to paragraph (3), an application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State deems necessary. This section shall apply to a modification to an application to the same extent and in the same manner as this section applies to the original plan. (3) MODIFICATIONS REQUIRED BY THE SECRETARY.—If, after the effective date of the Individuals with Disabilities Education Act Amendments of 1997, the provisions of this Act are amended (or the regulations developed	612(c) Same as current law except for updated reference the title of the Act.			

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to carry out this Act are amended), or there is a new interpretation of this Act by a Federal court or a State's highest court, or there is an official finding of noncompliance with Federal law or regulations, the Secretary may require a State to modify its application only to the extent necessary to ensure the State's compliance with this part.		
612(d) APPROVAL BY THE SECRETARY.— (1) IN GENERAL.—If the Secretary determines that a State is eligible to receive a grant under this part, the Secretary shall notify the State of that determination. (2) NOTICE AND HEARING.—The Secretary shall not make a final determination that a State is not eligible to receive a grant under this part until after providing the State— (A) with reasonable notice; and (B) with an opportunity for a hearing.	612(d) Same as current law.	
612(e) ASSISTANCE UNDER OTHER FEDERAL PROGRAMS.—Nothing in this title permits a State to reduce medical and other assistance available, or to alter eligibility, under titles V and XIX of the Social Security Act with respect to the provision of a free appropriate public education for children with disabilities in the State.	612(d) Same as current law.	
612(f) BY-PASS FOR CHILDREN IN PRIVATE SCHOOLS.— (1) IN GENERAL.—If, on the date of enactment of the Education of the		

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Handicapped Act Amendments of 1983, a State educational agency <u>is</u> prohibited by law from providing for the <u>participation</u> in special programs of children with disabilities enrolled in private elementary and secondary schools as required by subsection (a)(10)(A),	Handicapped Act Amendments of 1983, a State educational agency was prohibited by law from providing for the equitable participation in special programs of children with disabilities enrolled in private elementary schools and secondary schools as required by subsection (a)(10)(A), or if the Secretary determines that a State educational agency, local educational agency, or other entity has substantially failed or is unwilling to provide for such equitable participation, then the Secretary shall, notwithstanding such provision of law, arrange for the provision of	S. 1248 would add language extending the by-pass provision to cover SEAs, LEAs, or other entities failing to provide equitable participation for children with disabilities.
the Secretary shall, notwithstanding such provision of law, arrange for the provision of services to such children through arrangements which shall be subject to the requirements of such subsection.	services to such children through arrangements which shall be subject to the requirements of such subsection.	
(2) PAYMENTS.—	paragraph (2) same as current law	
(A) DETERMINATION OF AMOUNTS.—If the Secretary arranges for services pursuant to this subsection, the Secretary, after consultation with the appropriate public and private school officials, shall pay to the provider of such services for a fiscal year an amount per child that does not exceed the amount determined by dividing— (i) the total amount received by the State under this part for such fiscal year; by (ii) the number of children with disabilities served in the prior year, as reported to the		

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Secretary by the State under section 618.			
(B) WITHHOLDING OF CERTAIN			
AMOUNTS.—Pending final resolution of any			
investigation or complaint that could result in a			
determination under this subsection, the			
Secretary may withhold from the allocation of			
the affected State educational agency the			
amount the Secretary estimates would be			
necessary to pay the cost of services described			
in subparagraph (A).			
(C) PERIOD OF PAYMENTS.—The period			
under which payments are made under			
subparagraph (A) shall continue until the			
Secretary determines that there will no longer			
be any failure or inability on the part of the			
State educational agency to meet the			
requirements of subsection (a)(10)(A).			
(3) NOTICE AND HEARING.—			
(A) IN GENERAL.—The Secretary shall not			
take any final action under this subsection until			
the State educational agency affected by such			
action has had an opportunity, for at least 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 such action should not be			
taken.			
(B) REVIEW OF ACTION.—If a State			
educational agency is dissatisfied with the			
Secretary's final action after a proceeding			
under subparagraph (A), 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			

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petition for review of that action. A copy of			
the petition shall be forthwith 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 Secretary's action, as			
provided in section 2112 of title 28, United			
States Code.			
(C) REVIEW OF FINDINGS OF FACT.—			
The findings of fact by the Secretary, if			
supported by substantial evidence, shall be			
conclusive, but the court, for good cause			
shown, may remand the case to the Secretary			
to take further evidence, and the Secretary may			
thereupon 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. (D)			
JURISDICTION OF COURT OF APPEALS;			
REVIEW BY UNITED STATES SUPREME			
COURT.—Upon the filing of a petition under			
subparagraph (B), the United States court of			
appeals shall have jurisdiction to affirm the			
action of the Secretary or to set it aside, in			
whole or in part. The judgment of the court			
shall be subject to review by the Supreme			
Court of the United States upon certiorari or			
certification as provided in section 1254 of			
title 28, United States Code.			
SEC. 613. LOCAL EDUCATIONAL	SEC. 613. LOCAL	EDUCATIONAL	S. 1248 would change the
AGENCY ELIGIBILITY.	AGENCY ELIGIBILITY.		general requirement that

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(a) IN GENERAL.—A local educational agency is eligible for assistance under this part for a fiscal year if such agency demonstrates to the satisfaction of the State educational agency that it meets each of the following conditions:	(a) IN GENERAL.—A local educational agency is eligible for assistance under this part for a fiscal year if such agency <i>submits a plan that provides assurances to</i> the State educational agency that the local educational agency meets each of the following conditions:	an LEA, to be eligible, "demonstrate" (current law) that it meets listed requirements to "submit a plan to the state to provide assurances" (S. 1248).
(1) CONSISTENCY WITH STATE POLICIES.— The local educational agency, in providing for the education of children with disabilities within its jurisdiction, has in effect policies, procedures, and programs that are consistent with the State policies and procedures established under section 612	paragraph (1) same as current law	
Sec. 613(a)(2) USE OF AMOUNTS.— (A) IN GENERAL.—Amounts provided to the local educational agency under this part shall be expended in accordance with the applicable provisions of this part and— (i) shall be used only to pay the excess costs of providing special education and related services to children with disabilities; (ii) shall be used to supplement State, local, and other Federal funds and not to supplant such funds; and (iii) shall not be used, except as provided in subparagraphs (B) and (C), to reduce the level of expenditures for the education of children with disabilities made by the local educational agency from local funds below the level of those expenditures for the preceding fiscal year.	Sec. 613(a)(2) USE OF AMOUNTS.— Subparagraphs (A) and (B) same as current law	

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(B) EXCEPTION.—Notwithstanding the			
restriction in subparagraph (A)(iii), a local			
educational agency may reduce the level of			
expenditures where such reduction is			
attributable to—			
(i) the voluntary departure, by retirement or			
otherwise, or departure for just cause, of			
special education personnel;			
(ii) a decrease in the enrollment of children			
with disabilities;			
(iii) the termination of the obligation of the			
agency, consistent with this part, to provide a			
program of special education to a particular			
child with a disability that is an exceptionally			
costly program, as determined by the State			
educational agency, because the child—			
(I) has left the jurisdiction of the agency;			
(II) has reached the age at which the obligation			
of the agency to provide a free appropriate			
public education to the child has terminated; or			
(III) no longer needs such program of special			
education; or			
(iv) the termination of costly expenditures for			
long-term purchases, such as the acquisition of		G 1040 11 1	
equipment or the construction of school	(C) TREATS (EVE OF FEDERAL FURING BL	S. 1248 would make	
facilities. (C) TREATMENT OF FEDERAL	(C) TREATMENT OF FEDERAL FUNDS IN	substantial changes to the	
FUNDS IN CERTAIN FISCAL YEARS.—	CERTAIN FISCAL YEARS.—	"treat as local" provision	
(i) Notwithstanding clauses (ii) and (iii) of	(i) 8 PERCENT RULE.—Notwithstanding	in current law. At current	
subparagraph (A), for any fiscal year for which	clauses (ii) and (iii) of subparagraph (A), a	funding levels under	
amounts appropriated to carry out section 611	local educational agency may treat as local	current law, LEAs are	
exceeds \$4,100,000,000, a local educational	funds, for the purposes of such clauses, not more than 8 percent of the amount of funds the	permitted to treat as local	
agency may treat as local funds, for the	·	funds up to 20% of the annual increase in their	
purpose of such clauses, up to 20 percent of the amount of funds it receives under this part	local educational agency receives under this part.	Part B grant for the	
the amount of funds it fectives under this part	part.	Tait D grailt 101 the	

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that exceeds the amount it received under this part for the previous fiscal year. (ii) Notwithstanding clause (i), if a State educational agency determines that a local educational agency is not meeting the	(ii) 40 PERCENT RULE.—Notwithstanding clauses (ii) and (iii) of subparagraph (A), for any fiscal year for which States are allocated the maximum amount of grants pursuant to section 611(a)(2), a local educational agency may treat as local funds, for the purposes of such clauses, not more than 40 percent of the amount of funds the local educational agency receives under this part, subject to clause (iv). (iii) EARLY INTERVENING SERVICES.— (I) 8 PERCENT RULE.—If a local educational agency exercises authority pursuant to clause (i), the 8 percent funds shall be counted toward the percentage and amount of funds that may be used to provide early intervening educational services pursuant to subsection (f). (II) 40 PERCENT RULE.—If a local educational agency exercises authority pursuant to clause (ii), the local educational agency shall use an amount of the 40 percent funds from clause (ii) that represents 15 percent of the total amount of funds the local educational agency receives under this part, to provide early intervening educational services pursuant to subsection (f). (iv) SPECIAL RULE.—Funds treated as local funds pursuant to clause (i) or (ii) may be considered non-Federal or local funds for the purposes of— (I) clauses (ii) and (iii) of subparagraph (A); and (II) the provision of the local share of costs for title XIX of the Social Security Act.	purposes of meeting requirements not to supplant and to maintain effort. At current funding levels, S. 1248 would permit LEAs to treat up to 8% of their total grant to meet these requirements. Once maximum funding is reached, LEAs could treat up to 40% of their grants to meet these requirements. In addition, LEAs may count these funds for the purpose of early intervention services in subsection (f) below.

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requirements of this part, the State educational agency may prohibit the local educational agency from treating funds received under this part as local funds under clause (i) for any fiscal year, only if it is authorized to do so by the State constitution or a State statute.				
no comparable provision				
(D) SCHOOLWIDE PROGRAMS UNDER TITLE I OF THE ESEA.—Notwithstanding subparagraph (A) or any other provision of this part, a local educational agency may use funds received under this part for any fiscal year to carry out a schoolwide program under section 1114 of the Elementary and Secondary Education Act of 1965, except that the amount so used in any such program shall not exceed— (i) the number of children with disabilities participating in the schoolwide program; multiplied by (ii)(I) the amount received by the local educational agency under this part for that fiscal year; divided by (II) the number of children with disabilities in	(v) REPORT.—For each fiscal year in which a local educational agency exercises its authority pursuant to this subparagraph and treats Federal funds as local funds, the local educational agency shall report to the State educational agency the amount of funds so treated and the activities that were funded with such funds. Subparagraph (D) same as current law			

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the jurisdiction of that agency.		
Sec. 613(a)(3) PERSONNEL DEVELOPMENT.—The local educational agency— (A) shall ensure that all personnel necessary to carry out this part are appropriately and adequately prepared consistent with the requirements of section 653(c)(3)(D); and (B) to the extent such agency determines appropriate, shall contribute to and use the comprehensive system of personnel development of the State established under section 612(a)(14).	Sec. 613(a)(3) PERSONNEL DEVELOPMENT.—The local educational agency shall ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, consistent with the requirements of section 612(a)(14) of this Act and section 2122 of the Elementary and Secondary Education Act of 1965.	under Sec. 612 and with Sec. 2122 of ESEA,
Sec. 613(a)(4) PERMISSIVE USE OF FUNDS.—Notwithstanding paragraph (2)(A) or section 612(a)(18)(B) (relating to commingled funds), funds provided to the local educational agency under this part may be used for the following activities: (A) SERVICES AND AIDS THAT ALSO BENEFIT NONDISABLED CHILDREN.—For the costs of special education and related services and supplementary aids and services provided in a regular class or other education-related setting to a child with a disability in accordance with the individualized education program of the child, even if one or more nondisabled children benefit from such services. (B) INTEGRATED AND COORDINATED SERVICES SYSTEM. —To develop and implement a fully integrated and coordinated	Sec. 613(a)(4) PERMISSIVE USE OF FUNDS.— Except for designation changes, subparagraphs (A) and (B) of current law are the same as clauses (i) and (ii) of subparagraph (A) of S. 1248.	

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services system in accordance with subsection (f). no comparable provision	(B) ADMINISTRATIVE CASE MANAGEMENT.—A local educational agency may use funds received under this part to purchase appropriate technology, for recordkeeping, data collection, and related case management activities of teachers and related services personnel providing services described in the individualized education program of children with disabilities, that are needed for the implementation of such case management activities.	S. 1248 would add a new permitted use of local funds for case management.
Sec. 613(a)(5) TREATMENT OF CHARTER SCHOOLS AND THEIR STUDENTS. —In carrying out this part with respect to charter schools that are public schools of the local educational agency— (A) serves children with disabilities attending those schools in the same manner as it serves children with disabilities in its other schools; and (B) provides funds under this part to those schools in the same manner as it provides those funds to its other schools.	Sec. 613(a)(5) TREATMENT OF CHARTER SCHOOLS AND THEIR STUDENTS.—In carrying out this part with respect to charter schools that are public schools of the local educational agency, the local educational agency— (A) serves children with disabilities attending those charter schools in the same manner as the local educational agency serves children with disabilities in its other schools, including providing supplementary and related services on site at the charter school to the same extent to which the local educational agency has a policy or practice of providing such services on the site to its other public schools; and (B) provides funds under this part to those charter schools on the same basis, including proportional distribution based on relative enrollment of children with disabilities, and at the same time, as the local educational agency	S. 1248 would elaborate on the services to be provided children with disabilities attending charter schools and on funds distribution.

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	distributes State, local, or a combination of State and local, funds to those charter schools under the State's charter school law.	
No comparable provision	Sec. 613(a)(6) PURCHASE OF INSTRUCTIONAL MATERIALS.—Not later than 2 years after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2003, a local educational agency, when purchasing print instructional materials, acquires these instructional materials in the same manner as a State educational agency described in section 612(a)(22).	S. 1248 would add a local requirement parallel to the state requirement regarding instructional materials.
Sec. 613(a)(6) INFORMATION FOR STATE EDUCATIONAL AGENCY.—The local educational agency shall provide the State educational agency with information necessary to enable the State educational agency to carry out its duties under this part, including, with respect to paragraphs (16) and (17) of section 612(a), information relating to the performance of children with disabilities participating in programs carried out under this part.	Sec. 613(a)(7) Same as current law.	
Sec. 613(a)(7) PUBLIC INFORMATION.— The local educational agency shall make available to parents of children with disabilities and to the general public all documents relating to the eligibility of such agency under this part.	Sec. 613(a)(8) same as current law	
No comparable provision.	Sec. 613(a)(9) RECORDS REGARDING MIGRATORY CHILDREN WITH	S. 1248 would add a local requirement regarding

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	DISABILITIES.—The local educational agency shall cooperate in the Secretary's efforts under section 1308 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6398) to ensure the linkage of records pertaining to migratory children with a disability for the purpose of electronically exchanging, among the States, health and educational information regarding such children.	records o children.	f	migrant
613(b) EXCEPTION FOR PRIOR LOCAL PLANS.— (1) IN GENERAL.—If a local educational agency or State agency has on file with the State educational agency policies and procedures that demonstrate that such local educational agency, or such State agency, as the case may be, meets any requirement of subsection (a), including any policies and procedures filed under this part as in effect before the effective date of the Individuals with Disabilities Education Act Amendments of 1997, the State educational agency shall consider such local educational agency or State agency, as the case may be, to have met such requirement for purposes of receiving assistance under this part. (2) MODIFICATION MADE BY LOCAL EDUCATIONAL AGENCY.—Subject to paragraph (3), an application submitted by a local educational agency in accordance with this section shall remain in effect until it submits to the State educational agency such	613(b) Same as current law.			

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modifications as the local educational agency deems necessary. (3) MODIFICATIONS REQUIRED BY STATE EDUCATIONAL AGENCY.—If, after the effective date of the Individuals with Disabilities Education Act Amendments of 1997, the provisions of this Act are amended (or the regulations developed to carry out this Act are amended), or there is a new interpretation of this Act by Federal or State courts, or there is an official finding of noncompliance with Federal or State law or regulations, the State educational agency may require a local educational agency to modify its application only to the extent necessary to ensure the local educational agency's compliance with this part or State law.		
613(c) NOTIFICATION OF LOCAL EDUCATIONAL AGENCY OR STATE AGENCY IN CASE OF INELIGIBILITY.—If the State educational agency determines that a local educational agency or State agency is not eligible under this section, the State educational agency shall notify the local educational agency or State agency, as the case may be, of that determination and shall provide such local educational agency or State agency with reasonable notice and an opportunity for a hearing.	613(c) Same as current law.	
613(d) LOCAL EDUCATIONAL AGENCY COMPLIANCE.— (1) IN GENERAL.—If the State educational agency, after reasonable notice and an	613(d) Same as current law.	

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opportunity for a hearing, finds that a local educational agency or State agency that has been determined to be eligible under this section is failing to comply with any requirement described in subsection (a), the State educational agency shall reduce or shall not provide any further payments to the local educational agency or State agency until the State educational agency is satisfied that the local educational agency or State agency, as the case may be, is complying with that requirement. (2) ADDITIONAL REQUIREMENT.—Any State agency or local educational agency in receipt of a notice described in paragraph (1) shall, by means of public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency. (3) CONSIDERATION.—In carrying out its responsibilities under paragraph (1), the State educational agency shall consider any decision made in a hearing held under section 615 that is adverse to the local educational agency or State agency involved in that decision.		
613(e) JOINT ESTABLISHMENT OF ELIGIBILITY.— (1) JOINT ESTABLISHMENT.— (A) IN GENERAL.—A State educational agency may require a local educational agency to establish its eligibility jointly with another local educational agency if the State	613(e) Same as current law.	

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educational agency determines that the local		
educational agency would be ineligible under		
this section because the local educational		
agency would not be able to establish and		
maintain programs of sufficient size and scope		
to effectively meet the needs of children with		
disabilities.		
(B) CHARTER SCHOOL EXCEPTION.—A		
State educational agency may not require a		
charter school that is a local educational		
agency to jointly establish its eligibility under		
subparagraph (A) unless it is explicitly		
permitted to do so under the State's charter		
school statute.		
(2) AMOUNT OF PAYMENTS.—If a State		
educational agency requires the joint		
establishment of eligibility under paragraph		
(1), the total amount of funds made available		
to the affected local educational agencies shall		
be equal to the sum of the payments that each		
such local educational agency would have		
received under section 611(g) if such agencies		
were eligible for such payments. (3)		
REQUIREMENTS.—Local educational		
agencies that establish joint eligibility under		
this subsection shall—		
(A) adopt policies and procedures that are		
consistent with the State's policies and		
procedures under section 612(a); and		
(B) be jointly responsible for implementing		
programs that receive assistance under this		
part.		
(4) REQUIREMENTS FOR EDUCATIONAL		
SERVICE AGENCIES.—		

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(A) IN GENERAL.—If an educational service agency is required by State law to carry out programs under this part, the joint responsibilities given to local educational agencies under this subsection shall— (i) not apply to the administration and disbursement of any payments received by that educational service agency; and (ii) be carried out only by that educational service agency. (B) ADDITIONAL REQUIREMENT.— Notwithstanding any other provision of this subsection, an educational service agency shall provide for the education of children with disabilities in the least restrictive environment, as required by section 612(a)(5).		
613(f) COORDINATED SERVICES SYSTEM.— (1) IN GENERAL.—A local educational agency may not use more than 5 percent of the amount such agency receives under this part for any fiscal year, in combination with other amounts (which shall include amounts other than education funds), to develop and implement a coordinated services system designed to improve results for children and families, including children with disabilities and their families. (2) ACTIVITIES.—In implementing a coordinated services system under this subsection, a local educational agency may carry out activities that include— (A) improving the effectiveness and efficiency	613(f) No comparable provision.	

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of service delivery, including developing						
strategies that promote accountability for						
results;						
(B) service coordination and case management						
that facilitates the linkage of individualized						
education programs under this part and						
individualized family service plans under part						
C with individualized service plans under						
multiple Federal and State programs, such as						
title I of the Rehabilitation Act of 1973						
(vocational rehabilitation), title XIX of the						
Social Security Act (Medicaid), and title XVI						
of the Social Security Act (supplemental						
security income); (C) developing and						
implementing interagency financing strategies						
for the provision of education, health, mental						
health, and social services, including transition						
services and related services under this Act;						
and						
(D) interagency personnel development for						
individuals working on coordinated services.						
(3) COORDINATION WITH CERTAIN						
PROJECTS UNDER ELEMENTARY AND						
SECONDARY EDUCATION ACT OF						
1965.—If a local educational agency is						
carrying out a coordinated services project						
under title XI of the Elementary and						
Secondary Education Act of 1965 and a						
coordinated services project under this part in						
the same schools, such agency shall use amounts under this subsection in accordance						
with the requirements of that title.						
with the requirements of that title.						
No comparable provision	613(f)	EARLY	INTERVENING	S. 1248	wou	uld add

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	SERVICES.— (1) IN GENERAL.—A local educational agency may not use more than 15 percent of the amount such agency receives under this part for any fiscal year, less any amount treated as local funds pursuant to subsection (a)(2)(C), if any, in combination with other amounts (which may include amounts other than education funds), to develop and implement coordinated, early intervening educational services, which may include interagency financing structures, for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade 3) who do not meet the definition of a child with a disability under section 602(3) but who need additional academic and behavioral support to succeed in a general education environment. (2) ACTIVITIES.—In implementing coordinated, early intervening educational services under this subsection, a local educational agency may carry out activities that include— (A) professional development (which may be provided by entities other than local educational agencies) for teachers and other school staff to enable such personnel to deliver scientifically based academic and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; (B) providing educational and behavioral	GAO study on the types of services provided to children served under this

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	evaluations, services, and supports, including	
	scientifically based literacy instruction; and	
	(C) developing and implementing interagency	
	financing structures for the provision of such	
	services and supports.	
	(3) CONSTRUCTION.—Nothing in this	
	subsection shall be construed to either limit or	
	create a right to a free appropriate public	
	education under this part.	
	(4) REPORTING.—Each local educational	
	agency that develops and maintains	
	coordinated, early intervening educational	
	services with funds made available for this	
	subsection, shall annually report to the State	
	educational agency on—	
	(A) the number of children served under this	
	subsection; and	
	(B) the number of children served under this	
	subsection who are subsequently referred to	
	special education.	
	(5) COORDINATION WITH CERTAIN	
	PROJECTS UNDER ELEMENTARY AND	
	SECONDARY EDUCATION ACT OF	
	1965.—Funds made available to carry out this	
	subsection may be used to carry out	
	coordinated, early intervening educational	
	services aligned with activities funded by, and	
	carried out under, the Elementary and	
	Secondary Education Act of 1965 if such	
	funds are used to supplement, and not	
	supplant, funds made available under the	
	Elementary and Secondary Education Act of	
	1965 for the activities and services assisted	
	under this subsection.	

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	(6) REPORT TO CONGRESS One year after the date of enactment of the Individuals with Disabilities Education Improve Act of 2003, the Comptroller General shall conduct a study on the types of services provided to children served under this subsection, and shall report to Congress regarding the study.			
613(g) SCHOOL-BASED IMPROVEMENT PLAN.— (1) IN GENERAL.—Each local educational agency may, in accordance with paragraph (2), use funds made available under this part to permit a public school within the jurisdiction of the local educational agency to design, implement, and evaluate a school-based improvement plan that is consistent with the purposes described in section 651(b) and that is designed to improve educational and transitional results for all children with disabilities and, as appropriate, for other children consistent with subparagraphs (A) and (B) of subsection (a)(4) in that public school. (2) AUTHORITY.—(A) IN GENERAL.—A State educational agency may grant authority to a local educational agency to permit a public school described in paragraph (1) (through a school based standing panel established under paragraph (4)(B)) to design, implement, and evaluate a school-based improvement plan described in paragraph (1) for a period not to exceed 3 years. (B) RESPONSIBILITY OF LOCAL EDUCATIONAL AGENCY.—If a State	No comparable provision.			

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educational agency grants the authority			
described in subparagraph (A), a local			
educational agency that is granted such			
authority shall have the sole responsibility of			
oversight of all activities relating to the design,			
implementation, and evaluation of any school-			
based improvement plan that a public school is			
permitted to design under this subsection. (3)			
PLAN REQUIREMENTS.—A school-based			
improvement plan described in paragraph (1)			
shall—(A) be designed to be consistent with			
the purposes described in section 651(b) and to			
improve educational and transitional results for			
all children with disabilities and, as			
appropriate, for other children consistent with			
subparagraphs (A) and (B) of subsection			
(a)(4), who attend the school for which the			
plan is designed and implemented; (B) be			
designed, evaluated, and, as appropriate,			
implemented by a school-based standing panel			
established in accordance with paragraph			
(4)(B); (C) include goals and measurable			
indicators to assess the progress of the public			
school in meeting such goals; and (D) ensure			
that all children with disabilities receive the			
services described in the individualized			
education programs of such children.			
(4) RESPONSIBILITIES OF THE LOCAL			
EDUCATIONAL AGENCY.—A local			
educational agency that is granted authority			
under paragraph (2) to permit a public school			
to design, implement, and evaluate a school-			
based improvement plan shall—			
(A) select each school under the jurisdiction of			

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such agency that is eligible to design,		
implement, and evaluate such a plan;		
(B) require each school selected under		
subparagraph (A), in accordance with criteria		
established by such local educational agency		
under subparagraph (C), to establish a school-		
based standing panel to carry out the duties		
described in paragraph (3)(B);		
(C) establish—		
(i) criteria that shall be used by such local		1
educational agency in the selection of an		
eligible school under subparagraph (A); (ii)		
criteria that shall be used by a public school		
selected under subparagraph (A) in the		
establishment of a school-based standing panel		
to carry out the duties described in paragraph		
(3)(B) and that shall ensure that the		
membership of such panel reflects the diversity		
of the community in which the public school is		
located and includes, at a minimum—		
(I) parents of children with disabilities who		
attend such public school, including parents of		
children with disabilities from unserved and		
underserved populations, as appropriate;		
(II) special education and general education		
teachers of such public school;		
(III) special education and general education		
administrators, or the designee of such		
administrators, of such public school; and		
(IV) related services providers who are		
responsible for providing services to the		
children with disabilities who attend such		
public school; and		
(iii) criteria that shall be used by such local		

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educational agency with respect to the		Changes
distribution of funds under this part to carry		
out this subsection; (D) disseminate the criteria		
established under subparagraph (C) to local		
school district personnel and local parent		
organizations within the jurisdiction of such		
local educational agency;		
(E) require a public school that desires to		
design, implement, and evaluate a school-		
based improvement plan to submit an		
application at such time, in such manner, and		
accompanied by such information as such local		
educational agency shall reasonably require;		
and		
(F) establish procedures for approval by such		
local educational agency of a school-based		
improvement plan designed under this		
subsection.		
(5) LIMITATION.—A school-based		
improvement plan described in paragraph (1)		
may be submitted to a local educational		
agency for approval only if a consensus with		
respect to any matter relating to the design,		
implementation, or evaluation of the goals of		
such plan is reached by the school-based		
standing panel that designed such plan.		
(6) ADDITIONAL REQUIREMENTS.—(A)		
PARENTAL INVOLVEMENT.—In carrying		
out the requirements of this subsection, a local		
educational agency shall ensure that the		
parents of children with disabilities are		
involved in the design, evaluation, and, where		
appropriate, implementation of school-based		
improvement plans in accordance with this		

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subsection. (B) PLAN APPROVAL.—A local educational agency may approve a school-based improvement plan of a public school within the jurisdiction of such agency for a period of 3 years, if— (i) the approval is consistent with the policies, procedures, and practices established by such local educational agency and in accordance with this subsection; and (ii) a majority of parents of children who are members of the school-based standing panel, and a majority of other members of the school-based standing panel, that designed such plan agree in writing to such plan. (7) EXTENSION OF PLAN.—If a public school within the jurisdiction of a local educational agency meets the applicable requirements and criteria described in paragraphs (3) and (4) at the expiration of the 3-year approval period described in paragraph (6)(B), such agency may approve a school-based improvement plan of such school for an additional 3-year period.			
613(h) DIRECT SERVICES BY THE STATE EDUCATIONAL AGENCY.— (1) IN GENERAL.—A State educational agency shall use the payments that would otherwise have been available to a local educational agency or to a State agency to provide special education and related services directly to children with disabilities residing in the area served by that local agency, or for	613(g) Same as current law.		

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whom that State agency is responsible, if the State educational agency determines that the local education agency or State agency, as the case may be— (A) has not provided the information needed to establish the eligibility of such agency under this section; (B) is unable to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a); (C) is unable or unwilling to be consolidated with one or more local educational agencies in order to establish and maintain such programs; or (D) has one or more children with disabilities who can best be served by a regional or State program or service-delivery system designed to meet the needs of such children. (2) MANNER AND LOCATION OF EDUCATION AND SERVICES.—The State educational agency may provide special education and related services under paragraph (1) in such manner and at such locations (including regional or State centers) as the State agency considers appropriate. Such education and services shall be provided in accordance with this part.			
613(i) STATE AGENCY ELIGIBILITY.— Any State agency that desires to receive a subgrant for any fiscal year under section 611(g) shall demonstrate to the satisfaction of the State educational agency that— (1) all children with disabilities who are	613(h) Same as current law.		

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participating in programs and projects funded under this part receive a free appropriate public education, and that those children and their parents are provided all the rights and procedural safeguards described in this part; and (2) the agency meets such other conditions of this section as the Secretary determines to be appropriate.		
613(j) DISCIPLINARY INFORMATION.— The State may require that a local educational agency include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit such statement to the same extent that such disciplinary information is included in, and transmitted with, the student records of nondisabled children. The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child. If the State adopts such a policy, and the child transfers from one school to another, the transmission of any of the child's records must include both the child's current individualized education program and any such statement of current or previous disciplinary action that has been taken against the child.	613(i) Same as current law.	
No comparable provision.	613(j) STATE AGENCY FLEXIBILITY.—	S. 1248 would extend the

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	(1) TREATMENT OF FEDERAL FUNDS IN CERTAIN FISCAL YEARS.—If a State educational agency pays or reimburses local educational agencies within the State for not less than 80 percent of the nonFederal share of the costs of special education and related services, or the State is the sole provider of free appropriate public education or direct services pursuant to section 612(b), then the State educational agency, notwithstanding sections 612(a) (17) and (18) and 612(b), may treat funds allocated pursuant to section 611 as general funds available to support the educational purposes described in paragraph (2) (A) and (B). (2) CONDITIONS.—A State educational agency may use funds in accordance with paragraph (1) subject to the following conditions: (A) 8 PERCENT RULE.—A State educational agency may treat not more than 8 percent of the funds the State educational agency receives under this part as general funds to support any educational purpose described in the Elementary and Secondary Education Act of 1965, needs-based student or teacher higher education programs, or the non-Federal share of costs of title XIX of the Social Security Act. (B) 40 PERCENT RULE.—For any fiscal year for which States are allocated the maximum amount of grants pursuant to section 611(a)(2), a State educational agency may treat not more than 40 percent of the amount of funds the State educational agency receives under this	revised "treat as local" provision (see above) for states that fund at least 80% of the nonfederal costs of special education and related services.

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Current Law	part as general funds to support any educational purpose described in the Elementary and Secondary Education Act of 1965, needs-based student or teacher higher education programs, or the non-Federal share of costs of title XIX of the Social Security Act, subject to subparagraph (C). (C) REQUIREMENT.—A State educational agency may exercise its authority pursuant to subparagraph (B) only if the State educational agency uses an amount of the 40 percent funds from subparagraph (B) that represents 15 percent of the total amount of funds the State educational agency receives under this part, to provide, or to pay or reimburse local educational agencies for providing, early intervening prereferral services pursuant to subsection (f). (2) PROHIBITION.—Notwithstanding subsection (a), if the Secretary determines that a State educational agency is unable to establish, maintain, or oversee programs of free appropriate public education that meet the requirements of this part, then the Secretary shall prohibit the State educational agency from treating funds allocated under this part as general funds pursuant to paragraph (1). (3) REPORT.—For each fiscal year for which a State educational agency exercises its authority pursuant to paragraph (1) and treats	Changes	on	Selected
	Federal funds as general funds, the State educational agency shall report to the Secretary the amount of funds so treated and the activities that were funded with such funds.			

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SEC. 614. EVALUATIONS, ELIGIBILITY	SEC. 614. EVALUATIONS, ELIGIBILITY	Changes S. 1248 would make
DETERMINATIONS, INDIVIDUALIZED	DETERMINATIONS, INDIVIDUALIZED	several changes to section
EDUCATION PROGRAMS, AND	EDUCATION PROGRAMS, AND	614's requirements
EDUCATIONAL PLACEMENTS.	EDUCATIONAL PLACEMENTS.	concerning evaluations
(a)EVALUATIONS AND	(a) EVALUATIONS AND	and reevaluations. The
REEVALUATIONS.— (1) INITIAL	REEVALUATIONS.— (1) INITIAL	bill specifically states that
EVALUATIONS.—(A) IN GENERAL.—A	EVALUATIONS.—(A) IN GENERAL.—A	either a parent, or state
State educational agency, other State agency,	State educational agency, other State agency,	agency or local
or local educational agency shall conduct a full	or local educational agency shall conduct a full	educational agency may
and individual initial evaluation, in accordance	and individual initial evaluation in accordance	request an initial
with this paragraph and subsection (b), before	with this paragraph and subsection (b), before	evaluation of a child. The
the initial provision of special education and	the initial provision of special education and	bill would set a time
related services to a child with a disability	related services to a child with a disability	period for when the evaluation must be
under this part.	under this part. (B) REQUEST FOR INITIAL	evaluation must be conducted.
	EVALUATION.—Consistent with	The bill provides that the
	subparagraph (D), either a parent of a child,	local educational agency
	or a State educational agency, other State	is not to be considered in
	agency, or local educational agency may	violation of the
	initiate a request for an initial evaluation to	requirement to provide a
(B) PROCEDURES.—Such initial evaluation	determine if the child is a child with a	free appropriate public
shall consist of procedures—(i) to determine	disability.	education if special
whether a child is a child with a disability (as	(C) PROCEDURES.—Such initial evaluation	education and related
defined in section 602(3)); and (ii) to	shall consist of procedures—(i) to determine	services are not provided
determine the educational needs of such child.	whether a child is a child with a disability (as	due to a refusal or failure
	defined in section 602(3)) within 60 days of	to consent to an
	receiving parental consent for the evaluation,	evaluation.
	or, if the State has established a timeframe	S. 1248 would also add to
(C) DADENTAL CONCENTS (C) DI	within which the evaluation must be	the provision on
(C) PARENTAL CONSENT.—(i) IN	conducted, within such timeframe; and (ii) to	reevaluations in various
GENERAL.—The agency proposing to	determine the educational needs of such child. (D) PARENTAL CONSENT.— (i) IN	ways including limiting a reevaluation to not more
conduct an initial evaluation to determine if the child qualifies as a child with a disability		than once a year unless
as defined in section 602(3)(A) or 602(3)(B)	GENERAL.—The agency proposing to conduct an initial evaluation to determine if	
as uchined in Section $002(3)(A)$ or $002(3)(B)$	conduct an initial evaluation to determine if	me parents and iocal

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shall obtain an informed consent from the parent of such child before the evaluation is conducted. Parental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services. (ii) REFUSAL.—If the parents of	the child qualifies as a child with a disability as defined in section 602(3) (A) or (B) shall obtain an informed consent from the parent of such child before the evaluation is conducted. Parental consent for evaluation shall not be construed as consent for placement for receipt	Changes educational agency agree.
such child refuse consent for the evaluation, the agency may continue to pursue an evaluation by utilizing the mediation and due process procedures under section 615, except to the extent inconsistent with State law relating to parental consent.	of special education and related services. (ii) REFUSAL.—If the parents of such child refuse consent for the evaluation, the agency may continue to pursue an evaluation by utilizing the mediation and due process procedures under section 615, except to the	
	extent inconsistent with State law relating to parental consent. (iii) REFUSAL OR FAILURE TO CONSENT.—If the parent of a child does not provide informed consent to the receipt of special education and related services, or the	
	parent fails to respond to a request to provide the consent, the local educational agency shall not be considered to be in violation of the requirement to make available a free appropriate public education to the child for the failure to provide the special education	
(2) REEVALUATIONS.—A local educational agency shall ensure that a	 and related services for which the local educational agency requests such informed consent. (2) REEVALUATIONS.— (A) IN 	
reevaluation of each child with a disability is conducted—(A) if conditions warrant a reevaluation or if the child's parent or teacher requests a reevaluation, but at least once every 3 years; and (B) in accordance with	GENERAL.—A local educational agency shall ensure that a reevaluation of each child with a disability is conducted <i>in accordance with subsections</i> (b) and (c)— (i) if the local educational agency determines that the	
subsections (b) and (c).	educational or related services needs, including improved academic achievement and	

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	functional performance, of the child warrant a reevaluation; or (ii) if the child's parents or teacher requests a reevaluation. (B) LIMITATION.—A reevaluation conducted under subparagraph (A) shall occur— (i) not more than once a year, unless the parent and the local educational agency agree otherwise; and (ii) at least once every 3 years, unless the parent and the local educational agency agree that a reevaluation is unnecessary.	
614(b) EVALUATION PROCEDURES.—(1) NOTICE.—The local educational agency shall provide notice to the parents of a child with a disability, in accordance with subsections (b)(3), (b)(4), and (c) of section 615, that describes any evaluation procedures such agency proposes to conduct. (2) CONDUCT OF EVALUATION.—In conducting the evaluation, the local educational agency shall—(A) use a variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parent, that may assist in determining whether the child is a child with a disability and the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general curriculum or, for preschool children, to participate in appropriate activities; (B) not	614(b) EVALUATION PROCEDURES.— (1) NOTICE.—The local educational agency shall provide notice to the parents of a child with a disability, in accordance with subsections (b)(3), (b)(4), and (c) of section 615, that describes any evaluation procedures such agency proposes to conduct. (2) CONDUCT OF EVALUATION.—In conducting the evaluation, the local educational agency shall— (A) use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent, that may assist in determining— (i) whether the child is a child with a disability; and (ii) the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general curriculum, or for preschool children, to participate in	S. 1248 would make several changes to section 614's requirements concerning evaluation procedures. For the conduct of the evaluation, the bill would require that academic information shall be included and the requirement not to use any single procedure is expanded to prohibit the use of a single measure or assessment as well. The tests and other evaluation materials would be administered "to the extent practicable, in the language and form most likely to yield
use any single procedure as the sole criterion for determining whether a child is a child with a disability or determining an appropriate	appropriate activities; (B) not use any single procedure, <i>measure</i> , <i>or assessment</i> as the sole criterion for determining whether a child is a	accurate information." A new subsection on specific learning

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educational program for the child; and (C) use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. (3) ADDITIONAL REQUIREMENTS.—Each	child with a disability or determining an appropriate educational program for the child; and (C) use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. (3) ADDITIONAL REQUIREMENTS.—Each	disabilities would be added by the bill. This subsection states that a local educational agency shall not be required to take discrepancies between achievement and
local educational agency shall ensure that— (A) tests and other evaluation materials used to assess a child under this section—(i) are selected and administered so as not to be discriminatory on a racial or cultural basis; and (ii) are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so; and (B) any standardized tests that are given to the child—(i) have been validated for the specific purpose for which they are used; (ii) are administered by trained and knowledgeable personnel; and (iii) are administered in accordance with any instructions provided by the producer of such tests; (C) the child is assessed in all areas of suspected disability; and (D) assessment tools and strategies that provide relevant information that directly assists persons in	local educational agency shall ensure that— (A) tests and other evaluation materials used to assess a child under this section— (i) are selected and administered so as not to be discriminatory on a racial or cultural basis; (ii) are provided and administered, to the extent practicable, in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally; (iii) are used for purposes for which the assessments or measures are valid and reliable; (iv) are administered by trained and knowledgeable personnel; and (v) are administered in accordance with any instructions provided by the producer of such tests; (B) the child is assessed in all areas of suspected disability; and (C) assessment tools and strategies that provide relevant information that directly	between achievement and intellectual abilities into account.
determining the educational needs of the child are provided.	assists persons in determining the educational needs of the child are provided. (4) DETERMINATION OF ELIGIBILITY.—	
(4) DETERMINATION OF ELIGIBILITY.— Upon completion of administration of tests and other evaluation materials—(A) the determination of whether the child is a child	Upon completion of administration of tests and other evaluation materials— (A) the determination of whether the child is a child with a disability as defined in section 602(3)	
with a disability as defined in section 602(3)	shall be made by a team of qualified	

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shall be made by a team of qualified professionals and the parent of the child in accordance with paragraph (5); and (B) a copy of the evaluation report and the documentation of determination of eligibility will be given to the parent. (5) SPECIAL RULE FOR ELIGIBILITY DETERMINATION.—In making a determination of eligibility under paragraph (4)(A), a child shall not be determined to be a child with a disability if the determinant factor for such determination is lack of instruction in reading or math or limited English proficiency.	professionals and the parent of the child in accordance with paragraph (5); and (B) a copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent. (5) SPECIAL RULE FOR ELIGIBILITY DETERMINATION.—In making a determination of eligibility under paragraph (4)(A), a child shall not be determined to be a child with a disability if the determinant factor for such determination is— (A) lack of scientifically based instruction in reading; (B) lack of instruction in mathematics; or (C) limited English proficiency. (6) SPECIFIC LEARNING DISABILITIES.—(A) IN GENERAL.—Notwithstanding section 607(b), when determining whether a child has a specific learning disability as defined in section 602(29), a local educational agency shall not be required to take into consideration whether a child has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning. (B) ADDITIONAL AUTHORITY.—In determining whether a child has a specific learning disability, a local educational agency may use a process that determines if the child responds to scientific, research-based intervention as a part of the evaluation procedures described in paragraphs (2) and (3).			

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614(c) ADDITIONAL REQUIREMENTS FOR **EVALUATION** AND REEVALUATIONS.—(1) **REVIEW** OF EXISTING EVALUATION DATA.—As part of an initial evaluation (if appropriate) and as part of any reevaluation under this section, the other qualified professionals, and shall—(A) review appropriate. existing evaluation data on the child, including evaluations and information provided by the parents of the child, current classroom-based assessments and observations, and teacher and related services providers observation; and (B) on the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine—(i) whether the child has a particular category of disability, as described in section 602(3), or, in case of a reevaluation of a child, whether the child continues to have such a disability; (ii) the present levels of performance and educational needs of the child; (iii) whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and (iv) whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate, in the general curriculum. (2) SOURCE OF DATA.—The local educational agency shall

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614(c) ADDITIONAL REQUIREMENTS FOR **EVALUATION** AND REEVALUATIONS.— (1) REVIEW OF EXISTING EVALUATION DATA.—As part of an initial evaluation (if appropriate) and as part of any reevaluation under this section, the IEP Team described in subsection (d)(1)(B) IEP Team described in subsection (d)(1)(B) qualified professionals, and other appropriate, shall— (A) review existing evaluation data on the child, including evaluations and information provided by the parents of the child, current classroom-based assessments, and observations, and teacher and related services providers observations; and (B) on the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine— (i) whether the child has a particular category of disability, as described in section 602(3), or, in case of a reevaluation of a child, whether the child continues to have such a disability; (ii) the present levels of performance and educational needs of the child; (iii) whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and (iv) whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate, in the general curriculum. (2) SOURCE OF

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Subsections 614(c)(1)-(3) of S. 1248 are identical to current law. Section 614(c)(4) of S. 1248 would make a clarifying change. The substantive changes that would be made by the bill involve evaluations before a change in eligibility. S. 1248 would provide exceptions to the requirement for evaluations when a child graduates from high school or is beyond the age of coverage. Such a child would receive a summary of performance under the bill.

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administer such tests and other evaluation	DATA.—The local educational agency shall			
materials as may be needed to produce the data	administer such tests and other evaluation			
identified by the IEP Team under paragraph	materials and procedures as may be needed to			
(1)(B). (3) PARENTAL CONSENT.—Each	produce the data identified by the IEP Team			
local educational agency shall obtain informed	under paragraph (1)(B). (3) PARENTAL			
parental consent, in accordance with	CONSENT.—Each local educational agency			
subsection (a)(1)(C), prior to conducting any	shall obtain informed parental consent, in			
reevaluation of a child with a disability, except	accordance with subsection (a)(1)(D), prior to			
that such informed parent consent need not be	conducting any reevaluation of a child with a			
obtained if the local educational agency can	disability, except that such informed parental			
demonstrate that it had taken reasonable	consent need not be obtained if the local			
measures to obtain such consent and the	educational agency can demonstrate that the			
child's parent has failed to respond.	local educational agency had taken reasonable			
(4) REQUIREMENTS IF ADDITIONAL	measures to obtain such consent and the child's			
DATA ARE NOT NEEDED.—If the IEP	parent has failed to respond.			
Team and other qualified professionals, as	(1) PEOLINE ENTER HE APPARAGNAL			
appropriate, determine that no additional data	(4) REQUIREMENTS IF ADDITIONAL			
are needed to determine whether the child	DATA ARE NOT NEEDED.—If the IEP			
continues to be a child with a disability, the	Team and other qualified professionals, as			
local educational agency—(A) shall notify the	appropriate, determine that no additional data			
child's parents of—(i) that determination and	are needed to determine whether the child is or			
the reasons for it; and (ii) the right of such	continues to be a child with a disability, the			
parents to request an assessment to determine	local educational agency(A) shall notify the			
whether the child continues to be a child with a	child's parents of— (i) that determination and			
disability; and (B) shall not be required to	the reasons for <i>the determination</i> ; and (ii) the			
conduct such an assessment unless requested	right of such parents to request an assessment			
to by the child's parents.	to determine whether the child is or continues			
(5) EVALUATIONS BEFORE CHANGE IN	to be a child with a disability; and (B) shall not			
ELIGIBILITY.—A local educational agency	be required to conduct such an assessment			
shall evaluate a child with a disability in accordance with this section before	unless requested by the child's parents.			
	(5) EVALUATIONS BEFORE CHANGE IN			
determining that the child is no longer a child with a disability.	ELIGIBILITY.—(A) IN GENERAL.—Except as provided in subparagraph (B), a local			
with a disability.	educational agency shall evaluate a child with			
	cuucational agency shall evaluate a child with			

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	a disability in accordance with this section before determining that the child is no longer a child with a disability. (B) EXCEPTION.— (i) IN GENERAL.—The evaluation described in subparagraph (A) shall not be required before the termination of a child's eligibility under this part due to graduation from secondary school with a regular diploma, or to exceeding the age eligibility for a free appropriate public education under State law. (ii) SUMMARY OF PERFORMANCE.— For a child whose eligibility under this part terminates under circumstances described in clause (i), a local educational agency shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.	
614(d) INDIVIDUALIZED EDUCATION PROGRAMS.—(1) DEFINITIONS.—As used in this title: (A) INDIVIDUALIZED EDUCATION PROGRAM.—The term 'individualized education program' or 'IEP' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this section and that includes—(i) a statement of the child's present levels of educational performance, including—(I) how the child's disability affects the child's involvement and progress in the general curriculum; or (II) for preschool children, as appropriate, how the disability affects the	614(d) INDIVIDUALIZED EDUCATION PROGRAMS.— (1) DEFINITIONS.—As used in this title: (A) INDIVIDUALIZED EDUCATION PROGRAM.— (i) IN GENERAL.—The term 'individualized education program' or 'IEP' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this section and that includes— (I) a statement of the child's present levels of academic achievement and functional performance, including— (aa) how the child's disability affects the child's involvement and progress in the general curriculum; or (bb) for	S. 1248 would make several changes to the definition of individualized education program. Instead of a statement of the child's present levels of educational performance, S. 1248 would insert a statement of the child's present levels of academic achievement and functional performance. S. 1248

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child's participation in appropriate activities; (ii) a statement of measurable annual goals, including benchmarks or short-term objectives, related to—(I) meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum; and (II) meeting each of the child's other educational needs that result from the child's disability;

(iii) a statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child— (I) to advance appropriately toward attaining the annual goals;(II) to be involved and progress in the general curriculum in accordance with clause (i) and to participate in other extracurricular and nonacademic activities; and (III) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this paragraph; (iv) an explanation of the extent, if any, to which the child will not

preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; (II) a statement of measurable annual goals, including academic and functional goals, designed to— (aa) meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general curriculum; and (bb) meet each of the child's other educational needs that result from the child's disability; (III) a description of how the child's progress toward meeting the annual goals described in subclause (II) will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;

(IV) a statement of the special education and related services, and supplementary aids and services, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child— (aa) to advance appropriately toward attaining the annual goals; (bb) to be involved in and make progress in the general curriculum in accordance with subclause (I) and to participate in extracurricular and other nonacademic activities; and (cc) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this paragraph; (V) an explanation of the extent, if any, to which the

would also eliminate the requirement in current law for benchmarks or short term objectives and modify the current provisions on state and district wide assessments and the current provisions on transitional services. S. 1248 would add a subsection entitled a "rule of construction" stating that nothing in the section shall be construed to require that additional information be included in a child's IEP beyond what is explicitly required in this section. The provision in current law at section 614(e) that the IEP team is not required to include information under one component of the child's IEP that is already in another component is added in this subsection.

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participate with nondisabled children in the	child will not participate with nondisabled			
regular class and in the activities described in	children in the regular class and in the			
clause (iii); (v)(I) a statement of any individual	activities described in subclause (IV)(cc);			
modifications in the administration of State or	(VI)(aa) a statement of any individual			
districtwide assessments of student	appropriate accommodations that are			
achievement that are needed in order for the	necessary to measure the academic			
child to participate in such assessment; and (II)	achievement and functional performance of the			
if the IEP Team determines that the child will	child on State and districtwide assessments			
not participate in a particular State or	consistent with section 612(a)(16)(A); and (bb)			
districtwide assessment of student achievement	if the IEP Team determines that the child <i>shall</i>			
(or part of such an assessment), a statement	take an alternate assessment on a particular			
of—(aa) why that assessment is not	State or districtwide assessment of student			
appropriate for the child; and (bb) how the	achievement, a statement of why—(AA) the			
child will be assessed; (vi) the projected date	child cannot participate in the regular			
for the beginning of the services and	assessment; and (BB) the particular alternate			
modifications described in clause (iii), and the	assessment selected is appropriate for the			
anticipated frequency, location, and duration	child; (VII) the projected date for the			
of those services and modifications; (vii)(I)	beginning of the services and modifications			
beginning at age 14, and updated annually, a	described in <i>sub</i> clause (<i>IV</i>), and the anticipated			
statement of the transition service needs of the	frequency, location, and duration of those			
child under the applicable components of the	services and modifications; and (VIII)			
child's IEP that focuses on the child's courses	beginning not later than the first IEP to be in			
of study (such as participation in advanced-	effect when the child is 14, and updated			
placement courses or a vocational education	annually thereafter— (aa) appropriate			
program); (II) beginning at age 16 (or younger,	measurable postsecondary goals based upon			
if determined appropriate by the IEP Team), a	age appropriate transition assessments related			
statement of needed transition services for the	to training, education, employment, and,			
child, including, when appropriate, a statement	where appropriate, independent living skills;			
of the interagency responsibilities or any	(bb) the transition services (including courses			
needed linkages; and (III) beginning at least	of study) needed by the child to reach those			
one year before the child reaches the age of	goals, including services to be provided by			
majority under State law, a statement that the	other agencies when needed; and (cc)			
child has been informed of his or her rights	beginning at least 1 year before the child			
under this title, if any, that will transfer to the	reaches the age of majority under State law, a			

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child on reaching the age of majority under section 615(m); and (viii) a statement of—(I) how the child's progress toward the annual goals described in clause (ii) will be measured; and (II) how the child's parents will be regularly informed (by such means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress, of—(aa) their child's progress toward the annual goals described in clause (ii); and (bb) the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.	statement that the child has been informed of the child's rights under this title, if any, that will transfer to the child on reaching the age of majority under section 615(m). (ii) RULE OF CONSTRUCTION.— Nothing in this section shall be construed to require— (I) that additional information be included in a child's IEP beyond what is explicitly required in this section; and (II) the IEP Team to include information under 1 component of a child's IEP that is already contained under another component of such IEP.			
EDUCATION PROGRAM TEAM.—The term 'individualized education program team' or 'IEP Team' means a group of individuals composed of—(i) the parents of a child with a disability; (ii) at least one regular education teacher of such child (if the child is, or may be, participating in the regular education environment); (iii) at least one special education teacher, or where appropriate, at least one special education provider of such child; (iv) a representative of the local educational agency who—(I) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; (II)	614(d)(1)(B) Same as current law.			

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is knowledgeable about the general curriculum; and (III) is knowledgeable about the availability of resources of the local educational agency; (v) an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in clauses (ii) through (vi); (vi) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and (vii) whenever appropriate, the child with a disability.		
No provision.	614(d)(1)(C) IEP TEAM ATTENDANCE.— (i) ATTENDANCE NOT NECESSARY.—A member of the IEP Team shall not be required to attend an IEP meeting, in whole or in part, if that member, the parent of a child with a disability, and the local educational agency agree that the attendance of such member is not necessary because no modification to the member's area of the curriculum or related services is being modified or discussed in the meeting. (ii) EXCUSAL.—A member of the IEP Team may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if— (I) that member, the parent, and the local educational agency consent to the excusal; and (II) the member submits input into the development of the IEP prior to the meeting.	S. 1248 would add a new subsection delineating when a member of an IEP team is not required to attend an IEP team meeting and when an IEP team member may be excused from attendance. This subsection would also require that a parent's agreement and consent be in writing.

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	(iii) WRITTEN AGREEMENT AND CONSENT REQUIRED.—A parent's agreement under clause (i) and consent under clause (ii) shall be in writing.	
PROGRAM BE IN EFFECT.—(A) IN GENERAL.—At the beginning of each school year, each local educational agency, State educational agency, or other State agency, as the case may be, shall have in effect, for each child with a disability in its jurisdiction, an individualized education program, as defined in paragraph (1)(A). (B) PROGRAM FOR CHILD AGED 3 THROUGH 5.—In the case of a child with a disability aged 3 through 5 (or, at the discretion of the State educational agency, a 2 year old child with a disability who will turn age 3 during the school year), an individualized family service plan that contains the material described in section 636, and that is developed in accordance with this section, may serve as the IEP of the child if using that plan as the IEP is—(i) consistent with State policy; and (ii) agreed to by the agency and the child's parents.	614(d)(2) Same as current law.	
614(d)(3) DEVELOPMENT OF IEP.—(A) IN GENERAL.—In developing each child's IEP, the IEP Team, subject to subparagraph (C), shall consider—(i) the strengths of the child and the concerns of the parents for enhancing the education of their child; and (ii) the results of the initial evaluation or most recent evaluation of the child.	614(d)(3) DEVELOPMENT OF IEP.— (A) IN GENERAL.—In developing each child's IEP, the IEP Team, subject to subparagraph (C), shall consider— (i) the strengths of the child; (ii) the concerns of the parents for enhancing the education of their child; (iii) the results of the initial evaluation or most recent evaluation of the child; and (iv) the academic,	S.1248 would add a requirement that the IEP team consider the academic, developmental and functional needs of the child.

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	developmental, and functional needs of the child.	
614(d)(3)(B) CONSIDERATION OF SPECIAL FACTORS.—The IEP Team shall—(i) in the case of a child whose behavior impedes his or her learning or that of others, consider, when appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior; (ii) in the case of a child with limited English proficiency, consider the language needs of the child as such needs relate to the child's IEP; (iii) in the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child; (iv) consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and	614(d)(3)(B) CONSIDERATION OF SPECIAL FACTORS.—The IEP Team shall—(i) in the case of a child whose behavior impedes the child's learning or that of others, provide for positive behavioral interventions and supports, and other strategies to address that behavior; (ii) in the case of a child with limited English proficiency, consider the language needs of the child as such needs relate to the child's IEP; (iii) in the case of a child who is blind or visually impaired— (I) provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child; and (II) consider, when appropriate, instructional services related to functional performance skills, orientation and mobility, and skills in the use of assistive technology devices, including low vision devices; (iv) consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and	

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professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and (v) consider whether the child requires assistive technology devices and services.	professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and (v) consider whether the child requires assistive technology devices and services.	
614(d)(3)(C) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER.—The regular education teacher of the child, as a member of the IEP Team, shall, to the extent appropriate, participate in the development of the IEP of the child, including the determination of appropriate positive behavioral interventions and strategies and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with paragraph (1)(A)(iii).	614(d)(3)(C) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER.—A regular education teacher of the child, as a member of the IEP Team shall, to the extent appropriate, participate in the development of the IEP of the child, including the determination of appropriate positive behavioral interventions and <i>supports</i> , <i>and other</i> strategies, and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with paragraph (1)(A)(i)(IV).	S. 1248 would add language relating to behavioral supports.
No provision.	614(d)(3)(D) AGREEMENT.—In making changes to a child's IEP after the annual IEP meeting for a school year, the parent of a child with a disability and the local educational agency may agree not to convene an IEP meeting for the purposes of making such changes, and instead may develop a written document to amend or modify the child's current IEP.	S. 1248 would allow the parent and local educational agency to agree not to convene an IEP meeting for changes after the annual IEP meeting.
No provision.	614(d)(3)(E) CONSOLIDATION OF IEP TEAM MEETINGS.—To the extent possible, the local educational agency shall encourage	S. 1248 would encourage the consolidation of reevaluations with IEP

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	the consolidation of reevaluations of a child with IEP Team meetings for the child.	team meetings.
614(d)(4) REVIEW AND REVISION OF IEP.—(A) IN GENERAL.—The local educational agency shall ensure that, subject to subparagraph (B), the IEP Team—(i) reviews the child's IEP periodically, but not less than annually to determine whether the annual goals for the child are being achieved; and (ii) revises the IEP as appropriate to address—(I) any lack of expected progress toward the annual goals and in the general curriculum, where appropriate;(II) the results of any reevaluation conducted under this section;(III) information about the child provided to, or by, the parents, as described in subsection (c)(1)(B);(IV) the child's anticipated needs; or (V) other matters.(B) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER.—The regular education teacher of the child, as a member of the IEP Team, shall, to the extent appropriate, participate in the review and revision of the IEP of the child.	614(d)(4) REVIEW AND REVISION OF IEP.— (A) IN GENERAL.—The local educational agency shall ensure that, subject to subparagraph (B), the IEP Team— (i) reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and (ii) revise the IEP as appropriate to address— (I) any lack of expected progress toward the annual goals and in the general curriculum, where appropriate; (II) the results of any reevaluation conducted under this section; (III) information about the child provided to, or by, the parents, as described in subsection (c)(1)(B); (IV) the child's anticipated needs; or (V) other matters. (B) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER.—A regular education teacher of the child, as a member of the IEP Team, shall, consistent with paragraph (1)(C), participate in the review and revision of the IEP of the child.	S. 1248 would change the current language from requiring participation of the regular education teacher when appropriate to requiring participation when consistent with the new provision on attendance at IEP meetings.
No provision.	614(d)(5) THREE-YEAR IEP.— (A) DEVELOPMENT OF 3-YEAR IEP.—The local educational agency may offer a child with a disability who has reached the age of 18, the option of developing a comprehensive 3-year IEP. With the consent of the parent, when appropriate, the IEP Team shall develop an IEP, as described in paragraphs (1) and (3), that is designed to serve the child for the final	S. 1248 would add a new provision allowing a three year IEP in certain circumstances.

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	3-year transition period, which incl statement of— (i) measurable goals the enable the child to be involved in and progress in the general education current and that will meet the child's transition postsecondary needs that result from the disability; and (ii) measurable annual geneasuring progress toward meeting postsecondary goals described in class (B) REVIEW AND REVISION OF 3. IEP.— (i) REQUIREMENT.—Each yolocal educational agency shall ensure the child's IEP to determine the child's levels of progress and determine whet annual goals for the child are being act and (II) revises the IEP, as approprienable the child to continue to memeasurable transition goals set out in the (ii) COMPREHENSIVE REVIEW.—review under clause (i) determines the child is not making sufficient progress the goals described in subparagraph (local educational agency shall ensure the IEP Team provides a review, with calendar days, of the IEP under paragraph (iii) PREFERENCE.—At the request child, or when appropriate, the parent, Team shall conduct a review of the chyear IEP under paragraph (4) rather the annual review under subparagraph (B)(iii) Preserview under subparagraph (B)(iiii) Preserview under subparagraph (B)(iiiii) Preserview under subparagraph (B)(iiiiii) Preserview under subparagraph (B)(iiiiiii) Preserview under subparagraph (B)(iiiiiiiiiiiiiiiiiiiiiiiiiiiiiiiiiii	that will ad make criculum onal and e child's goals for any the ause (i). 3-YEAR year the that the eview of a current other the
614(d)(5) FAILURE TO TRANSITION OBJECTIVES	MEET 614(d)(6) FAILURE TO —If a TRANSITION OBJECTIVES.—If	MEET S. 1248 is essentially the a same as current law with

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participating agency, other than the local educational agency, fails to provide the transition services described in the IEP in accordance with paragraph (1)(A)(vii), the local educational agency shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in that program.	participating agency, other than the local educational agency, fails to provide the transition services described in the IEP in accordance with paragraph (1)(A)(i)(VIII), the local educational agency shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in that program.	regard to this subsection.
614(d)(6) CHILDREN WITH DISABILITIES IN ADULT PRISONS.—(A) IN GENERAL.—The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons: (i) The requirements contained in section 612(a)(17) and paragraph (1)(A)(v) of this subsection (relating to participation of children with disabilities in general assessments). (ii) The requirements of subclauses (I) and (II) of paragraph (1)(A)(vii) of this subsection (relating to transition planning and transition services), do not apply with respect to such children whose eligibility under this part will end, because of their age, before they will be released from prison. (B) ADDITIONAL REQUIREMENT.—If a child with a disability is convicted as an adult under State law and incarcerated in an adult prison, the child's IEP Team may modify the child's IEP or placement notwithstanding the requirements of sections 612(a)(5)(A) and 614(d)(1)(A) if the State has demonstrated a bona fide security or compelling penological	614(d)(7) CHILDREN WITH DISABILITIES IN ADULT PRISONS.— (A) IN GENERAL.—The following requirements shall not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons: (i) The requirements contained in section 612(a)(16) and paragraph (1)(A)(i)(V) (relating to participation of children with disabilities in general assessments). (ii) The requirements of items (aa) and (bb) of paragraph (1)(A)(i)(VIII) (relating to transition planning and transition services), do not apply with respect to such children whose eligibility under this part will end, because of their age, before they will be released from prison. (B) ADDITIONAL REQUIREMENT.—If a child with a disability is convicted as an adult under State law and incarcerated in an adult prison, the child's IEP Team may modify the child's IEP or placement notwithstanding the requirements of sections 612(a)(5)(A) and 614(d)(1)(A) if the State has demonstrated a bona fide security or compelling penological	S. 1248 is essentially the same as current law with regard to this subsection.

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interest that cannot otherwise be accommodated.	interest that cannot otherwise be accommodated.	
614(e) CONSTRUCTION.—Nothing in this section shall be construed to require the IEP Team to include information under one component of a child's IEP that is already contained under another component of such IEP.	See 614(d)(1)(A) which contains similar language.	
614(f) EDUCATIONAL PLACEMENTS.— Each local educational agency or State educational agency shall ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.	614(e) Same as current law.	
No provision.	614(f) ALTERNATIVE MEANS OF MEETING PARTICIPATION.—When conducting IEP Team meetings and placement meetings pursuant to this section, the parent of a child with a disability and a local educational agency may agree to use alternative means of meeting participation, such as video conferences and conference calls.	S. 1248 would add a new provision on alternative means of meeting participation.
SEC. 615. PROCEDURAL SAFEGUARDS. (a) ESTABLISHMENT OF PROCEDURES.—Any State educational agency, State agency, or local educational agency that receives assistance under this part shall establish and maintain procedures in accordance with this section to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of free appropriate public	615(a) Same as current law.	

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education by such agencies.		
615(b) TYPES OF PROCEDURES.—The procedures required by this section shall include—(1) an opportunity for the parents of a child with a disability to examine all records relating to such child and to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child; (2) procedures to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State educational agency, the local educational agency, or any other agency that is involved in the education or care of the child) to act as a surrogate for the parents; (3) written prior notice to the parents of the child whenever such agency—(A) proposes to initiate or change; or (B) refuses to initiate or change; the identification, evaluation, or educational placement of the child, in accordance with subsection (c), or the provision of a free appropriate public education to the child; (4) procedures designed to ensure that the notice required by paragraph (3) is in the native language of the parents, unless it clearly is not feasible to do so; (5) an opportunity for mediation in accordance with	The procedures required by this section shall include—(1) an opportunity for the parents of a child with a disability to examine all records relating to such child and to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child; (2) procedures to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State educational agency, the local educational agency, or any other agency that is involved in the education or care of the child) to act as a surrogate for the parents; (3) written prior notice to the parents of the child, in accordance with subsection (c)(1), whenever the local educational agency— (A) proposes to initiate or	S. 1248 would make several changes to section 615(b), including an opportunity for either party to present complaints and specific provisions relating to homeless children or youth.

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subsection (e); (6) an opportunity to present complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child; (7) procedures that require the parent of a child with a disability, or the attorney representing the child, to provide notice (which shall remain confidential)—(A) to the State educational agency or local educational agency, as the case may be, in the complaint filed under paragraph (6); and (B) that shall include—(i) the name of the child, and the name of the school the child is attending; (ii) a description of the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and (iii) a proposed resolution of the problem to the extent known and available to the parents at the time; and (8) procedures that require the State educational agency to develop a model form to assist parents in filing a complaint in accordance with paragraph (7).	change; or (B) refuses to initiate or change, the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child; (4) procedures designed to ensure that the notice required by paragraph (3) is in the native language of the parents, unless it clearly is not feasible to do so; (5) an opportunity for mediation in accordance with subsection (e); (6) an opportunity for either party to present complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child; (7)(A) procedures that require either party, or the attorney representing a party, to provide due process complaint notice in accordance with subsection (c)(2) (which shall remain confidential)— (i) to the other party, in the complaint filed under paragraph (6), and forward a copy of such notice to the State educational agency; and (ii) that shall include— (I) the name of the child, and the name of the school the		

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	child is attending; (II) in the case of	f a
	homeless child or youth (within t	the
	meaning of section 725(2) of a	the
	McKinney-Vento Homeless Assistar	nce
	Act (42 U.S.C. 11434a(2)), availa	ble
	contact information for the child a	and
	the name of the school the child	is
	attending; (III) a description of	the
	nature of the problem of the ch	ild
	relating to such proposed initiation	or
	change, including facts relating to su	ıch
	problem; and (IV) a proposed resoluti	ion
	of the problem to the extent known a	and
	available to the party at the time; a	and
	(B) a requirement that a party may t	not
	have a due process hearing until a	the
	party, or the attorney representing t	the
	party, files a notice that meets t	the
	requirements of subparagraph (A)(a	(ii);
	(8) a requirement that the loc	cal
	educational agency shall send a pr	ior
	written notice pursuant to subsecti	ion
	(c)(1) in response to a parent's a	lue
	process complaint notice und	der
	paragraph (7) if the local education	nal
	agency has not sent such a prior write	ten
	notice to the parent regarding to	the
	subject matter contained in the parer	
	due process complaint notice; and	(9)

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	procedures that require the State educational agency to develop a model form to assist parents in filing a complaint and due process complaint notice in accordance with <i>paragraphs</i> (6) and (7), <i>respectively</i> .	
615(c) CONTENT OF PRIOR WRITTEN NOTICE.—The notice required by subsection (b)(3) shall include—(1) a description of the action proposed or refused by the agency; (2) an explanation of why the agency proposes or refuses to take the action; (3) a description of any other options that the agency considered and the reasons why those options were rejected; (4) a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action; (5) a description of any other factors that are relevant to the agency's proposal or refusal; (6) a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and (7) sources for parents to contact to obtain assistance in understanding the provisions of this part.	615(c) NOTIFICATION REQUIREMENTS.— (1) CONTENT OF PRIOR WRITTEN NOTICE.— The prior written notice of the local educational agency required by subsection (b)(3) shall include— (A) a description of the action proposed or refused by the agency; (B) an explanation of why the agency proposes or refuses to take the action; (C) a description of any other options that the agency considered and the reasons why those options were rejected; (D) a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action; (E) a description of any other factors that are relevant to the agency's proposal or refusal; (F) a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and (G) sources for parents to contact to obtain assistance in understanding the provisions of this part. (2) DUE PROCESS COMPLAINT NOTICE.—(A) IN GENERAL.—The due process complaint	S. 1248 would keep the substance of current law regarding the content of the prior written notice but would add a new subsection on the due process complaint notice, providing in part that the notice is to be deemed sufficient unless there is written notification to the hearing officer and other party within twenty days of receiving the complaint. A new subsection would be added delineating when a parent may amend their due process complaint notice.

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	notice required under subsection (b)(7)(A) shall be deemed to be sufficient unless the party receiving the notice notifies the hearing officer and the other party in writing that the party believes the notice has not met the requirements of that subsection. (B) TIMING.—The party sending a hearing officer notification under subparagraph (A) shall send the notification within 20 days of receiving the complaint. (C) DETERMINATION.—Within 5 days of receipt of the notification provided under subparagraph (B), the hearing officer shall make a determination on the face of the notice of whether the notification meets the requirements of subsection (b)(7)(A) and shall immediately notify both parties in writing of such decision. (D) PARENT'S AMENDED NOTICE OF COMPLAINT (i) In general. A parent may amend their due process complaint notice only if- (I) the public agency consents in writing to such amendment and is given the opportunity to resolve the complaint through a meeting held pursuant to subsection (f)(1)(B); or (II) the hearing officer grants permission, but may do so only before a due process hearing occurs. (ii) All of the applicable timelines for a due process hearing under this part shall re-commence at the time the party files an amended notice.	
615(d) PROCEDURAL SAFEGUARDS NOTICE.—(1) IN GENERAL.—A copy of the procedural safeguards available to the parents of a child with a disability shall be	615(d) PROCEDURAL SAFEGUARDS NOTICE.— (1) IN GENERAL.—A copy of the procedural safeguards available to the parents of a child with a disability shall be	S. 1248 would limit the provision of the procedural safeguards notice to once a year with

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given to the parents, at a minimum—(A) upon initial referral for evaluation; (B) upon each notification of an individualized education program meeting and upon reevaluation of the child; and (C) upon registration of a complaint under subsection (b)(6). (2) CONTENTS.— The procedural safeguards notice shall include a full explanation of the procedural safeguards, written in the native language of the parents, unless it clearly is not feasible to do so, and written in an easily understandable manner, available under this section and under regulations promulgated by the Secretary relating to— (A) independent educational evaluation; (B) prior written notice; (C) parental consent; (D) access to educational records; (E) opportunity to present complaints; (F) the child's placement during pendency of due process proceedings; (G) procedures for students who are subject to placement in an interim alternative educational setting; (H) requirements for unilateral placement by parents of children in private schools at public expense; (I) mediation; (J) due process hearings, including requirements for disclosure

of evaluation results and recommendations:

(K) State-level appeals (if applicable in that

State); (L) civil actions; and (M) attorneys'

fees.

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given to the parents only 1 time a year, except that a copy also shall be given to the parents— (A) upon initial referral or parental request for evaluation; (B) upon registration of a complaint under subsection (b)(6); and (C) upon request by a parent. (2) CONTENTS.— The procedural safeguards notice shall include a full explanation of the procedural safeguards, written in the native language of the parents, unless it clearly is not feasible to do so, and written in an easily understandable manner, available under this section and under regulations promulgated by the Secretary relating to— (A) independent educational evaluation; (B) prior written notice; (C) parental consent; (D) access to educational records; (E) the opportunity to present and resolve complaints, including— (i) the time period in which to make a complaint; (ii) the opportunity for the agency to resolve the complaint; and (iii) the availability of mediation; (F) the child's placement during pendency of due process proceedings; (G) procedures for students who are subject to placement in an interim alternative educational setting; (H) requirements for unilateral placement by parents of children in private schools at public expense; (I) mediation; (J) due process hearings, including requirements for disclosure of evaluation results and recommendations; (K) State-level appeals (if applicable in that State); (L) civil actions, including the time period in which to file such actions; and (M) attorney's fees.

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certain exceptions including when a parent requests the notice. The bill would add requirements that the new time periods for filing complaints and civil actions be included in the contents of the notice and that the notice include more information regarding the opportunity to present and resolve complaints.

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615(e) MEDIATION.—(1) IN GENERAL.—	615(e) MEDIATION.— (1) IN GENERAL.—	S. 1248 would specify
	Any State educational agency or local	that mediation may be

educational agency that receives assistance under this part shall ensure that procedures are established and implemented to allow parties to disputes involving any matter described in subsection (b)(6) to resolve such disputes through a mediation process which, at a minimum, shall be available whenever a hearing is requested under subsection (f) or (k). (2) REQUIREMENTS.—Such procedures shall meet the following requirements: (A) The procedures shall ensure that the mediation process—(i) is voluntary on the part of the parties; (ii) is not used to deny or delay a parent's right to a due process hearing under subsection (f), or to deny any other rights afforded under this part; and (iii) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.(B) A local educational agency or a State agency may establish procedures to require parents who choose not to use the mediation process to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with—(i) a parent training and information center or community parent resource center in the State established under section 682 or 683; or (ii) an appropriate alternative dispute resolution entity; to encourage the use, and explain the benefits, of the mediation process to the parents. (C) The State shall maintain a list of individuals who are qualified mediators and knowledgeable in

educational agency that receives assistance used for matters arising under this part shall ensure that procedures are established and implemented to allow parties to disputes involving any matter, including matters arising prior to the filing of a complaint pursuant to subsection (b)(6), to resolve such disputes through a mediation process. (2) REQUIREMENTS.—Such shall meet the following procedures requirements: (A) The procedures shall ensure that the mediation process—(i) is voluntary on the part of the parties; (ii) is not used to deny or delay a parent's right to a due process hearing under subsection (f), or to deny any other rights afforded under this part; and (iii) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques. (B) OPPORTUNITY TO MEET WITH A DISINTERESTED PARTY.—A local educational agency or a State agency may establish procedures to offer to parents and schools who choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with— (i) a parent training and information center or community parent resource center in the State established under section 671 or 672; or (ii) an appropriate alternative dispute resolution entity, to encourage the use, and explain the benefits, of the mediation process to the parents. (C) LIST OF QUALIFIED

prior to the filing of a due process complaint. addition, the bill would change current law so as to offer, not require, a meeting with disinterested party to explain the benefits of mediation. S. 1248 would also add headings to the subsections.

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laws and regulations relating to the provision of special education and related services. (D) The State shall bear the cost of the mediation process, including the costs of meetings described in subparagraph (B). (E) Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute. (F) An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement. (G) Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process.	MEDIATORS.— The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services. (D) COSTS.—The State shall bear the cost of the mediation process, including the costs of meetings described in subparagraph (B). (E) SCHEDULING AND LOCATION.—Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute. (F) WRITTEN MEDIATION AGREEMENT.— An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement that is enforceable in any State court of competent jurisdiction or in a district court of the United States. (G) MEDIATION DISCUSSIONS.—Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings, and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process.	
615(f) IMPARTIAL DUE PROCESS HEARING.—(1) IN GENERAL.—Whenever a complaint has been received under subsection (b)(6) or (k) of this section, the parents involved in such complaint shall have an opportunity for an impartial due process hearing, which shall be conducted by the State	615(f) IMPARTIAL DUE PROCESS HEARING.—(1)IN GENERAL.—(A) HEARING.—Whenever a complaint has been received under subsection (b)(6) or (k), the parents or the local educational agency involved in such complaint shall have an opportunity for an impartial due process	section 615(f) to specifically allow the local educational agency to ask for a due process

Current Law

child

educational agency or by the local educational agency, as determined by State law or by the State educational agency. (2) DISCLOSURE OF **EVALUATIONS** AND RECOMMENDATIONS.—(A) IN GENERAL.—At least 5 business days prior to a hearing conducted pursuant to paragraph (1), each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing. (B) FAILURE TO DISCLOSE.—A hearing officer may bar any party that fails to comply with subparagraph (A) from introducing the relevant evaluation or recommendation at the hearing without the

consent of the other party. (3) LIMITATION

ON CONDUCT OF HEARING.—A hearing

be conducted by an employee of the State

educational agency or the local educational

agency involved in the education or care of the

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hearing, which shall be conducted by the State educational agency or by the local educational agency, as determined by State law or by the State educational agency. (B) OPPORTUNITY COMPLAINT.— TORESOLVE PRELIMINARY MEETING.—Prior to the opportunity for an impartial due process hearing under subparagraph (A), the local educational agency shall convene a meeting with the parents and the IEP Team— (I) within 15 days of receiving notice of the parents' complaint; (II) which shall include a representative of the public agency who has decisionmaking authority on behalf of such agency; (III) which may not include an attorney of the local educational agency unless the parent is accompanied by an attorney; and (IV) where the parents of the child discuss conducted pursuant to paragraph (1) may not their complaint, and the specific issues that form the basis of the complaint, and the local educational agency is provided the opportunity to resolve the complaint, unless the parents and the local educational agency agree in writing to waive such meeting, or agree to use the mediation process described in subsection (e). (ii) HEARING.—If the local educational agency has not resolved the complaint to the satisfaction of the parents within 15 days of the receipt of the complaint, the due process hearing may occur, and all of the applicable timelines for a due process hearing under this part shall commence. (iii) WRITTEN SETTLEMENT AGREEMENT.—In the case that an agreement is reached to resolve the

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require a preliminary meeting with the parents and the IEP team to attempt to resolve the complaint. This meeting must be convened within 15 days of receiving notice of the complaint and must meet certain other requirements. If the complaint is not resolved within fifteen days, the due process hearing may occur. If an agreement is reached during the meeting the agreement shall be set forth in a written settlement agreement that is enforceable in court.

- S. 1249 would add to the requirements for a person conducting a due process hearing.
- S. 1248 would prohibit the party requesting the due process hearing from raising issues at the hearing that were not raised in the notice unless the other party agrees but nothing would preclude a parent from filing a separate due process

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	complaint at such meeting, the agreement shall be set forth in a written settlement agreement that is— (I) signed by both the parent and a representative of the public agency who has decisionmaking authority on behalf of such agency; and (II) enforceable in any State court of competent jurisdiction or in a district court of the United States. (2) DISCLOSURE OF EVALUATIONS RECOMMENDATIONS.—(A) IN GENERAL.—Not less than 5 business days prior to a hearing conducted pursuant to paragraph (1), each party shall disclose to all other parties all evaluations completed by that date, and recommendations based on the offering party's evaluations, that the party intends to use at the hearing. (B) FAILURE TO DISCLOSE.—A hearing officer may bar any party that fails to comply with subparagraph (A) from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party. (3) LIMITATIONS ON HEARING.—(A) PERSON CONDUCTING HEARING.—A hearing officer conducting a hearing pursuant to paragraph (1)(A) shall, at a minimum— (i) not be— (I) an employee of the State educational agency involved in the education or care of the child; or (II) a person having a personal or professional interest that conflicts with	complaint on another issue. S. 1248 would provide for a time line for the filing of a due process complaint and would also provide exceptions to the time line. S. 1248 would require that the decision made by the hearing officer be made on substantive grounds based on a determination of whether the child received a free appropriate public education. In matters alleging a procedural violation, the hearing officer may find that the child did not receive a free appropriate public education only in certain circumstances. However, the bill specifies that nothing shall be construed to preclude a hearing officer from ordering a local education agency to comply with procedural requirements. Also, nothing in the section is to be construed to affect the right of a parent to file

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	the person's objectivity in the hearing, (ii) possess a fundamental understanding of this Act, Federal and State regulations pertaining to this Act and interpretations of this Act by State and Federal courts; (iii) possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice, and (iv) possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice. (B) SUBJECT MATTER OF HEARING.— The party requesting the due process hearing shall not be allowed to raise issues at the due process hearing that were not raised in the notice filed under subsection (b)(7), unless the other party agrees otherwise. (C) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preclude a parent from filing a separate due process complaint on an issue separate from a due process complaint already filed (D)TIMELINE FOR REQUESTING HEARING.—A parent or public agency shall request an impartial due process hearing within 2 years of the date the parent or public agency knew or should	educational agency.

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	have known about the alleged action	on
	that forms the basis of the complaint, o	or,
	if the State has an explicit tin	ne
	limitation for requesting such a hearing	ng
	under this part, in such time as the Sta	ıte
	law allows. (E) Exception to the	HE
	STATUTE OF LIMITATIONS.—The statute	of
	limitations described in subparagrap	ph
	(D) shall not apply if the parent w	as
	prevented from requesting the hearing	ng
	due to— (i) failure of the loc	cal
	educational agency to provide pri	
	written or procedural safeguar	ds
	notices; (ii) false representations th	vat
	the local educational agency w	as
	attempting to resolve the proble	em
	forming the basis of the complaint;	or
	(iii) the local educational agency	,'s
	withholding of information fro	om
	parents. (F) DECISION OF HEARIN	NG
	OFFICER.— (i) IN GENERAL.—Subject	to
	clause (ii), a decision made by	a
	hearing officer shall be made	on
	substantive grounds based on	
	determination of whether the chi	ild
	received a free appropriate publ	
	education. (ii) PROCEDURAL ISSUES.—	
	matters alleging a procedural violation	
	a hearing officer may find that a chi	

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	did not receive a free appropriate public education only if the procedural inadequacies— (I) compromised the child's right to an appropriate public education; (II) seriously hampered the parents' opportunity to participate in the process; or (III) caused a deprivation of educational benefits. (iii) RULE OF CONSTRUCTION.— Nothing in this paragraph shall be construed to preclude a hearing officer from ordering a local educational agency to comply with procedural requirements under this section. (G) RULE OF CONSTRUCTION.— Nothing in this section shall be construed to affect the right of a parent to file a complaint with the State educational agency.	
615(g) APPEAL.—If the hearing required by subsection (f) is conducted by a local educational agency, any party aggrieved by the findings and decision rendered in such a hearing may appeal such findings and decision to the State educational agency. Such agency shall conduct an impartial review of such decision. The officer conducting such review shall make an independent decision upon completion of such review.	for the hearing required by subsection (f) is conducted by a local educational agency, any party aggrieved by the findings and decision rendered in such a hearing may appeal such findings and decision to the State educational agency. Such State educational agency shall conduct an impartial review of such decision. The officer conducting such review shall make an independent decision upon	S. 1248 is essentially the same as current law.

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	completion of such review.	
hearing conducted pursuant to subsection (f) or (k), or an appeal conducted pursuant to subsection (g), shall be accorded—(1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities; (2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses; (3) the right to a written, or, at the option of the parents, electronic verbatim record of such hearing; and (4) the right to written, or, at the option of the parents, electronic findings of fact and decisions (which findings and decisions shall be made available to the public consistent with the requirements of section 617(c) (relating to the confidentiality of data, information, and records) and shall also be transmitted to the advisory panel established pursuant to section 612(a)(21)).	hearing conducted pursuant to subsection (f) or (k), or an appeal conducted pursuant to subsection (g), shall be accorded—(1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities; (2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses; (3) the right to a written, or, at the option of the parents, electronic verbatim record of such hearing; and (4) the right to a written, or, at the option of the parents, electronic findings of fact and decisions, which findings and decisions— (A) shall be made available to the public consistent with the requirements of section 617(b) (relating to the confidentiality of data, information, and records); and (B) shall be transmitted to the advisory panel established pursuant to section 612(a)(20).	S. 1248 would make no substantive changes.
PROCEDURES.—(1) IN GENERAL.—(A) DECISION MADE IN HEARING.—A decision made in a hearing conducted pursuant to subsection (f) or (k) shall be final, except that any party involved in such hearing may appeal such decision under the provisions of subsection (g) and paragraph (2) of this subsection. (B) DECISION MADE AT APPEAL.—A decision made under subsection (g) shall be final, except that any party may	PROCEDURES.— (1) IN GENERAL.— (A) DECISION MADE IN HEARING.—A decision made in a hearing conducted pursuant to subsection (f) or (k) shall be final, except that any party involved in such hearing may appeal such decision under the provisions of subsection (g) and paragraph (2). (B) DECISION MADE AT APPEAL.—A decision made under subsection (g) shall be final, except that any party may bring an action	S. 1248 would add a requirement that the party bringing a civil action must bring the action within 90 days from the date of the hearing officer's decision or, if the state has an explicit time limitation, such time as the state law allows. S. 1248 also would not

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Current Law	S. 1248	Comments on Selected Changes
bring an action under paragraph (2) of this subsection. (2) RIGHT TO BRING CIVIL ACTION.—(A) IN GENERAL.—Any party aggrieved by the findings and decision made under subsection (f) or (k) who does not have the right to an appeal under subsection (g), and any party aggrieved by the findings and decision under this subsection, shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. (B) ADDITIONAL REQUIREMENTS.—In any action brought under this paragraph, the court—(i) shall receive the records of the administrative proceedings; (ii) shall hear additional evidence at the request of a party; and (iii) basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate. (3) JURISDICTION OF DISTRICT COURTS; ATTORNEYS' FEES.—(A) IN GENERAL.—The district courts of the United States shall have jurisdiction of actions brought under this section without regard to the amount in controversy. (B) AWARD OF ATTORNEYS' FEES.—In any action or proceeding brought under this section, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to the parents of a child with a disability who is the prevailing party. (C) DETERMINATION OF AMOUNT OF	under paragraph (2). (2) RIGHT TO BRING CIVIL ACTION.— (A) IN GENERAL.—Any party aggrieved by the findings and decision made under subsection (f) or (k) who does not have the right to an appeal under subsection (g), and any party aggrieved by the findings and decision under this subsection, shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States, without regard to the amount in controversy. (B) LIMITATION.—The party bringing the action shall have 90 days from the date of the decision of the hearing officer to bring such an action, or, if the State has an explicit time limitation for bringing such action under this part, in such time as the State law allows. (C) ADDITIONAL REQUIREMENTS.—In any action brought under this paragraph, the court— (i) shall receive the records of the administrative proceedings; (ii) shall hear additional evidence at the request of a party; and (iii) basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate. (3) JURISDICTION OF DISTRICT COURTS; ATTORNEYS' FEES.— (A) IN GENERAL.—The district courts of the United States shall have jurisdiction of actions brought under this section without regard to the amount in	allow attorneys' fees for the preliminary meeting. The bill would add a new subsection specifically allowing parents to represent their children in court.

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ATTORNEYS' FEES.—Fees awarded under	controversy. (B) AWARD OF ATTORNEYS'			
this paragraph shall be based on rates	FEES.—In any action or proceeding brought			
prevailing in the community in which the	under this section, the court, in its discretion,			
action or proceeding arose for the kind and	may award reasonable attorneys' fees as part of			
quality of services furnished. No bonus or	the costs to the parents of a child with a			
multiplier may be used in calculating the fees	disability who is the prevailing party. (C)			
awarded under this subsection. (D)	DETERMINATION OF AMOUNT OF			
PROHIBITION OF ATTORNEYS' FEES	ATTORNEYS' FEES.—Fees awarded under			
AND RELATED COSTS FOR CERTAIN	this paragraph shall be based on rates			
SERVICES.—(i) Attorneys' fees may not be	prevailing in the community in which the			
awarded and related costs may not be	action or proceeding arose for the kind and			
reimbursed in any action or proceeding under	quality of services furnished. No bonus or			
this section for services performed subsequent	multiplier may be used in calculating the fees			
to the time of a written offer of settlement to a	awarded under this subsection. (D)			
parent if—(I) the offer is made within the time	PROHIBITION OF ATTORNEYS' FEES			
prescribed by Rule 68 of the Federal Rules of	AND RELATED COSTS FOR CERTAIN			
Civil Procedure or, in the case of an	SERVICES.— (i) IN GENERAL.—Attorneys'			
administrative proceeding, at any time more	fees may not be awarded and related costs may			
than 10 days before the proceeding begins; (II)	not be reimbursed in any action or proceeding			
the offer is not accepted within 10 days; and	under this section for services performed			
(III) the court or administrative hearing officer	subsequent to the time of a written offer of			
finds that the relief finally obtained by the	settlement to a parent if— (I) the offer is made			
parents is not more favorable to the parents	within the time prescribed by Rule 68 of the			
than the offer of settlement. (ii) Attorneys' fees	Federal Rules of Civil Procedure or, in the			
may not be awarded relating to any meeting of	case of an administrative proceeding, at any			
the IEP Team unless such meeting is convened	time more than 10 days before the proceeding			
as a result of an administrative proceeding or	begins; (II) the offer is not accepted within 10			
judicial action, or, at the discretion of the	days; and (III) the court or administrative			
State, for a mediation described in subsection	hearing officer finds that the relief finally			
(e) that is conducted prior to the filing of a	obtained by the parents is not more favorable			
complaint under subsection (b)(6) or (k) of this	to the parents than the offer of settlement. (ii)			
section. (E) EXCEPTION TO PROHIBITION	IEP TEAM MEETINGS.—Attorneys' fees may			
ON ATTORNEYS' FEES AND RELATED	not be awarded relating to any meeting of the			
COSTS.—Notwithstanding subparagraph (D),	IEP Team unless such meeting is convened as			

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an award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer (F) REDUCTION IN AMOUNT OF ATTORNEYS' FEES.—Except as provided in subparagraph (G), whenever the court finds that—(i) the parent, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy; (ii) the amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience; (iii) the time spent and legal services furnished were excessive considering the nature of the action or proceeding; or (iv) the attorney representing the parent did not provide to the school district the appropriate information in the due process complaint in accordance with subsection (b)(7); the court shall reduce, accordingly, the amount of the attorneys' fees awarded under this section. (G) EXCEPTION TO REDUCTION IN AMOUNT OF ATTORNEYS' FEES.—The provisions of subparagraph (F) shall not apply in any action or proceeding if the court finds that the State or local educational agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of this section.	a result of an administrative proceeding or judicial action, or, at the discretion of the State, for a mediation described in subsection (e). (iii) OPPORTUNITY TO RESOLVE COMPLAINTS.—A meeting conducted pursuant to subsection (f)(1)(B)(i) shall not be considered— (I) a meeting convened as a result of an administrative hearing or judicial action; or (II) an administrative hearing or judicial action for purposes of this paragraph. (E) EXCEPTION TO PROHIBITION ON ATTORNEYS' FEES AND RELATED COSTS.—Notwithstanding subparagraph (D), an award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer. (F) REDUCTION IN AMOUNT OF ATTORNEYS' FEES.—Except as provided in subparagraph (G), whenever the court finds that— (i) the parent, or the parent's attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy; (ii) the amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience; (iii) the time spent and legal services furnished were excessive considering the nature of the action or proceeding; or (iv) the attorney representing the parent did not provide to the	Changes		

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	information in the notice of the complaint described in subsection (b)(7)(A), the court shall reduce, accordingly, the amount of the attorneys' fees awarded under this section. (G) EXCEPTION TO REDUCTION IN AMOUNT OF ATTORNEYS' FEES.—The provisions of subparagraph (F) shall not apply in any action or proceeding if the court finds that the State or local educational agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of this section. (4) PARENTS REPRESENTING THEIR CHILDREN IN COURT.—Subject to subsection (m), and notwithstanding any other provision of Federal law regarding attorney representation (including the Federal Rules of Civil Procedure), a parent of a child with a disability may represent the child in any action under this part in State or Federal court, without the assistance of an attorney.	
615(j) MAINTENANCE OF CURRENT EDUCATIONAL PLACEMENT.— Except as provided in subsection (k)(7), during the pendency of any proceedings conducted pursuant to this section, unless the State or local educational agency and the parents otherwise agree, the child shall remain in the then-current educational placement of such child, or, if applying for initial admission to a public school, shall, with the consent of the parents, be placed in the public school program until all such proceedings have been	615(j) MAINTENANCE OF CURRENT EDUCATIONAL PLACEMENT.—Except as provided in subsection (k)(4), during the pendency of any proceedings conducted pursuant to this section, unless the State or local educational agency and the parents otherwise agree, the child shall remain in the then-current educational placement of such child, or, if applying for initial admission to a public school, shall, with the consent of the parents, be placed in the public school program until all such proceedings have been	The referenced sections in 615(k) refer to placement of a child with a disability during appeals.

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completed.	completed.	8
615(k) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING.—(1) AUTHORITY OF SCHOOL PERSONNEL.— (A) School personnel under this section may order a change in the placement of a child with a disability—(i) to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives would be applied to children without disabilities); and (ii) to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 days if—(I) the child carries or possesses a weapon to school or to a school function under the jurisdiction of a State or a local educational agency; or (II) the child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function under the jurisdiction of a State or local educational agency. (B) Either before or not later than 10 days after taking a disciplinary action described in subparagraph (A)—(i) if the local educational agency did not conduct a functional behavioral assessment and implement a behavioral intervention plan for such child before the behavior that resulted in the suspension described in subparagraph (A), the agency shall convene an IEP meeting	completed. 615(k) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING.— (1) AUTHORITY OF SCHOOL PERSONNEL.— (A) IN GENERAL.—School personnel under this section may order a change in the placement of a child with a disability who violates a code of student conduct to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives are applied to children without disabilities). (B) ADDITIONAL AUTHORITY.—If school personnel seek to order a change in placement that would exceed 10 school days and the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to subparagraph (C), the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner in which the procedures would be applied to children without disabilities, except as provided in section 612(a)(1). (C) MANIFESTATION DETERMINATION.— (i) IN GENERAL.—Except as provided in subparagraphs (A) and (D), within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the IEP	S. 1248 would make significant changes to the current provisions of section 615(k). Among these changes are the ability of school personnel to order a change in placement for up to 10 school days for a child with a disability who violates a code of student conduct; and the ability of school personnel to remove a student to an interim alternative educational setting for not more than 45 school days when the child has committed serious bodily injury upon another person while at school or at a school function under the jurisdiction of a State or local educational agency. A new definition of serious bodily injury would be added. When a parent requests a hearing regarding a disciplinary
to develop an assessment plan to address that behavior; or (ii) if the child already has a	Team shall review all relevant information in the student's file, any information provided by	procedure, S. 1248 would require that the child

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behavioral intervention plan, the IEP Team shall review the plan and modify it, as necessary, to address the behavior.(2) AUTHORITY OF HEARING OFFICER.—A hearing officer under this section may order a change in the placement of a child with a disability to an appropriate interim alternative the hearing officer—(A) determines that the public agency has demonstrated by substantial evidence that maintaining the current placement of such child is substantially likely to result in injury to the child or to others; (B) considers the appropriateness of the child's current placement; (C) considers whether the public agency has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and (D) determines that the interim alternative educational setting meets the requirements of paragraph (3)(B).

(3) DETERMINATION OF SETTING. (A) IN GENERAL.—The alternative educational setting described in paragraph (1)(A)(ii) shall be determined by the IEP Team. (B) ADDITIONAL REQUIREMENTS.—Any interim alternative educational setting in which a child is placed under

paragraph (1) or (2) shall—(i) be selected so as to enable the child to continue to participate in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child's current IEP, that will

the parents, and teacher observations. to determine— (I) if the conduct in question was the result of the child's disability; or (II) if the conduct in question resulted from the failure to implement the IEP or to implement behavioral interventions as required by section 614(d)(3)(B)(i). (ii) MANIFESTATION.—If the educational setting for not more than 45 days if | IEP Team determines that either subclause (I) or (II) of clause (i) is applicable for the child, the conduct shall be determined to be a manifestation of the child's disability. (D) SPECIAL CIRCUMSTANCES.—In cases where a child— (i) carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of a State or local educational agency; or (ii) knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school or a school function under the jurisdiction of a State or local educational agency; or (iii) has committed serious bodily injury upon another person while at school or at a school function under the jurisdiction of a State or local educational agency, school personnel may remove a student to an interim alternative educational setting for not more than 45 school days, without regard to whether the behavior is determined to be a manifestation of the child's disability. (E) NOTIFICATION.—Not later than the date on which the decision to take disciplinary action is made, the local educational agency shall notify the parents of that decision, and of all procedural safeguards

alternative educational setting pending the decision of the hearing officer. Changes would also be made regarding protections for children not yet eligible for special education.

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enable the child to meet the goals set out in	accorded under this section. (F) SERVICES.—		
that IEP; and (ii) include services and	A child with a disability who is removed from		
modifications designed to address the behavior	the child's current placement under		
described in paragraph (1) or paragraph (2) so	subparagraph (B) or (D) shall— (i) continue		
that it does not recur.	to receive educational services pursuant to		
(4) MANIFESTATION DETERMINATION	section 612(a)(1), so as to enable the child to		
REVIEW.—(A) IN <u>GENERAL.—If a</u>	continue to participate in the general		
disciplinary action is contemplated as	education curriculum, although in another		
described in paragraph (1) or paragraph (2) for	setting, and to progress toward meeting the		
a behavior of a child with a disability	goals set out in the child's IEP; and (ii) receive		
described in either of those paragraphs, or if a	functional behavioral intervention services as		
disciplinary action involving a change of	described in section $614(d)(3)(B)(i)$, and a		
placement for more than 10 days is	behavioral assessment (but only if the local		
contemplated for a child with a disability who	educational agency did not conduct such an		
has engaged in other behavior that violated any	assessment before the violation occurred),		
rule or code of conduct of the local educational	designed to address the behavior violation so		
agency that applies to all children—(i) not	that the violation does not recur.		
later than the date on which the decision to	(2) DETERMINATION OF SETTING.—The		
take that action is made, the parents shall be	alternative educational setting shall be		
notified of that decision and of all procedural	determined by the IEP Team.		
safeguards accorded under this section; and (ii)	(3) APPEAL.—(A) IN GENERAL.—The		
immediately, if possible, but in no case later	parent of a child with a disability who		
than 10 school days after the date on which the	disagrees with any decision regarding		
decision to take that action is made, a review	disciplinary action, placement, or the		
shall be conducted of the relationship between	manifestation determination under this		
the child's disability and the behavior subject	subsection, or a local educational agency that		
to the disciplinary action. (B) INDIVIDUALS	believes that maintaining the current		
TO CARRY OUT REVIEW.—A review	placement of the child is substantially likely to		
described in subparagraph (A) shall be	result in injury to the child or to others, may		
conducted by the IEP Team and other qualified	request a hearing. (B) AUTHORITY OF		
personnel. (C) CONDUCT OF REVIEW.—In	HEARING OFFICER.— (i) IN GENERAL.—If		
carrying out a review described in	a parent of a child with a disability disagrees		
subparagraph (A), the IEP Team may	with a decision as described in subparagraph		
determine that the behavior of the child was	(A), the hearing officer may determine whether		

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not a manifestation of such child's disability	the decision regarding such action was			
only if the IEP Team—(i) first considers, in	appropriate. (ii) CHANGE OF PLACEMENT			
terms of the behavior subject to disciplinary	ORDER.—A hearing officer under this section			
action, all relevant information, including	may order a change in placement of a child			
—(I) evaluation and diagnostic results,	with a disability to an appropriate interim			
including such results or other relevant	alternative educational setting for not more			
information supplied by the parents of the	than 45 school days if the hearing officer			
child; (II) observations of the child; and (III)	determines that maintaining the current			
the child's IEP and placement; and (ii) then	placement of such child is substantially likely			
determines that—(I) in relationship to the	to result in injury to the child or to others.			
behavior subject to disciplinary action, the	(4) PLACEMENT DURING APPEALS.—When			
child's IEP and placement were appropriate	a parent requests a hearing regarding a			
and the special education	disciplinary procedure described in paragraph			
services, supplementary aids and services, and	(1)(B) or challenges the interim alternative			
behavior intervention strategies were provided	educational setting or manifestation			
consistent with the child's IEP and placement;	determination— (A) the child shall remain in			
"(II) the child's disability did not impair the	the interim alternative educational setting			
ability of the child to understand the impact	pending the decision of the hearing officer or			
and consequences of the behavior subject to	until the expiration of the time period provided			
disciplinary action; and (III) the child's	for in paragraph $(1)(B)$, whichever occurs			
disability did not impair the ability of the child	first, unless the parent and the State or local			
to control the behavior subject to disciplinary	educational agency agree otherwise; and (B)			
action.	the State or local educational agency shall			
	arrange for an expedited hearing, which shall			
(5) DETERMINATION THAT BEHAVIOR	occur within 20 school days of the date the			
WAS NOT MANIFESTATION OF	hearing is requested. (5) PROTECTIONS			
DISABILITY.—(A) IN GENERAL.—If the	FOR CHILDREN NOT YET ELIGIBLE FOR			
result of the review described in paragraph (4)	SPECIAL EDUCATION AND RELATED			
is a determination, consistent with paragraph	SERVICES.— (A) IN GENERAL.—A child			
(4)(C), that the behavior of the child with a	who has not been determined to be eligible for			
disability was not a manifestation of the	special education and related services under			
child's disability, the relevant disciplinary	this part and who has engaged in behavior that			
procedures applicable to children without	violates a code of student conduct, may assert			
disabilities may be applied to the child in the	any of the protections provided for in this part			

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same manner in which they would be applied	if the local educational agency had knowledge			
to children without disabilities, except as	(as determined in accordance with this			
provided in section $612(a)(1)$. (B)	paragraph) that the child was a child with a			
ADDITIONAL REQUIREMENT.—If the	disability before the behavior that precipitated			
public agency initiates disciplinary procedures	the disciplinary action occurred. (B) BASIS			
applicable to all children, the agency shall	OF KNOWLEDGE.—A local educational			
ensure that the special education and	agency shall be deemed to have knowledge			
disciplinary records of the child with a	that a child is a child with a disability if, before			
disability are transmitted for consideration by	the behavior that precipitated the disciplinary			
the person or persons making the final	action occurred— (i) the parent of the child			
determination regarding the disciplinary	has expressed concern in writing (unless the			
action.	parent is illiterate or has a disability that			
(6) PARENT APPEAL.—(A) IN	prevents compliance with the requirements			
GENERAL.— (i) <u>If the child's parent</u>	contained in this clause) to personnel of the			
disagrees with a determination that the child's	appropriate educational agency that the child is			
behavior was not a manifestation of the child's	in need of special education and related			
disability or with any decision regarding	services; (ii) the parent of the child has			
placement, the parent may request a hearing.	requested an evaluation of the child pursuant			
(ii) The State or local educational agency shall	to section 614; (iii) the teacher of the child, or			
arrange for an expedited hearing in any case	other personnel of the local educational			
described in this subsection when requested by	agency, has expressed concern about a pattern			
<u>a parent</u> . (B) REVIEW OF DECISION.—(i) <u>In</u>	of behavior demonstrated by the child, to the			
reviewing a decision with respect to the	director of special education of such agency or			
manifestation determination, the hearing	to other <i>administrative</i> personnel of the			
officer shall determine whether the public	agency; or (iv) the child has engaged in a			
agency has demonstrated that the child's	pattern of behavior that should have alerted			
behavior was not a manifestation of such	personnel of the local educational agency that			
child's disability consistent with the	the child may be in need of special education			
requirements of paragraph (4)(C). (ii) In	and related services. (C) EXCEPTION.—A			
reviewing a decision under paragraph	local educational agency shall not be deemed			
(1)(A)(ii) to place the child in an interim	to have knowledge that the child has a			
alternative educational setting, the hearing	disability if the parent of the child has not			
officer shall apply the standards set out in	agreed to allow an evaluation of the child			
paragraph (2).	pursuant to section 614. (D) CONDITIONS			

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(7) PLACEMENT DURING APPEALS.—	THAT APPLY IF NO BASIS OF	Changes		
(A) IN GENERAL.—When a parent requests a	KNOWLEDGE.— (i) IN GENERAL.—If a			
hearing regarding a disciplinary action	local educational agency does not have			
described in paragraph (1)(A)(ii) or paragraph	knowledge that a child is a child with a			
(2) to challenge the interim alternative	disability (in accordance with subparagraph			
educational setting or the manifestation	(B) or (C)) prior to taking disciplinary			
determination, the child shall remain in the	measures against the child, the child may be			
interim alternative educational setting pending	subjected to disciplinary measures applied to			
the decision of the hearing officer or until the	children without disabilities who engaged in			
expiration of the time period provided for in	comparable behaviors consistent with clause			
paragraph (1)(A)(ii) or paragraph (2),	(ii). (ii) LIMITATIONS.—If a request is made			
whichever occurs first, unless the parent and	for an evaluation of a child during the time			
the State or local educational agency agree	period in which the child is subjected to			
otherwise. (B) <u>CURRENT PLACEMENT</u> .— <u>If</u>	disciplinary measures under paragraph (1), the			
a child is placed in an interim alternative	evaluation shall be conducted in an expedited			
educational setting pursuant to paragraph	manner. If the child is determined to be a child			
(1)(A)(ii) or paragraph (2) and school	with a disability, taking into consideration			
personnel propose to change the child's	information from the evaluation conducted by			
placement after expiration of the interim	the agency and information provided by the			
alternative placement, during the pendency of	parents, the agency shall provide special			
any proceeding to challenge the proposed	education and related services in accordance			
change in placement, the child shall remain in	with this part, except that, pending the results			
the current placement (the child's placement	of the evaluation, the child shall remain in the			
prior to the interim alternative educational	educational placement determined by school			
setting), except as provided in subparagraph	authorities.			
(C).	(6) REFERRAL TO AND ACTION BY LAW			
(C) EXPEDITED HEARING.—(i) If school	ENFORCEMENT AND JUDICIAL			
personnel maintain that it is dangerous for the	AUTHORITIES.— (A) CONSTRUCTION.—			
child to be in the current placement (placement	Nothing in this part shall be construed to			
prior to removal to the interim alternative	prohibit an agency from reporting a crime			
education setting) during the pendency of the	committed by a child with a disability to			
due process proceedings, the local educational	appropriate authorities or to prevent State law			
agency may request an expedited hearing. (ii)	enforcement and judicial authorities from			
In determining whether the child may be	exercising their responsibilities with regard to			

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placed in the alternative educational setting or in another appropriate placement ordered by the hearing officer, the hearing officer shall apply the standards set out in paragraph (2). (8) PROTECTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES.— (A) IN GENERAL.—A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated any rule or code of conduct of the local educational agency, including any behavior described in paragraph (1), may assert any of the protections provided for in this part if the local educational agency had knowledge (as determined in accordance with this paragraph) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred. (B) BASIS OF KNOWLEDGE.—A local educational agency shall be deemed to have knowledge that a child is a child with a disability if—(i) the parent of the child has expressed concern in writing (unless the parent is illiterate or has a disability that prevents compliance with the requirements contained in this clause) to personnel of the appropriate educational agency that the child is in need of special education and related services; (ii) the behavior or performance of the child demonstrates the need for such services; (iii) the parent of the child has requested an evaluation of the child pursuant to section 614;	the application of Federal and State law to crimes committed by a child with a disability. (B) TRANSMITTAL OF RECORDS.—An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime. (7) DEFINITIONS.—For purposes of this subsection, the following definitions apply: (A) CONTROLLED SUBSTANCE.—The term 'controlled substance' means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)). (B) ILLEGAL DRUG.—The term 'illegal drug' means a controlled substance but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law. (C) WEAPON.—The term 'weapon' has the meaning given the term 'dangerous weapon' under section 930(g)(2) of title 18, United States Code. (D) SERIOUS BODILY INJURY.—The term 'serious bodily injury' under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.			

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or (iv) the teacher of the child, or other		9	
personnel of the local educational agency, has			
expressed concern about the behavior or			
performance of the child to the director of			
special education of such agency or to other			
personnel of the agency. (C) CONDITIONS			
THAT APPLY IF NO BASIS OF			
KNOWLEDGE.—(i) IN GENERAL.—If a			
local educational agency does not have			
knowledge that a child is a child with a			
disability (in accordance with subparagraph			
(B)) prior to taking disciplinary measures			
against the child, the child may be subjected to			
the same disciplinary measures as measures			
applied to children without disabilities who			
engaged in comparable behaviors consistent			
with clause (ii). (ii) LIMITATIONS.—If a			
request is made for an evaluation of a child			
during the time period in which the child is			
subjected to disciplinary measures under			
paragraph (1) or (2), the evaluation shall be			
conducted in an expedited manner. If the child			
is determined to be a child with a disability,			
taking into consideration information from the			
evaluation conducted by the agency and			
information provided by the parents, the			
agency shall provide special education and			
related services in accordance with the			
provisions of this part, except that, pending the			
results of the evaluation, the child shall remain			
in the educational placement determined by			
school authorities.			
(9) REFERRAL TO AND ACTION BY LAW			
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AUTHORITIES.— (A) Nothing in this part		
shall be construed to prohibit an agency from		
reporting a crime committed by a child with a		
disability to appropriate authorities or to		
prevent State law enforcement and judicial		
authorities from exercising their		
responsibilities with regard to the application		
of Federal and State law to crimes committed		
by a child with a disability. (B) An agency		
reporting a crime committed by a child with a		
disability shall ensure that copies of the special		
education and disciplinary records of the child		
are transmitted for consideration by the		
appropriate authorities to whom it reports the		
crime.		
(10) DEFINITIONS.—For purposes of this		
subsection, the following definitions apply:		
(A) CONTROLLED SUBSTANCE.—The		
term 'controlled substance' means a drug or		
other substance identified under schedules I, II,		
III, IV, or V in section 202(c) of the Controlled		
Substances Act (21 U.S.C. 812(c)). (B)		
ILLEGAL DRUG.—The term 'illegal drug '—		
(i) means a controlled substance; but (ii) does		
not include such a substance that is legally		
possessed or used under the supervision of a		
licensed health-care professional or that is		
legally possessed or used under any other		
authority under that Act or under any other		
provision of Federal law. (C) SUBSTANTIAL		
EVIDENCE.—The term 'substantial evidence'		
means beyond a preponderance of the		
evidence. (D) WEAPON.—The term 'weapon'		
has the meaning given the term 'dangerous		

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weapon' under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.		
Nothing in this title shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under such laws seeking relief that is also available under this part, the procedures under subsections (f) and (g) shall be exhausted to the same extent as would be required had the action been brought under this part.	615(I) Same as current law.	
615(m) TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY.—(1) IN GENERAL.—A State that receives amounts from a grant under this part may provide that, when a child with a disability reaches the age of majority under State law (except for a child with a disability who has been determined to be incompetent under State law)—(A) the public agency shall provide any notice required by this section to both the individual and the parents; (B) all other rights accorded to parents under this part transfer to the child; (C) the agency shall notify the individual and the parents of the transfer of rights; and (D) all rights accorded to parents under this part transfer to children who are incarcerated in an	615(m) Same as current law.	

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adult or juvenile Federal, State, or local correctional institution. (2) SPECIAL RULE.—If, under State law, a child with a disability who has reached the age of majority under State law, who has not been determined to be incompetent, but who is determined not to have the ability to provide informed consent with respect to the educational program of the child, the State shall establish procedures for appointing the parent of the child, or if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of eligibility of the child under this part.		
No provision.	615(n) E-MAIL.—A parent of a child with a disability may elect to receive notices required under this section by e-mail communication, if the public agency makes such option available.	This is a new provision that is not in current law.
No provision.	SEC. 616. MONITORING, TECHNICAL ASSISTANCE, AND ENFORCEMENT. (a) FEDERAL AND STATE MONITORING.— (1) IN GENERAL.—The Secretary shall—(A) monitor implementation of this Act through— (i) oversight of the States' exercise of general supervision, as required in section 612(a)(11); and (ii) the system of indicators, described in subsection (b)(2); and (B) enforce this Act in accordance with subsection (c); and (C) require States to monitor implementation of this Act by local educational agencies and enforce this Act in accordance with paragraph (3) of this subsection and subsection (c). (2) FOCUSED MONITORING.—The primary	S. 1248 would require the Secretary to monitor implementation of the Act through oversight and a system of indicators, to enforce the Act, and to require States to monitor implementation of the Act by LEAs and enforce the Act. The subsection would require that the primary focus of Federal and State monitoring activities shall be on improving educational

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	focus of Federal and State monitoring activities described in paragraph (1) shall be on improving educational results and functional outcomes for all children with disabilities, while ensuring compliance with program requirements, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities. (3) MONITORING PRIORITIES.—The Secretary shall monitor, and shall require States to monitor, the following priority areas: (A) Provision of a free appropriate public education in the least restrictive environment. (B) Provision of transition services, as defined in section 602(33). (C) State exercise of general supervisory authority, including the effective use of complaint resolution and mediation. (D) Overrepresentation of racial and ethnic groups in special education and related services, to the extent the overrepresentation is the result of inappropriate policies, procedures, and practices. (4) PERMISSIVE AREAS OF REVIEW.—The Secretary may examine other relevant information and data, including data provided by States under section 618, and data from the State's compliance plan under subsection (b)(2)(C). (b) INDICATORS.— (1) SYSTEM.—The Secretary shall implement and administer a system of required indicators as described in paragraph (2) that measures the progress of	results and functional outcomes for all children with disabilities, while ensuring compliance with program requirements, with a particular emphasis on requirements relating to improving educational results for children with disabilities. In addition, monitoring priorities are provided as well as permissive areas of review. Subsection (b) would require the Secretary to implement and administer a system of required indicators that measure the progress of the States in improving their performance.

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	States in improving their performance ur	nder
	this Act.	
	(2) INDICATORS.— (A) IN GENERAL	J.—
	Using the performance indicators establis	hed
	by States under section 612(a)(15),	the
	Secretary shall review— (i) the performance	e of
	children with disabilities in the State	on
	assessments, including alternate assessme	ents,
	dropout rates, and graduation rates, which	for
	purposes of this paragraph means the num	
	and percentage of students with disabili	ities
	who graduate with a regular diploma with	thin
	the number of years specified in a stude	ent's
	IEP; and (ii) the performance of children v	with
	disabilities in the State on assessme	ents,
	including alternate assessments, dropout ra	ites,
	and graduation rates, as compared to	the
	performance and rates for all children.	(B)
	SECRETARY'S ASSESSMENT.—Based	on
	that review and a review of the Sta	ate's
	compliance plan under subparagraph (C),	the
	Secretary shall assess the State's progress	s in
	improving educational results for children v	
	disabilities. (C) STATE COMPLIAN	
	PLAN.—Not later than 1 year after the date	
	the enactment of the Individuals v	
	Disabilities Education Improvement Act	of
	2003, each State shall have in place	
	compliance plan developed in collabora	
	with the Secretary. Each State's complia	
	plan shall— (i) include benchmarks to meas	
	continuous progress on the priority an	
	described in subsection (a)(3); (ii) described	
	strategies the State will use to achieve	

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	benchmarks; and (iii) be approved by the Secretary. (D) PUBLIC REPORTING AND PRIVACY(i) After the Secretary approves the State's compliance plan under subparagraph (C), the State shall use the benchmarks and indicators in the plan to analyze the progress of each local educational agency in the State on those benchmarks and indicators. (ii) The State shall report annually to the public on each local educational agency's progress under clause (i), except where doing so would result in the disclosure of personally identifiable information about individual children or where the available data is insufficient to yield statistically reliable information. (3) DATA COLLECTION AND ANALYSIS.—The Secretary shall— (A) review the data collection and analysis capacity of States to ensure that data and information determined necessary for implementation of this subsection is collected, analyzed, and accurately reported to the Secretary; and (B) provide technical assistance to improve the capacity of States to meet these data collection requirements.	
SEC. 616. WITHHOLDING AND JUDICIAL REVIEW. (a) WITHHOLDING OF PAYMENTS.—(1) IN GENERAL.—Whenever the Secretary, after reasonable notice and opportunity for hearing to the State educational agency involved (and to any local educational agency or State agency affected by	616(c) COMPLIANCE AND ENFORCEMENT.— (1) IN GENERAL.—The Secretary shall examine relevant State information and data annually, to determine whether the State is making satisfactory progress	S. 1248 would require the Secretary to examine relevant State information and data annually to determine whether the State is making satisfactory progress

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any failure described in subparagraph (B)) finds—(A) that there has been a failure by the State to comply substantially with any provision of this part; or (B) that there is a failure to comply with any condition of a local educational agency's or State agency's eligibility under this part, including the terms of any agreement to achieve compliance with this part within the timelines specified in the agreement; the Secretary shall, after notifying the State educational agency, withhold, in whole or in part, any further payments to the State under this part, or refer the matter for appropriate enforcement action, which may include referral to the Department of Justice. (2) NATURE OF WITHHOLDING.—If the Secretary withholds further payments under paragraph (1), the Secretary may determine that such withholding will be limited to programs or projects, or portions thereof. affected by the failure, or that the State educational agency shall not make further payments under this part to specified local educational agencies or State agencies affected

by the failure. Until the Secretary is satisfied

that there is no longer any failure to comply

with the provisions of this part, as specified in

subparagraph (A) or (B) of paragraph (1), payments to the State under this part shall be

withheld in whole or in part, or payments by

the State educational agency under this part

shall be limited to local educational agencies

and State agencies whose actions did not cause

or were not involved in the failure, as the case

toward improving educational results for children with disabilities using the indicators described in subsection (b)(2)(A) and the benchmarks established in the State compliance plan under subsection (b)(2)(C), and is in compliance with the provisions of this Act.

(2) LACK SATISFACTORY PROGRESS BY A STATE.— (A) IN GENERAL.—If after examining data, as provided in subsection (b)(2) (A) and (C), the Secretary determines that a State failed to make satisfactory progress in meeting the indicators described in subsection (b)(2)(A) or has failed to meet the benchmarks described in subsection (b)(2)(C) for 2 consecutive years after the State has developed its compliance plan, the Secretary shall notify the State that the State has failed to make satisfactory progress, and shall take 1 or more of the following actions: (i) Direct the use of State level funds for technical assistance, services, or other expenditures to ensure that the State resolves the area or areas unsatisfactory progress. (ii) Withhold not less than 20, but not more than 50.

toward improving educational results and is in compliance with the Act. The bill would provide for more detailed procedures for the Secretary to follow to determine compliance.

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may be. Any State educational agency, State agency, or local educational agency that has received notice under paragraph (1) shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency.	percent of the State's funds for State administration and activities for the fiscal year under section 611(e), after providing the State the opportunity to show cause why the withholding should not occur, until the Secretary determines that sufficient progress has been made in improving educational results for children with disabilities. (B) ADDITIONAL SECRETARIAL ACTION.—If, at the end of the 5th year after the Secretary has approved the compliance plan that the State has developed under subsection (b)(2)(C), the Secretary determines that a State failed to meet the benchmarks in the State compliance plan and make satisfactory progress in improving educational results for children with disabilities pursuant to the indicators described in subsection (b)(2)(A), the Secretary shall take 1 or more of the following actions: (i) Seek to recover funds under section 452 of the General Education Provisions Act. (ii) After providing reasonable notice and an opportunity for a hearing to the State educational agency involved, withhold, in whole or in part, any further			

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	payments to the State under this par	
	pursuant to subsection (c)(5). (iii) Afte	
	providing reasonable notice and a	
	opportunity for a hearing to the Stat	
	educational agency involved, refer th	
	matter for appropriate enforcemen	
	action, which may include referral t	o
	the Department of Justice.	
	(iv) Pending the outcome of any hearin	_
	to withhold payments under clause (ii,	
	the Secretary may suspend payments t	
	a recipient, suspend the authority of th	
	recipient to obligate Federal funds, o	
	both, after such recipient has been give	
	reasonable notice and an opportunity t	
	show cause why future payments of	or
	authority to obligate Federal fund	ls
	should not be suspended.	
	(C) SUBSTANTIA	L
	NONCOMPLIANCE.—	
	Notwithstanding subparagraph (B), a	ut
	any time that the Secretary determine	25
	that a State is not in substantia	al
	compliance with any provision of the	is
	part or that there is a substantial failur	·e
	to comply with any condition of a loca	al
	agency's or State agency's eligibilit	y
	under this part, the Secretary shall tak	re
	1 or more of the following actions: (i)

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	Request that the State prepare	a
	corrective action plan or improvement	ıt
	plan if the Secretary determines that th	e
	State should be able to correct th	e
	problem within 1 year. (ii) Identify th	e
	State as a high-risk grantee and impos	e
	special conditions on the State's gran	ıt
	under this part. (iii) Require the State to	0
	enter into a compliance agreemen	ıt
	under section 457 of the Genera	ıl
	Education Provisions Act, if th	e
	Secretary has reason to believe that th	e
	State cannot correct the problem within	n
	1 year. (iv) Recovery of funds unde	r
	section 452 of the General Education	n
	Provisions Act. (v) After providing	g
	reasonable notice and an opportunit	$\frac{1}{y}$
	for a hearing to the State educational	ıl
	agency involved, withhold, in whole o	r
	in part, any further payments to th	e
	State under this part. (vi) Afte	
	providing reasonable notice and a	
	opportunity for a hearing to the Stat	
	educational agency involved, refer th	
	matter for appropriate enforcemen	
	action, which may include referral to	
	the Department of Justice.	
	(vii) Pending the outcome of an	$_{\mathcal{V}}$
	hearing to withhold payments unde	

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	clause (v), the Secretary may suspen	d
	payments to a recipient, suspend th	ne e
	authority of the recipient to obligat	te
	Federal funds, or both, after suc	h
	recipient has been given reasonable	le
	notice and an opportunity to show caus	re l
	why future payments or authority t	0
	obligate Federal funds should not b suspended.	ne
	(3) EGREGIOU	S
	NONCOMPLIANCE.—At any time the	
	the Secretary determines that a State is	
	in egregious noncompliance or i	
	willfully disregarding the provisions of	
	this Act, the Secretary shall take suc	-
	additional enforcement actions as th	
	Secretary determines to be appropriate	
	from among those actions specified i	
	paragraph (2)(C), and, additionally	
	may impose 1 or more of the followin	
	sanctions upon that State:	
	(A) Institute a cease and desist actio	n
	under section 456 of the Genera	al
	Education Provisions Act. (B) Refer th	ne l
	case to the Office of the Inspecto	or
	General.	
	(4) REPORT TO CONGRESS.—Th	ve
	Secretary shall report to Congres	SS
	within 30 days of taking enforcemen	

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	action pursuant to paragraph (2) (B)	or
	(C), or (3), on the specific action tal	
	and the reasons why enforcement act	ion
	was taken.	
	(5) NATURE OF WITHHOLDING	-
	the Secretary withholds furt	
	payments under paragraphs (2)(B)	
	and $(2)(C)(v)$, the Secretary n	•
	determine that such withholding will	
	limited to programs or projects,	
	portions thereof, affected by the failu	
	or that the State educational agei	
	shall not make further payments und	
	this part to specified local education	
	agencies or State agencies affected	
	the failure. Until the Secretary	
	satisfied that there is no longer of	any
	failure to make satisfactory progress	
	specified in paragraph (2)(B), or	to
	comply with the provisions of this po	art,
	as specified in paragraph (2)((C),
	payments to the State under this p	part
	shall be withheld in whole or in part,	or
	payments by the State education	nal
	agency under this part shall be limi	ited
	to local educational agencies and St	tate
	agencies whose actions did not cause	e or
	were not involved in the failure, as	the
	case may be. Any State education	nal

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	agency, State agency, or local educational agency that has received notice under paragraph (2)(B) or (2)(C) shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency.	
616(b) JUDICIAL REVIEW.—(1) IN GENERAL.—If any State is dissatisfied with the Secretary's final action with respect to the eligibility of the State under section 612, such State 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 forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings upon which the Secretary's action was based, as provided in section 2112 of title 28, United States Code. (2) JURISDICTION; REVIEW BY UNITED STATES SUPREME COURT.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as	616(c)(6) Same as current law.	

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provided in section 1254 of title 28, United States Code. (3) STANDARD OF REVIEW.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon 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.		
RESPONSIBILITY.—For purposes of this section, where responsibility for ensuring that the requirements of this part are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons is assigned to a public agency other than the State educational agency pursuant to section 612(a)(11)(C), the Secretary, in instances where the Secretary finds that the failure to comply substantially with the provisions of this part are related to a failure by the public agency, shall take appropriate corrective action to ensure compliance with this part, except—(1) any reduction or withholding of payments to the State is proportionate to the total funds allotted under section 611 to the State as the number of eligible children with disabilities in adult	616(d) DIVIDED STATE AGENCY RESPONSIBILITY.—For purposes of this section, where responsibility for ensuring that the requirements of this part are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons is assigned to a public agency other than the State educational agency pursuant to section 612(a)(11)(C), the Secretary, in instances where the Secretary finds that the failure to comply substantially with the provisions of this part are related to a failure by the public agency, shall take appropriate corrective action to ensure compliance with this part, except that—(1) any reduction or withholding of payments to the State shall be proportionate to the total funds allotted under section 611 to the State as the number of eligible children with	S. 1248 is essentially the same as current law.

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prisons under the supervision of the other public agency is proportionate to the number of eligible individuals with disabilities in the State under the supervision of the State educational agency; and (2) any withholding of funds under paragraph (1) shall be limited to the specific agency responsible for the failure to comply with this part.	disabilities in adult prisons under the supervision of the other public agency is proportionate to the number of eligible individuals with disabilities in the State under the supervision of the State educational agency; and (2) any withholding of funds under paragraph (1) shall be limited to the specific agency responsible for the failure to comply with this part.			
No provision.	616(e) STATE AND LOCAL MONITORING.— (1) IN GENERAL.—The State educational agency shall monitor and enforce implementation of this Act, implement a system of monitoring the benchmarks in the State's compliance plan under subsection (b)(2)(C), and require local educational agencies to monitor and enforce implementation of this Act. (2) ADDITIONAL ENFORCEMENT OPTIONS.—If a State educational agency determines that a local educational agency determines that a local educational agency is not meeting the requirements of this part, including the benchmarks in the State's compliance plan, the State educational agency shall prohibit the local educational agency from treating funds received under this part as local funds under section 613(a)(2)(C) for any fiscal year.	State educational agency		
SEC. 617. ADMINISTRATION. (a) RESPONSIBILITIES OF SECRETARY.—In carrying out this part, the Secretary shall—(1) cooperate with, and	SEC. 617. ADMINISTRATION. (a) RESPONSIBILITIES OF SECRETARY.—The Secretary shall— (1) cooperate with, and (directly or by grant or	S. 1248 would delete the subsection in current law relating to regulations and add a new subsection		

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(directly or by grant or contract) furnish	contract) furnish technical assistance necessary	regarding model forms.	
technical assistance necessary to, the State in	to, a State in matters relating to— (A) the		
matters relating to—(A) the education of	education of children with disabilities; and (B)		
children with disabilities; and (B) carrying out	carrying out this part; and (2) provide short-		
this part; and (2) provide short-term training	term training programs and institutes.		
programs and institutes.			
(b) RULES AND REGULATIONS.—In			
carrying out the provisions of this part, the			
Secretary shall issue regulations under this Act			
only to the extent that such regulations are			
necessary to ensure that there is compliance			
with the specific requirements of this Act.	(b) CONFIDENTIALITY.—The Secretary		
(c) CONFIDENTIALITY.—The Secretary	shall take appropriate action, in accordance		
shall take appropriate action, in accordance	with section 444 of the General Education		
with the provisions of section 444 of the	Provisions Act (20 U.S.C. 1232g), to assure		
General Education Provisions Act (20 U.S.C.	the protection of the confidentiality of any		
1232g), to assure the protection of the	personally identifiable data, information, and		
confidentiality of any personally identifiable	records collected or maintained by the		
data, information, and records collected or	Secretary and by State and local educational		
maintained by the Secretary and by State and	agencies pursuant to this part.		
local educational agencies pursuant to the			
provisions of this part.	(c) PERSONNEL.—The Secretary is		
(d) PERSONNEL.—The Secretary is	authorized to hire qualified personnel		
authorized to hire qualified personnel	necessary to carry out the Secretary's duties		
necessary to carry out the Secretary's duties	under subsection (a) and under sections 618,		
under subsection (a) and under sections 618,	661, and 664, without regard to the provisions		
661, and 673 (or their predecessor authorities	of title 5, United States Code, relating to		
through October 1, 1997) without regard to the	appointments in the competitive service and		
provisions of title 5, United States Code,	without regard to chapter 51 and subchapter III		
relating to appointments in the competitive	of chapter 53 of such title relating to		
service and without regard to chapter 51 and	classification and general schedule pay rates,		
subchapter III of chapter 53 of such title	except that not more than 20 such personnel		
relating to classification and general schedule	shall be employed at any 1 time.		
pay rates, except that no more than twenty			

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such personnel shall be employed at any time.	(d) MODEL FORMS.—Not later than the date that the Secretary publishes final regulations under this Act, to implement amendments made by the Individuals with Disabilities Education Improvement Act of 2003, the Secretary shall publish and disseminate widely to States, local educational agencies, and parent and community training and information centers— (1) a model IEP form; (2) a model individualized family service plan (IFSP) form; (3) a model form of the notice of procedural safeguards described in section 615(d); and (4) a model form of the prior written notice described in section 615 (b)(3) and (c)(1) that is consistent with the requirements of this part and is sufficient to meet such requirements.	
SEC. 618. PROGRAM INFORMATION. (a) IN GENERAL.—Each State that receives assistance under this part, and the Secretary of the Interior, shall provide data each year to the Secretary—(1)(A) on—(i) the number of children with disabilities, by race, ethnicity, and disability category, who are receiving a free appropriate public education; (ii) the number of children with disabilities, by race and ethnicity, who are receiving early intervention services; (iii) the number of children with disabilities, by race, ethnicity, and disability category, who are participating in regular education;(iv) the number of children with disabilities, by race, ethnicity,	SEC. 618. PROGRAM INFORMATION. (a) IN GENERAL.—Each State that receives assistance under this part, and the Secretary of the Interior, shall provide data each year to the Secretary of Education <i>and the public</i> on— (1)(A)—the number and percentage of children with disabilities, by race, ethnicity, <i>limited English proficiency status, gender,</i> and disability category, who are receiving a free appropriate public education; (B) the number and percentage of children with disabilities, by race, <i>gender,</i> and ethnicity, who are receiving early intervention services; (C) the number and percentage of children with disabilities, by race, ethnicity, <i>limited English proficiency</i>	S. 1248 would change current law relating to program information by adding in various subsections requirements for data on children with limited English proficiency and gender, and requiring more data on disciplinary actions. In addition, the current law provisions relating to sampling are deleted and provisions are added concerning data reporting

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and disability category, who are in separate classes, separate schools or facilities, or public or private residential facilities; (v) the number of children with disabilities, by race, ethnicity, and disability category, who, for each year of age from age 14 to 21, stopped receiving special education and related services because of program completion or other reasons and the reasons why those children stopped receiving special education and related services; (vi) the number of children with disabilities, by race and ethnicity, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons; and (vii)(I) the number of children with disabilities, by race, ethnicity, and disability category, who under subparagraphs (A)(ii) and (B) of section 615(k)(1), are removed to an interim alternative educational setting; (III) the acts or items precipitating those removals; and (IIII) the number of children with disabilities who are subject to long-term suspensions or expulsions; and	status, gender, and disability category, who are participating in regular education; (D) the number and percentage of children with disabilities, by race, ethnicity, limited English proficiency status, gender, and disability category, who are in separate classes, separate schools or facilities, or public or private residential facilities; (E) the number and percentage of children with disabilities, by race, ethnicity, limited English proficiency status, gender, and disability category, who, for each year of age from age 14 through 21, stopped receiving special education and related services because of program completion (including graduation with a regular secondary school diploma), or other reasons, and the reasons why those children stopped receiving special education and related services; (F) the number and percentage of children with disabilities, by race, gender, and ethnicity, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons; (G)(i) the number and percentage of children with disabilities, by race, ethnicity, limited English proficiency status, gender, and disability category, who are removed to an interim alternative educational setting under section 615(k)(1); (ii) the acts or items precipitating those removals; and (iii) the number of children with disabilities who are subject to long-term suspensions or expulsions; (H) the incidence and duration of disciplinary actions by race, ethnicity, limited	and technical assistance.

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	English proficiency status, gender, and disability category, of children with disabilities, including suspensions of I day or more; (I) the number and percentage of children with disabilities who are removed to alternative educational settings or expelled as compared to children without disabilities who are removed to alternative educational settings or expelled; (J) the number of due process complaints filed under section 615 and the number of hearings conducted; (K) the number of hearings requested under section 615(k) and the number of changes in placements ordered as a result of those hearings; (L) the number of	8		
	hearings requested under section $615(k)(3)(B)(ii)$ and the number of changes in placements ordered as a result of those			
(B) on the number of infants and toddlers, by race and ethnicity, who are at risk of having substantial developmental delays (as <u>described</u> in section 632), and who are receiving early	hearings; and (M) the number of mediations held and the number of settlement agreements reached through such mediations; (2) the number and percentage of infants and toddlers,			
intervention services under part C; and (2) on any other information that may be required by the Secretary.	by race, and ethnicity, who are at risk of having substantial developmental delays (as <i>defined</i> in section 632), and who are receiving			
(b) SAMPLING.—The Secretary may permit States and the Secretary of the Interior to obtain the data described in subsection (a)	early intervention services under part C; and (3) any other information that may be required by the Secretary.			
through sampling. (c) DISPROPORTIONALITY.—(1) IN GENERAL.—Each State that receives	(b) DATA REPORTING.—The data described in subsection (a) shall be reported by each State at the school district and State level in a			
assistance under this part, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race is occurring in	manner that does not result in the disclosure of date identifiable to individual children. (c) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to			

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the State with respect to—(A) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3); and (B) the placement in particular educational settings of such children. (2) REVIEW AND REVISION OF POLICIES, PRACTICES, AND PROCEDURES.—In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, in accordance with paragraph (1), the State or the Secretary of the Interior, as the case may be, shall provide for the review and, if appropriate, revision of the policies, procedures, and practices used in such identification or placement to ensure that such policies, procedures, and practices comply with the requirements of this Act.	collection and reporting requirements under this Act. (d) DISPROPORTIONALITY.— (1) IN GENERAL.—Each State that receives assistance under this part, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race is occurring in the State with respect to— (A) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3); (B) the placement in particular educational settings of such children; and (C) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.	Changes	

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SEC. 619. PRESCHOOL GRANTS. (a) IN GENERAL.—The Secretary shall provide grants under this section to assist States to provide special education and related services, in accordance with this part— (1) to children with disabilities aged 3 through 5, inclusive; and (2) at the State's discretion, to 2-year-old children with disabilities who will turn 3 during the school year. (b) ELIGIBILITY.—A State shall be eligible for a grant under this section if such State— (1) is eligible under section 612 to receive a grant under this part; and (2) makes a free appropriate public education available to all children with disabilities, aged 3 through 5, residing in the State. (c) ALLOCATIONS TO STATES.— (1) IN GENERAL.—After reserving funds for studies and evaluations under section 674(e), the Secretary shall allocate the remaining amount among the States in accordance with paragraph (2) or (3), as the case may be. (2) INCREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is equal to or greater than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows: (A) (i) Except as provided in subparagraph (B), the Secretary shall— (I) allocate to each State the amount it received for fiscal year 1997;	SEC. 619. PRESCHOOL GRANTS. (a) IN GENERAL.—The Secretary shall provide grants under this section to assist States to provide special education and related services, in accordance with this part— (1) to children with disabilities aged 3 through 5, inclusive; and (2) at the State's discretion, to 2-year-old children with disabilities who will turn 3 during the school year. (b) ELIGIBILITY.—A State shall be eligible for a grant under this section if such State— (1) is eligible under section 612 to receive a grant under this part; and (2) makes a free appropriate public education available to all children with disabilities, aged 3 through 5, residing in the State. (c) ALLOCATIONS TO STATES.— (1) IN GENERAL.—The Secretary shall allocate the amount made available to carry out this section for a fiscal year among the States in accordance with paragraph (2) or (3), as the case may be. (2) INCREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is equal to or greater than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows: (A) ALLOCATION.— (i) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall— (I) allocate to each State the amount the State	Sec. 619 of S. 1248 is substantially the same as Sec. 619 in current law except for changes indicated and nuanced organizational and word changes, which appear to have no substantive impact.

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(II) allocate 85 percent of any remaining funds	1997;	3		
to States on the basis of their relative	(II) allocate 85 percent of any remaining funds			
populations of children aged 3 through 5; and	to States on the basis of the States' relative			
(III) allocate 15 percent of those remaining	populations of children aged 3 through 5; and			
funds to States on the basis of their relative	(III) allocate 15 percent of those remaining			
populations of all children aged 3 through 5	funds to States on the basis of the States'			
who are living in poverty.	relative populations of all children aged 3			
(ii) For the purpose of making grants under	through 5 who are living in poverty.			
this paragraph, the Secretary shall use the most	(ii) DATA.—For the purpose of making grants			
recent population data, including data on	under this paragraph, the Secretary shall use			
children living in poverty, that are available	the most recent population data, including data			
and satisfactory to the Secretary.	on children living in poverty, that are available			
(B) Notwithstanding subparagraph (A),	and satisfactory to the Secretary.			
allocations under this paragraph shall be	(B) LIMITATIONS.—Notwithstanding			
subject to the following:	subparagraph (A), allocations under this			
(i) No State's allocation shall be less than its	paragraph shall be subject to the following:			
allocation for the preceding fiscal year.	(i) PRECEDING YEARS.—No State's			
	allocation shall be less than its allocation under			
(ii) No State's allocation shall be less than the	this section for the preceding fiscal year.			
greatest of—	(ii) MINIMUM.—No State's allocation shall			
(I) the sum of—	be less than the greatest of—			
(aa) the amount it received for fiscal year	(I) the sum of—			
1997; and	(aa) the amount the State received under this			
(bb) one third of one percent of the amount by	section for fiscal year 1997; and			
which the amount appropriated under	(bb) 1.3 of 1 percent of the amount by which			
subsection (j) exceeds the amount appropriated	the amount appropriated under subsection (j)			
under this section for fiscal year 1997;	for the fiscal year exceeds the amount			
(II) the sum of—	appropriated for this section for fiscal year			
(aa) the amount it received for the preceding	1997;			
fiscal year; and	(II) the sum of—			
(bb) that amount multiplied by the percentage	(aa) the amount the State received under this			
by which the increase in the funds	section for the preceding fiscal year; and			
appropriated from the preceding fiscal year	(bb) that amount multiplied by the percentage			
exceeds 1.5 percent; or	by which the increase in the funds			

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(III) the sum of—	appropriated under this section from the	
(aa) the amount it received for the preceding	preceding fiscal year exceeds 1.5 percent; or	
fiscal year; and	(III) the sum of—	
(bb) that amount multiplied by 90 percent of	(aa) the amount the State received under this	
the percentage increase in the amount	section for the preceding fiscal year; and	
appropriated from the preceding fiscal year.	(bb) that amount multiplied by 90 percent of	
(iii) Notwithstanding clause (ii), no State's	the percentage increase in the amount	
allocation under this paragraph shall exceed	appropriated under this section from the	
the sum of—	preceding fiscal year.	
(I) the amount it received for the preceding	(iii) MAXIMUM.—Notwithstanding clause	
fiscal year; and	(ii), no State's allocation under this paragraph	
(II) that amount multiplied by the sum of 1.5	shall exceed the sum of—	
percent and the percentage increase in the	(I) the amount the State received under this	
amount appropriated.	section for the preceding fiscal year; and	
(C) If the amount available for allocations	(II) that amount multiplied by the sum of 1.5	
under this paragraph is insufficient to pay	percent and the percentage increase in the	
those allocations in full, those allocations shall	amount appropriated under this section from	
be ratably reduced, subject to subparagraph	the preceding fiscal year.	
(B)(i).	(C) RATABLE REDUCTIONS.—If the	
	amount available for allocations under this	
(3) DECREASE IN FUNDS.—If the amount	paragraph is insufficient to pay those	
available for allocations to States under	allocations in full, those allocations shall be	
paragraph (1) is less than the amount allocated	ratably reduced, subject to subparagraph	
to the States under this section for the	(B)(i).	
preceding fiscal year, those allocations shall be	(3) DECREASE IN FUNDS.—If the amount	
calculated as follows:	available for allocations to States under	
(A) If the amount available for allocations is	paragraph (1) is less than the amount allocated	
greater than the amount allocated to the States	to the States under this section for the	
for fiscal year 1997, each State shall be	preceding fiscal year, those allocations shall be	
allocated the sum of—	calculated as follows:	
(i) the amount it received for fiscal year 1997;	(A) ALLOCATIONS.—If the amount	
and (ii) on amount that hears the same relation to	available for allocations is greater than the	
(ii) an amount that bears the same relation to	amount allocated to the States for fiscal year	
any remaining runus as the increase the State	1997, each State shall be allocated the sum	

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received for the preceding fiscal year over fiscal year 1997 bears to the total of all such increases for all States. (B) If the amount available for allocations is equal to or less than the amount allocated to the States for fiscal year 1997, each State shall be allocated the amount it received for that year, ratably reduced, if necessary. (4) OUTLYING AREAS.—The Secretary shall increase the fiscal year 1998 allotment of each outlying area under section 611 by at least the amount that that area received under this section for fiscal year 1997.	of— (i) the amount the State received under this section for fiscal year 1997; and (ii) an amount that bears the same relation to any remaining funds as the increase the State received under this section for the preceding fiscal year over fiscal year 1997 bears to the total of all such increases for all States. (B) If the amount available for allocations under this paragraph is equal to or less than the amount allocated under this section to the States for fiscal year 1997, each State shall be allocated the amount the State received for that year, ratably reduced, if necessary.			
(d) RESERVATION FOR STATE ACTIVITIES.— (1) IN GENERAL.—Each State may retain not more than the amount described in paragraph (2) for administration and other State-level activities in accordance with subsections (e) and (f). (2) AMOUNT DESCRIBED.—For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of— (A) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or	(d) RESERVATION FOR STATE ACTIVITIES.— (1) IN GENERAL.—Each State may reserve not more than the amount described in paragraph (2) for administration and other State-level activities in accordance with subsections (e) and (f). (2) AMOUNT DESCRIBED.—For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for			

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(B) the percentage increase, if any, from the	each succeeding fiscal year by the lesser of—			
preceding fiscal year in the Consumer Price	(A) the percentage increase, if any, from the			
Index For All Urban Consumers published by	preceding fiscal year in the State's allocation			
the Bureau of Labor Statistics of the	under this section; or			
Department of Labor.	(B) the percentage increase, if any, from the			
(e) STATE ADMINISTRATION.—	preceding fiscal year in the Consumer Price			
(1) IN GENERAL.—For the purpose of	Index For All Urban Consumers published by			
administering this section (including the	the Bureau of Labor Statistics of the			
coordination of activities under this part with,	Department of Labor.			
and providing technical assistance to, other	(e) STATE ADMINISTRATION.—			
programs that provide services to children with	(1) IN GENERAL.—For the purpose of			
disabilities) a State may use not more than 20	administering this section (including the			
percent of the maximum amount it may retain	coordination of activities under this part with,			
under subsection (d) for any fiscal year.	and providing technical assistance to, other			
(2) ADMINISTRATION OF PART C.—	programs that provide services to children with			
Funds described in paragraph (1) may also be	disabilities) a State may use not more than 20			
used for the administration of part C of this	percent of the maximum amount the State may			
Act, if the State educational agency is the lead	reserve under subsection (d) for any fiscal			
agency for the State under that part.	year.			
(f) OTHER STATE-LEVEL ACTIVITIES.—	(2) ADMINISTRATION OF PART C.—			
Each State shall use any funds it retains under	Funds described in paragraph (1) may also be			
subsection (d) and does not use for	used for the administration of part C of this			
administration under subsection (e)—	Act, if the State educational agency is the lead			
	agency for the State under that part.			
(1) for support services (including establishing	(f) OTHER STATE-LEVEL ACTIVITIES.—			
and implementing the mediation process	Each State shall use any funds the State			
required by section 615(e)), which may benefit	reserves under subsection (d) and does not use			
children with disabilities younger than 3 or	for administration under subsection (e)—			
older than 5 as long as those services also	(1) for support services (including establishing			
benefit children with disabilities aged 3	and implementing the mediation process			
through 5;	required by section 615(e)), which may benefit			
(2) for direct services for children eligible for	children with disabilities younger than 3 or			
services under this section;	older than 5 as long as those services also			
	benefit children with disabilities aged 3			

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(3) to develop a State improvement plan under subpart 1 of part D;	through 5; (2) for direct services for children eligible for services under this section;		
(4) for activities at the State and local levels to meet the performance goals established by the State under section 612(a)(16) and to support implementation of the State improvement plan under subpart 1 of part D if the State receives	no comparable provision [S. 1248 would eliminate the state improvement plan in Part D.]		
funds under that subpart; or (5) to supplement other funds used to develop and implement a Statewide coordinated services system designed to improve results for	(3) for activities at the State and local levels to meet the performance goals established by the State under section 612(a)(15);		
children and families, including children with disabilities and their families, but not to exceed one percent of the amount received by the State under this section for a fiscal year. No comparable provision.	(4) to supplement other funds used to develop and implement a statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not more than 1 percent of the amount received by the State under this section for a fiscal year; or		
	(5) to provide early intervention services (which shall include an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills) in accordance with part C to children with disabilities who are eligible for		
(g) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.— (1) SUBGRANTS REQUIRED.—Each State that receives a grant under this section for any fiscal year shall distribute any of the grant	services under this section and who previously received services under part C until such children enter, or are eligible under State law to enter, kindergarten.		
funds that it does not reserve under subsection (d) to local educational agencies in the State	(g) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—		

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that have established their eligibility under	(1) SUBGRANTS REQUIRED.—Each State			
section 613, as follows:	that receives a grant under this section for any			
(A) BASE PAYMENTS.—The State shall first	fiscal year shall distribute all of the grant funds			
award each agency described in paragraph (1)	that the State does not reserve under			
the amount that agency would have received	subsection (d) to local educational agencies in			
under this section for fiscal year 1997 if the	the State that have established their eligibility			
State had distributed 75 percent of its grant for	under section 613, as follows:			
that year under section 619(c)(3), as then in	(A) BASE PAYMENTS.—The State shall first			
effect.	award each local educational agency described			
(B) ALLOCATION OF REMAINING	in paragraph (1) the amount that agency would			
FUNDS.—After making allocations under	have received under this section for fiscal year			
subparagraph (A), the State shall—	1997 if the State had distributed 75 percent of			
(i) allocate 85 percent of any remaining funds	its grant for that year under section 619(c)(3),			
to those agencies on the basis of the relative	as such section was then in effect.			
numbers of children enrolled in public and	(B) ALLOCATION OF REMAINING			
private elementary and secondary schools	FUNDS.—After making allocations under			
within the agency's jurisdiction; and	subparagraph (A), the State shall—			
	(i) allocate 85 percent of any remaining funds			
(ii) allocate 15 percent of those remaining	to those local educational agencies on the basis			
funds to those agencies in accordance with	of the relative numbers of children enrolled in			
their relative numbers of children living in	public and private elementary schools and			
poverty, as determined by the State	secondary schools within the local educational			
educational agency.	agency's jurisdiction; and			
	(ii) allocate 15 percent of those remaining			
(2) REALLOCATION OF FUNDS.—If a	funds to those local educational agencies in			
State educational agency determines that a	accordance with their relative numbers of			
local educational agency is adequately	children living in poverty, as determined by			
providing a free appropriate public education	the State educational agency.			
to all children with disabilities aged 3 through	(2) REALLOCATION OF FUNDS.—If a			
5 residing in the area served by that agency	State educational agency determines that a			
with State and local funds, the State	local educational agency is adequately			
educational agency may reallocate any portion	providing a free appropriate public education			
of the funds under this section that are not	to all children with disabilities aged 3 through			
needed by that local agency to provide a free	5 residing in the area served by that agency			

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appropriate public education to other local	with State and local funds, the State	S		
educational agencies in the State that are not				
adequately providing special education and	of the funds under this section that are not			
related services to all children with disabilities	needed by that local educational agency to			
aged 3 through 5 residing in the areas they	provide a free appropriate public education to			
serve.	other local educational agencies in the State			
	that are not adequately providing special			
(h) PART C INAPPLICABLE.—Part C of this	education and related services to all children			
Act does not apply to any child with a	with disabilities aged 3 through 5 residing in			
disability receiving a free appropriate public	the areas the other local educational agencies			
education, in accordance with this part, with	serve.			
funds received under this section.	(h) PART C INAPPLICABLE.—Part C of this			
(i) DEFINITION.—For the purpose of this	Act does not apply to any child with a			
section, the term 'State' means each of the 50	disability receiving a free appropriate public			
States, the District of Columbia, and the	education, in accordance with this part, with			
Commonwealth of Puerto Rico.	funds received under this section.			
(j) AUTHORIZATION OF				
APPROPRIATIONS.—For the purpose of				
carrying out this section, there are authorized	States, the District of Columbia, and the			
to be appropriated to the Secretary	Commonwealth of Puerto Rico.			
\$500,000,000 for fiscal year 1998 and such				
sums as may be necessary for each subsequent	APPROPRIATIONS.—For the purpose of			
fiscal year.	carrying out this section, there are authorized			
	to be appropriated such sums as may be			
	necessary.			

Table 3. PART C—INFANTS AND TODDLERS WITH DISABILITIES

Current Law	S. 1248	Comments on Selected Changes
PART C—INFANTS AND TODDLERS WITH DISABILITIES	PART C—INFANTS AND TODDLERS WITH DISABILITIES	
SEC. 631. FINDINGS AND POLICY.	SEC. 631. FINDINGS AND POLICY.	

Current Law	S. 1248	Comments on Changes	Selected
(a) FINDINGS.—The Congress finds that there is an urgent and substantial need—	(a) FINDINGS.—Congress finds that there is an urgent and substantial need—		
(1) to enhance the development of infants and toddlers with disabilities and to minimize their potential for developmental delay;	(1) to enhance the development of infants and toddlers with disabilities, to minimize their potential for developmental delay, and to recognize the significant brain development which occurs during a child's first 3 years of life;		
(2) to reduce the educational costs to our society, including our Nation's schools, by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age;	same as current law		
(3) to minimize the likelihood of institutionalization of individuals with disabilities and maximize the potential for their independently living in society;	(3) to maximize the potential for individuals with disabilities to live independently in society;		
(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities; and (5) to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of historically underrepresented populations, particularly minority, low-income, inner-city, and rural populations.	same as current law		
SEC. 631(b) POLICY.—It is therefore the policy of the United States to provide financial assistance to States— (1) to develop and implement a statewide,	policy subsection same as current law		

Current Law	S. 1248	Comments on Selected Changes
comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families; (2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage); (3) to enhance their capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; and (4) to encourage States to expand opportunities for children under 3 years of age who would be at risk of having substantial developmental delay if they did not receive early intervention services.		
SEC. 632. DEFINITIONS. As used in this part: (1) AT-RISK INFANT OR TODDLER.—The term 'at-risk infant or toddler' means an individual under 3 years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the individual. (2) COUNCIL.—The term 'council' means a State interagency coordinating council established under section 641. (3) DEVELOPMENTAL DELAY.—The term 'developmental delay', when used with respect to an individual residing in a State, has the meaning given such term by the State	definitions (1)-(3) same as current law	

Current Law	S. 1248	Comments on Changes	Selected
under section 635(a)(1).			
under section 635(a)(1). (4) EARLY INTERVENTION SERVICES.— The term 'early intervention services' means developmental services that— (A) are provided under public supervision; (B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees; (C) are designed to meet the developmental needs of an infant or toddler with a disability in any one or more of the following areas— (i) physical development; (ii) cognitive development; (iii) communication development; (iv) social or emotional development; or (v) adaptive development; (D) meet the standards of the State in which they are provided, including the requirements of this part; (E) include— (i) family training, counseling, and home visits; (ii) special instruction; (iii) speech-language pathology and audiology services; (iv) occupational therapy;	(4) EARLY INTERVENTION SERVICES.— The term 'early intervention services' means developmental services that— (A) are provided under public supervision; (B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees; (C) are designed to meet the developmental needs of an infant or toddler with a disability in any one or more of the following areas— (i) physical development; (ii) cognitive development; (iii) communication development; (iv) social or emotional development; or (v) adaptive development; (D) meet the standards of the State in which they are provided, including the requirements of this part; (E) include— (i) family training, counseling, and home visits; (ii) special instruction; (iii) speech-language pathology and audiology services, and sign language and cued language services:	Changes	
(v) physical therapy;(vi) psychological services;(vii) service coordination services;	(iv) occupational therapy;(v) physical therapy;(vi) psychological services;		
(viii) medical services only for diagnostic or evaluation purposes; (ix) early identification, screening, and	(vii) service coordination services; (viii) medical services only for diagnostic or		

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assessment services;	(ix) early identification, screening, and		
(x) health services necessary to enable the	assessment services;		
infant or toddler to benefit from the other early	(x) health services necessary to enable the		
intervention services;	infant or toddler to benefit from the other early		
(xi) social work services;	intervention services;		
(xii) vision services;	(xi) social work services;		
(xiii) assistive technology devices and assistive	(xii) vision services;		
technology services; and	(xiii) assistive technology devices and assistive		
(xiv) transportation and related costs that are	technology services; and		
necessary to enable an infant or toddler and the	(xiv) transportation and related costs that are		
infant's or toddler 's family to receive another	necessary to enable an infant or toddler and the		
service described in this paragraph;	infant's or toddler 's family to receive another		
(F) are provided by qualified personnel,	service described in this paragraph;		
including—	(F) are provided by qualified personnel,		
(i) special educators;	including—		
(ii) speech-language pathologists and	(i) special educators;		
audiologists;	(ii) speech-language pathologists and		
(iii) occupational therapists;	audiologists;		
(iv) physical therapists;	(iii) teachers of the deaf;		
(v) psychologists;	(iv) occupational therapists;		
(vi) social workers;	(v) physical therapists;		
(vii) nurses;	(vi) psychologists;		
(viii) nutritionists;	(vii) social workers;		
(ix) family therapists;	(viii) nurses;		
(x) orientation and mobility specialists; and	(ix) nutritionists;		
(xi) pediatricians and other physicians;	(x) family therapists;		
	(xi) orientation and mobility specialists;		
	(xii) vision specialist, including opthamologists		
	and optometrists; and		
	(xiii) pediatricians and other physicians;		
(G) to the maximum extent appropriate, are	(G) to the maximum extent appropriate, are		
provided in natural environments, including	provided in natural environments, including		
the home, and community settings in which	the home, and community settings in which		
children without disabilities participate; and	children without disabilities participate; and		

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(H) are provided in conformity with an individualized family service plan adopted in accordance with section 636.	(H) are provided in conformity with an individualized family service plan adopted in accordance with section 636.	
(5) INFANT OR TODDLER WITH A DISABILITY.—The term 'infant or toddler with a disability '— (A) means an individual under 3 years of age who needs early intervention services because the individual— (i) is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or (ii) has a diagnosed physical or mental condition which has a high probability of resulting in developmental delay; and (B) may also include, at a State's discretion, at-risk infants and toddlers.	(5) INFANT OR TODDLER WITH A DISABILITY.—The term 'infant or toddler with a disability'— (A) means an individual under 3 years of age who needs early intervention services because the individual— (i) is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in 1 or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or (ii) has a diagnosed physical or mental condition which has a high probability of resulting in developmental delay; and (B) may also include, at a State's discretion— (i) at-risk infants and toddlers; and (ii) children with disabilities who are eligible for services under section 619 and who previously received services under this part until such children enter, or are eligible under State law to enter, kindergarten.	Definition of "infant or toddler with a disability" the same except that S. 1248 would include in the definition preschool children with disabilities eligible to be served under Sec. 619 who had been served under Part C.
SEC. 633. GENERAL AUTHORITY. The Secretary shall, in accordance with this part, make grants to States (from their allotments under section 643) to assist each State to maintain and implement a statewide, comprehensive, coordinated, multidisciplinary,	same as current law	

Current Law	S. 1248	Comments on Selected Changes
interagency system to provide early intervention services for infants and toddlers with disabilities and their families.		
SEC. 634. ELIGIBILITY. In order to be eligible for a grant under section 633, a State shall demonstrate to the Secretary that the State— (1) has adopted a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State; and (2) has in effect a statewide system that meets the requirements of section 635.	same as current law	
SEC. 635. REQUIREMENTS FOR STATEWIDE SYSTEM. (a) IN GENERAL.—A statewide system described in section 633 shall include, at a minimum, the following components:	same as current law	

Current Law	S. 1248	Comments on Selected Changes
(1) A definition of the term 'developmental delay' that will be used by the State in carrying out programs under this part.	(1) A definition of the term 'developmental delay' that— (A) will be used by the State in carrying out programs under this part; and (B) covers, at a minimum, all infants and toddlers with— (i) a developmental delay of 35 percent or more in 1 of the developmental areas described in section 632(5)(A)(i); or (ii) a developmental delay of 25 percent or more in 2 or more of the developmental areas described in section 632(5)(A)(i).	S. 1248 would add minimal criteria to the definition of developmental delay; whereas current law leaves the determination completely up to the state.
(2) A State policy that is in effect and that ensures that appropriate early intervention services are available to all infants and toddlers with disabilities and their families, including Indian infants and toddlers and their families residing on a reservation geographically located in the State.	paragraphs(2)-(7) same as current law	

(3) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State, and a family-directed identification of the needs of each family of such an infant or toddler, to appropriately assist in the development of the infant or toddler. (4) For each infant or toddler with a disability in the State, an individualized family service plan in accordance with section 636, including service coordination services in accordance with such service plan. (5) A comprehensive child find system, consistent with part B, including a system for making referrals to service providers that includes timelines and provides for participation by primary referral sources. (6) A public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency designated or established under paragraph (10) to all primary referral sources, especially hospitals and physicians, of information for parents on the availability of early intervention services, and procedures for determining the extent to which such sources disseminate such information to parents of infants and toddlers. (7) A central directory which includes information on early intervention services,	Current Law	S. 1248	Comments on Selected Changes
and research and demonstration projects being	evaluation of the functioning of each infant or toddler with a disability in the State, and a family-directed identification of the needs of each family of such an infant or toddler, to appropriately assist in the development of the infant or toddler. (4) For each infant or toddler with a disability in the State, an individualized family service plan in accordance with section 636, including service coordination services in accordance with such service plan. (5) A comprehensive child find system, consistent with part B, including a system for making referrals to service providers that includes timelines and provides for participation by primary referral sources. (6) A public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency designated or established under paragraph (10) to all primary referral sources, especially hospitals and physicians, of information for parents on the availability of early intervention services, and procedures for determining the extent to which such sources disseminate such information to parents of infants and toddlers. (7) A central directory which includes information on early intervention services, resources, and experts available in the State		Changes

Current Law	S. 1248	Comments on Selected Changes
(8) A comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources respecting the basic components of early intervention services available in the State, that is consistent with the comprehensive system of personnel development described in section 612(a)(14) and may include— (A) implementing innovative strategies and activities for the recruitment and retention of early education service providers; '(B) promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this part; (C) training personnel to work in rural and innercity areas; and (D) training personnel to coordinate transition services for infants and toddlers served under this part from an early intervention program under this part to preschool or other appropriate services.	same as current law	
(9) Subject to subsection (b), policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including— (A) the establishment and maintenance of standards which are consistent with any Stateapproved or recognized certification, licensing,	(9) Policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including the establishment and maintenance of standards which are consistent with any Stateapproved or recognized certification, licensing,	S. 1248 would add language to ensure that qualified paraprofessionals are not prohibited from providing early intervention services.

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(B) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State; except that nothing in this part, including this paragraph, prohibits the use of paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulations, or written policy, to assist in the provision of early intervention services to infants and toddlers with disabilities under this part.	registration, or other comparable requirements which apply to the area in which such personnel are providing early intervention services, except that nothing in this part (including this paragraph) shall be construed to prohibit the use of paraprofessionals and assistants who are appropriately trained in accordance with State law, regulation, or written policy, to assist in the provision of early intervention services under this part to infants and toddlers with disabilities. no comparable provision	S. 1248 would eliminate "highest requirements" language related to professional qualifications as it does in Part B. (See Sec. 612(a)(15) of current law above.)
(10) A single line of responsibility in a lead agency designated or established by the Governor for carrying out— (A) the general administration and supervision of programs and activities receiving assistance under section 633, and the monitoring of programs and activities used by the State to	same as current law	

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carry out this part, whether or not such			
programs or activities are receiving assistance			
made available under section 633, to ensure			
that the State complies with this part;			
' '(B) the identification and coordination of all			
available resources within the State from			
Federal, State, local, and private sources;			
(C) the assignment of financial responsibility			
in accordance with section 637(a)(2) to the			
appropriate agencies;			
(D) the development of procedures to ensure			
that services are provided to infants and			
toddlers with disabilities and their families			
under this part in a timely manner pending the			
resolution of any disputes among public			
agencies or service providers;			
(E) the resolution of intra- and interagency			
disputes; and			
(F) the entry into formal interagency			
agreements that define the financial			
responsibility of each agency for paying for			
early intervention services (consistent with			
State law) and procedures for resolving			
disputes and that include all additional			
components necessary to ensure meaningful			
cooperation and coordination.			
(11) A policy pertaining to the contracting or	paragraphs (11)-(15) same as current law		
making of other arrangements with service			
providers to provide early intervention services			
in the State, consistent with the provisions of			
this part, including the contents of the			
application used and the conditions of the			
contract or other arrangements.			

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(12) A procedure for securing timely reimbursements of funds used under this part in accordance with section 640(a). (13) Procedural safeguards with respect to programs under this part, as required by section 639. (14) A system for compiling data requested by the Secretary under section 618 that relates to this part. (15) A State interagency coordinating council that meets the requirements of section 641.		
(16) Policies and procedures to ensure that, consistent with section 636(d)(5)— (A) to the maximum extent appropriate, early intervention services are provided in natural environments; and	(16) Policies and procedures to ensure that, consistent with section 636(d)(5) to the maximum extent appropriate, early intervention services are provided in natural environments unless a specific outcome cannot be met satisfactorily for the infant or toddler in a natural environment.	S. 1248 would qualify the requirement that early intervention services be provided in a natural environment if a specific outcome cannot be met in a natural environment.
(B) the provision of early intervention services for any infant or toddler occurs in a setting other than a natural environment only when early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment.	no comparable provision	S. 1248 would eliminate subparagraph (B) related to the natural environment.
SEC. 635(b) POLICY.—In implementing subsection (a)(9), a State may adopt a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to infants and toddlers with disabilities, including, in a geographic area of the State where there is a shortage of	No comparable provision.	

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such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in subsection (a)(9), consistent with State law within 3 years.		
no comparable subsection	SEC. 635(b) FLEXIBILITY TO SERVE CHILDREN 3 YEARS OF AGE TO UNDER 6 YEARS OF AGE.— (1) IN GENERAL.—A statewide system described in section 633 may include a State policy, developed and implemented jointly by the lead agency and the State educational agency, under which parents of children with disabilities who are eligible for services under section 619 and previously received services under this part, may choose the continuation of early intervention services (which shall include an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills) for such children under this part until such children enter, or are eligible under State law to enter, kindergarten.	
	(2) REQUIREMENTS.—If a statewide system includes a State policy described in paragraph (1), the statewide system shall ensure— (A) that parents of infants or toddlers with disabilities (as defined in section 632(5)(A)) provide informed written consent to the State, before such infants and toddlers reach 3 years of age, as to whether such parents intend to choose the continuation of early intervention	

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	services pursuant to this subsection for sucl	1	
	infants or toddlers;		
	(B) that the State policy will not affect the		
	right of any child served pursuant to thi		
	subsection to instead receive a free appropriate		
	public education under part B;		
	(C) that parents of children served pursuant to		
	this subsection are provided with annua	1	
	notice—		
	(i) of such parents' right to elect service		
	pursuant to this subsection or under part B; and		
	(ii) fully explaining the differences between		
	receiving services pursuant to this subsection		
	and receiving services under part B	,	
	including—		
	(I) the types of services available under both	1	
	provisions;		
	(II) applicable procedural safeguards unde		
	both provisions, including due-proces		
	protections and mediation or other dispute	e	
	resolution options; and		
	(III) the possible costs, if any (including any	<i>I</i>	
	fees to be charged to families as described in	ı	
	section 632(4)(B)) to parents under both	1	
	provisions;		
	(D) that the conference under section	1	
	637(a)(9)(A)(ii)(II), the review under section	1	
	637(a)(9)(B), and the establishment of	a	
	transition plan under section 637(a)(9)(C)	
	occur not less than 90 days (and at the		
	discretion of the parties to the conference, no	t	
	more than 9 months) before each of the		
	following; (i) the time the child will first be		
	eligible for services under part B, including	<u> </u>	

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	(3) REPORTING REQUIREMENT.—If statewide system includes a State policy described in paragraph (1), the State shat submit to the Secretary, in the State's report under section 637(b)(4)(A), a report on— (A) the percentage of children with disability who are eligible for services under section 65 but whose parents choose for such children continue to receive early intervention service under this part; and (B) the number of children who are eligible for services under section 619 who instead continue to receive early intervention service	es 19 to es for ad

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	under this part. (4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require a provider of services under this part to provide a child served under this part with a free appropriate public education. (5) AVAILABLE FUNDSIf a Statewide system includes a State policy described in paragraph (1), the policy shall describe the funds (including an identification as Federal, State, or local funds) that will be used to ensure that the option described in paragraph (1) is available to eligible children and families who provide the consent described in paragraph (2)(A), including any fees to be charged to families consistent with Section 632(4)(B).			
SEC. 636. INDIVIDUALIZED FAMILY SERVICE PLAN. (a) ASSESSMENT AND PROGRAM DEVELOPMENT.—A statewide system described in section 633 shall provide, at a minimum, for each infant or toddler with a disability, and the infant's or toddler 's family, to receive— (1) a multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the identification of services appropriate to meet such needs; (2) a family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family 's	subsections (a), (b), and (c) same as current law			

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capacity to meet the developmental needs of the infant or toddler; and (3) a written individualized family service plan developed by a multidisciplinary team, including the parents, as required by subsection (e). SEC. 636(b) PERIODIC REVIEW.—The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at 6-month intervals (or more often where appropriate based on infant or toddler and family needs). SEC. 636(c) PROMPTNESS AFTER ASSESSMENT.—The individualized family service plan shall be developed within a reasonable time after the assessment required by subsection (a)(1) is completed. With the parents' consent, early intervention services may commence prior to the completion of the assessment.		
SEC. 636(d) CONTENT OF PLAN.—The individualized family service plan shall be in writing and contain— (1) a statement of the infant's or toddler 's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on objective criteria; (2) a statement of the family 's resources, priorities, and concerns relating to enhancing the development of the family 's infant or toddler with a disability;	subsections (d) and (e) same as current law	

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(3) a statement of the major outcomes			
expected to be achieved for the infant or			
toddler and the family, and the criteria,			
procedures, and timelines used to determine			
the degree to which progress toward achieving			
the outcomes is being made and whether			
modifications or revisions of the outcomes or			
services are necessary;			
(4) a statement of specific early intervention			
services necessary to meet the unique needs of			
the infant or toddler and the family, including			
the frequency, intensity, and method of			
delivering services;			
(5) a statement of the natural environments in			
which early intervention services shall			
appropriately be provided, including a			
justification of the extent, if any, to which the			
services will not be provided in a natural			
environment;			
(6) the projected dates for initiation of services			
and the anticipated duration of the services;			
(7) the identification of the service coordinator			
from the profession most immediately relevant			
to the infant's or toddler 's or family 's needs			
(or who is otherwise qualified to carry out all			
applicable responsibilities under this part) who			
will be responsible for the implementation of			
the plan and coordination with other agencies			
and persons; and			
(8) the steps to be taken to support the			
transition of the toddler with a disability to			
preschool or other appropriate services.			
SEC. 636(e) PARENTAL CONSENT.—The			
contents of the individualized family service			

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plan shall be fully explained to the parents and informed written consent from the parents shall be obtained prior to the provision of early intervention services described in such plan. If the parents do not provide consent with respect to a particular early intervention service, then the early intervention services to which consent is obtained shall be provided.			
SEC. 637. STATE APPLICATION AND ASSURANCES. (a) APPLICATION.—A State desiring to receive a grant under section 633 shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application shall contain— (1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 633; (2) a designation of an individual or entity responsible for assigning financial responsibility among appropriate agencies; (3) information demonstrating eligibility of the State under section 634, including— (A) information demonstrating to the Secretary's satisfaction that the State has in effect the statewide system required by section 633; and (B) a description of services to be provided to infants and toddlers with disabilities and their	SEC. 637. STATE APPLICATION AND ASSURANCES. (a) APPLICATION.—A State desiring to receive a grant under section 633 shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application shall contain— (1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 633; (2) a certification to the Secretary that the arrangements to establish financial responsibility for services provided under this part pursuant to section 640(b) are current as of the date of submission of the certification; (3) information demonstrating eligibility of the State under section 634, including— (A) information demonstrating to the Secretary's satisfaction that the State has in effect the statewide system required by section 633; and (B) a description of services to be provided to infants and toddlers with disabilities and their		

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families through the system; (4) if the State provides services to at-risk infants and toddlers through the system, a description of such services; (5) a description of the uses for which funds will be expended in accordance with this part;	families through the system; (4) if the State provides services to at-risk infants and toddlers through the system, a description of such services; (5) a description of the uses for which funds will be expended in accordance with this part;	
no comparable provision	(6) a description of the State policies and procedures that require the referral for evaluation for early intervention services of a child under the age of 3 who— (A) is involved in a substantiated case of child abuse or neglect; or (B) is identified as affected by illegal substance abuse, or withdrawal symptoms resulting from prenatal drug exposure;	requirements for state policies and procedures related to early
(6)a description of the procedure used to ensure that resources are made available under this part for all geographic areas within the State; (7) a description of State policies and procedures that ensure that, prior to the adoption by the State of any other policy or procedure necessary to meet the requirements of this part, there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of infants and toddlers with disabilities;	paragraphs (7)-(8) same as current law	

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(8) a description of the policies and procedures to be used— (A) to ensure a smooth transition for toddlers receiving early intervention services under this part to preschool or other appropriate services, including a description of how—	(9) a description of the policies and procedures to be used— (A) to ensure a smooth transition for toddlers receiving early intervention services under this part (and children receiving those services under section 635(b)) to preschool or other appropriate services, including a description of how			
(i) the families of such toddlers will be included in the transition plans required by subparagraph (C); and (ii) the lead agency designated or established under section 635(a)(10) will— (I) notify the local educational agency for the area in which such a child resides that the child will shortly reach the age of eligibility for preschool services under part B, as determined in accordance with State law; (II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency at least 90 days (and at the discretion of all such parties, up to 6 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive; and (III) in the case of a child who may not be eligible for such preschool services, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not	how— (i) the families of such toddlers and children will be included in the transition plans required by subparagraph (C); and (ii) the lead agency designated or established under section 635(a)(10) will— (I) notify the local educational agency for the area in which such a child resides that the child will shortly reach the age of eligibility for preschool services under part B, as determined in accordance with State law; (II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency at least 90 days (and at the discretion of all such parties, up to 6 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive; and (III) in the case of a child who may not be eligible for such preschool services, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not			

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discuss the appropriate services that the child may receive; (B) to review the child's program options for the period from the child's third birthday through the remainder of the school year; and	discuss the appropriate services that the child may receive; (B) to review the child's program options for the period from the child's third birthday through the remainder of the school year; and	
(C) to establish a transition plan; and	(C) to establish a transition plan, <i>including, as</i> appropriate, steps to exit from the program; and	
(9) such other information and assurances as the Secretary may reasonably require.	same as current law	
SEC. 637(b) ASSURANCES.—The application described in subsection (a)— (1) shall provide satisfactory assurance that Federal funds made available under section 643 to the State will be expended in accordance with this part; (2) shall contain an assurance that the State will comply with the requirements of section 640; (3) shall provide satisfactory assurance that the control of funds provided under section 643, and title to property derived from those funds, will be in a public agency for the uses and purposes provided in this part and that a public agency will administer such funds and property; (4) shall provide for— (A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this part; and (B) keeping such records and affording such	same as current law	

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access to them as the Secretary may find			
necessary to ensure the correctness and			
verification of those reports and proper			
disbursement of Federal funds under this part;			
(5) provide satisfactory assurance that Federal			
funds made available under section 643 to the			
State—			
(A) will not be commingled with State funds;			
and (B) will be used so as to supplement the			
level of State and local funds expended for			
infants and toddlers with disabilities and their			
families and in no case to supplant those State			
and local funds;			
(6) shall provide satisfactory assurance that			
such fiscal control and fund accounting			
procedures will be adopted as may be			
necessary to ensure proper disbursement of,			
and accounting for, Federal funds paid under			
section 643 to the State;			
(7) shall provide satisfactory assurance that			
policies and procedures have been adopted to			
ensure meaningful involvement of underserved			
groups, including minority, low-income, and			
rural families, in the planning and			
implementation of all the requirements of this			
part; and			
(8) shall contain such other information and			
assurances as the Secretary may reasonably			
require by regulation.			
SEC. 637(c) STANDARD FOR	same as current law		
DISAPPROVAL OF APPLICATION.—The			
Secretary may not disapprove such an			
application unless the Secretary determines,			

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after notice and opportunity for a hearing, that the application fails to comply with the requirements of this section.		
SEC. 637(d) SUBSEQUENT STATE APPLICATION.—If a State has on file with the Secretary a policy, procedure, or assurance that demonstrates that the State meets a requirement of this section, including any policy or procedure filed under part H (as in effect before July 1, 1998), the Secretary shall consider the State to have met the requirement for purposes of receiving a grant under this part.	SEC. 637(d) SUBSEQUENT STATE APPLICATION.—If a State has on file with the Secretary a policy, procedure, or assurance that demonstrates that the State meets a requirement of this section, including any policy or procedure filed under part C, as in effect before the date of enactment of the Individuals with Disabilities Education Improvement Act of 2003, the Secretary shall consider the State to have met the requirement for purposes of receiving a grant under this part.	S. 1248 would make technical changes in this subsection.
SEC. 637(e) MODIFICATION OF APPLICATION.—An application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State determines necessary. This section shall apply to a modification of an application to the same extent and in the same manner as this section applies to the original application. SEC. 637(f) MODIFICATIONS REQUIRED BY THE SECRETARY.—The Secretary may require a State to modify its application under this section, but only to the extent necessary to ensure the State's compliance with this part, if— (1) an amendment is made to this Act, or a Federal regulation issued under this Act; (2) a new interpretation of this Act is made by	subsections (e) and (f) same as current law	

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a Federal court or the State's highest court; or (3) an official finding of noncompliance with Federal law or regulations is made with respect to the State.				
SEC. 638. USES OF FUNDS. In addition to using funds provided under section 633 to maintain and implement the statewide system required by such section, a State may use such funds— (1) for direct early intervention services for infants and toddlers with disabilities, and their families, under this part that are not otherwise funded through other public or private sources; (2) to expand and improve on services for infants and toddlers and their families under this part that are otherwise available; (3) to provide a free appropriate public education, in accordance with part B, to children with disabilities from their third birthday to the beginning of the following school year; and (4) in any State that does not provide services for at risk infants and toddlers under section 637(a)(4), to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public or private community-based organizations, services, and personnel for the purposes of— (A) identifying and evaluating at-risk infants and toddlers; (B) making referrals of the infants and toddlers	Sec. 638 same as current law except S. 1248 would add a new subsection (4) and redesignate existing subsection (4). (4) with the written consent of the parents, to continue to provide early intervention services under this part to children with disabilities from their 3d birthday to the beginning of the following school year, in lieu of a free appropriate public education provided in accordance with part B; and			

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identified and evaluated under subparagraph (A); and (C) conducting periodic follow-up on each such referral to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under this part.				
SEC. 639. PROCEDURAL SAFEGUARDS. (a) MINIMUM PROCEDURES.—The procedural safeguards required to be included in a statewide system under section 635(a)(13) shall provide, at a minimum, the following: (1) The timely administrative resolution of complaints by parents. Any party aggrieved by the findings and decision regarding an administrative complaint shall have the right to bring a civil action with respect to the complaint in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate. (2) The right to confidentiality of personally identifiable information, including the right of parents to written notice of and written consent to the exchange of such information among agencies consistent with Federal and State law. (3) The right of the parents to determine	subsection (a) (1)-(7) same as current law			

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whether they, their infant or toddler, or other		
family members will accept or decline any		
early intervention service under this part in		
accordance with State law without		
jeopardizing other early intervention services		
under this part.		
(4) The opportunity for parents to examine		
records relating to assessment, screening,		
eligibility determinations, and the development		
and implementation of the individualized		
family service plan.		
(5) Procedures to protect the rights of the		
infant or toddler whenever the parents of the		
infant or toddler are not known or cannot be		
found or the infant or toddler is a ward of the		
State, including the assignment of an		
individual (who shall not be an employee of		
the State lead agency, or other State agency,		
and who shall not be any person, or any		
employee of a person, providing early		
intervention services to the infant or toddler or		
any family member of the infant or toddler) to		
act as a surrogate for the parents.		
(6) Written prior notice to the parents of the		
infant or toddler with a disability whenever the		
State agency or service provider proposes to		
initiate or change or refuses to initiate or		
change the identification, evaluation, or		
placement of the infant or toddler with a		
disability, or the provision of appropriate early		
intervention services to the infant or toddler.		
(7) Procedures designed to ensure that the		
notice required by paragraph (6) fully informs		
the parents, in the parents' native language,		

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unless it clearly is not feasible to do so, of all procedures available pursuant to this section.		
(8) The right of parents to use mediation in accordance with section 615(e), except that— (A) any reference in the section to a State educational agency shall be considered to be a reference to a State's lead agency established or designated under section 635(a)(10); (B) any reference in the section to a local educational agency shall be considered to be a reference to a local service provider or the State's lead agency under this part, as the case may be; and (C) any reference in the section to the provision of free appropriate public education to children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.	(8) The right of parents to use mediation in accordance with <i>section 615</i> , except that— (A) any reference in the section to a State educational agency shall be considered to be a reference to a State's lead agency established or designated under section 635(a)(10); (B) any reference in the section to a local educational agency shall be considered to be a reference to a local service provider or the State's lead agency under this part, as the case may be; and (C) any reference in the section to the provision of free appropriate public education to children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.	Current law cross-references subsection (e) of section 615; S. 1248 would cross-reference the whole section. There are no obvious legal ramifications of this difference.
SEC. 639(b) SERVICES DURING PENDENCY OF PROCEEDINGS.—During the pendency of any proceeding or action involving a complaint by the parents of an infant or toddler with a disability, unless the State agency and the parents otherwise agree, the infant or toddler shall continue to receive the appropriate early intervention services currently being provided or, if applying for initial services, shall receive the services not in dispute.	same as current law	
SEC. 640. PAYOR OF LAST RESORT. (a) NONSUBSTITUTION.—Funds provided	SEC. 640. PAYOR OF LAST RESORT. (a) NONSUBSTITUTION.—Funds provided	

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under section 643 may not be used to satisfy a financial commitment for services that would have been paid for from another public or private source, including any medical program administered by the Secretary of Defense, but for the enactment of this part, except that whenever considered necessary to prevent a delay in the receipt of appropriate early intervention services by an infant, toddler, or family in a timely fashion, funds provided under section 643 may be used to pay the provider of services pending reimbursement from the agency that has ultimate responsibility for the payment.	under section 643 may not be used to satisfy a financial commitment for services that would have been paid for from another public or private source, including any medical program administered by the Secretary of Defense, but for the enactment of this part, except that whenever considered necessary to prevent a delay in the receipt of appropriate early intervention services by an infant, toddler, or family in a timely fashion, funds provided under section 643 may be used to pay the provider of services pending reimbursement from the agency that has ultimate responsibility for the payment. (b) OBLIGATIONS RELATED TO AND METHODS OF ENSURING SERVICES.— (1) ESTABLISHING FINANCIAL RESPONSIBLITY FOR SERVICES.— (A) IN GENERAL.—The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency and the State educational agency, in order to ensure— (i) the provision of, and financial responsibility for, services provided under this part; and (ii) such services are consistent with the requirements of section 635 and the State's application pursuant to section 637, including the provision of such services during the pendency of any such dispute. (B) CONSISTENCY BETWEEN AGREEMENTS OR MECHANISMS UNDER			

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	PARTS B AND DThe Chief Executive			
	Officer of a State or designee of the officer	,		
	shall ensure that the terms and conditions of	•		
	such agreement or mechanism are consistent			
	with the terms and conditions of the State's			
	agreement or mechanism under Section			
	612(a)(12).			
	(2) REIMBURSEMENT FOR SERVICES	1		
	BY PUBLIC AGENCY			
	(A) IN GENERAL If a public agency other			
	than an educational agency fails to provide or			
	pay for the services pursuant to an agreement			
	required under paragraph (1) the local			
	educational agency or State agency (as			
	determined by the Chief Executive Officer or			
	designee) shall provide or pay for the			
	provision of such services to the child.			
	(B) REIMBURSEMENTSuch local			
	educational agency or State agency is			
	authorized to claim reimbursement for the			
	services from the public agency that failed to			
	provide or pay for such services and such			
	public agency shall reimburse the local			
	educational agency or State agency pursuant			
	to the terms of the interagency agreement or			
	other mechanism required under paragraph			
	(1).			
	(3) SPECIAL RULE The requirements			
	of paragraph (1) may be met through-			
	(A) State statute or regulation;			
	(C) signed agreements between respective			
	agency officials that clearly identify the			
	responsibilities of each agency relating to the			
	provision of services; or			

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(b) REDUCTION OF OTHER BENEFITS.— Nothing in this part shall be construed to permit the State to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act (relating to maternal and child health) or title XIX of the Social Security Act (relating to Medicaid for infants or toddlers with disabilities) within the State.	(C) other appropriate written methods as determined by the Chief Executive Officer of the State or designee of the officer and approved by the Secretary through the review and approval of the State's application pursuant to section 637. (c) REDUCTION OF OTHER BENEFITS.—Nothing in this part shall be construed to permit the State to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act (relating to maternal and child health) or title XIX of the Social Security Act (relating to Medicaid for infants or toddlers with disabilities) within the State.		
SEC. 641. STATE INTERAGENCY COORDINATING COUNCIL. SEC. 641(a) ESTABLISHMENT.— (1) IN GENERAL.—A State that desires to receive financial assistance under this part shall establish a State interagency coordinating council. (2) APPOINTMENT.—The council shall be appointed by the Governor. In making appointments to the council, the Governor shall ensure that the membership of the council reasonably represents the population of the State. (3) CHAIRPERSON.—The Governor shall designate a member of the council to serve as the chairperson of the council, or shall require the council to so designate such a member.	Sec. 641(a) same as current law		

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Any member of the council who is a representative of the lead agency designated under section 635(a)(10) may not serve as the chairperson of the council.		
SEC. 641(b) COMPOSITION.— (1) IN GENERAL.—The council shall be composed as follows: (A) PARENTS.—At least 20 percent of the members shall be parents of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one such member shall be a parent of an infant or toddler with a disability or a child with a disability aged 6 or younger. (B) SERVICE PROVIDERS.—At least 20 percent of the members shall be public or private providers of early intervention services. (C) STATE LEGISLATURE.—At least one member shall be from the State legislature. (D) PERSONNEL PREPARATION.—At least one member shall be involved in personnel preparation. (E) AGENCY FOR EARLY INTERVENTION SERVICES.—At least one member shall be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families and shall have sufficient authority to engage in policy planning and implementation on behalf of such agencies. (F) AGENCY FOR PRESCHOOL	same as current law	

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SERVICES.—At least one member shall be from the State educational agency responsible for preschool services to children with disabilities and shall have sufficient authority to engage in policy planning and implementation on behalf of such agency. (G) AGENCY FOR HEALTH INSURANCE.—At least one member shall be from the agency responsible for the State governance of health insurance. (H) HEAD START AGENCY.—At least one representative from a Head Start agency or program in the State. (I) CHILD CARE AGENCY.—At least one representative from a State agency responsible for child care.		
no comparable provision	(J) AGENCY FOR HEALTH INSURANCE.— At least 1 member shall be from the agency responsible for the State regulation of health insurance.	S. 1248 would add this requirement to the composition of the council.
(2) OTHER MEMBERS.—The council may include other members selected by the Governor, including a representative from the Bureau of Indian Affairs, or where there is no BIA-operated or BIA-funded school, from the Indian Health Service or the tribe or tribal council.	same as current law	
(c) MEETINGS.—The council shall meet at least quarterly and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate,	subsections (c) and (d) same as current law	

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open and accessible to the general public. SEC. 641(d) MANAGEMENT AUTHORITY.—Subject to the approval of the Governor, the council may prepare and approve a budget using funds under this part to conduct hearings and forums, to reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties (including child care for parent representatives), to pay compensation to a member of the council if the member is not employed or must forfeit wages from other employment when performing official council business, to hire staff, and to obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this part.		
SEC. 641(e) FUNCTIONS OF COUNCIL.— (1) DUTIES.—The council shall— (A) advise and assist the lead agency designated or established under section 635(a)(10) in the performance of the responsibilities set forth in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements; (B) advise and assist the lead agency in the preparation of applications and amendments thereto; (C) advise and assist the State educational	subsection (e) same as current law	

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agency regarding the transition of toddlers with disabilities to preschool and other appropriate services; and (D) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State. (2) AUTHORIZED ACTIVITY.—The council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children from birth through age 5. The council may advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers are eligible for early intervention services in the State. SEC. 641(f) CONFLICT OF INTEREST.— No member of the council shall cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.		
SEC. 642. FEDERAL ADMINISTRATION. Sections 616, 617, and 618 shall, to the extent not inconsistent with this part, apply to the program authorized by this part, except that—(1) any reference in such sections to a State educational agency shall be considered to be a reference to a State's lead agency established	Sec. 642 same as current law	

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or designated under section 635(a)(10); (2) any reference in such sections to a local educational agency, educational service agency, or a State agency shall be considered to be a reference to an early intervention service provider under this part; and (3) any reference to the education of children with disabilities or the education of all children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.		
SEC. 643. ALLOCATION OF FUNDS. (a) RESERVATION OF FUNDS FOR OUTLYING AREAS.— (1) IN GENERAL.—From the sums appropriated to carry out this part for any fiscal year, the Secretary may reserve up to one percent for payments to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs. (2) CONSOLIDATION OF FUNDS.—The provisions of Public Law 95–134, permitting the consolidation of grants to the outlying areas, shall not apply to funds those areas receive under this part.	same as current law	
SEC. 643(b) PAYMENTS TO INDIANS.— (1) IN GENERAL.—The Secretary shall, subject to this subsection, make payments to the Secretary of the Interior to be distributed to tribes, tribal organizations (as defined under	same as current law	

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section 4 of the Indian Self-Determination and		
Education Assistance Act), or consortia of the		
above entities for the coordination of		
assistance in the provision of early intervention		
services by the States to infants and toddlers		
with disabilities and their families on		
reservations served by elementary and		
secondary schools for Indian children operated		
or funded by the Department of the Interior.		
The amount of such payment for any fiscal		
year shall be 1.25 percent of the aggregate of		
the amount available to all States under this		
part for such fiscal year.		
(2) ALLOCATION.—For each fiscal year, the		
Secretary of the Interior shall distribute the		
entire payment received under paragraph (1)		
by providing to each tribe, tribal organization,		
or consortium an amount based on the number		
of infants and toddlers residing on the		
reservation, as determined annually, divided		
by the total of such children served by all		
tribes, tribal organizations, or consortia.		
(3) INFORMATION.—To receive a payment		
under this subsection, the tribe, tribal		
organization, or consortium shall submit such		
information to the Secretary of the Interior as		
is needed to determine the amounts to be		
distributed under paragraph (2). (4) USE OF		
FUNDS.—The funds received by a tribe, tribal		
organization, or consortium shall be used to		
assist States in child find, screening, and other		
procedures for the early identification of		
Indian children under 3 years of age and for		
parent training. Such funds may also be used		

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to provide early intervention services in			
accordance with this part. Such activities may			
be carried out directly or through contracts or			
cooperative agreements with the BIA, local			
educational agencies, and other public or			
private nonprofit organizations. The tribe,			
tribal organization, or consortium is			
encouraged to involve Indian parents in the			
development and implementation of these			
activities. The above entities shall, as			
appropriate, make referrals to local, State, or			
Federal entities for the provision of services or			
further diagnosis.			
(5) REPORTS.—To be eligible to receive a			
grant under paragraph (2), a tribe, tribal			
organization, or consortium shall make a			
biennial report to the Secretary of the Interior			
of activities undertaken under this subsection,			
including the number of contracts and			
cooperative agreements entered into, the			
number of children contacted and receiving			
services for each year, and the estimated			
number of children needing services during the			
2 years following the year in which the report			
is made. The Secretary of the Interior shall			
include a summary of this information on a			
biennial basis to the Secretary of Education			
along with such other information as required			
under section 611(i)(3)(E). The Secretary of			
Education may require any additional			
information from the Secretary of the Interior.			
(6) PROHIBITED USES OF FUNDS.—None			
of the funds under this subsection may be used			
by the Secretary of the Interior for			

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administrative purposes, including child count, and the provision of technical assistance.		
SEC. 643(c) STATE ALLOTMENTS.— (1) IN GENERAL.—Except as provided in paragraphs (2), (3), and (4), from the funds remaining for each fiscal year after the reservation and payments under subsections (a) and (b), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States. (2) MINIMUM ALLOTMENTS.—Except as provided in paragraphs (3) and (4), no State shall receive an amount under this section for any fiscal year that is less than the greatest of— (A) one-half of one percent of the remaining amount described in paragraph (1); or (B) \$500,000. (3) SPECIAL RULE FOR 1998 AND 1999.— (A) IN GENERAL.—Except as provided in paragraph (4), no State may receive an amount under this section for either fiscal year 1998 or 1999 that is less than the sum of the amounts such State received for fiscal year 1994 under— (i) part H (as in effect for such fiscal year); and (ii) subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as in effect on the day before the date of the enactment of the Improving America's Schools Act of 1994) for children with	SEC. 643(c) STATE ALLOTMENTS.— (1) IN GENERAL.—Except as provided in paragraphs (2) and (3) from the funds remaining for each fiscal year after the reservation and payments under subsections (a), (b), and (e), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States. (2) MINIMUM ALLOTMENTS.—Except as provided in paragraph (3), no State shall receive an amount under this section for any fiscal year that is less than the greater of— (A) 1/2 of 1 percent of the remaining amount described in paragraph (1); or (B) \$500,000.	Subsection (c) of S. 1248 is the same as current law, except that subparagraph (1) adds a reference to subsection (e) and that paragraph (3), "special rule for 1998 and 1999," which is no longer relevant, would be eliminated in S. 1248.

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disabilities under 3 years of age.			
(B) EXCEPTION.—If, for fiscal year 1998 or			
1999, the number of infants and toddlers in a			
State, as determined under paragraph (1), is			
less than the number of infants and toddlers so			
determined for fiscal year 1994, the amount			
determined under subparagraph (A) for the			
State shall be reduced by the same percentage			
by which the number of such infants and			
toddlers so declined.			
(4) RATABLE REDUCTION.—			
(A) IN GENERAL.—If the sums made	Ratable reduction provision same as current		
available under this part for any fiscal year are	law		
insufficient to pay the full amounts that all			
States are eligible to receive under this			
subsection for such year, the Secretary shall			
ratably reduce the allotments to such States for			
such year.			
(B) ADDITIONAL FUNDS.—If additional			
funds become available for making payments			
under this subsection for a fiscal year,			
allotments that were reduced under			
subparagraph (A) shall be increased on the			
same basis they were reduced.			
(5) DEFINITIONS.—For the purpose of this			
subsection—			
(A) the terms 'infants' and 'toddlers' mean	Definitions same as current law		
children under 3 years of age; and			
(B) the term 'State' means each of the 50			
States, the District of Columbia, and the			
Commonwealth of Puerto Rico.			
SEC. 643(d) REALLOTMENT OF	same as current law		
FUNDS.—If a State elects not to receive its			

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allotment under subsection (c), the Secretary shall reallot, among the remaining States, amounts from such State in accordance with such subsection.		
	SEC. 643(e) RESERVATION FOR STATE BONUS GRANTSThe Secretary shall reserve 10 percent of the amount by which the amount appropriated under section 644 for any fiscal year exceeds \$434,159,000 to make allotments to States that are carrying out the policy described in section 635(c), in accordance with the formula described in subsection (c)(1) without regard to subsection (c)(2) and (3).	S. 1248 would add a new subsection reserving funds.
SEC. 644. FEDERAL INTERAGENCY COORDINATING COUNCIL. (a) ESTABLISHMENT AND PURPOSE.— (1) IN GENERAL.—The Secretary shall establish a Federal Interagency Coordinating Council in order to— (A) minimize duplication of programs and activities across Federal, State, and local agencies, relating to— (i) early intervention services for infants and toddlers with disabilities (including at-risk infants and toddlers) and their families; and (ii) preschool or other appropriate services for children with disabilities; (B) ensure the effective coordination of Federal early intervention and preschool programs and policies across Federal agencies; (C) coordinate the provision of Federal technical assistance and support activities to	no comparable section	S. 1248 would eliminate the Federal Interagency Coordinating Council.

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States;			
(D) identify gaps in Federal agency programs			
and services; and			
(E) identify barriers to Federal interagency			
cooperation.			
(2) APPOINTMENTS.—The council			
established under paragraph (1) (hereafter in			
this section referred to as the 'Council') and			
the chairperson of the Council shall be			
appointed by the Secretary in consultation with			
other appropriate Federal agencies. In making			
the appointments, the Secretary shall ensure			
that each member has sufficient authority to			
engage in policy planning and implementation			
on behalf of the department, agency, or			
program that the member represents.			
SEC. 644(b) COMPOSITION.—The Council			
shall be composed of—			
(1) a representative of the Office of Special			
Education Programs;			
(2) a representative of the National Institute on			
Disability and Rehabilitation Research and a			
representative of the Office of Educational			
Research and Improvement;			
(3) a representative of the Maternal and Child			
Health Services Block Grant Program;			
(4) a representative of programs administered			
under the Developmental Disabilities			
Assistance and Bill of Rights Act;			
(5) a representative of the Health Care			
Financing Administration;			
(6) a representative of the Division of Birth			
Defects and Developmental Disabilities of the			
Centers for Disease Control;			

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(7) a representative of the Social Security			
Administration;			
(8) a representative of the special supplemental			
nutrition program for women, infants, and			
children of the Department of Agriculture;			
(9) a representative of the National Institute of			
Mental Health;			
(10) a representative of the National Institute			
of Child Health and Human Development;			
(11) a representative of the Bureau of Indian			
Affairs of the Department of the Interior;			
(12) a representative of the Indian Health			
Service; (13) a representative of the Surgeon			
General;			
(14) a representative of the Department of			
Defense; (15) a representative of the			
Children's Bureau, and a representative of the Head Start Bureau, of the Administration for			
Children and Families;			
(16) a representative of the Substance Abuse			
and Mental Health Services Administration;			
(17) a representative of the Pediatric AIDS			
Health Care Demonstration Program in the			
Public Health Service;			
(18) parents of children with disabilities age 12			
or under (who shall constitute at least 20			
percent of the members of the Council), of			
whom at least one must have a child with a			
disability under the age of 6;			
(19) at least two representatives of State lead			
agencies for early intervention services to			
infants and toddlers, one of whom must be a			
representative of a State educational agency			
and the other a representative of a non-			

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educational agency;		
(20) other members representing appropriate		
agencies involved in the provision of, or		
payment for, early intervention services and		
special education and related services to		
infants and toddlers with disabilities and their		
families and preschool children with		
disabilities; and		
(21) other persons appointed by the Secretary.		
SEC. 644(c) MEETINGS.—The Council shall		
meet at least quarterly and in such places as		
the Council deems necessary. The meetings		
shall be publicly announced, and, to the extent		
appropriate, open and accessible to the general		
public.		
SEC. 644(d) FUNCTIONS OF THE		
COUNCIL.—The Council shall—		
(1) advise and assist the Secretary of		
Education, the Secretary of Health and Human		
Services, the Secretary of Defense, the		
Secretary of the Interior, the Secretary of		
Agriculture, and the Commissioner of Social		
Security in the performance of their		
responsibilities related to serving children		
from birth through age 5 who are eligible for		
services under this part or under part B;		
(2) conduct policy analyses of Federal		
programs related to the provision of early		
intervention services and special educational and related services to infants and toddlers		
with disabilities and their families, and		
preschool children with disabilities, in order to		
determine areas of conflict, overlap,		
ucterinine areas of conflict, overlap,		

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duplication, or inappropriate omission;		
(3) identify strategies to address issues		
described in paragraph (2);		
(4) develop and recommend joint policy		
memoranda concerning effective interagency		
collaboration, including modifications to		
regulations, and the elimination of barriers to		
interagency programs and activities;		
(5) coordinate technical assistance and		
disseminate information on best practices,		
effective program coordination strategies, and		
recommendations for improved early		
intervention programming for infants and		
toddlers with disabilities and their families and		
preschool children with disabilities; and		
(6) facilitate activities in support of States'		
interagency coordination efforts.		
SEC. 644(e) CONFLICT OF INTEREST.—		
No member of the Council shall cast a vote on		
any matter that would provide direct financial		
benefit to that member or otherwise give the		
appearance of a conflict of interest under		
Federal law. SEC. 644(f) FEDERAL ADVISORY		
SEC. 644(f) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory		
Committee Act (5 U.S.C. App.) shall not apply		
to the establishment or operation of the		
Council.		
SEC. 645. AUTHORIZATION OF	SEC. 644. AUTHORIZATION OF	S. 1248 would make
APPROPRIATIONS.	APPROPRIATIONS.	technical changes in Sec.
For the purpose of carrying out this part, there	For the purpose of carrying out this part, there	644.
are authorized to be appropriated	are authorized to be appropriated such sums as	
\$400,000,000 for fiscal year 1998 and such	may be necessary for each of the fiscal years	

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sums as may be necessary for each of the fiscal years 1999 through 2002.	2004 through 2009.	

Table 4. PART D—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES

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PART D—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES	same as current law	
no overall findings section for Part D	SEC. 650. FINDINGS. Congress finds the following: (2) Systemic change benefiting all students, including children with disabilities, requires the involvement of States, local educational agencies, parents, individuals with disabilities and their families, teachers and other service providers, and other interested individuals and organizations to develop and implement comprehensive strategies that improve educational results for children with disabilities. (4) An effective educational system serving students with disabilities should—(A) maintain high academic achievement standards and clear performance goals for children with disabilities, consistent with the standards and expectations for all students in the educational system, and provide for appropriate and effective strategies and methods to ensure that all children with disabilities have the opportunity to achieve those standards and goals; (B) clearly define, in objective, measurable terms, the school and post-school results that children with disabilities are expected to achieve; and	In this side-by-side, similar or identical S. 1248 findings have been placed next to their

Current Law	S. 1248	Comments Changes	on	Selected
	(C) promote transition services and coordinate			
	State and local education, social, health,			
	mental health, and other services, in addressing			
	the full range of student needs, particularly the			
	needs of children with disabilities who need			
	significant levels of support to participate and			
	learn in school and the community.			
	(6) High quality, comprehensive professional			
	development programs are essential to ensure			
	that the persons responsible for the education			
	or transition of children with disabilities			
	possess the skills and knowledge necessary to			
	address the educational and related needs of			
	those children.			
	(7) Models of professional development should			
	be scientifically based and reflect successful			
	practices, including strategies for recruiting,			
	preparing, and retaining personnel.			
	(8) Continued support is essential for the			
	development and maintenance of a coordinated			
	and high quality program of research to inform			
	successful teaching practices and model			
	curricula for educating children with			
	disabilities.			
	(9) A comprehensive research agenda should			
	be established and pursued to promote the			
	highest quality and rigor in special education			
	research, and to address the full range of issues			
	facing children with disabilities, parents of			
	children with disabilities, school personnel,			
	and others.			
	(10) Training, technical assistance, support,			
	and dissemination activities are necessary to			
	•			
	ensure that parts B and C are fully			

Current Law	S. 1248	Comments Changes	on	Selected
	implemented and achieve high quality early			
	intervention, educational, and transitional			
	results for children with disabilities and their			
	families.			
	(12) Parent training and information activities			
	assist parents of a child with a disability in			
	dealing with the multiple pressures of			
	parenting such a child and are of particular			
	importance in—			
	(A) playing a vital role in creating and			
	preserving constructive relationships between			
	parents of children with disabilities and			
	schools by facilitating open communication			
	between the parents and schools; encouraging			
	dispute resolution at the earliest possible point			
	in time; and discouraging the escalation of an			
	adversarial process between the parents and			
	schools;			
	(B) ensuring the involvement of parents in			
	planning and decisionmaking with respect to			
	early intervention, educational, and transitional			
	services;			
	(C) achieving high quality early intervention,			
	educational, and transitional results for			
	children with disabilities;			
	(D) providing such parents information on			
	their rights, protections, and responsibilities			
	under this Act to ensure improved early			
	intervention, educational, and transitional			
	results for children with disabilities;			
	(E) assisting such parents in the development			
	of skills to participate effectively in the			
	education and development of their children			
	and in the transitions described in section	ĺ		

Current Law	S. 1248	Comments on Selected Changes
	673(b)(6); (F) supporting the roles of such parents as participants within partnerships seeking to improve early intervention, educational, and transitional services and results for children with disabilities and their families; and (G) supporting such parents who may have limited access to services and supports, due to economic, cultural, or linguistic barriers. (13) Support is needed to improve technological resources and integrate technology, including universally designed technologies, into the lives of children with disabilities, parents of children with disabilities, school personnel, and others through curricula, services, and assistive technologies.	
Subpart 1—State Program Improvement Grants for Children with Disabilities	Subpart 1—State Personnel Preparation and Professional Development Grants	S. 1248 would change the name of the subpart to reflect its revised purposes.
SEC. 651. FINDINGS AND PURPOSE. (a) FINDINGS.—The Congress finds the following: (1) States are responding with some success to multiple pressures to improve educational and transitional services and results for children with disabilities in response to growing demands imposed by ever-changing factors, such as demographics, social policies, and labor and economic markets. (2) In order for States to address such demands and to facilitate lasting systemic change that is		All S. 1248 findings for Part D are at the beginning of the part.

Current Law	S. 1248	Comments on Changes	Selected
of benefit to all students, including children with disabilities, States must involve local educational agencies, parents, individuals with disabilities and their families, teachers and other service providers, and other interested individuals and organizations in carrying out comprehensive strategies to improve educational results for children with disabilities. (3) Targeted Federal financial resources are needed to assist States, working in partnership with others, to identify and make needed changes to address the needs of children with disabilities into the next century. (4) State educational agencies, in partnership with local educational agencies and other individuals and organizations, are in the best position to identify and design ways to meet emerging and expanding demands to improve education for children with disabilities and to address their special needs. (5) Research, demonstration, and practice over the past 20 years in special education and related disciplines have built a foundation of knowledge on which State and local systemic change activities can now be based.	Sec. 650 (3) State educational agencies, in partnership with local educational agencies, parents of children with disabilities, and other individuals and organizations, are in the best position to improve education for children with disabilities and to address their special needs.		
(6) Such research, demonstration, and practice in special education and related disciplines have demonstrated that an effective educational system now and in the future must— (A) maintain high academic standards and clear performance goals for children with			

Current Law	S. 1248	Comments on Selected Changes
disabilities, consistent with the standards and		
expectations for all students in the educational		
system, and provide for appropriate and		
effective strategies and methods to ensure that		
students who are children with disabilities		
have maximum opportunities to achieve those		
standards and goals;		
(B) create a system that fully addresses the		
needs of all students, including children with		
disabilities, by addressing the needs of		
children with disabilities in carrying out		
educational reform activities;		
(C) clearly define, in measurable terms, the		
school and post-school results that children		
with disabilities are expected to achieve;		
(D) promote service integration, and the		
coordination of State and local education,		
social, health, mental health, and other		
services, in addressing the full range of student		
needs, particularly the needs of children with		
disabilities who require significant levels of		
support to maximize their participation and		
learning in school and the community;		
(E) ensure that children with disabilities are		
provided assistance and support in making		
transitions as described in section		
674(b)(3)(C);		
(F) promote comprehensive programs of		
professional development to ensure that the		
persons responsible for the education or a		
transition of children with disabilities possess		
the skills and knowledge necessary to address		
the educational and related needs of those		
children;		

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(G) disseminate to teachers and other personnel serving children with disabilities research-based knowledge about successful teaching practices and models and provide technical assistance to local educational agencies and schools on how to improve results for children with disabilities; (H) create school-based disciplinary strategies that will be used to reduce or eliminate the need to use suspension and expulsion as disciplinary options for children with disabilities; (I) establish placement-neutral funding formulas and cost-effective strategies for meeting the needs of children with disabilities; and (J) involve individuals with disabilities and parents of children with disabilities in planning, implementing, and evaluating systemic-change activities and educational reforms.		
	SEC. 651. PURPOSE; DEFINITION; PROGRAM AUTHORITY.	
Sec 651(b) PURPOSE.—The purpose of this subpart is to assist State educational agencies, and their partners referred to in section 652(b), in reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, to improve results for children with disabilities.	Sec 651(a) PURPOSE.—The purpose of this subpart is to assist State educational agencies in reforming and improving their systems for personnel preparation and professional development in early intervention, educational, and transition services in order to improve results for children with disabilities.	Subpart 1 of current law provides assistance to improve the overall system of providing services for a child with a disability, including professional development. Subpart 1 of S. 1248 would provide assistance only for

Current Law	S. 1248	Comments on Selected Changes
		reforming and improving personnel preparation and professional development. Therefore the specific provisions of the two versions of Subpart 1 differ significantly.
no comparable provision	Sec 651(b) DEFINITION.—In this subpart, the term 'personnel' means special education teachers, regular education teachers, principals, administrators, related services personnel, paraprofessionals, and early intervention personnel serving infants, toddlers, preschoolers, or children with disabilities, except where a particular category of personnel, such as related services personnel, is identified.	
SEC. 652. ELIGIBILITY AND COLLABORATIVE PROCESS. (a) ELIGIBLE APPLICANTS.—A State educational agency may apply for a grant under this subpart for a grant period of not less than 1 year and not more than 5 years.	SEC. 652. ELIGIBILITY AND COLLABORATIVE PROCESS. same as current law	
SEC. 652(b) PARTNERS.— (1) REQUIRED PARTNERS.— (A) CONTRACTUAL PARTNERS.—In order to be considered for a grant under this subpart, a State educational agency shall establish a partnership with local educational agencies and other State agencies involved in, or	partnership with local educational agencies and other State agencies involved in, or concerned	must establish are similar in current law and S. 1248. S. 1248 would add

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concerned with, the education of children with disabilities. (B) OTHER PARTNERS.—In order to be considered for a grant under this subpart, a	disabilities, including institutions of higher education and the State agencies responsible for administering part C, child care, and vocational rehabilitation programs. (2) OTHER PARTNERS.—In order to be	state agency to the required members.
State educational agency shall work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, including—	considered for a grant under this subpart, a State educational agency shall work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, which may include—	
(i) the Governor; (ii) parents of children with disabilities;	(A) the Governor;(B) parents of children with disabilities ages birth through 26;	
 (iii) parents of nondisabled children; (iv) individuals with disabilities; (v) organizations representing individuals with disabilities and their parents, such as parent training and information centers; (vi) community-based and other nonprofit organizations involved in the education and 	 (C) parents of nondisabled children ages birth through 26; (D) individuals with disabilities; (E) parent training and information centers or community parent resource centers funded under sections 671 and 672, respectively; (F) community based and other nonprofit organizations involved in the education and 	
employment of individuals with disabilities; (vii) the lead State agency for part C; (viii) general and special education teachers, and early intervention personnel;	employment of individuals with disabilities; [see paragraph (1) above] (G) personnel as defined in section 651(b); (H) the State advisory panel established under	
 (ix) the State advisory panel established under part C; (x) the State interagency coordinating council established under part C; and (xi) institutions of higher education within the State. 	part B; (I) the State interagency coordinating council established under part C; [see paragraph (1) above]	
		S. 1248 does not refer to

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(2) OPTIONAL PARTNERS.—A partnership under subparagraph (A) or (B) of paragraph (1) may also include— (A) individuals knowledgeable about vocational education; (B) the State agency for higher education; (C) the State vocational rehabilitation agency; (D) public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice; and	(J) individuals knowledgeable about vocational education; (K) the State agency for higher education; [see paragraph (1) above] (L) public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice; (M) other providers of professional development that work with infants, toddlers, preschoolers, and children with disabilities; and (N) other individuals	"optional partners;" partners beside those that are required are referred to as "other partners." S. 1248 would add a new section on required
(E) other individuals.	(N) other individuals. (3) REQUIRED PARTNERIf State law assigns responsibility for teacher preparation and certification to an individual, entity, or agency other than the State educational agency, the State educational agency shall- (A) include that individual, entity, or agency as a partner in the partnership under this subsection; and (B) ensure that any activities the State will carry out under this subpart that are within that partner's jurisdiction (which may include activities described in section 654(b)) are carried out by that partner.	section on required partners.
SEC. 653. APPLICATIONS. (a) IN GENERAL.— (1) SUBMISSION.—A State educational agency that desires to receive a grant under this subpart shall submit to the Secretary an application at such time, in such manner, and	SEC. 653. APPLICATIONS. same as current law	Since the purposes of the grants differ, the applications requirements are substantially different.

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including such information as the Secretary may require.		
(2) STATE IMPROVEMENT PLAN.—The application shall include a State improvement plan that— (A) is integrated, to the maximum extent possible, with State plans under the Elementary and Secondary Education Act of 1965 and the Rehabilitation Act of 1973, as appropriate; and (B) meets the requirements of this section. SEC. 653(b) DETERMINING CHILD AND PROGRAM NEEDS.— (1) IN GENERAL.—Each State improvement plan shall identify those critical aspects of early intervention, general education, and special education programs (including professional development, based on an assessment of State and local needs) that must be improved to enable children with disabilities to meet the goals established by the State under section 612(a)(16). (2) REQUIRED ANALYSES.—To meet the requirement of paragraph (1), the State improvement plan shall include at least— (A) an analysis of all information, reasonably available to the State educational agency, on the performance of children with disabilities in the State, including— (i) their performance on State assessments and other performance indicators established for all children, including drop-out rates and graduation rates;	extent possible, with State plans and activities under the Elementary and Secondary Education Act of 1965, the Rehabilitation Act of 1973, and the Higher Education Act of 1965. The application shall include a plan that identifies and addresses the State and local needs for the personnel preparation and professional development of administrators, principals, and teachers, as well as individuals	Under current law, state plans focus on various critical needs; under S. 1248, state plans would focus on personnel needs.

Current Law		S. 1248	3				Comments Changes	on	Selected
(ii) their participati	on in postsecondary								
education and employn	nent; and								
(iii) how their perform and indicators describe to that of non-disabled (B) an analysis of Staprofessional development of the number of persection and related sequentiation in clause (i) with temporal temporal sequentiation in the extent of cernecessary to eliminate based, to the maximum existing assessments of (C) an analysis of the Secretary's most recompliance, as they refor children with disable (D) an analysis of the Secretary analysis of the Secretar	ance on the assessments of in clause (i) compares children; ate and local needs for nent for personnel to abilities that includes, at sonnel providing special ervices; and ation on current and vacancies and shortages of individuals described forary certification), and tification or retraining such shortages, that is am extent possible, on a personnel needs; a major findings of the tent reviews of State late to improving results	(3) RE shall educati	EQUIREM contain a ional ager	of preservice IENT.—The an assurance acy will carroed in subsec	State ape that try out each	pplication he State ch of the			
SEC. 653(c)	IMPROVEMENT	SEC.	653(b)	ELEMENT	rs of	STATE	Specifics of	`imp	rovement

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STRATEGIES.—Each State improvement plan shall— (1) describe a partnership agreement that— (A) specifies— (i) the nature and extent of the partnership among the State educational agency, local educational agencies, and other State agencies involved in, or concerned with, the education of children with disabilities, and the respective roles of each member of the partnership; and (ii) how such agencies will work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, including the respective roles of each of these persons and organizations; and (B) is in effect for the period of the grant; (2) describe how grant funds will be used in undertaking the systemic-change activities, and the amount and nature of funds from any other sources, including part B funds retained for use at the State level under sections 611(f) and 619(d), that will be committed to the systemic-change activities; (3) describe the strategies the State will use to address the needs identified under subsection (b), including— (A) how the State will change State policies and procedures to address systemic barriers to improving results for children with disabilities; (B) how the State will hold local educational agencies and schools accountable for educational progress of children with disabilities;	PERSONNEL PREPARATION AND PROFESSIONAL DEVELOPMENT PLAN.—Each professional development plan under subsection (a)(2) shall— (1) describe a partnership agreement that is in effect for the period of the grant, which agreement shall specify— (A) the nature and extent of the partnership described in section 652(b) and the respective roles of each member of the partnership, including the partner described in section 652(b)(3) if applicable; and (B) how the State will work with other persons and organizations involved in, and concerned with, the education of children with disabilities, including the respective roles of each of the persons and organizations;	plans differ substantially.

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(C) how the State will provide technical assistance to local educational agencies and schools to improve results for children with disabilities;				
(D) how the State will address the identified needs for in-service and pre-service preparation to ensure that all personnel who work with children with disabilities (including both professional and paraprofessional personnel who provide special education, general education, related services, or early intervention services) have the skills and knowledge necessary to meet the needs of children with disabilities, including a description of how— (i) the State will prepare general and special education personnel with the content knowledge and collaborative skills needed to meet the needs of children with disabilities, including how the State will work with other States on common certification criteria; (ii) the State will prepare professionals and paraprofessionals in the area of early intervention with the content knowledge and collaborative skills needed to meet the needs of infants and toddlers with disabilities; (iii) the State will work with institutions of higher education and other entities that (on both a pre-service and an in-service basis) prepare personnel who work with children with disabilities to ensure that those institutions and entities develop the capacity to support quality professional development	(2) describe how the strategies and activities described in paragraph (4) will be coordinated with other public resources (including part B and part C funds retained for use at the State level for personnel and professional development purposes) and private resources; (3) describe how the State will align its professional development plan under this subpart with the plan and application submitted under sections 1111 and 2112, respectively, of the Elementary and Secondary Education Act of 1965; (4) describe what strategies the State will use to address the professional development and personnel needs identified under subsection (a)(2) and how those strategies will be implemented, including— (A) a description of the preservice and inservice programs and activities to be supported under this subpart that will provide personnel with the knowledge and skills to meet the needs of, and improve the performance and achievement of, infants, toddlers, preschoolers, and children with disabilities; and (B) how such strategies shall be integrated, to the maximum extent possible, with other activities supported by grants funded under this part, including those under section 664;			

Current Law	S. 1248	Comments Changes	on	Selected
programs that meet State and local needs; (iv) the State will work to develop collaborative agreements with other States for the joint support and development of programs to prepare personnel for which there is not sufficient demand within a single State to justify support or development of such a program of preparation; (v) the State will work in collaboration with other States, particularly neighboring States, to address the lack of uniformity and reciprocity in the credentialing of teachers and other personnel; (vi) the State will enhance the ability of teachers and others to use strategies, such as behavioral interventions, to address the conduct of children with disabilities that impedes the learning of children with disabilities and others; (vii) the State will acquire and disseminate, to teachers, administrators, school board members, and related services personnel, significant knowledge derived from educational research and other sources, and how the State will, when appropriate, adopt promising practices, materials, and technology; (viii) the State will recruit, prepare, and retain qualified personnel, including personnel with disabilities and personnel from groups that are underrepresented in the fields of regular education, special education, and related services; (ix) the plan is integrated, to the maximum extent possible, with other professional	(5) provide an assurance that the State will provide technical assistance to local educational agencies to improve the quality of professional development available to meet the needs of personnel who serve children with disabilities; (6) provide an assurance that the State will provide technical assistance to entities that provide services to infants and toddlers with disabilities to improve the quality of professional development available to meet the needs of personnel serving such children; (7) describe how the State will recruit and retain highly qualified teachers and other qualified personnel in geographic areas of greatest need; (8) describe the steps the State will take to ensure that poor and minority children are not taught at higher rates by teachers who are not highly qualified; and (9) describe how the State will assess, on a regular basis, the extent to which the strategies implemented under this subpart have been effective in meeting the performance goals described in section 612(a)(15).			

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development plans and activities, including plans and activities developed and carried out under other Federal and State laws that address personnel recruitment and training; and (x) the State will provide for the joint training of parents and special education, related services, and general education personnel; (E) strategies that will address systemic problems identified in Federal compliance reviews, including shortages of qualified personnel; (F) how the State will disseminate results of the local capacity-building and improvement projects funded under section 611(f)(4); (G) how the State will address improving results for children with disabilities in the geographic areas of greatest need; and (H) how the State will assess, on a regular basis, the extent to which the strategies implemented under this subpart have been effective; and (4) describe how the improvement strategies described in paragraph (3) will be coordinated with public and private sector resources.		
SEC. 653(d) COMPETITIVE AWARDS.— (1) IN GENERAL.—The Secretary shall make grants under this subpart on a competitive basis.	Sec. 651 (c) COMPETITIVE GRANTS.— (1) IN GENERAL.—Except as provided in subsection (d), for any fiscal year for which the amount appropriated under section 655, that remains after the Secretary reserves funds under subsection (e) of this subsection, is less than \$100,000,000, the Secretary shall award grants, on a competitive basis, to State educational agencies to carry out the activities	Current law authorizes competitive grants. S. 1248 would also authorize competitive grants for any fiscal year for which the amount appropriated under section remains after the Secretary reserves funds

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(2) PRIORITY.—The Secretary may give priority to applications on the basis of need, as indicated by such information as the findings of Federal compliance reviews.	described in the State plan submitted under section 653. (2) PRIORITY.—In awarding grants under paragraph (1), the Secretary may give priority to State educational agencies that— (A) are in States with the greatest personnel shortages; or	under subsection (e) if funding for this subpart is less than \$100 million. Once funding reaches at least \$100 million, S. 1248 would require that funds be distributed by
[similar provisions in Sec. 655 below]	(B) demonstrate the greatest difficulty meeting the requirements of section 612(a)(14). (3) MINIMUM.—The Secretary shall make a grant to each State educational agency selected under paragraph (1) in an amount for each fiscal year that is— (A) not less than \$500,000, nor more than \$4,000,000, in the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and (B) not less than \$80,000 in the case of an outlying area. (4) INCREASES.—The Secretary may increase the amounts under in paragraph (3) to account for inflation. (5) FACTORS.—The Secretary shall set the amount of each grant under paragraph (1) after considering— (A) the amount of funds available for making the grants; (B) the relative population of the State or outlying area; (C) the types of activities proposed by the State or outlying area; (D) the alignment of proposed activities with section 612(a)(14); (E) the alignment of proposed activities with	state formula based on states' shares of funds received under the Part B grants-to-states program. (See subsection (d) below.)

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	the State plans and applications submitted under sections 1111 and 2112, respectively, of the Elementary and Secondary Education Act of 1965; and (F) the use, as appropriate, of scientifically based activities.			
no comparable provision	Sec. 651 (d) FORMULA GRANTS.— (1) IN GENERAL.—Except as provided in paragraphs (2) and (3), for the first fiscal year for which the amount appropriated under section 655, that remains after the Secretary reserves funds under subsection (e) for the fiscal year, is equal to or greater than \$100,000,000, and for each fiscal year thereafter, the Secretary shall allot to each State educational agency, whose application meets the requirements of this subpart, an amount that bears the same relation to the amount appropriated as the amount the State received under section 611(d) for that fiscal year bears to the amount of funds received by all States (whose applications meet the requirements of this subpart) under section 611(d) for that fiscal year. (2) MINIMUM ALLOTMENTS FOR STATES THAT RECEIVED COMPETITIVE GRANTS.— (A) IN GENERAL.—The amount allotted under this subsection to any State that received a competitive multi-year grant under subsection (c) for which the grant period has not expired shall be at least the amount specified for that fiscal year in the State's grant			

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	award document under that subsection. (B) SPECIAL RULE.—Each such State shall use the minimum amount described in subparagraph (A) for the activities described in its competitive grant award document for that year, unless the Secretary approves a request from the State to spend the funds on other activities. (3) MINIMUM ALLOTMENT.—The amount of any State educational agency's allotment under this subsection for any fiscal year shall not be less than— (A) the greater of \$500,000 or 1.2 of 1 percent of the total amount available under this subsection for that year, in the case of each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and (B) \$80,000, in the case of an outlying area.	
no comparable provision	SEC. 651(e) CONTINUATION AWARDS.— (1) IN GENERAL.—Notwithstanding any other provision of this subpart, from funds appropriated under section 655 for each fiscal year, the Secretary shall reserve the amount that is necessary to make a continuation award to any State (at the request of the State) that received a multi-year award under this part (as this part was in effect on the day before the date of enactment of the Individuals with Disabilities Education Improvement Act of 2003), to enable the State to carry out activities in accordance with the terms of the multi-year award. (2) PROHIBITION.—A State that receives a	

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	continuation award under paragraph (1) for any fiscal year may not receive any other award under this subpart for that fiscal year.	
SEC. 653(e) PEER REVIEW.— (1) IN GENERAL.—The Secretary shall use a panel of experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under this subpart. (2) COMPOSITION OF PANEL.—A majority of a panel described in paragraph (1) shall be composed of individuals who are not employees of the Federal Government. (3) PAYMENT OF FEES AND EXPENSES OF CERTAIN MEMBERS. —The Secretary may use available funds appropriated to carry out this subpart to pay the expenses and fees of panel members who are not employees of the Federal Government.	SEC. 653(c) PEER REVIEW.— (1) IN GENERAL.—The Secretary shall use a panel of experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications for grants under section 651(c)(1). (2) COMPOSITION OF PANEL.—A majority of a panel described in paragraph (1) shall be composed of individuals who are not employees of the Federal Government. (3) PAYMENT OF FEES AND EXPENSES OF CERTAIN MEMBERS.—The Secretary may use available funds appropriated to carry out this subpart to pay the expenses and fees of panel members who are not employees of the Federal Government.	Peer review provisions are virtually identical.
SEC. 653(f) REPORTING PROCEDURES.—Each State educational agency that receives a grant under this subpart shall submit performance reports to the Secretary pursuant to a schedule to be determined by the Secretary, but not more frequently than annually. The reports shall describe the progress of the State in meeting the performance goals established under section 612(a)(16), analyze the effectiveness of the State's strategies in meeting those goals, and identify any changes in the strategies needed to improve its performance.	Sec 653(d) REPORTING PROCEDURES.— Each State educational agency that receives a grant under this subpart shall submit annual performance reports to the Secretary. The reports shall describe the progress of the State in implementing its plan and analyze the effectiveness of the State's activities under this subpart.	Reporting requirements are similar.

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SEC. 654. USE OF FUNDS. (a) IN GENERAL.— (1) ACTIVITIES.—A State educational agency that receives a grant under this subpart may use the grant to carry out any activities that are described in the State's application and that are consistent with the purpose of this subpart.	SEC. 654. USE OF FUNDS. (a) PROFESSIONAL DEVELOPMENT ACTIVITIES.—A State educational agency that receives a grant under this subpart shall use the grant funds to support activities in accordance with the State's plan described in section 653, including 1 or more of the following: (1) Carrying out programs that provide support to both special education and regular education teachers of children with disabilities and principals, such as programs that— (A) provide teacher mentoring, team teaching, reduced class schedules and case loads, and intensive professional development; and (B) use standards or assessments for guiding beginning teachers that are consistent with challenging State student academic achievement and functional standards and with the requirements for professional development as defined in section 9101(34) of the Elementary and Secondary Education Act of 1965. (2) Encouraging and supporting the training of special education and regular education teachers and administrators to effectively use and integrate technology— (A) into curricula and instruction, including training to improve the ability to collect, manage, and analyze data to improve teaching, decisionmaking, school improvement efforts, and accountability; (B) to enhance learning by children with disabilities; and	Current law does not specify uses of funds but rather ties these to activities in a state's application, which depends on each state's critical improvement needs. S. 1248 lists specific uses of funds.

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	(C) to effectively communicate with parents.		
	(3) Providing professional development		
	activities that—		
	(A) improve the knowledge of special		
	education and regular education teachers		
	concerning—		
	(i) the academic and developmental or		
	functional needs of students with disabilities;		
	or		
	(ii) effective instructional strategies, methods,		
	and skills, and the use of State academic		
	content standards and student academic		
	achievement and functional standards, and		
	State assessments, to improve teaching		
	practices and student academic achievement;		
	(B) improve the knowledge of special		
	education and regular education teachers and		
	principals and, in appropriate cases,		
	paraprofessionals, concerning effective		
	instructional practices and that—		
	(i) provide training in how to teach and address		
	the needs of children with different learning		
	styles and children with limited English		
	proficiency;		
	(ii) involve collaborative groups of teachers		
	and administrators;		
	(iii) provide training in methods of—		
	(I) positive behavioral interventions and		
	supports to improve student behavior in the		
	classroom;		
	(II) scientifically based reading instruction,		
	including early literacy instruction;		
	(III) early and appropriate interventions to		
	identify and help children with disabilities;		

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Current Law	(IV) effective instruction for children with low incidence disabilities; (V) successful transitioning to postsecondary opportunities; and (VI) using classroom-based techniques to assist children prior to referral for special education; (iv) provide training to enable personnel to work with and involve parents in their child's education, including parents of low income and limited English proficient children with disabilities; (v) provide training for special education personnel and regular education personnel in planning, developing, and implementing effective and appropriate IEPs; and (vi) providing training to meet the needs of students with significant health, mobility, or behavioral needs prior to serving such students; and (C) train administrators, principals, and other relevant school personnel in conducting effective IEP meetings. (4) Developing and implementing initiatives to promote the recruitment and retention of highly qualified special education teachers, particularly initiatives that have been proven effective in recruitment and retaining highly qualified teachers, including programs that provide—	Changes
	(A) teacher mentoring from exemplary special education teachers, principals, or superintendents;(B) induction and support for special education	

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	teachers during their first 3 years of	
	employment as teachers; or	
	(C) incentives, including financial incentives,	
	to retain special education teachers who have a	
	record of success in helping students with	
	disabilities.	
	(5) Carrying out programs and activities that	
	are designed to improve the quality of	
	personnel who serve children with disabilities,	
	such as—	
	(A) innovative professional development	
	programs (which may be provided through	
	partnerships that include institutions of higher	
	education), including programs that train	
	teachers and principals to integrate technology	
	into curricula and instruction to improve	
	teaching, learning, and technology literacy,	
	which professional development shall be	
	consistent with the definition of professional	
	development in section 9101(34) of the	
	Elementary and Secondary Education Act of	
	1965; and	
	(B) the development and use of proven, cost	
	effective strategies for the implementation of	
	professional development activities, such as	
	through the use of technology and distance	
	learning.	
	(6) Carrying out programs and activities that	
	are designed to improve the quality of early	
	intervention personnel, including	
	paraprofessionals and primary referral sources	
	such as -	
	(A) professional development programs to	
	improve the delivery of early intervention	

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	services; (B) initiatives to promote the recruitment retention of early intervention personnel; an (C) interagency activities to ensure personnel are adequately prepared and training	nd that
	SEC. 654(b) OTHER ACTIVITIES.—A Seducational agency that receives a grant unthis subpart shall use the grant funds to suppactivities in accordance with the State's part described in section 653, including 1 or most of the following: (1) Reforming special education and regions.	nder port plan nore
	education teacher certification (include recertification) or licensing requirements ensure that— (A) special education and regular educate teachers have— (b) the twining and information requirements.	tion sto
	(i) the training and information necessary address the full range of needs of children vidisabilities across disability categories; and (ii) the necessary subject matter knowle and teaching skills in the academic subject that they teach;	with edge
	(B) special education and regular educate teacher certification (including recertification requirements are aligned with teacher certification or licensing requirements are aligned with the challenging State academic content standar and	ion) with
	(C) special education and regular educate teachers have the subject matter knowle and teaching skills, including technol literacy, necessary to help students with disabilities meet challenging State students.	edge ogy with

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	academic achievement and functional			
	standards.			
	(2) Programs that establish, expand, or			
	improve alternative routes for State			
	certification of special education teachers for			
	highly qualified individuals with a			
	baccalaureate or master's degree, including			
	mid-career professionals from other			
	occupations, paraprofessionals, and recent			
	college or university graduates with records of			
	academic distinction who demonstrate the			
	potential to become highly effective special			
	education teachers.			
	(3) Teacher advancement initiatives for special			
	education teachers that promote professional growth and emphasize multiple career paths			
	(such as paths to becoming a career teacher,			
	mentor teacher, or exemplary teacher) and pay			
	differentiation.			
	(4) Developing and implementing mechanisms			
	to assist local educational agencies and schools			
	in effectively recruiting and retaining highly			
	qualified special education teachers.			
	(5) Reforming tenure systems, implementing			
	teacher testing for subject matter knowledge,			
	and implementing teacher testing for State			
	certification or licensing, consistent with title			
	II of the Higher Education Act of 1965.			
	(6) Funding projects to promote reciprocity of			
	teacher certification or licensing between or			
	among States for special education teachers,			
	except that no reciprocity agreement developed			
	under this paragraph or developed using funds			
	provided under this subpart may lead to the			

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	weakening of any State teaching certification or licensing requirement. (7) Developing or assisting local educational agencies to serve children with disabilities through the development and use of proven, innovative strategies to deliver intensive professional development programs that are both cost effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning. (8) Developing, or assisting local educational agencies in developing, merit based performance systems, and strategies that provide differential and bonus pay for special education teachers. (9) Supporting activities that ensure that teachers are able to use challenging State academic content standards and student academic and functional achievement standards, and State assessments for all children with disabilities, to improve instructional practices and improve the academic achievement of children with disabilities. (10) When applicable, coordinating with, and expanding centers established under, section 2113(c)(18) of the Elementary and Secondary Education Act of 1965 to benefit special education teachers.	
Sec. 654(a)(2) CONTRACTS AND SUBGRANTS.—Each such State educational agency—	Sec. 654 (c) CONTRACTS AND SUBGRANTS.—Each such State educational agency—	Provisions are similar.

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(A) shall, consistent with its partnership agreement under section 652(b), award contracts or subgrants to local educational agencies, institutions of higher education, and parent training and information centers, as appropriate, to carry out its State improvement plan under this subpart; and (B) may award contracts and subgrants to other public and private entities, including the lead agency under part C, to carry out such plan.	 (1) shall award contracts or subgrants to local educational agencies, institutions of higher education, parent training and information centers, or community parent resource centers, as appropriate, to carry out its State plan under this subpart; and (2) may award contracts and subgrants to other public and private entities, including the lead agency under part C, to carry out such plan. 	
Sec. 654(b) USE OF FUNDS FOR PROFESSIONAL DEVELOPMENT.—A State educational agency that receives a grant under this subpart— (1) shall use not less than 75 percent of the funds it receives under the grant for any fiscal year— (A) to ensure that there are sufficient regular education, special education, and related services personnel who have the skills and knowledge necessary to meet the needs of children with disabilities and developmental goals of young children; or (B) to work with other States on common certification criteria; or (2) shall use not less than 50 percent of such funds for such purposes, if the State demonstrates to the Secretary's satisfaction that it has the personnel described in paragraph (1)(A).	Sec. 654(d) USE OF FUNDS FOR PROFESSIONAL DEVELOPMENT.—A State educational agency that receives a grant under this subpart shall use— (1) not less than 75 percent of the funds the State educational agency receives under the grant for any fiscal year for activities under subsection (a); and (2) not more than 25 percent of the funds the State educational agency receives under the grant for any fiscal year for activities under subsection (b).	at least 75% of grant fund (or 50% if certain criteria are met) be used for professional development. Remaining funds would be used for other program improvement activities. S. 1248 would require at
Sec. 654(c) GRANTS TO OUTLYING AREAS.—Public Law 95–134, permitting the	same as current law	

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consolidation of grants to the outlying areas, shall not apply to funds received under this subpart.		
SEC. 655. MINIMUM STATE GRANT AMOUNTS. (a) IN GENERAL.—The Secretary shall make a grant to each State educational agency whose application the Secretary has selected for funding under this subpart in an amount for each fiscal year that is— (1) not less than \$500,000, nor more than \$2,000,000, in the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and (2) not less than \$80,000, in the case of an outlying area. SEC. 655(b) INFLATION ADJUSTMENT.—Beginning with fiscal year 1999, the Secretary may increase the maximum amount described in subsection (a)(1) to account for inflation. SEC. 655(c) FACTORS.—The Secretary shall set the amount of each grant under subsection (a) after considering— (1) the amount of funds available for making the grants; (2) the relative population of the State or outlying area; and (3) the types of activities proposed by the State or outlying area.	[similar provisions under Sec. 651(c)(3)-(5) above]	Similar minimum grant amounts would apply under S. 1248 if grants are competitive (total funding less than \$100 million). If funds were distributed by state formula under S. 1248, minimum grant provisions under Sec. 651(d)(3) would apply.
SEC. 656. AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated to carry out this subpart such sums as may be necessary for each of the fiscal	SEC. 655. AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated to carry out this subpart such sums as may be	S. 1248 would make technical changes.

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years <u>1998 through 2002</u> .	necessary for each of the fiscal years 2004 through 2009.	
Subpart 2—Coordinated Research, Personnel Preparation, Technical Assistance, Support, and Dissemination of Information	Subpart 2—Scientifically Based Research, Technical Assistance, Model Demonstration Projects, and Dissemination of Information	
Subpart 2 has no purpose section.	SEC. 660. PURPOSE. The purpose of this subpart is— (1) to provide Federal funding for scientifically based research, technical assistance, model demonstration projects, and information dissemination to improve early intervention, educational, and transitional results for children with disabilities; and (2) to assist State educational agencies and local educational agencies in improving their education systems.	
SEC. 661. ADMINISTRATIVE PROVISIONS. (a) COMPREHENSIVE PLAN.— (1) IN GENERAL.—The Secretary shall develop and implement a comprehensive plan for activities carried out under this subpart in order to enhance the provision of educational, related, transitional, and early intervention services to children with disabilities under parts B and C. The plan shall include mechanisms to address educational, related services, transitional, and early intervention needs identified by State educational agencies in applications submitted for State program improvement grants under subpart 1.	SEC. 661. ADMINISTRATIVE PROVISIONS. (a) COMPREHENSIVE PLAN.— (1) IN GENERAL.—After receiving input from interested individuals with relevant expertise, the Secretary shall develop and implement a comprehensive plan for activities carried out under this subpart (other than activities assisted under section 665 and subpart 3) in order to enhance the provision of early intervention, educational, related and transitional services to children with disabilities under parts B and C. The plan shall be coordinated with the plan developed pursuant to section 177(c) of the Education	although language is not identical. Under S. 1248, the plan would not include Sec. 665 which requires the Secretary to delegate studies and evaluations to the Director of the Institute

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	Sciences Reform Act of 2002 and shall include mechanisms to address early intervention, educational, related service and transitional needs identified by State educational agencies in applications submitted for State Personnel and Professional Development grants under subpart 1 and for grants under this subpart.	subpart 3.		
(2) PARTICIPANTS IN PLAN DEVELOPMENT.—In developing the plan described in paragraph (1), the Secretary shall consult with— (A) individuals with disabilities; (B) parents of children with disabilities; (C) appropriate professionals; and (D) representatives of State and local educational agencies, private schools, institutions of higher education, other Federal agencies, the National Council on Disability, and national organizations with an interest in, and expertise in, providing services to children with disabilities and their families.	no comparable provision			
(3) PUBLIC COMMENT.—The Secretary shall take public comment on the plan. (4) DISTRIBUTION OF FUNDS.—In implementing the plan, the Secretary shall, to the extent appropriate, ensure that funds are awarded to recipients under this subpart to carry out activities that benefit, directly or indirectly, children with disabilities of all ages. (5) REPORTS TO CONGRESS.—The Secretary shall periodically report to the	(2) PUBLIC COMMENT.—The Secretary shall provide a public comment period of at least 60 days on the plan. (3) DISTRIBUTION OF FUNDS.—In implementing the plan, the Secretary shall, to the extent appropriate, ensure that funds are awarded to recipients under this subpart, subpart 3, and subpart 4 to carry out activities that benefit, directly or indirectly, children with the full range of disabilities and of all ages. (4) REPORTS TO CONGRESS.—The			

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Congress on the Secretary's activities under this subsection, including an initial report not later than the date that is 18 months after the date of the enactment of the Individuals with Disabilities Education Act Amendments of 1997.	Secretary shall annually report to Congress on the Secretary's activities under this subpart and subpart 3, and subpart 4, including an initial report not later than <i>12 months</i> after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2003.	
SEC. 661(b) ELIGIBLE APPLICANTS.— (1) IN GENERAL.—Except as otherwise provided in this subpart, the following entities are eligible to apply for a grant, contract, or cooperative agreement under this subpart: (A) A State educational agency. (B) A local educational agency.	SEC. 661(b) ELIGIBLE APPLICANTS.— (1) IN GENERAL.—Except as otherwise provided in this subpart, the following entities are eligible to apply for a grant, contract, or cooperative agreement under this subpart: (A) A State educational agency. (B) A local educational agency. (C) A public charter school that is a local educational agency under State law.	Application requirements are similar.
 (C) An institution of higher education. (D) Any other public agency. (E) A private nonprofit organization. (F) An outlying area. (G) An Indian tribe or a tribal organization (as defined under section 4 of the Indian Self-Determination and Education Assistance Act). (H) A for-profit organization, if the Secretary finds it appropriate in light of the purposes of a particular competition for a grant, contract, or cooperative agreement under this subpart. (2) SPECIAL RULE.—The Secretary may limit the entities eligible for an award of a grant, contract, or cooperative agreement to one or more categories of eligible entities described in paragraph (1). 	 (D) An institution of higher education. (E) Any other public agency. (F) A private nonprofit organization. (G) An outlying area. (H) An Indian tribe or a tribal organization (as defined under section 4 of the Indian Self-Determination and Education Assistance Act). (I) A for-profit organization. (2) SPECIAL RULE.—The Secretary may limit the entities eligible for an award of a grant, contract, or cooperative agreement to 1 or more categories of eligible entities described in paragraph (1). 	
SEC. 661(c) USE OF FUNDS BY SECRETARY.—Notwithstanding any other	no comparable provision	S. 1248 would remove this provision for

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provision of law, and in addition to any authority granted the Secretary under chapter 1 or chapter 2, the Secretary may use up to 20 percent of the funds available under either chapter 1 or chapter 2 for any fiscal year to carry out any activity, or combination of activities, subject to such conditions as the Secretary determines are appropriate effectively to carry out the purposes of such chapters, that— (1) is consistent with the purposes of chapter 1, chapter 2, or both; and (2) involves— (A) research; (B) personnel preparation; (C) parent training and information; (D) technical assistance and dissemination; (E) technology development, demonstration, and utilization; or (F) media services.		secretarial use of funds.
SEC. 661(d) SPECIAL POPULATIONS.— (1) APPLICATION REQUIREMENT.—In making an award of a grant, contract, or cooperative agreement under this subpart, the Secretary shall, as appropriate, require an applicant to demonstrate how the applicant will address the needs of children with disabilities from minority backgrounds. (2) OUTREACH AND TECHNICAL ASSISTANCE.— (A) REQUIREMENT—Notwithstanding any	SEC. 661(c) SPECIAL POPULATIONS.— (1) APPLICATION REQUIREMENT.—In making an award of a grant, contract, or cooperative agreement under this subpart, subpart 3, and subpart 4, the Secretary shall, as appropriate, require an applicant to meet the criteria set forth by the Secretary under this subpart and demonstrate how the applicant will address the needs of children with disabilities from minority backgrounds. (2) OUTREACH AND TECHNICAL ASSISTANCE.—Notwithstanding any other	Provisions regarding special populations are similar but the subsection on reservation of funds is deleted.

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other provision of this Act, the Secretary shall ensure that at least one percent of the total amount of funds appropriated to carry out this subpart is used for either or both of the following activities: (i) To provide outreach and technical assistance to Historically Black Colleges and Universities, and to institutions of higher education with minority enrollments of at least 25 percent, to promote the participation of such colleges, universities, and institutions in activities under this subpart. (ii) To enable Historically Black Colleges and Universities, and the institutions described in clause (i), to assist other colleges, universities, institutions, and agencies in improving educational and transitional results for children with disabilities. (B) RESERVATION OF FUNDS.—The Secretary may reserve funds appropriated under this subpart to satisfy the requirement of subparagraph (A).	provision of this Act, the Secretary shall reserve at least 1 percent of the total amount of funds made available to carry out this subpart, subpart 3, or subpart 4 for 1 or both of the following activities: (A) To provide outreach and technical assistance to Historically Black Colleges and Universities, and to institutions of higher education with minority enrollments of at least 25 percent, to promote the participation of such colleges, universities, and institutions in activities under this subpart. (B) To enable Historically Black Colleges and Universities, and the institutions described in subparagraph (A), to assist other colleges, universities, institutions, and agencies in improving educational and transitional results for children with disabilities.		
SEC. 661(e) PRIORITIES.— (1) IN GENERAL.—Except as otherwise explicitly authorized in this subpart, the Secretary shall ensure that a grant, contract, or cooperative agreement under chapter 1 or 2 is awarded only— (A) for activities that are designed to benefit children with disabilities, their families, or the personnel employed to work with such children or their families; or (B) to benefit other individuals with	no general priorities provisions		

disabilities that such chapter is intended to benefit. (2) PRIORITY FOR PARTICULAR ACTIVITIES.—Subject to paragraph (1), the Secretary, in making an award of a grant, contract, or cooperative agreement under this subpart, and without regard to the rule making procedures under section 553 of title 5, United States Code, limit competitions to, or otherwise give priority to— (A) projects that address one or more— (i) age ranges; (ii) disabilities; (iii) school grades; (iv) types of services; (v) types of services; (v) types of services; (vi) content areas, such as reading; or (vi) content areas, such as reading; or (vii) effective strategies for helping children with disabilities learn appropriate behavior in the school and other community-based educational settings; (B) projects that address the needs of children based on the severity of their disability; (C) projects that address the needs of— (B) projects that address the needs of— (ii) ow-achieving students; (iii) underserved populations; (iii) children from low-income families; (iv) children with limited English proficiency; (v) unserved and underserved areas; (F) rural or urban areas;	Current Law	S. 1248	Comments on Selected Changes
(vi) particular types of geographic areas; or (G) children whose behavior interferes with	disabilities that such chapter is intended to benefit. (2) PRIORITY FOR PARTICULAR ACTIVITIES.—Subject to paragraph (1), the Secretary, in making an award of a grant, contract, or cooperative agreement under this subpart, may, without regard to the rule making procedures under section 553 of title 5, United States Code, limit competitions to, or otherwise give priority to— (A) projects that address one or more— (i) age ranges; (ii) disabilities; (iii) school grades; (iv) types of educational placements or early intervention environments; (v) types of services; (vi) content areas, such as reading; or (vii) effective strategies for helping children with disabilities learn appropriate behavior in the school and other community-based educational settings; (B) projects that address the needs of children based on the severity of their disability; (C) projects that address the needs of— (i) low-achieving students; (ii) underserved populations; (iii) children from low-income families; (iv) children with limited English proficiency; (v) unserved and underserved areas;	SEC. 661(d) PRIORITIES.—The Secretary, in making an award of a grant, contract, or cooperative agreement under this subpart, subpart 3, or subpart 4, may, without regard to the rulemaking procedures under section 553(a) of title 5, United States Code, limit competitions to, or otherwise give priority to— (1) projects that address 1 or more— (A) age ranges; (B) disabilities; (C) school grades; (D) types of educational placements or early intervention environments; (E) types of services; (F) content areas, such as reading; or (G) effective strategies for helping children with disabilities learn appropriate behavior in the school and other community based educational settings; (2) projects that address the needs of children based on the severity or incidence of their disability; (3) projects that address the needs of— (A) low achieving students; (B) underserved populations; (C) children from low income families; (D) limited English proficient children; (E) unserved and underserved areas; (F) rural or urban areas;	Changes Specific priorities are

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(D) projects to reduce inappropriate identification of children as children with disabilities, particularly among minority children; (E) projects that are carried out in particular areas of the country, to ensure broad geographic coverage; and	(J) children who are gifted and talented; (4) projects to reduce inappropriate identification of children as children with disabilities, particularly among minority children; (5) projects that are carried out in particular areas of the country, to ensure broad geographic coverage; (6) projects that promote the development and use of universally designed technologies, assistive technology devices, and assistive technology services to maximize children with disabilities' access to and participation in the general education curriculum; and (7) any activity that is authorized in this subpart or subpart 3.	
(F) any activity that is expressly authorized in chapter 1 or 2.		
SEC. 661(f) APPLICANT AND RECIPIENT RESPONSIBILITIES.— (1) DEVELOPMENT AND ASSESSMENT OF PROJECTS.—The Secretary shall require that an applicant for, and a recipient of, a grant, contract, or cooperative agreement for a project under this subpart— (A) involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the project; and (B) where appropriate, determine whether the project has any potential for replication and adoption by other entities.	SEC. 661(e) APPLICANT AND RECIPIENT RESPONSIBILITIES.— (1) DEVELOPMENT AND ASSESSMENT OF PROJECTS.—The Secretary shall require that an applicant for, and a recipient of, a grant, contract, or cooperative agreement for a project under this subpart, subpart 3, or subpart 4— (A) involve individuals with disabilities or parents of individuals with disabilities ages birth through 26 in planning, implementing, and evaluating the project; and (B) where appropriate, determine whether the project has any potential for replication and	Provisions are similar.

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(2) ADDITIONAL RESPONSIBILITIES.— The Secretary may require a recipient of a grant, contract, or cooperative agreement for a project under this subpart— (A) to share in the cost of the project; (B) to prepare the research and evaluation findings and products from the project in formats that are useful for specific audiences, including parents, administrators, teachers, early intervention personnel, related services personnel, and individuals with disabilities; (C) to disseminate such findings and products; and (D) to collaborate with other such recipients in carrying out subparagraphs (B) and (C).	adoption by other entities. (2) ADDITIONAL RESPONSIBILITIES.— The Secretary may require a recipient of a grant, contract, or cooperative agreement under this subpart, subpart 3, or subpart 4 to— (A) share in the cost of the project; (B) prepare any findings and products from the project in formats that are useful for specific audiences, including parents, administrators, teachers, early intervention personnel, related services personnel, and individuals with disabilities; (C) disseminate such findings and products; and (D) collaborate with other such recipients in	
SEC. 661(g) APPLICATION MANAGEMENT.— (1) STANDING PANEL.— (A) IN GENERAL.—The Secretary shall establish and use a standing panel of experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under this subpart that, individually, request more than \$75,000 per year in Federal financial assistance. (B) MEMBERSHIP.—The standing panel shall include, at a minimum— (i) individuals who are representatives of institutions of higher education that plan,	carrying out subparagraphs (B) and (C). SEC. 661(f) APPLICATION MANAGEMENT.— (1) STANDING PANEL.— (A) IN GENERAL.—The Secretary shall establish and use a standing panel of experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under this subpart (other than applications for assistance under section 665), subpart 3, and subpart 4 that, individually, request more than \$75,000 per year in Federal financial assistance. (B) MEMBERSHIP.—The standing panel shall include, at a minimum— (i) individuals who are representatives of institutions of higher education that plan,	The provisions for the standing panel are similar.

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develop, and carry out programs of personnel	develop, and carry out high quality programs			
preparation;	of personnel preparation;			
(ii) individuals who design and carry out	(ii) individuals who design and carry out			
programs of research targeted to the	scientifically based research targeted to the			
improvement of special education programs	improvement of special education programs			
and services;	and services;			
(iii) individuals who have recognized	(iii) individuals who have recognized			
experience and knowledge necessary to	experience and knowledge necessary to			
integrate and apply research findings to	integrate and apply scientifically based			
improve educational and transitional results for	research findings to improve educational and			
children with disabilities;	transitional results for children with disabilities;			
(iv) individuals who administer programs at	(iv) individuals who administer programs at			
the State or local level in which children with	the State or local level in which children with			
disabilities participate;	disabilities participate;			
(v) individuals who prepare parents of children	(v) individuals who prepare parents of children			
with disabilities to participate in making	with disabilities to participate in making			
decisions about the education of their children;	decisions about the education of their children;			
(vi) individuals who establish policies that	(vi) individuals who establish policies that			
affect the delivery of services to children with	affect the delivery of services to children with			
disabilities;	disabilities;			
(vii) individuals who are parents of children	(vii) parents of children with disabilities ages			
with disabilities who are benefiting, or have	birth through 26 who are benefiting, or have			
benefited, from coordinated research,	benefited, from coordinated research,			
personnel preparation, and technical	personnel preparation, and technical			
assistance; and	assistance; and			
(viii) individuals with disabilities.	(viii) individuals with disabilities.			
(C) TRAINING.—The Secretary shall provide	no comparable provision			
training to the individuals who are selected as				
members of the standing panel under this				
paragraph.				
(D) TERM.—No individual shall serve on the				
standing panel for more than 3 consecutive	Secretary due to extenuating circumstances			

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years, unless the Secretary determines that the individual's continued participation is necessary for the sound administration of this subpart.	related to shortages of experts in a particular area of expertise or for a specific competition, no individual shall serve on the standing panel for more than 3 consecutive years.	
(2) PEER-REVIEW PANELS FOR PARTICULAR COMPETITIONS.— (A) COMPOSITION.—The Secretary shall ensure that each sub-panel selected from the standing panel that reviews applications under this subpart includes— (i) individuals with knowledge and expertise on the issues addressed by the activities authorized by the subpart; and (ii) to the extent practicable, parents of children with disabilities, individuals with disabilities, and persons from diverse backgrounds. (B) FEDERAL EMPLOYMENT LIMITATION.—A majority of the individuals on each sub-panel that reviews an application under this subpart shall be individuals who are not employees of the Federal Government. (3) USE OF DISCRETIONARY FUNDS FOR ADMINISTRATIVE PURPOSES.— (A) EXPENSES AND FEES OF NON-FEDERAL PANEL MEMBERS. —The Secretary may use funds available under this subpart to pay the expenses and fees of the panel members who are not officers or	(2) PEER REVIEW PANELS FOR PARTICULAR COMPETITIONS.— (A) COMPOSITION.—The Secretary shall ensure that each sub panel selected from the standing panel that reviews applications under this subpart (other than section 665), subpart 3, and subpart 4 includes— (i) individuals with knowledge and expertise on the issues addressed by the activities authorized by the relevant subpart; and (ii) to the extent practicable, parents of children with disabilities ages birth through 26, individuals with disabilities, and persons from diverse backgrounds. (B) FEDERAL EMPLOYMENT LIMITATION.—A majority of the individuals on each sub panel that reviews an application under this subpart (other than an application under section 665), subpart 3, and subpart 4 shall be individuals who are not employees of the Federal Government. (3) USE OF DISCRETIONARY FUNDS FOR ADMINISTRATIVE PURPOSES.— (A) EXPENSES AND FEES OF NON-FEDERAL PANEL MEMBERS.—The Secretary may use funds made available under this subpart, subpart 3, and subpart 4 to pay the expenses and fees of the panel members who are not officers or employees of the Federal	Requirements for peer review are similar.

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employees of the Federal Government. (B) ADMINISTRATIVE SUPPORT.—The Secretary may use not more than 1 percent of the funds appropriated to carry out this subpart to pay non-Federal entities for administrative support related to management of applications submitted under this subpart. (C) MONITORING.—The Secretary may use funds available under this subpart to pay the expenses of Federal employees to conduct onsite monitoring of projects receiving \$500,000 or more for any fiscal year under this subpart. no comparable provision	Government. (B) ADMINISTRATIVE SUPPORT.—The Secretary may use not more than 1 percent of the funds made available to carry out this subpart, subpart 3, or subpart 4 to pay non-Federal entities for administrative support related to management of applications submitted under this subpart. (4) AVAILABILITY OF CERTAIN PRODUCTS.— The Secretary shall ensure that recipients of grants, cooperative agreements, or contracts under this subpart, subpart 3, and subpart 4 make available in formats that are accessible to individuals with disabilities any products developed under such grants, cooperative agreements, or contracts that the recipient is making available to the public.	
SEC. 661(h) PROGRAM EVALUATION.— The Secretary may use funds appropriated to carry out this subpart to evaluate activities carried out under the subpart. SEC. 661(i) MINIMUM FUNDING REQUIRED.— (1) IN GENERAL.—Subject to paragraph (2), the Secretary shall ensure that, for each fiscal year, at least the following amounts are	SEC. 661(g) PROGRAM EVALUATION.— The Secretary may use funds made available to carry out this subpart, subpart 3, and subpart 4 to evaluate activities carried out under this subpart. SEC. 661(h) MINIMUM FUNDING REQUIRED.— (1) IN GENERAL.—Subject to paragraph (2), the Secretary shall ensure that, for each fiscal	Program evaluation provision is similar. Minimum funding requirements are similar.

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provided under this subpart to address the following needs: (A) \$12,832,000 to address the educational, related services, transitional, and early intervention needs of children with deafblindness. (B) \$4,000,000 to address the postsecondary, vocational, technical, continuing, and adult education needs of individuals with deafness. (C) \$4,000,000 to address the educational, related services, and transitional needs of children with an emotional disturbance and those who are at risk of developing an emotional disturbance. (2) RATABLE REDUCTION.—If the total amount appropriated to carry out sections 672, 673, and 685 for any fiscal year is less than \$130,000,000, the amounts listed in paragraph (1) shall be ratably reduced.	year, at least the following amounts are provided under this subpart and subpart 3 to address the following needs: (A) \$12,832,000 to address the educational, related services, transitional, and early intervention needs of children with deafblindness. (B) \$4,000,000 to address the postsecondary, vocational, technical, continuing, and adult education needs of individuals with deafness. (C) \$4,000,000 to address the educational, related services, and transitional needs of children with an emotional disturbance and those who are at risk of developing an emotional disturbance. (2) RATABLE REDUCTION.—If the total amount appropriated to carry out this subpart, subpart 3, and part E of the Education Sciences Reform Act of 2002 for any fiscal year is less than \$130,000,000, the amounts listed in paragraph (1) shall be ratably reduced.			
SEC. 661(j) ELIGIBILITY FOR FINANCIAL ASSISTANCE.—Effective for fiscal years for which the Secretary may make grants under section 619(b), no State or local educational agency or educational service agency or other public institution or agency may receive a grant under this subpart which relates exclusively to programs, projects, and activities pertaining to children aged 3 through 5, inclusive, unless the State is eligible to receive a grant under section 619(b).	SEC. 661(i) ELIGIBILITY FOR FINANCIAL ASSISTANCE.— No State or local educational agency, or other public institution or agency, may receive a grant or enter into a contract or cooperative agreement under this subpart that relates exclusively to programs, projects, and activities pertaining to children aged 3 through 5, inclusive, unless the State is eligible to receive a grant under section 619(b).	Eligibility are similar.	requ	irements

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"Chapter 1—Improving Early Intervention, Educational, and Transitional Services and Results for Children with Disabilities through Coordinated Research and Personnel Preparation		S. 1248 would not contain this chapter heading.
SEC. 671. FINDINGS AND PURPOSE. (a) FINDINGS.—The Congress finds the following: (1) The Federal Government has an ongoing obligation to support programs, projects, and activities that contribute to positive results for children with disabilities, enabling them— (A) to meet their early intervention, educational, and transitional goals and, to the maximum extent possible, educational standards that have been established for all children; and (B) to acquire the skills that will empower them to lead productive and independent adult lives. (2)(A) As a result of more than 20 years of Federal support for research, demonstration projects, and personnel preparation, there is an important knowledge base for improving results for children with disabilities. (B) Such knowledge should be used by States and local educational agencies to design and implement state-of-the-art educational systems that consider the needs of, and include, children with disabilities, especially in environments in which they can learn along with their peers and achieve results measured by the same standards as the results of their	Sec. 650 (1) The Federal Government has an ongoing obligation to support activities that contribute to positive results for children with disabilities, enabling them to lead productive and independent adult lives.	

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peers. (3)(A) Continued Federal support is essential for the development and maintenance of a coordinated and high-quality program of research, demonstration projects, dissemination of information, and personnel preparation. (B) Such support— (i) enables State educational agencies and local educational agencies to improve their educational systems and results for children with disabilities; (ii) enables State and local agencies to improve early intervention services and results for infants and toddlers with disabilities and their families; and (iii) enhances the opportunities for general and special education personnel, related services personnel, parents, and paraprofessionals to participate in pre-service and inservice training, to collaborate, and to improve results for children with disabilities and their families. (4) The Federal Government plays a critical role in facilitating the availability of an adequate number of qualified personnel— (A) to serve effectively the over 5,000,000 children with disabilities; (B) to assume leadership positions in administrative and direct-service capacities related to teacher training and research concerning the provision of early intervention services, special education, and related services; and (C) to work with children with low-incidence	Sec. 650 (5) The availability of an adequate number of qualified personnel is critical to serve effectively children with disabilities, to assume leadership positions in administration and direct services, to provide teacher training, and to conduct high quality research to improve special education.			

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disabilities and their families.		в
(5) The Federal Government performs the role		
described in paragraph (4)—		
(A) by supporting models of personnel		
development that reflect successful practice,		
including strategies for recruiting, preparing,		
and retaining personnel;		
(B) by promoting the coordination and		
integration of—		
(i) personnel-development activities for		
teachers of children with disabilities; and		
(ii) other personnel-development activities		
supported under Federal law, including this		
chapter;		
(C) by supporting the development and		
dissemination of information about teaching		
standards; and		
(D) by promoting the coordination and		
integration of personnel-development activities		
through linkage with systemic-change		
activities within States and nationally.		
(b) PURPOSE.—The purpose of this chapter is		
to provide Federal funding for coordinated		
research, demonstration projects, outreach, and		
personnel-preparation activities that—		
(1) are described in sections 672 through 674;		
(2) are linked with, and promote, systemic		
change; and		
(3) improve early intervention, educational,		
and transitional results for children with		
disabilities.		
SEC. 672. RESEARCH AND	SEC. 662. RESEARCH COORDINATION	S. 1248 would not appear
INNOVATION TO IMPROVE SERVICES	TO IMPROVE RESULTS FOR	to have similar provisions

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AND RESULTS FOR CHILDREN WITH DISABILITIES. (a) IN GENERAL.—The Secretary shall make competitive grants to, or enter into contracts or cooperative agreements with, eligible entities to produce, and advance the use of, knowledge— (1) to improve— (A) services provided under this Act, including the practices of professionals and others involved in providing such services to children with disabilities; and (B) educational results for children with disabilities; (2) to address the special needs of preschoolaged children and infants and toddlers with disabilities, including infants and toddlers who would be at risk of having substantial developmental delays if early intervention services were not provided to them; (3) to address the specific problems of overidentification and under-identification of children with disabilities; (4) to develop and implement effective strategies for addressing inappropriate behavior of students with disabilities in schools, including strategies to prevent children with emotional and behavioral problems from developing emotional disturbances that require the provision of special education and related services; (5) to improve secondary and postsecondary education and transitional services for children with disabilities; and	CHILDREN WITH DISABILITIES. The Secretary shall coordinate research carried out under this subpart with research carried out under part E of the Education Sciences Reform Act of 2002.	linking research and innovation to improved services. Instead the bill would require research conducted under Subpart 2 be coordinated with the Center for Special Education Research, which would be authorized by Title III of S. 1248 by adding a new Part E to the Education Sciences Reform Act of 2002.

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(6) to address the range of special education, related services, and early intervention needs of children with disabilities who need significant levels of support to maximize their participation and learning in school and in the community.		Changes
SEC. 672(b) NEW KNOWLEDGE PRODUCTION; AUTHORIZED ACTIVITIES.— (1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that lead to the production of new knowledge. (2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following: (A) Expanding understanding of the relationships between learning characteristics of children with disabilities and the diverse ethnic, cultural, linguistic, social, and economic backgrounds of children with disabilities and their families. (B) Developing or identifying innovative, effective, and efficient curricula designs, instructional approaches, and strategies, and developing or identifying positive academic and social learning opportunities, that— (i) enable children with disabilities to make effective transitions described in section 674(b)(3)(C) or transitions between educational settings; and (ii) improve educational and transitional		

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results for children with disabilities at all			
levels of the educational system in which the			
activities are carried out and, in particular, that			
improve the progress of the children, as			
measured by assessments within the general			
education curriculum involved.			
(C) Advancing the design of assessment tools			
and procedures that will accurately and			
efficiently determine the special instructional,			
learning, and behavioral needs of children with			
disabilities, especially within the context of			
general education.			
(D) Studying and promoting improved			
alignment and compatibility of general and			
special education reforms concerned with			
curricular and instructional reform, evaluation			
and accountability of such reforms, and			
administrative procedures.			
(E) Advancing the design, development, and			
integration of technology, assistive technology			
devices, media, and materials, to improve early			
intervention, educational, and transitional			
services and results for children with			
disabilities.			
(F) Improving designs, processes, and results			
of personnel preparation for personnel who			
provide services to children with disabilities			
through the acquisition of information on, and			
implementation of, research-based practices.			
(G) Advancing knowledge about the			
coordination of education with health and			
social services.			
(H) Producing information on the long-term			
impact of early intervention and education on			

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results for individuals with disabilities through large-scale longitudinal studies.		
SEC. 672(c) INTEGRATION OF RESEARCH AND PRACTICE; AUTHORIZED ACTIVITIES.— (1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that integrate research and practice, including activities that support State systemic-change and local capacity-building and improvement efforts. (2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following: (A) Model demonstration projects to apply and test research findings in typical service settings to determine the usability, effectiveness, and general applicability of such research findings in such areas as improving instructional methods, curricula, and tools, such as textbooks and media. (B) Demonstrating and applying research-based findings to facilitate systemic changes, related to the provision of services to children with disabilities, in policy, procedure, practice, and the training and use of personnel. (C) Promoting and demonstrating the coordination of early intervention and educational services for children with disabilities with services provided by health, rehabilitation, and social service agencies. (D) Identifying and disseminating solutions		

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that overcome systemic barriers to the effective and efficient delivery of early intervention, educational, and transitional services to children with disabilities.		
SEC. 672(d) IMPROVING THE USE OF PROFESSIONAL KNOWLEDGE; AUTHORIZED ACTIVITIES.— (1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that improve the use of professional knowledge, including activities that support State systemic change and local capacity-building and improvement efforts. (2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following: (A) Synthesizing useful research and other information relating to the provision of services to children with disabilities, including effective practices. (B) Analyzing professional knowledge bases to advance an understanding of the relationships, and the effectiveness of practices, relating to the provision of services to children with disabilities. (C) Ensuring that research and related products are in appropriate formats for distribution to teachers, parents, and individuals with disabilities. (D) Enabling professionals, parents of children with disabilities, and other persons, to learn about, and implement, the findings of research,		

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and successful practices developed in model demonstration projects, relating to the provision of services to children with disabilities. (E) Conducting outreach, and disseminating information relating to successful approaches to overcoming systemic barriers to the effective and efficient delivery of early intervention, educational, and transitional services, to personnel who provide services to children with disabilities.		
SEC. 672(e) BALANCE AMONG ACTIVITIES AND AGE RANGES.—In carrying out this section, the Secretary shall ensure that there is an appropriate balance— (1) among knowledge production, integration of research and practice, and use of professional knowledge; and (2) across all age ranges of children with disabilities.		
SEC. 672(f) APPLICATIONS.— An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.		
SEC. 672(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2002.		

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	SEC. 663. TECHNICAL ASSISTANC DEMONSTRATION PROJECT DISSEMINATION OF INFORMATION AND IMPLEMENTATION OF SCIENTIFICALLY BASED RESEARCH. SEC. 663(a) IN GENERAL.—From amour made available under section 675, the Secretary, on a competitive basis, shall aware grants to, or enter into contracts or cooperating agreements with, eligible entities to provious technical assistance, carry out mode demonstration projects, disseminate used information, and implement activities that a supported by scientifically based research. SEC. 663(b) REQUIRED ACTIVITIES. The Secretary shall support activities improve services provided under this Admiculating the practices of professionals at others involved in providing such services children with disabilities, that promonacademic achievement and function performance to improve educational resure and functional outcomes for children with disabilities through— (1) implementing effective strategies that a conductive to learning and for addressing inappropriate behavior of students with disabilities in schools, including strategies prevent children with emotional and behavior problems from developing emotion disturbances that require the provision special education and related services; (2) improving the alignment, compatibilities and development of valid and reliable.	E, Some of the general technical assistance, demonstrations, etc., activities authorized in Sec. 663 of S. 1248 would be carried out under Sec. 685 of current law (see below), although the activities in current law and S. 1248 are not parallel.

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	assessment methods, including altern assessment methods and evaluation metho for assessing adequately yearly progress described in section 1111(b)(2) of Elementary and Secondary Education Act 1965; (3) providing information to both regular education teachers and special education teachers to address the different learning sty and disabilities of students; (4) disseminating information on innovation effective, and efficient curricula, materion (including those that are universally designed instructional approaches, and strategies that— (A) support effective transitions between ducational settings or from school postschool settings; (B) support effective inclusion of students we disabilities in general education setting especially students with low-incident disabilities; and (C) improve educational and transition results at all levels of the educational system which the activities are carried out and, particular, that improve the progress children with disabilities, as measured assessments within the general education curriculum involved; and (5) demonstrating and applying scientificated based findings to facilitate systematic changular related to the provision of services to children with disabilities.	ate ds, as the of lar ion les ve, als ed), — een to rith gs, nce nal a in in of by ion ally ges
	SEC. 663(c) AUTHORIZED ACTIVITIES.	_

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	Activities that may be carried out under thi	S
	section include activities to improve service	S
	provided under this Act, including the	e
	practices of professionals and others involved	d
	in providing such services to children with	a
	disabilities, that promote increased academic	c
	achievement and enhanced functiona	.1
	outcomes for children with disabilitie	s
	through—	
	(1) supporting and promoting the coordination	n
	of early intervention, education, and	d
	transitional services for children with	n
	disabilities with services provided by health	.,
	rehabilitation, and social service agencies;	
	(2) promoting improved alignment and	d
	compatibility of general and special education	n
	reforms concerned with curriculum and	d
	instructional reform, and evaluating of sucl	n
	reforms;	
	(3) enabling professionals, parents of children	n
	with disabilities, and other persons, to learn	n
	about, and implement, the findings o	
	scientifically based research and effective	
	practices relating to the provision of services to	5
	children with disabilities;	
	(4) disseminating information relating to	5
	successful approaches to overcoming systemic	
	barriers to the effective and efficient delivery	
	of early intervention, educational, and	
	transitional services, to personnel who provide	
	services to children with disabilities;	
	(5) assisting States and local educationa	4
	agencies with the process of planning systemic	
	changes that will promote improved early	

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	intervention, educational, and transitional results for children with disabilities; (6) promoting change through a multi-State of regional framework that benefits States, local educational agencies, and other participants in partnerships that are in the process of achieving systemic change; (7) focusing on the needs and issues that an specific to a population of children with disabilities, such as providing single-State and multi-State technical assistance and in-service training— (A) to schools and agencies serving deafbling children and their families; (B) to programs and agencies serving other groups of children with low-incident disabilities and their families; (C) to address the postsecondary education needs of individuals who are deaffor hard-on hearing; and (D) to schools and personnel providing specific education and related services for children with autism spectrum orders; (8) demonstrating models of personnel preparation to ensure appropriate placement and services for all students with disabilities and to reduce disproportionality in eligibility placement, and disciplinary actions for minority and limited English proficient children; and (9) disseminating information on how reduce racial and ethnic disproportionalities.	or all or all on off ee the detection of the ee the detection of the ee
	Sec. 663 (d) BALANCE AMON	G similar language above

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	DISABILITIES AND AGE RANGES.—In carrying out this section, the Secretary shall ensure that there is an appropriate balance across all age ranges and disabilities.	1 672(e)]
	SEC. 663(e) LINKING STATES TO INFORMATION SOURCES.— In carrying out this section, the Secretary may support projects that link States to technical assistance resources, including special education and general education resources, and may make research and related products available through libraries, electronic networks, parent training projects, and other information sources.	in current law–Sec. 685(d)(3)]
	SEC. 663(f) APPLICATIONS.— (1) IN GENERAL.—An eligible entity that desires to receive a grant, or to enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. (2) CONTENTS.—The Secretary may, a appropriate, require eligible entities to demonstrate that the projects described in their applications are supported by scientifically based research that has been carried out in conjunction with the standards for the conduct and evaluation of all research and development established by the National Center for Education Research under sections 133 and 134 of the Education Sciences Reform Act of 2002. (3) PRIORITY.—As appropriate, the Secretary	

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applications that propose school personnel directly ment or that strengthen acy capacity to improve of personnel to improve for children with pol environment	
ow for authorization of e. 663]	
NEL DEVELOPMENT SERVICES AND CHILDREN WITH —The Secretary, on a nall award grants to, or r cooperative agreements	Both current law and S. 1248 have general provisions related to competitive grants for personnel development. S. 1248 would add several types of grant activities.
esore core	earch, to be successful n.

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	have the necessary skills and knowledge to provide instruction to students with disabilities in the regular education classroom. (5) To ensure that all special education teachers are highly qualified. (6) To ensure that preservice and in-service personnel preparation programs include training in— (A) the use of new technologies; (B) the area of early intervention, educational and transition services; (C) effectively involving parents; and (D) positive behavioral supports. (7) To provide high-quality professional development for principals, superintendents, and other administrators, including training in— (A) instructional leadership; (B) behavioral supports in the school and classroom; (C) paperwork reduction; (D) promoting improved collaboration between special education and general education teachers; (E) assessment and accountability; (F) ensuring effective learning environments; and (G) fostering positive relationships with parents.	
SEC. 673(b) LOW-INCIDISABILITIES; AUTHORACTIVITIES.—	RIZED DISABILITIES; AUTHORIZED ACTIVITIES.—	1248 authorize similar activities related to
(1) IN GENERAL.—In carrying of	ut this (1) IN GENERAL.—In carrying out this	benefitting children with

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section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that benefit children with lowincidence disabilities. (2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following: (A) Preparing persons who— (i) have prior training in educational and other related service fields; and (ii) are studying to obtain degrees, certificates, or licensure that will enable them to assist children with disabilities to achieve the objectives set out in their individualized education programs described in section 614(d), or to assist infants and toddlers with disabilities to achieve the outcomes described in their individualized family service plans described in section 636. (B) Providing personnel from various disciplines with interdisciplinary training that will contribute to improvement in early intervention, educational, and transitional results for children with disabilities. (C) Preparing personnel in the innovative uses and application of technology to enhance learning by children with disabilities through early intervention, educational, and transitional services.	section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that benefit children with low incidence disabilities. (2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following: (A) Preparing persons who— (i) have prior training in educational and other related service fields; and (ii) are studying to obtain degrees, certificates, or licensure that will enable the persons to assist children with low incidence disabilities to achieve the objectives set out in their individualized education programs described in section 614(d), or to assist infants and toddlers with low incidence disabilities to achieve the outcomes described in their individualized family service plans described in section 636. (B) Providing personnel from various disciplines with interdisciplinary training that will contribute to improvement in early intervention, educational, and transitional results for children with low incidence disabilities. (C) Preparing personnel in the innovative uses and application of technology, including universally designed technologies, assistive technology devices, and assistive technology services— (i) to enhance learning by children with low incidence disabilities through early intervention, educational, and transitional	low-incidence disabilities.

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(D) Preparing personnel who provide services	services; and			
to visually impaired or blind children to teach	(ii) to improve communication with parents.			
and use Braille in the provision of services to	(D) Preparing personnel who provide services			
such children.	to visually impaired or blind children to teach			
(E) Preparing personnel to be qualified	and use Braille in the provision of services to			
educational interpreters, to assist children with	such children.			
disabilities, particularly deaf and hard-of-	(E) Preparing personnel to be qualified			
hearing children in school and school related	educational interpreters, to assist children with			
activities and deaf and hard-of-hearing infants	low incidence disabilities, particularly deaf and			
and toddlers and preschool children in early	hard of hearing children in school and school			
intervention and preschool programs.	related activities, and deaf and hard of hearing			
(F) Preparing personnel who provide services	infants and toddlers and preschool children in			
to children with significant cognitive	early intervention and preschool programs.			
disabilities and children with multiple	(F) Preparing personnel who provide services			
disabilities.	to children with significant cognitive			
(3) DEFINITION.—As used in this section,	disabilities and children with multiple			
the term 'low incidence disability' means—	disabilities.			
(A) a visual or hearing impairment, or	(3) DEFINITION.—As used in this section,			
simultaneous visual and hearing impairments;	the term 'low incidence disability' means—			
(B) a significant cognitive impairment; or	(A) a visual or hearing impairment, or			
(C) any impairment for which a small number	simultaneous visual and hearing impairments;			
of personnel with highly specialized skills and	(B) a significant cognitive impairment; or			
knowledge are needed in order for children	(C) any impairment for which a small number			
with that impairment to receive early	of personnel with highly specialized skills and			
intervention services or a free appropriate	knowledge are needed in order for children with that impairment to receive early			
public education. (4) SELECTION OF RECIPIENTS.—In	1			
	intervention services or a free appropriate public education.			
selecting recipients under this subsection, the Secretary may give preference to applications	(4) SELECTION OF RECIPIENTS.—In			
that propose to prepare personnel in more than	selecting recipients under this subsection, the			
one low-incidence disability, such as deafness	Secretary may give preference to eligible			
and blindness.	entities submitting applications that include 1			
and offindicss.	or more of the following:			
	(A) A proposal to prepare personnel in more			
	(A) A proposar to prepare personner in more			

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(5) PREPARATION IN USE OF BRAILLE.—The Secretary shall ensure that all recipients of assistance under this subsection who will use that assistance to prepare personnel to provide services to visually impaired or blind children that can appropriately be provided in Braille will prepare those individuals to provide those services in Braille.	than 1 low incidence disability, such as deafness and blindness. (B) A demonstration of an effective collaboration with an eligible entity and a local educational agency that promotes recruitment and subsequent retention of highly qualified personnel to serve children with disabilities. (5) PREPARATION IN USE OF BRAILLE.—The Secretary shall ensure that all recipients of assistance under this subsection who will use that assistance to prepare personnel to provide services to visually impaired or blind children that can appropriately be provided in Braille will prepare those individuals to provide those services in Braille.	
SEC. 673(c) LEADERSHIP PREPARATION; AUTHORIZED ACTIVITIES.— (1) IN GENERAL.—In carrying out this section, the Secretary shall support leadership preparation activities that are consistent with the objectives described in subsection (a). (2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following: (A) Preparing personnel at the <i>advanced</i> graduate, doctoral, and postdoctoral levels of training to administer, enhance, or provide services for children with disabilities. (B) Providing interdisciplinary training for various types of leadership personnel, including teacher preparation faculty, administrators, researchers, supervisors,	SEC. 664(d) LEADERSHIP PREPARATION; AUTHORIZED ACTIVITIES.— (1) IN GENERAL.—In carrying out this section, the Secretary shall support leadership preparation activities that are consistent with the objectives described in subsection (a). (2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following: (A) Preparing personnel at the graduate, doctoral, and postdoctoral levels of training to administer, enhance, or provide services to improve results for children with disabilities. (B) Providing interdisciplinary training for various types of leadership personnel, including teacher preparation faculty, administrators, researchers, supervisors,	Provisions are similar.

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principals, and other persons whose work affects early intervention, educational, and transitional services for children with disabilities.	principals, related services personnel, and other persons whose work affects early intervention, educational, and transitional services for children with disabilities.	
SEC. 673(d) PROJECTS OF NATIONAL SIGNIFICANCE; AUTHORIZED ACTIVITIES.— (1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that are of national significance and have broad applicability. (2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following: (A) Developing and demonstrating effective and efficient practices for preparing personnel to provide services to children with disabilities, including practices that address any needs identified in the State's improvement plan under part C; (B) Demonstrating the application of significant knowledge derived from research and other sources in the development of programs to prepare personnel to provide services to children with disabilities. (C) Demonstrating models for the preparation of, and interdisciplinary training of, early intervention, special education, and general education personnel, to enable the personnel— (i) to acquire the collaboration skills necessary to work within teams to assist children with disabilities; and	Sec. 664(b)(2)(E) Demonstrating models for the preparation of, and interdisciplinary training of, early intervention, special education, and general education personnel, to enable the personnel to acquire the collaboration skills necessary to work within teams and to improve results for children with	S. 1248 would not authorize projects of national significance but does list some of these same activities under Sec. 664(b)(2).

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(ii) to achieve results that meet challenging standards, particularly within the general education curriculum.	disabilities, particularly within the general education curriculum. (F) Promoting effective parental involvement practices to enable the personnel to work with parents and involve parents in the education of		
(D) Demonstrating models that reduce shortages of teachers, and personnel from other relevant disciplines, who serve children with disabilities, through reciprocity arrangements between States that are related to licensure and certification. (E) Developing, evaluating, and disseminating model teaching standards for persons working with children with disabilities. (F) Promoting the transferability, across State and local jurisdictions, of licensure and certification of teachers and administrators working with such children. (G) Developing and disseminating models that prepare teachers with strategies, including behavioral interventions, for addressing the conduct of children with disabilities that impedes their learning and that of others in the classroom.	(G) Promoting the transferability, across State and local jurisdictions, of licensure and certification of teachers, principals, and administrators working with such children. (H) Developing and disseminating models that prepare teachers with strategies, including positive behavioral interventions, for addressing the conduct of children with disabilities that impedes their learning and that of others in the classroom. (I) Developing and improving programs to enhance the ability of general education teachers, principals, school administrators, and school board members to improve results for children with disabilities.		
(H) Institutes that provide professional development that addresses the needs of children with disabilities to teachers or teams	children with disabilities.		

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of teachers, and where appropriate, to school board members, administrators, principals, pupil service personnel, and other staff from individual schools. (I) Projects to improve the ability of general education teachers, principals, and other administrators to meet the needs of children with disabilities.		
	(K) Preparing personnel to work in high need elementary schools and secondary schools, including urban schools, rural schools, and schools operated by an entity described in section 7113(d)(1)(A)(ii) of the Elementary and Secondary Education Act of 1965, and schools that serve high numbers or percentages of limited English proficient children.	
(J) Developing, evaluating, and disseminating innovative models for the recruitment, induction, retention, and assessment of new, qualified teachers, especially from groups that are underrepresented in the teaching profession, including individuals with disabilities.	(L) Developing, evaluating, and disseminating innovative models for the recruitment, induction, retention, and assessment of new, highly qualified teachers, especially from groups that are underrepresented in the teaching profession, including individuals with disabilities. (J) Supporting institutions of higher education	
(K) Supporting institutions of higher education with minority enrollments of at least 25 percent for the purpose of preparing personnel to work with children with disabilities.	with minority enrollments of at least 25 percent for the purpose of preparing personnel to work with children with disabilities. (M) Developing and improving programs to train special education teachers to develop an expertise in autism spectrum disorders.	
SEC. 673(e) HIGH-INCIDENCE DISABILITIES; AUTHORIZED ACTIVITIES.—	Sec. 664 (b) PERSONNEL DEVELOPMENT; AUTHORIZED ACTIVITIES.— (1) IN GENERAL.—In carrying out this	Current law provisions in this subsection are aimed at personnel serving

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(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), to benefit children with high-incidence disabilities, such as children with specific learning disabilities, speech or language impairment, or mental retardation. (2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include the following: (A) Activities undertaken by institutions of higher education, local educational agencies, and other local entities— (i) to improve and reform their existing programs to prepare teachers and related services personnel—	section, the Secretary shall support activities to prepare personnel, including activities for the preparation of personnel who will serve children with high-incidence and low-incidence disabilities, consistent with the objectives described in subsection (a). (2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include the following: (A) Supporting collaborative personnel preparation activities undertaken by institutions of higher education, local educational agencies, and other local entities— (i) to improve and reform their existing programs, to support effective existing programs, to support the development of new programs, and to prepare teachers, principals,	children with "high incidence" disabilities; the S. 1248 subsection contains some of the same provisions but does not limit activities to "high incidence."
(I) to meet the diverse needs of children with disabilities for early intervention, educational, and transitional services; and (II) to work collaboratively in regular classroom settings; and (ii) to incorporate best practices and research based knowledge about preparing personnel so they will have the knowledge and skills to improve educational results for children with disabilities.	administrators, and related services personnel— (I) to meet the diverse needs of children with disabilities for early intervention, educational, and transitional services; and (II) to work collaboratively in regular classroom settings; and (ii) to incorporate best practices and scientifically based research about preparing personnel— (I) so the personnel will have the knowledge and skills to improve educational results for children with disabilities; and (II) to implement effective teaching strategies and interventions to prevent the misidentification, overidentification, or	

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(B) Activities incorporating innovative strategies to recruit and prepare teachers and other personnel to meet the needs of areas in which there are acute and persistent shortages of personnel.	underidentification of children as having a disability, especially minority and limited English proficient children.		
(C) Developing career opportunities for paraprofessionals to receive training as special education teachers, related services personnel, and early intervention personnel, including interdisciplinary training to enable them to improve early intervention, educational, and transitional results for children with disabilities.	(B) Developing, evaluating, and disseminating innovative models for the recruitment, induction, retention, and assessment of highly qualified teachers to reduce teacher shortages. (C) Providing continuous personnel preparation, training, and professional development designed to provide support and ensure retention of teachers and personnel who teach and provide related services to children with disabilities. (D) Developing and improving programs for paraprofessionals to become special education teachers, related services personnel, and early intervention personnel, including interdisciplinary training to enable the paraprofessionals to improve early intervention, educational, and transitional results for children with disabilities.		

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no comparable subsection	SEC. 664(e) ENHANCED SUPPORT AND TRAINING FOR BEGINNING SPECIAL EDUCATORS; AUTHORIZED ACTIVITIES.— (1) IN GENERAL.—In carrying out this section, the Secretary shall support personnel preparation activities that are consistent with the objectives described in subsection (a). (2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include— (A) enhancing and restructuring an existing program or developing a preservice teacher education program, to prepare special education teachers, at colleges or departments of education within the institution of higher education, by incorporating an additional 5th year clinical learning opportunity, field experience, or supervised practicum into a program of preparation and coursework for special education teachers; or (B) Creating or supporting professional development schools that provide— (i) high quality mentoring and induction opportunities with ongoing support for beginning special education teachers; or (ii) inservice professional development to veteran special education teachers through the ongoing exchange of information and instructional strategies. (3) ELIGIBLE PARTNERSHIPS.—Eligible recipients of assistance under this subsection are partnerships— (A) that shall consist of—	S. 1248 would add activities supporting preparation of beginning special educators.

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	(i) 1 or more institutions of higher education with special education personnel preparation programs; and (ii) 1 or more local educational agencies; and (iii) in the case of activities assisted under paragraph (2)(B), an elementary school or secondary school; and (B) that may include other entities eligible for assistance under this part, such as a State educational agency. (4) PRIORITY.—In awarding grants or entering into contracts or cooperative agreements under this subsection, the Secretary shall give priority to partnerships that include local educational agencies that serve— (A) high numbers or percentages of lowincome students; or (B) schools that have failed to make adequate yearly progress toward enabling children with disabilities to meet academic achievement standards.	
no comparable subsection	SEC. 664(f) TRAINING TO SUPPORT GENERAL EDUCATORS; AUTHORIZED ACTIVITIES.— (1) IN GENERAL.—In carrying out this section, the Secretary shall support personnel preparation activities that are consistent with the objectives described in subsection (a). (2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include— (A) high quality professional development for	S. 1248 would add activities supporting preparation of general educators related to working with special educators and children with disabilities.

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	general educators that develops the knowledge and skills, and enhances the ability, of general educators to—	
	(i) use classroom-based techniques to identify students who may be eligible for special education services, and deliver instruction in	1
	way that meets the individualized needs of children with disabilities through appropriate supports, accommodations, and curriculum	f e
	modifications; (ii) use classroom-based techniques, such a	
	scientifically based reading instruction; (iii) work collaboratively with special education teachers and related service	
	personnel; (iv) implement strategies, such as positive behavioral interventions—	e
	(I) to address the behavior of children with disabilities that impedes the learning of such children and others; or	
	(II) to prevent children from being misidentified as children with disabilities;	
	(v) prepare children with disabilities to participate in statewide assessments (with o without accommodations) and alternate	r
	assessments, as appropriate; (vi) develop effective practices for ensuring that all children with disabilities are a part of	=
	all accountability systems under the Elementary and Secondary Education Act of 1965;	
	(vii) work with and involve parents of children with disabilities in their child's education; (viii) understand how to effectively constructions.	

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	IEPs, participate in IEP meetings, and implement IEPs; and (ix) in the case of principals and superintendents, be instructional leaders and promote improved collaboration between general educators, special education teachers, and related services personnel; and (B) release and planning time for the activities described in this subsection. (3) ELIGIBLE PARTNERSHIPS.—Eligible recipients of assistance under this subsection are partnerships— (A) that consist of— (i) 1 or more institutions of higher education with special education personnel preparation programs; and (ii) 1 or more local educational agencies; and (B) that may include other entities eligible for assistance under this part, such as a State educational agency.	
SEC. 673(f) APPLICATIONS.— (1) IN GENERAL.—Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. (2) IDENTIFIED STATE NEEDS.— (A) REQUIREMENT TO ADDRESS IDENTIFIED NEEDS.— Any application under subsection (b), (c), or (e) shall include information demonstrating to the satisfaction	SEC. 664(g) APPLICATIONS.— (1) IN GENERAL.—Any eligible entity that desires to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. (2) IDENTIFIED STATE NEEDS.— (A) REQUIREMENT TO ADDRESS IDENTIFIED NEEDS.—Any application under subsection (b), (c), (d), (e), or (f) shall include information demonstrating to the	Application provisions are similar.

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of the Secretary that the activities described in	satisfaction of the Secretary that the activities			
the application will address needs identified by	described in the application will address needs			
the State or States the applicant proposes to	identified by the State or States the applicant			
serve.	proposes to serve, consistent with the needs			
	identified in the State plan described in section			
	653(a)(2).			
(B) COOPERATION WITH STATE	(B) COOPERATION WITH STATE			
EDUCATIONAL AGENCIES. —Any	EDUCATIONAL AGENCIES.—Any			
applicant that is not a local educational agency	applicant that is not a local educational agency			
or a State educational agency shall include	or a State educational agency shall include in			
information demonstrating to the satisfaction of the Secretary that the applicant and one or	the application information demonstrating to the satisfaction of the Secretary that the			
more State educational agencies have engaged	applicant and 1 or more State educational			
in a cooperative effort to plan the project to	agencies or local educational agencies have			
which the application pertains, and will	engaged in a cooperative effort to carry out			
cooperate in carrying out and monitoring the	and monitor the project to be assisted.			
project.	(3) ACCEPTANCE BY STATES OF			
(3) ACCEPTANCE BY STATES OF	PERSONNEL PREPARATION			
PÉRSONNEL PREPARATION	REQUIREMENTS.—The Secretary may			
REQUIREMENTS.—The Secretary may	require applicants to provide assurances from 1			
require applicants to provide letters from one	or more States that such States			
or more States stating that the States—	intend to accept successful completion of the			
(A) intend to accept successful completion of	proposed personnel preparation program as			
the proposed personnel preparation program as	meeting State personnel standards for serving			
meeting State personnel standards for serving	children with disabilities or serving infants and			
children with disabilities or serving infants and	toddlers with disabilities.			
toddlers with disabilities; and				
(B) need personnel in the area or areas in				
which the applicant proposes to provide preparation, as identified in the States'				
comprehensive systems of personnel				
development under parts B and C.				
1	GEG ((M)) GELECTION OF	0.1.4:		
SEC. 673(g) SELECTION OF	SEC. 664(h) SELECTION OF	Selection p	rovisior	is are

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RECIPIENTS.— (1) IMPACT OF PROJECT.—In selecting recipients under this section, the Secretary may consider the impact of the project proposed in the application in meeting the need for personnel identified by the States. (2) REQUIREMENT ON APPLICANTS TO MEET STATE AND PROFESSIONAL STANDARDS.—The Secretary shall make grants under this section only to eligible applicants that meet State and professionally-recognized standards for the preparation of special education and related services personnel, if the purpose of the project is to assist personnel in obtaining degrees. (3) PREFERENCES.—In selecting recipients under this section, the Secretary may—	RECIPIENTS.— (1) IMPACT OF PROJECT.—In selecting award recipients under this section, the Secretary shall consider the impact of the proposed project described in the application in meeting the need for personnel identified by the States. (2) REQUIREMENT FOR APPLICANTS TO MEET STATE AND PROFESSIONAL STANDARDS.—The Secretary shall make grants and enter into contracts and cooperative agreements under this section only to eligible applicants that meet State and professionally recognized standards for the preparation of special education and related services personnel, if the purpose of the project is to assist personnel in obtaining degrees. (3) PREFERENCES.—In selecting recipients under this section, the Secretary may give preference to institutions of higher education that are—	similar.
(A) give preference to institutions of higher education that are educating regular education personnel to meet the needs of children with disabilities in integrated settings and educating special education personnel to work in collaboration with regular educators in integrated settings; and (B) give preference to institutions of higher education that are successfully recruiting and preparing individuals with disabilities and individuals from groups that are underrepresented in the profession for which they are preparing individuals.	(A) educating regular education personnel to meet the needs of children with disabilities in integrated settings; (B) educating special education personnel to work in collaboration with regular educators in integrated settings; and (C) successfully recruiting and preparing individuals with disabilities and individuals from groups that are underrepresented in the profession for which the institution of higher education is preparing individuals.	

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SEC. 673(h) SERVICE OBLIGATION.— (1) IN GENERAL.—Each application for funds under subsections (b) and (e), and to the extent appropriate subsection (d), shall include an assurance that the applicant will ensure that individuals who receive a scholarship under the proposed project will subsequently provide special education and related services to children with disabilities for a period of 2 years for every year for which assistance was received or repay all or part of the cost of that assistance, in accordance with regulations issued by the Secretary. (2) LEADERSHIP PREPARATION.—Each application for funds under subsection (c) shall include an assurance that the applicant will ensure that individuals who receive a scholarship under the proposed project will subsequently perform work related to their preparation for a period of 2 years for every year for which assistance was received or repay all or part of such costs, in accordance with regulations issued by the Secretary.	SEC. 664(i) SERVICE OBLIGATION.— Each application for funds under subsections (b), (c), (d), and (e) shall include an assurance that the applicant will ensure that individuals who receive assistance under the proposed project will subsequently provide special education and related services to children with disabilities for a <i>period of 1 year</i> for every year for which assistance was received, or repay all or part of the cost of that assistance, in accordance with regulations issued by the Secretary.	Current law requires 2 years of service to children with disabilities for every year of scholarship assistance received; S. 1248 would require 1 year of service for every year of assistance.
SEC. 673(i) SCHOLARSHIPS.—The Secretary may include funds for scholarships, with necessary stipends and allowances, in awards under subsections (b), (c), (d), and (e).	SEC. 664(j) SCHOLARSHIPS.—The Secretary may include funds for scholarships, with necessary stipends and allowances, in awards under subsections (b), (c), (d), and (e). SEC. 664(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the	Similar provisions.

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SEC. 673(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years <u>1998 through 2002</u> .		
SEC. 674. STUDIES AND EVALUATIONS. (a) STUDIES AND EVALUATIONS.— no comparable provision (1) IN GENERAL.—The Secretary shall, directly or through grants, contracts, or cooperative agreements, assess the progress in the implementation of this Act, including the effectiveness of State and local efforts to provide— (A) a free appropriate public education to children with disabilities; and (B) early intervention services to infants and toddlers with disabilities and infants and toddlers who would be at risk of having substantial developmental delays if early intervention services were not provided to them.	SEC. 665. STUDIES AND EVALUATIONS. (a) STUDIES AND EVALUATIONS.— (1) DELEGATION.—The Secretary shall delegate to the Director of the Institute for Education Sciences responsibility to carry out this section, other than subsections (d) and (f). (2) ASSESSMENT.—The Secretary shall, directly or through grants, contracts, or cooperative agreements awarded on a competitive basis, assess the progress in the implementation of this Act, including the effectiveness of State and local efforts to provide— (A) a free appropriate public education to children with disabilities; and (B) early intervention services to infants and toddlers who would be at risk of having substantial developmental delays if early intervention services were not provided to them.	S. 1248 would require that the Secretary delegate to the Director of the Institute for Education Science the responsibility for conducting the studies and evaluations in this section except for subsections (d) and (f). Under current law, the Secretary has this responsibility.
(2) AUTHORIZED ACTIVITIES.—In carrying out this subsection, the Secretary may support studies, evaluations, and assessments, including studies that— (A) analyze measurable impact, outcomes, and		Current law has more extensive activities for studies and evaluations than S. 1248 would. Presumably some of these

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results achieved by State educational agencies		current-law activities
and local educational agencies through their		could be carried out by
activities to reform policies, procedures, and		the Center for Special
practices designed to improve educational and		Education Research
transitional services and results for children		authorized in Title III.
with disabilities;		
(B) analyze State and local needs for		
professional development, parent training, and		
other appropriate activities that can reduce the		
need for disciplinary actions involving		
children with disabilities;		
(C) assess educational and transitional services		
and results for children with disabilities from		
minority backgrounds, including—		
(i) data on—		
(I) the number of minority children who are		
referred for special education evaluation;		
(II) the number of minority children who are		
receiving special education and related		
services and their educational or other service		
placement; and		
(III) the number of minority children who		
graduated from secondary and postsecondary		
education programs; and		
(ii) the performance of children with		
disabilities from minority backgrounds on		
State assessments and other performance		
indicators established for all students;		
(D) measure educational and transitional		
services and results of children with		
disabilities under this Act, including		
longitudinal studies that—		
(i) examine educational and transitional		
services and results for children with		

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disabilities who are 3 through 17 years of age and are receiving special education and related services under this Act, using a national, representative sample of distinct age cohorts and disability categories; and (ii) examine educational results, postsecondary placement, and employment status of individuals with disabilities, 18 through 21 years of age, who are receiving or have received special education and related services under this Act; and (E) identify and report on the placement of children with disabilities by disability category.		
SEC. 674(b) NATIONAL ASSESSMENT.— (1) IN GENERAL.—The Secretary shall carry out a national assessment of activities carried out with Federal funds under this Act in order— (A) to determine the effectiveness of this Act in achieving its purposes; (B) to provide information to the President, the Congress, the States, local educational agencies, and the public on how to implement the Act more effectively; and (C) to provide the President and the Congress with information that will be useful in developing legislation to achieve the purposes of this Act more effectively. (2) CONSULTATION.—The Secretary shall plan, review, and conduct the national assessment under this subsection in consultation with researchers, State	in achieving its purposes; (B) to provide timely information to the President, Congress, the States, local educational agencies, and the public on how to implement this Act more effectively; and (C) to provide the President and Congress with information that will be useful in developing legislation to achieve the purposes of this Act more effectively. (2) CONSULTATION.—The Secretary shall plan, review, and conduct the national assessment under this subsection in	The National Assessment requirements are similar.

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practitioners, local practitioners, parents of children with disabilities, individuals with disabilities, and other appropriate individuals.	practitioners, local practitioners, parents of children with disabilities, and other appropriate individuals.	
(3) SCOPE OF ASSESSMENT.—The national assessment shall examine how well schools, local educational agencies, States, other recipients of assistance under this Act, and the Secretary are achieving the purposes of this Act, including— (A) improving the performance of children with disabilities in general scholastic activities and assessments as compared to nondisabled children; (B) providing for the participation of children with disabilities in the general curriculum; (C) helping children with disabilities make successful transitions from— (i) early intervention services to preschool education; (ii) preschool education to elementary school; and (iii) secondary school to adult life; (D) placing and serving children with disabilities, including minority children, in the least restrictive environment appropriate; (E) preventing children with disabilities, especially children with emotional disturbances and specific learning disabilities, from dropping out of school; (F) addressing behavioral problems of children with disabilities as compared to nondisabled children; (G) coordinating services provided under this	(3) SCOPE OF ASSESSMENT.—The national assessment shall assess the— (A) implementation of programs assisted under this Act and the impact of those programs on addressing the developmental, educational, and transitional needs of, and improving the academic achievement and functional outcomes of, children with disabilities to enable the children to reach challenging developmental goals and challenging State academic content standards based on State academic assessments, including alternate assessments; (B) types of programs and services that have demonstrated the greatest likelihood of helping students reach the challenging State academic content standards and developmental goals; (C) implementation of the personnel preparation and professional development activities assisted under this Act and the impact on instruction, student academic achievement, and teacher qualifications to enhance the ability of special education teachers and regular education teachers to improve results for children with disabilities; and (D) effectiveness of schools, local educational agencies, States, and other recipients of assistance under this Act, in achieving the purposes of this Act in—	S. 1248 would add to the scope of the National Assessment.

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Act with each other, with other educational and pupil services (including preschool services), and with health and social services funded from other sources; (H) providing for the participation of parents of children with disabilities in the education of their children; and (I) resolving disagreements between education personnel and parents through activities such as mediation.	children with disabilities and their performance on regular statewide assessments, and the performance of children with disabilities on alternate assessments; (ii) improving the participation rate of children with disabilities in the general education curriculum; (iii) improving the transitions of children with disabilities at natural transition points; (iv) placing and serving children with disabilities, including minority children, in the least restrictive environment appropriate; (v) preventing children with disabilities, especially children with emotional disturbances and specific learning disabilities, from dropping out of school; (vi) addressing the reading and literacy needs of children with disabilities; (vii) coordinating services provided under this Act with each other, with other educational and pupil services (including preschool services), and with health and social services funded from other sources; (viii) improving the participation of parents of children with disabilities in the education of their children; (ix) resolving disagreements between education personnel and parents through alternate dispute resolution activities including			
(4) INTERIM AND FINAL REPORTS.—The Secretary shall submit to the President and the Congress—				

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(A) an interim report that summarizes the preliminary findings of the assessment not later than October 1, 1999; and (B) a final report of the findings of the assessment not later than October 1, 2001.	(4) INTERIM AND FINAL REPORTS.—The Secretary shall submit to the President and Congress— (A) an interim report that summarizes the preliminary findings of the national assessment not later than 3 years after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2003; and (B) a final report of the findings of the assessment not later than 5 years after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2003.	
no comparable provision	SEC. 665(c) STUDY ON ENSURING ACCOUNTABILITY FOR STUDENTS WITH SIGNIFICANT DISABILITIES.—The Secretary shall carry out a national study or studies to examine— (1) the criteria that States use to determine eligibility for alternate assessments and the number and type of children who take those assessments; (2) the validity and reliability of alternate assessment instruments and procedures; (3) the alignment of alternate assessments with State academic content and achievement standards or with alternate academic achievement standards; and (4) the use and effectiveness of alternate assessments in appropriately measuring student progress and outcomes specific to individualized instructional need.	S. 1248 would add an accountability study regarding students with "significant" disabilities.
SEC. 674(c) ANNUAL REPORT.—The	SEC. 665(d) ANNUAL REPORT.—The	Both current law and S.

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Secretary shall report annually to the Congress on— (1) an analysis and summary of the data reported by the States and the Secretary of the Interior under section 618;	Secretary shall provide an annual report to Congress that— (1) summarizes the research conducted under section 662; (2) analyzes and summarizes the data reported by the States and the Secretary of the Interior under section 618;	1248 require an annual report to Congress; S. 1248 would add reporting requirements.
(2) the results of activities conducted under subsection (a);(3) the findings and determinations resulting from reviews of State implementation of this	 (3) summarizes the studies and evaluations conducted under this section and the timeline for their completion; (4) describes the extent and progress of the national assessment; and (5) describes the findings and determinations resulting from reviews of State implementation 	
Act.	of this Act.	
no comparable provisions	SEC. 665(e) AUTHORIZED ACTIVITIES.— In carrying out this section, the Secretary may support objective studies, evaluations, and assessments, including studies that— (1) analyze measurable impact, outcomes, and results achieved by State educational agencies and local educational agencies through their activities to reform policies, procedures, and practices designed to improve educational and transitional services and results for children with disabilities; (2) analyze State and local needs for professional development, parent training, and other appropriate activities that can reduce the need for disciplinary actions involving children with disabilities; (3) assess educational and transitional services and results for children with disabilities from	

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	minority backgrounds, including—		
	(A) data on—		
	(i) the number of minority children who are	;	
	referred for special education evaluation;		
	(ii) the number of minority children who are		
	receiving special education and related		
	services and their educational or other service		
	placement;		
	(iii) the number of minority children who	,	
	graduated from secondary programs with a		
	regular diploma in the standard number of		
	years; and		
	(iv) the number of minority children who drop		
	out of the educational system; and		
	(B) the performance of children with		
	disabilities from minority backgrounds on		
	State assessments and other performance		
	indicators established for all students;		
	(4) measure educational and transitional		
	services and results of children with		
	disabilities served under this Act, including	-	
	longitudinal studies that—		
	(A) examine educational and transitional		
	services and results for children with		
	disabilities who are 3 through 17 years of age	:	
	and are receiving special education and related		
	services under this Act, using a national,		
	representative sample of distinct age cohorts		
	and disability categories; and		
	(B) examine educational results, transition		
	services, postsecondary placement, and		
	employment status of individuals with		
	disabilities, 18 through 21 years of age, who		
	are receiving or have received special		

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	education and related services under this Act; and (5) identify and report on the placement of children with disabilities by disability category.	
SEC. 674(d) TECHNICAL ASSISTANCE TO LEAS.—The Secretary shall provide directly, or through grants, contracts, or cooperative agreements, technical assistance to local educational agencies to assist them in carrying out local capacity-building and improvement projects under section 611(f)(4) and other LEA systemic improvement activities under this Act. No comparable provision	SEC. 665(f) STUDY. The Secretary shall study, and report to Congress regarding, the extent to which States adopt policies described in section 635(b)(1) and on the effects of those policies.	
SEC. 674(e) RESERVATION FOR STUDIES AND TECHNICAL ASSISTANCE.— (1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of this Act, the Secretary may reserve up to one-half of one percent of the amount appropriated under parts B and C for each fiscal year to carry out this section.	SEC. 665(g) RESERVATION FOR STUDIES AND EVALUATIONS.— (1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of this Act, the Secretary may reserve not more than 1.2 of 1 percent of the amount appropriated under parts B and C for each fiscal year to carry out this section, of which not more than \$3,000,000 shall be available to carry out subsection (c). (2) MAXIMUM AMOUNT.—The maximum	the percentage of Part B and Part C funding for studies and technical assistance and would earmark funds for the accountability study under subsection (c). S. 1248 would increase
(2) MAXIMUM AMOUNT.—For the first fiscal year in which the amount described in	amount the Secretary may reserve under paragraph (1) for any fiscal year is	the maximum that may be reserved for these

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paragraph (1) is at least \$20,000,000, the maximum amount the Secretary may reserve under paragraph (1) is \$20,000,000. For each subsequent fiscal year, the maximum amount the Secretary may reserve under paragraph (1) is \$20,000,000, increased by the cumulative rate of inflation since the fiscal year described in the previous sentence. (3) USE OF MAXIMUM AMOUNT.—In any fiscal year described in paragraph (2) for which the Secretary reserves the maximum amount described in that paragraph, the Secretary shall use at least half of the reserved amount for activities under subsection (d)	\$40,000,000, increased by the cumulative rate of inflation since fiscal year 2003.	purposes.
Chapter 2—Improving Early Intervention, Educational, and Transitional Services and Results for Children With Disabilities Through Coordinated Technical Assistance, Support, and Dissemination of Information	Subpart 3—Supports To Improve Results for Children With Disabilities	The chapter title under current law and the subpart title under S. 1248 differ.
SEC. 681. FINDINGS AND PURPOSES. (a) IN GENERAL.—The Congress finds as follows: (1) National technical assistance, support, and dissemination activities are necessary to ensure that parts B and C are fully implemented and achieve quality early intervention, educational, and transitional results for children with disabilities and their families. (2) Parents, teachers, administrators, and related services personnel need technical assistance and information in a timely, coordinated, and accessible manner in order to improve early intervention, educational, and	Sec. 650 (11) Parents, teachers, administrators, and related services personnel need technical assistance and information in a timely, coordinated, and accessible manner in order to improve early intervention, educational, and	S. 1248 findings are at the beginning of Part B in Sec. 650.

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transitional services and results at the State and local levels for children with disabilities and their families. (3) Parent training and information activities have taken on increased importance in efforts to assist parents of a child with a disability in dealing with the multiple pressures of rearing such a child and are of particular importance in— (A) ensuring the involvement of such parents in planning and decisionmaking with respect to early intervention, educational, and transitional services; (B) achieving quality early intervention, educational, and transitional results for children with disabilities; (C) providing such parents information on their rights and protections under this Act to ensure improved early intervention, educational, and transitional results for children with disabilities; (D) assisting such parents in the development of skills to participate effectively in the education and development of their children and in the transitions described in section 674(b)(3)(C); and (E) supporting the roles of such parents as participants within partnerships seeking to improve early intervention, educational, and transitional services and results for children with disabilities and their families.	transitional services and results at the State and local levels for children with disabilities and their families.			
(4) Providers of parent training and information activities need to ensure that such				

parents who have limited access to services and supports, due to economic, cultural, or linguistic barriers, are provided with access to appropriate parent training and information activities. (5) Parents of children with disabilities need information that helps the parents to understand the rights and responsibilities of their children under part B. (6) The provision of coordinated technical assistance and dissemination of information to State and local agencies, institutions of higher education, and other providers of services to children with disabilities is essential in— (A) supporting the process of achieving systemic change; (B) supporting actions in areas of priority specific to the improvement of early intervention, educational, and transitional results for children with disabilities; (C) conveying information and assistance that are— (i) based on current research (as of the date the information and assistance are conveyed); (ii) accessible and meaningful for use in supporting systemic-change activities of State and local partnerships; and (iii) linked directly to improving early intervention, educational, and transitional services and results for children with	Current Law	S. 1248	Comments on Selected Changes
linguistic barriers, are provided with access to appropriate parent training and information activities. (5) Parents of children with disabilities need information that helps the parents to understand the rights and responsibilities of their children under part B. (6) The provision of coordinated technical assistance and dissemination of information to State and local agencies, institutions of higher education, and other providers of services to children with disabilities is essential in— (A) supporting the process of achieving systemic change; (B) supporting actions in areas of priority specific to the improvement of early intervention, educational, and transitional results for children with disabilities; (C) conveying information and assistance that are— (i) based on current research (as of the date the information and assistance are conveyed); (ii) accessible and meaningful for use in supporting systemic-change activities of State and local partnerships; and (iii) linked directly to improving early intervention, educational, and transitional	parents who have limited access to services		
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disabilities and their families; and			
(D) organizing systems and information			
networks for such information, based on			
modern technology related to—	· · · · · · · · · · · · · · · · · · ·		

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(i) storing and gaining access to information;			
and			
(ii) distributing information in a systematic			
manner to parents, students, professionals, and			
policymakers.			
(7) Federal support for carrying out technology			
research, technology development, and			
educational media services and activities has			
resulted in major innovations that have			
significantly improved early intervention,			
educational, and transitional services and			
results for children with disabilities and their			
families.			
(8) Such Federal support is needed—			
(A) to stimulate the development of software,			
interactive learning tools, and devices to			
address early intervention, educational, and			
transitional needs of children with disabilities			
who have certain disabilities;			
(B) to make information available on			
technology research, technology development,			
and educational media services and activities			
to individuals involved in the provision of			
early intervention, educational, and transitional services to children with disabilities;			
(C) to promote the integration of technology			
into curricula to improve early intervention,			
educational, and transitional results for			
children with disabilities;			
(D) to provide incentives for the development			
of technology and media devices and tools that			
are not readily found or available because of			
the small size of potential markets;			
(E) to make resources available to pay for such			

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devices and tools and educational media services and activities; (F) to promote the training of personnel— (i) to provide such devices, tools, services, and activities in a competent manner; and (ii) to assist children with disabilities and their families in using such devices, tools, services, and activities; and (G) to coordinate the provision of such devices, tools, services, and activities— (i) among State human services programs; and (ii) between such programs and private agencies.		
SEC. 681(b) PURPOSES.—The purposes of this chapter are to ensure that— (1) children with disabilities, and their parents, receive training and information on their rights and protections under this Act, in order to develop the skills necessary to effectively participate in planning and decisionmaking relating to early intervention, educational, and transitional services and in systemic-change activities; (2) parents, teachers, administrators, early intervention personnel, related services personnel, and transition personnel receive coordinated and accessible technical assistance and information to assist such persons, through systemic-change activities and other efforts, to improve early intervention, educational, and transitional services and results for children with disabilities and their families; (3) appropriate technology and media are	SEC. 670. PURPOSES. The purposes of this subpart are to ensure that— (1) children with disabilities and their parents receive training and information on their rights, responsibilities, and protections under this Act, in order to develop the skills necessary to cooperatively and effectively participate in planning and decision making relating to early intervention, educational, and transitional services; (2) parents, teachers, administrators, early intervention personnel, related services personnel, and transition personnel receive coordinated and accessible technical assistance and information to assist them in improving early intervention, educational, and transitional services and results for children with disabilities and their families; and	Current law and S. 1248 have similar purposes, but S. 1248 would eliminate purposes (4) and (5) of current law.

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researched, developed, demonstrated, and made available in timely and accessible formats to parents, teachers, and all types of personnel providing services to children with disabilities to support their roles as partners in the improvement and implementation of early intervention, educational, and transitional services and results for children with disabilities and their families; (4) on reaching the age of majority under State law, children with disabilities understand their rights and responsibilities under part B, if the State provides for the transfer of parental rights under section 615(m); and (5) the general welfare of deaf and hard-of-hearing individuals is promoted by— (A) bringing to such individuals understanding and appreciation of the films and television programs that play an important part in the general and cultural advancement of hearing individuals; (B) providing, through those films and television programs, enriched educational and cultural experiences through which deaf and hard-of-hearing individuals can better understand the realities of their environment; and (C) providing wholesome and rewarding experiences that deaf and hard-of-hearing individuals may share.	(3) appropriate technology and media are researched, developed, and demonstrated, to improve and implement early intervention, educational, and transitional services and results for children with disabilities and their families.			
SEC. 682. PARENT TRAINING AND INFORMATION CENTERS. (a) PROGRAM AUTHORIZED.—The	SEC. 671. PARENT TRAINING AND INFORMATION CENTERS. Same as current law			

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Secretary may make grants to, and enter into contracts and cooperative agreements with, parent organizations to support parent training and information centers to carry out activities under this section.		
SEC. 682(b) REQUIRED ACTIVITIES.— Each parent training and information center that receives assistance under this section shall— (1) provide training and information that meets the training and information needs of parents of children with disabilities living in the area served by the center, particularly underserved parents and parents of children who may be inappropriately identified; (2) assist parents to understand the availability of, and how to effectively use, procedural safeguards under this Act, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the mediation process described in section 615(e); (3) serve the parents of infants, toddlers, and children with the full range of disabilities; (4) assist parents to— (A) better understand the nature of their children's disabilities and their educational and developmental needs; (B) communicate effectively with personnel	SEC. 671(b) REQUIRED ACTIVITIES.— Each parent training and information center that receives assistance under this section shall— (1) provide training and information that meets the needs of parents of children with disabilities living in the area served by the center, particularly underserved parents and parents of children who may be inappropriately identified, to enable their children with disabilities to— (A) meet developmental and functional goals, and challenging academic achievement goals that have been established for all children; and (B) be prepared to lead productive independent adult lives, to the maximum extent possible; (2) serve the parents of infants, toddlers, and children with the full range of disabilities described in section 602(3); (3) assist parents to— (A) better understand the nature of their	

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responsible for providing special education, early intervention, and related services;	children's disabilities and their educational, developmental, and transitional needs; (B) communicate effectively and work collaboratively with personnel responsible for		
(C) participate in decisionmaking processes and the development of individualized education programs under part B and individualized family service plans under part	providing special education, early intervention services, transition services, and related services; (C) participate in decisionmaking processes		
C; (D) obtain appropriate information about the range of options, programs, services, and resources available to assist children with	and the development of individualized education programs under part B and individualized family service plans under part C;		
disabilities and their families;	(D) obtain appropriate information about the range, type, and quality of options, programs, services, technologies, and research based practices and interventions, and resources		
(E) understand the provisions of this Act for the education of, and the provision of early intervention services to, children with disabilities; and	available to assist children with disabilities and their families in school and at home; (E) understand the provisions of this Act for the education of, and the provision of early		
(F) participate in school reform activities; (5) in States where the State elects to contract with the parent training and information center, contract with State educational	intervention services to, children with disabilities; and (F) participate in school reform activities; (4) in States where the State elects to contract		
agencies to provide, consistent with subparagraphs (B) and (D) of section 615(e)(2), individuals who meet with parents	with the parent training and information center, contract with State educational agencies to provide, consistent with subparagraphs (B) and		
to explain the mediation process to them;	(D) of section 615(e)(2), individuals who meet with parents to explain the mediation process to the parents; (5) assist parents in resolving disputes in the		
	most expeditious and effective way possible, including encouraging the use, and explaining the benefits, of alternative methods of dispute		onal rrent

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(6) network with appropriate clearinghouses, including organizations conducting national dissemination activities under section 685(d), and with other national, State, and local organizations and agencies, such as protection and advocacy agencies, that serve parents and families of children with the full range of disabilities; and (7) annually report to the Secretary on— (A) the number of parents to whom it provided information and training in the most recently concluded fiscal year; and (B) the effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities.	resolution, such as the mediation process described in section 615(e); (6) assist parents and students with disabilities to understand their rights and responsibilities under this Act, including those under section 615(m) on the student's reaching the age of majority; (7) assist parents to understand the availability of, and how to effectively use, procedural safeguards under this Act; (8) assist parents in understanding, preparing for, and participating in, the process described in section 615(f)(1)(B); (9) establish cooperative partnerships with community parent resource centers funded under section 672; (10) network with appropriate clearinghouses, including organizations conducting national dissemination activities under section 663, and with other national, State, and local organizations and agencies, such as protection and advocacy agencies, that serve parents and families of children with the full range of disabilities described in section 602(3); and (11) annually report to the Secretary on— (A) the number and demographics of parents to whom the center provided information and training in the most recently concluded fiscal year; (B) the effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities; and	Changes		
	(C) the number of parents served who have resolved disputes through alternative methods			

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	of dispute resolution.		
parent training and information center that receives assistance under this section may— (1) provide information to teachers and other professionals who provide special education and related services to children with disabilities; (2) assist students with disabilities to understand their rights and responsibilities under section 615(m) on reaching the age of majority; and (3) assist parents of children with disabilities to be informed participants in the development and implementation of the State's State improvement plan under subpart 1. SEC. 682(d) APPLICATION REQUIREMENTS.—Each application for assistance under this section shall identify with specificity the special efforts that the applicant will undertake— (1) to ensure that the needs for training and information of underserved parents of children with disabilities in the area to be served are effectively met; and (2) to work with community-based	parent training and information center that receives assistance under this section may provide information to teachers and other professionals to assist the teachers and professionals in improving results for children with disabilities. Required activity above SEC. 671(d) APPLICATION REQUIREMENTS.—Each application for assistance under this section shall identify with specificity the special efforts that the parent organization will undertake— (1) to ensure that the needs for training and information of underserved parents of children with disabilities in the area to be served are effectively met; and (2) to work with community based organizations.		
organizations.			
SEC. 682(e) DISTRIBUTION OF FUNDS.— (1) IN GENERAL.—The Secretary shall make at least 1 award to a parent organization in each State, unless the Secretary does not receive an application from such an organization in each State of sufficient quality	SEC. 671(e) DISTRIBUTION OF FUNDS.— (1) IN GENERAL.—The Secretary shall— (A) make at least 1 award to a parent organization in each State for a parent training and information center which is designated as the statewide parent training and information		

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(2) SELECTION REQUIREMENT.—The Secretary shall select among applications submitted by parent organizations in a State in a manner that ensures the most effective assistance to parents, including parents in urban and rural areas, in the State.	center; or (B) in the case of a large State, make awards to multiple parent training and information centers, but only if the centers demonstrate that coordinated services and supports will occur among the multiple centers. (2) SELECTION REQUIREMENT.—The Secretary shall select among applications submitted by parent organizations in a State in a manner that ensures the most effective assistance to parents, including parents in urban and rural areas, in the State.	S. 1248 would add a large-state requirement for multiple centers.
SEC. 682(f) QUARTERLY REVIEW.— (1) REQUIREMENTS.— (A) MEETINGS.—The board of directors or special governing committee of each organization that receives an award under this section shall meet at least once in each calendar quarter to review the activities for which the award was made. (B) ADVISING BOARD.—Each special governing committee shall directly advise the organization's governing board of its views and recommendations. (2) CONTINUATION AWARD.—When an organization requests a continuation award under this section, the board of directors or special governing committee shall submit to the Secretary a written review of the parent training and information program conducted by the organization during the preceding fiscal year.	SEC. 671(f) QUARTERLY REVIEW.— (1) MEETINGS.—The board of directors of each parent organization that receives an award under this section shall meet at least once in each calendar quarter to review the activities for which the award was made. (2) CONTINUATION AWARD.—When an organization requests a continuation award under this section, the board of directors shall submit to the Secretary a written review of the parent training and information program conducted by the organization during the preceding fiscal year.	Similar provisions. S. 1248 would require no advising board. Similar provisions.

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SEC. 682(g) DEFINITION OF PARENT ORGANIZATION.—As used in this section, the term 'parent organization' means a private nonprofit organization (other than an institution of higher education) that— (1) has a board of directors— (A) the majority of whom are parents of children with disabilities; (B) that includes— (i) individuals working in the fields of special education, related services, and early intervention; and (ii) individuals with disabilities; and (C) the parent and professional members of which are broadly representative of the population to be served; or (2) has— (A) a membership that represents the interests of individuals with disabilities and has established a special governing committee that meets the requirements of paragraph (1); and (B) a memorandum of understanding between the special governing committee and the board of directors of the organization that clearly outlines the relationship between the board and the committee and the decisionmaking responsibilities and authority of each.	SEC. 671(g) DEFINITION OF PARENT ORGANIZATION.—As used in this section, the term 'parent organization' means a private nonprofit organization (other than an institution of higher education) that— (1) has a board of directors— (A) the majority of whom are parents of children with disabilities ages birth through 26; (B) that includes— (i) individuals working in the fields of special education, related services, and early intervention; and (ii) individuals with disabilities; (C) the parent and professional members of which are broadly representative of the population to be served; and (2) has as its mission serving families of children and youth with disabilities who— (A) are ages birth through 26; and (B) have the full range of disabilities described in section 602(3).	Similar definitions.
SEC. 683. COMMUNITY PARENT	SEC. 672. COMMUNITY PARENT	Virtually the same

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RESOURCE CENTERS. (a) IN GENERAL.—The Secretary may make grants to, and enter into contracts and cooperative agreements with, local parent organizations to support parent training and information centers that will help ensure that underserved parents of children with disabilities, including low-income parents, parents of children with limited English proficiency, and parents with disabilities, have the training and information they need to enable them to participate effectively in helping their children with disabilities— (1) to meet developmental goals and, to the maximum extent possible, those challenging standards that have been established for all children; and (2) to be prepared to lead productive independent adult lives, to the maximum	RESOURCE CENTERS. (a) IN GENERAL.—The Secretary may award grants to, and enter into contracts and cooperative agreements with, local parent organizations to support parent training and information centers that will help ensure that underserved parents of children with disabilities, including low income parents, parents of children with limited English proficiency, and parents with disabilities, have the training and information the parents need to enable the parents to participate effectively in helping their children with disabilities— (1) to meet developmental and functional goals, and challenging academic achievement goals that have been established for all children; and	provisions.		
extent possible.	independent adult lives, to the maximum extent possible.			
SEC. 683(b) REQUIRED ACTIVITIES.— Each parent training and information center assisted under this section shall— (1) provide training and information that meets the training and information needs of parents of children with disabilities proposed to be served by the grant, contract, or cooperative agreement; (2) carry out the activities required of parent training and information centers under paragraphs (2) through (7) of section 682(b); (3) establish cooperative partnerships with the	SEC. 672(b) REQUIRED ACTIVITIES.— Each community parent resource center assisted under this section shall— (1) provide training and information that meets the training and information needs of parents of children with disabilities proposed to be served by the grant, contract, or cooperative agreement; (2) carry out the activities required of parent training and information centers under paragraphs (2) through (9) of section 671(b); (3) establish cooperative partnerships with the	Virtually provisions.	the	same

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parent training and information centers funded under section 682; and (4) be designed to meet the specific needs of families who experience significant isolation from available sources of information and support.	parent training and information centers funded under section 671; and (4) be designed to meet the specific needs of families who experience significant isolation from available sources of information and support.	
SEC. 683(c) DEFINITION.—As used is this section, the term 'local parent organization' means a parent organization, as defined in section 682(g), that either— (1) has a board of directors the majority of whom are from the community to be served; or (2) has— (A) as a part of its mission, serving the interests of individuals with disabilities from such community; and (B) a special governing committee to administer the grant, contract, or cooperative agreement, a majority of the members of which are individuals from such community.	SEC. 672(c) DEFINITION.—As used in this section, the term 'local parent organization' means a parent organization, as defined in section 671(g), that— (1) has a board of directors the majority of whom are parents of children with disabilities ages birth through 26 from the community to be served; and (2) has as its mission serving parents of children with disabilities who— (A) are ages birth through 26; and (B) have the full range of disabilities described in section 602(3).	Similar definitions.
SEC. 684. TECHNICAL ASSISTANCE FOR PARENT TRAINING AND INFORMATION CENTERS. (a) IN GENERAL.—The Secretary may, directly or through awards to eligible entities, provide technical assistance for developing, assisting, and coordinating parent training and information programs carried out by parent training and information centers receiving assistance under sections 682 and 683.	SEC. 673. TECHNICAL ASSISTANCE FOR PARENT TRAINING AND INFORMATION CENTERS. (a) IN GENERAL.—The Secretary may make an award to 1 parent organization (as defined in section 671(g)) that receives assistance under section 671 to enable the parent organization to provide technical assistance for developing, assisting, and coordinating parent training and information programs carried out by parent training and information centers	S. 1248 would limit awards to 1 parent organization.

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SEC. 684(b) AUTHORIZED ACTIVITIES.— The Secretary may provide technical assistance to a parent training and information center under this section in areas such as— (1) effective coordination of parent training efforts; (2) dissemination of information;	receiving assistance under sections 671 and 672. SEC. 673(b) AUTHORIZED ACTIVITIES.— The Secretary may provide technical assistance to a parent training and information center under this section in areas such as— (1) effective national coordination of parent training efforts, which includes encouraging collaborative efforts among award recipients under sections 671 and 672;	Similar activities.	autho	orized
(3) evaluation by the center of itself;	(2) dissemination of information, scientifically based research, and research based practices and interventions;			
 (4) promotion of the use of technology, including assistive technology devices and assistive technology services; (5) reaching underserved populations; (6) including children with disabilities in general education programs; (7) facilitation of transitions from— (A) early intervention services to preschool; (B) preschool to school; and (C) secondary school to postsecondary environments; and 	 (3) promotion of the use of technology, including universally designed technologies, assistive technology devices, and assistive technology services; (4) reaching underserved populations; (5) including children with disabilities in general education programs; (6) facilitation of transitions from— (A) early intervention services to preschool; (B) preschool to elementary school; (C) elementary school to secondary school; 			
(8) promotion of alternative methods of dispute resolution.	(D) secondary school to postsecondary environments; and(7) promotion of alternative methods of dispute resolution, including mediation.			
no comparable provision	SEC. 673(c) REGIONAL PARENT	S. 1248	would	add

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	CENTERS.—The recipient of the award described in section 673(a) shall establish no fewer than 4 regional centers from the parent training and information centers and community parent resource centers receiving assistance under sections 671 and 672 for the purpose of carrying out the authorized activities described in subsection (b). These regional centers shall be selected on the basis of the center's— (1) willingness to be a regional parent center; (2) demonstrated expertise in the delivery of required parent training and information center activities described in section 671(b); (3) demonstrated capacity to deliver the authorized activities described in subsection (b); (4) history of collaboration with other parent training and information centers, community parent resource centers, regional resource centers, clearinghouses, and other projects; and (5) geographic location.	requirements for regional parent centers.
no comparable provision	SEC. 673(d) COLLABORATION WITH THE RESOURCE CENTERS.—The recipient of the award described in subsection (a), in conjunction with the regional parent centers described in subsection (c), shall develop collaborative agreements with the geographically appropriate Regional Resource Center to further parent and professional collaboration.	S. 1248 would add a requirement for collaborative agreements.
SEC. 685. COORDINATED TECHNICAL ASSISTANCE AND DISSEMINATION.		Some of the activities authorized under Sec. 685

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		Changes
(a) IN GENERAL.—The Secretary shall, by competitively making grants or entering into contracts and cooperative agreements with eligible entities, provide technical assistance and information, through such mechanisms as institutes, Regional Resource Centers, clearinghouses, and programs that support States and local entities in building capacity, to improve early intervention, educational, and transitional services and results for children with disabilities and their families, and address systemic-change goals and priorities.		of current law could possibly be carried out under Sec. 663 of S. 1248. (See above.)
SEC. 685(b) SYSTEMIC TECHNICAL ASSISTANCE; AUTHORIZED ACTIVITIES.— (1) IN GENERAL.—In carrying out this section, the Secretary shall carry out or support technical assistance activities, consistent with the objectives described in subsection (a), relating to systemic change. (2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following: (A) Assisting States, local educational agencies, and other participants in partnerships established under subpart 1 with the process of planning systemic changes that will promote improved early intervention, educational, and transitional results for children with disabilities. (B) Promoting change through a multistate or regional framework that benefits States, local educational agencies, and other participants in		

Current Law	S. 1248	Comments on Selected Changes
partnerships that are in the process of achieving systemic-change outcomes. (C) Increasing the depth and utility of information in ongoing and emerging areas of priority need identified by States, local educational agencies, and other participants in partnerships that are in the process of achieving systemic-change outcomes. (D) Promoting communication and information exchange among States, local educational agencies, and other participants in partnerships, based on the needs and concerns identified by the participants in the partnerships, rather than on externally imposed criteria or topics, regarding— (i) the practices, procedures, and policies of the States, local educational agencies, and other participants in partnerships; and (ii) accountability of the States, local educational agencies, and other participants in partnerships for improved early intervention, educational, and transitional results for children with disabilities.		
SEC. 685(c) SPECIALIZED TECHNICAL ASSISTANCE; AUTHORIZED ACTIVITIES.— (1) IN GENERAL.—In carrying out this section, the Secretary shall carry out or support activities, consistent with the objectives described in subsection (a), relating to areas of priority or specific populations. (2) AUTHORIZED ACTIVITIES.—Examples of activities that may be carried out under this		

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subsection include activities that—		
(A) focus on specific areas of high-priority		
need that—		
(i) are identified by States, local educational		
agencies, and other participants in		
partnerships;		
(ii) require the development of new		
knowledge, or the analysis and synthesis of		
substantial bodies of information not readily		
available to the States, agencies, and other		
participants in partnerships; and		
(iii) will contribute significantly to the		
improvement of early intervention,		
educational, and transitional services and		
results for children with disabilities and their		
families;		
(B) focus on needs and issues that are specific		
to a population of children with disabilities,		
such as the provision of single-State and multi-		
State technical assistance and in-service		
training—		
(i) to schools and agencies serving deaf-blind		
children and their families; and		
(ii) to programs and agencies serving other		
groups of children with low-incidence		
disabilities and their families; or		
(C) address the postsecondary education needs		
of individuals who are deaf or hard-of-hearing.		
SEC. 685(d) NATIONAL INFORMATION		
DISSEMINATION; AUTHORIZED		
ACTIVITIES.—		
(1) IN GENERAL.—In carrying out this		
section, the Secretary shall carry out or support		
section, the secretary shall earry out of support		

Current Law	S. 1248	Comments on Changes	Selected
information dissemination activities that are			
consistent with the objectives described in			
subsection (a), including activities that address			
national needs for the preparation and			
dissemination of information relating to			
eliminating barriers to systemic-change and			
improving early intervention, educational, and			
transitional results for children with			
disabilities.			
(2) AUTHORIZED ACTIVITIES.—Examples			
of activities that may be carried out under this			
subsection include activities relating to—			
(A) infants and toddlers with disabilities and			
their families, and children with disabilities			
and their families;			
(B) services for populations of children with			
low incidence disabilities, including deaf-blind			
children, and targeted age groupings;			
(C) the provision of postsecondary services to			
individuals with disabilities;			
(D) the need for and use of personnel to			
provide services to children with disabilities,			
and personnel recruitment, retention, and			
preparation;			
(E) issues that are of critical interest to State			
educational agencies and local educational			
agencies, other agency personnel, parents of			
children with disabilities, and individuals with			
disabilities;			
(F) educational reform and systemic change			
within States; and			
(G) promoting schools that are safe and			
conducive to learning.			
(3) LINKING STATES TO INFORMATION			

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SOURCES.—In carrying out this subsection, the Secretary may support projects that link States to technical assistance resources, including special education and general education resources, and may make research and related products available through libraries, electronic networks, parent training projects, and other information sources.		
SEC. 685(e) APPLICATIONS.—An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.		
SEC. 686. AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated to carry out sections 681 through 685 such sums as may be necessary for each of the fiscal years 1998 through 2002.	[See Sec. 676 below, which authorizes appropriations for sections 671, 672, 673, and 663.]	
SEC. 687. TECHNOLOGY DEVELOPMENT, DEMONSTRATION, AND UTILIZATION; AND MEDIA SERVICES. (a) IN GENERAL.—The Secretary shall competitively make grants to, and enter into contracts and cooperative agreements with, eligible entities to support activities described in subsections (b) and (c).	SEC. 674. TECHNOLOGY DEVELOPMENT, DEMONSTRATION, AND UTILIZATION; AND MEDIA SERVICES. (a) IN GENERAL.—The Secretary, on a competitive basis, shall award grants to, and enter into contracts and cooperative agreements with, eligible entities to support activities described in subsections (b) and (c).	Similar provisions.
SEC.687(b)TECHNOLOGYDEVELOPMENT,DEMONSTRATION,ANDUTILIZATION;AUTHORIZED	SEC. 674(b) TECHNOLOGY DEVELOPMENT, DEMONSTRATION, AND USE.—	

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(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities to promote the development, demonstration, and utilization of technology. (2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following: (A) Conducting research and development activities on the use of innovative and emerging technologies for children with disabilities. (B) Promoting the demonstration and use of innovative and emerging technologies for children with disabilities by improving and expanding the transfer of technology from research and development to practice. (C) Providing technical assistance to recipients of other assistance under this section, concerning the development of accessible, effective, and usable products. (D) Communicating information on available technology and the uses of such technology to assist children with disabilities. (E) Supporting the implementation of research programs on captioning or video description. (F) Supporting research, development, and dissemination of technology with universal-design features, so that the technology is accessible to individuals with disabilities without further modification or adaptation. (G) Demonstrating the use of publicly-funded telecommunications systems to provide parents and teachers with information and training	(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities to promote the development, demonstration, and use of technology. (2) AUTHORIZED ACTIVITIES.—The following activities may be carried out under this subsection: (A) Conducting research on and promoting the demonstration and use of innovative, emerging, and universally designed technologies for children with disabilities, by improving the transfer of technology from research and development to practice. (B) Supporting research, development, and dissemination of technology with universal design features, so that the technology is accessible to the broadest range of individuals with disabilities without further modification or adaptation. (C) Demonstrating the use of systems to provide parents and teachers with information and training concerning early diagnosis of, intervention for, and effective teaching strategies for, young children with reading disabilities. (D) Supporting the use of Internet-based communications for students with cognitive disabilities in order to maximize their academic and functional skills.	Current law and S. 1248 authorize substantially different technology activities.

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concerning early diagnosis of, intervention for, and effective teaching strategies for, young children with reading disabilities.		
SEC. 687(c) EDUCATIONAL MEDIA SERVICES; AUTHORIZED ACTIVITIES.— In carrying out this section, the Secretary shall support—	SEC. 674(c) EDUCATIONAL MEDIA SERVICES; OPTIONAL ACTIVITIES.—In carrying out this section, the Secretary shall support— (1) IN GENERAL.—In carrying out this section, the Secretary shall support—	The activities under S. 1248 would differ in some respects.
(1) educational media activities that are designed to be of educational value to children with disabilities; (2) providing video description, open captioning, or closed captioning of television programs, videos, or educational materials through September 30, 2001; and after fiscal	(A) educational media activities that are designed to be of educational value in the classroom setting to children with disabilities; (B) providing video description, open captioning, or closed captioning, that is appropriate for use in the classroom setting, of-	
year 2001, providing video description, open captioning, or closed captioning of educational, news, and informational television, videos, or materials;	(i) television programs; (ii) videos; (iii) other materials, including programs and materials associated with new and emerging technologies, such as CDs, DVDs, video streaming, and other forms of multimedia; or	
(3) distributing captioned and described videos or educational materials through such mechanisms as a loan service; (4) providing free educational materials, including textbooks, in accessible media for visually impaired and print disabled students in elementary, secondary, postsecondary, and	(iv) news (but only until September 30, 2006); (C) distributing materials described in subparagraphs (A) and (B) through such mechanisms as a loan service; and (D) providing free educational materials, including textbooks, in accessible media for visually impaired and print disabled students in	
graduate schools; (5) providing cultural experiences through appropriate nonprofit organizations, such as the National Theater of the Deaf, that—	elementary schools and secondary schools.	S. 1248 would eliminate activities (5) and (6), which are required under

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(A) enrich the lives of deaf and hard-of-hearing children and adults; (B) increase public awareness and understanding of deafness and of the artistic and intellectual achievements of deaf and hard-of-hearing persons; or (C) promote the integration of hearing, deaf, and hard-of-hearing persons through shared cultural, educational, and social experiences; and (6) compiling and analyzing appropriate data relating to the activities described in paragraphs (1) through (5). No comparable provision.	(2) LIMITATIONThe video description, open captioning, or closed captioning described in paragraph (1)(B) shall only be provided when the description or captioning has not been previously provided by the producer or distributor; or has been fully funded by other sources.	current law.
SEC. 687(d) APPLICATIONS.—Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.	Same as current law	
SEC. 687(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the	SEC. 674(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the	S. 1248 would make technical changes.

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fiscal years 1998 through 2002.	fiscal years 2004 through 2009.	
no comparable section	SEC. 675. ACCESSIBILITY OF INSTRUCTIONAL MATERIALS. (a) INSTRUCTIONAL MATERIALS ACCESSIBILITY STANDARD.— (1) ACCESSIBILITY STANDARD.—Not later than 180 days after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2003, the Secretary shall, by rulemaking, promulgate an Instructional Materials Accessibility Standard which shall constitute the technical standards to be used by publishers for the preparation of electronic files for States under section 612(a)(22). (2) RELATIONSHIP TO OTHER LAWS.—For purposes of this section: (A) AUTHORIZED ENTITY.—Notwithstanding the provisions of section 106 of title 17, United States Code, it is not an infringement of copyright for an authorized entity to reproduce or to distribute copies of the electronic files described in section 612(a)(22)(B), containing the contents of the print instructional materials using the Instructional Materials Accessibility Standard, if such copies are used solely for reproduction or distribution of the contents of such print instructional materials in specialized formats designed exclusively for use by the blind or other persons with print disabilities. (B) PUBLISHER.—Notwithstanding the provisions of section of 106 of title 17, United States Code, it is not an infringement of	S. 1248 would add a section on instructional materials accessibility.

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	copyright for a publisher to create and	
	distribute copies of the electronic file	
	described in section 612(a)(22)(B), containing	- 1
	the contents of the print instructional material	
	using the Instructional Material Accessibility	
	Standard, if such copies are used solely fo	
	reproduction or distribution of the contents o	
	such print instructional materials in specialized	
	formats designed exclusively for use by the	٥
	blind or other persons with print disabilities.	
	(C) COPIES.—Copies of the electronic file	
	containing the contents of the prin	
	instructional materials using the Instructiona	
	Materials Accessibility Standard shall be made	
	in compliance with the provisions of section	
	121(b) of title 17, United States Code	
	regarding the reproduction and distribution o	
	copyrighted print instructional materials in	1
	specialized formats.	
	(3) DEFINITIONS.—In this section:	
	(A) INSTRUCTIONAL MATERIALS	
	ACCESSIBILITY STANDARD.—The term	1
	'Instructional Materials Accessibility	' I
	Standard' means the technical standard	s
	described in paragraph (2), to be used in the	e
	preparation of electronic files suitable and used	1
	solely for efficient conversion into specialized	ı l
	formats.	
	(B) BLIND OR OTHER PERSONS WITH	I
	PRINT DISABILITIES.—The term 'blind o	r
	other persons with print disabilities' mean	s
	children served under this Act and who may	y
	qualify in accordance with the Act entitled Ar	
	Act to provide books for the adult blind"	

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	approved March 3, 1931 (2 U.S.C. 135a; Stat. 1487) to receive books and of publications produced in specialized format (C) SPECIALIZED FORMATS.—The trival specialized formats has the meaning given the term in section 121(c)(3) of title 17, Unstates Code, and for the purposes of section, includes synthesized speech, digaudio, and large print. (D) PRINT INSTRUCTION MATERIALS.—The term 'print instruction materials' means printed textbooks and religionated core materials that are written published primarily for use in element school and secondary school instruction are required by a State educational agency local educational agency for use by pupil the classroom. (E) AUTHORIZED ENTITY.—The trivalthorized entity' has the meaning given term in section 121(c)(1) of title 17, Unstates Code. (4) APPLICABILITY.—This section sapply to print instructional materials publis and copyrighted after the date on which final rule establishing the Instruction Materials Accessibility Standard is publis in the Federal Register.	ther its. term iven nited this gital NAL onal ated and atary and y or is in the nited shall shed the onal
	SEC. 675(b) NATIONAL INSTRUCTION MATERIALS ACCESS CENTER.— (1) ESTABLISHMENT.—Not later that years after the date of enactment of Individuals with Disabilities Educa	n 2 the

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	Improvement Act of 2003, the Secretary shall	
	establish a center, to be known as the National	
	Instructional Materials Access Center, which	
	shall coordinate the acquisition and	
	distribution of print instructional materials	
	prepared in the Instructional Materials	
	Accessibility Standard described in subsection	
	(a)(2).	
	(2) RESPONSIBILITIES.—The duties of the	
	National Instructional Materials Access Center	
	are the following:	
	(A) To receive and maintain a catalog of print	
	instructional materials made available under	
	section 612(a)(22) and section 613(a)(6).	
	(B) To provide authorized entities with access	
	to such print instructional materials, free of	
	charge, in accordance with such terms and	
	procedures as the National Instructional	
	Materials Access Center may prescribe.	
	(C) To develop, adopt, and publish procedures	
	to protect against copyright infringement and	
	otherwise to administratively assure	
	compliance with title 17, United States Code,	
	with respect to the print instructional materials	
	provided under section 612(a)(22) and section	
	613(a)(6).	
	(3) CONTRACT AUTHORIZED.—To assist	
	in carrying out paragraph (1), the Secretary	
	shall award, on a competitive basis, a contract	
	renewable on a biennial basis with a nonprofit	
	organization, or with a consortium of such	
	organizations, determined by the Secretary to	
	be best qualified to carry out the	
	responsibilities described in paragraph (2). The	

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	contractor shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services. (4) AUTHORIZATION OF APPROPRIATIONS.— There are authorized to be appropriated to carry out this subsection such sums as may be necessary.	
Current law locates authorizations of appropriations within relevant subparts or chapters.		
no comparable subpart	Subpart 4—Interim Alternative Educational Settings, Behavioral Supports, and Whole School Interventions SEC. 681. PURPOSE. The purpose of this subpart is to authorize resources to foster a safe learning environment that supports academic achievement for all students by improving the quality of interim alternative educational settings, providing more behavioral supports in schools, and supporting whole school interventions.	S. 1248 would add a subpart to support safe learning environments.
	SEC. 682. DEFINITION OF ELIGIBLE ENTITY. In this subpart, the term 'eligible entity' means— (1) a local educational agency; or (2) a consortium consisting of a local educational agency and 1 or more of the following entities:	

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	 (A) another local educational agency; (B) a community-based organization with a demonstrated record of effectiveness in helping children with disabilities who have behavioral challenges succeed; (C) an institution of higher education; (D) a mental health provider; or (E) an educational service agency. 	
	SEC. 683. PROGRAM AUTHORIZED. The Secretary is authorized to award grants, on a competitive basis, to eligible entities to enable the eligible entities— (1) to establish or expand behavioral supports and whole school behavioral interventions by providing for effective, research-based practices, including— (A) comprehensive, early screening efforts for students at risk for emotional and behavioral difficulties; (B) training for school staff on early identification, prereferral, and referral procedures; (C) training for administrators, teachers, related services personnel, behavioral specialists, and other school staff in whole school positive behavioral interventions and supports, behavioral intervention planning, and classroom and student management techniques; (D) joint training for administrators, parents, teachers, related services personnel, behavioral specialists, and other school staff on effective strategies for positive behavioral interventions	

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Current Law	and behavior management strategies that focu on the prevention of behavior problems; (E) developing or implementing specificurricula, programs, or interventions aimed a addressing behavioral problems; (F) stronger linkages between schoolbases services and community-based resources, such as community mental health and primary car providers; or (G) using behavioral specialists, related services personnel, and other staff necessary to implement behavioral supports; or (2) to improve interim alternative educational settings by— (A) improving the training of administrators teachers, related services personnel, behavioral specialists, and other school staff (including ongoing mentoring of new teachers); (B) attracting and retaining a high quality diverse staff; (C) providing for on-site counseling services; (D) using research-based interventions curriculum, and practices; (E) allowing students to use instructional technology that provides individualized instruction; (F) ensuring that the services are fully consistent with the goals of the individual	Changes S Canada Canad
	student's IEP; (G) promoting effective case management and collaboration among parents, teachers physicians, related services personnel behavioral specialists, principals administrators, and other school staff;	5,

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	(H) promoting interagency coordination and coordinated service delivery among schools, juvenile courts, child welfare agencies, community mental health providers, primary care providers, public recreation agencies, and community-based organizations; or (I) providing for behavioral specialists to help students transitioning from interim alternative educational settings reintegrate into their regular classrooms.	
	SEC. 684. PROGRAM EVALUATIONS. (a) REPORT AND EVALUATION.—Each eligible entity receiving a grant under this subpart shall prepare and submit annually to the Secretary a report on the outcomes of the activities assisted under the grant. (b) BEST PRACTICES ON WEBSITE.—The Secretary shall make available on the Department's website information for parents, teachers, and school administrators on best practices for interim alternative educational settings, behavior supports, and whole school intervention.	
	SEC. 685. AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated to carry out this subpart \$50,000,000 for fiscal year 2004 and such sums as may be necessary for each of the 5 succeeding fiscal years.	

CRS-362 **Table 5. AMENDMENTS TO OTHER PROGRAMS**

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	TITLE II—AMENDMENTS TO THE REHABILITATION ACT OF 1973	Title II of S. 1248 would make several amendments to the Rehabilitation Act of 1973.
Section 2(a) sets forth six findings of Congress with respect to persons with disabilities	SEC. 201. FINDINGS. Section 2(a) of the Rehabilitation Act of 1973 (29 U.S.C. 701(a)) is amended— (1) in paragraph (5), by striking "and" at the end;2) in paragraph (6), by striking the period and inserting "; and"; and (3) by adding at the end the following: "(7) there is a substantial need to improve and expand services for students with disabilities under this Act.	S. 1248 would add a finding.
Section 7 defines terms in the Act	SEC. 202. DEFINITIONS. Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705) is amended— (1) by redesignating paragraphs (35) through (39) as paragraphs (36), (37), (40), and (41), respectively; (2) in subparagraph (A)(ii) of paragraph (36) (as redesignated in paragraph (1)), by striking "paragraph (36)(C)" and inserting "paragraph (37)(C)"; and (3) by inserting after paragraph (34) the following: (35)(A) The term 'student with a disability' means an individual with a disability who—	S. 1248 would add a definition of a "student with a disability."

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	(i) is not younger than 14 and not older than 21; (ii) has been determined to be eligible under section 102(a) for assistance under this title; and (iii)(I) is eligible for, and is receiving, special education under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); or (II) is an individual with a disability, for purposes of section 504. (B) The term 'students with disabilities' means more than 1 student with a disability. (4) by inserting after paragraph (38) the following: (39) The term 'transition services expansion year' means- (A) the first fiscal year for which the amount appropriated under section 100(b) exceeds the amount appropriated under section 100(b) for fiscal year 2004 by not less than \$100,000,000; and (B) each fiscal year subsequent to that first fiscal year.		
Section 100(b) authorizes funds to states for vocational rehabilitation (VR) services under Title I of the Act.	No comparable provision.		
Section 101(a)(15)(A)(i) requires the state plan to describe the rehabilitation needs of individuals with disabilities and specifies certain categories of individuals: ! individuals with the most	SEC. 203. STATE PLAN. (a) ASSESSMENT AND STRATEGIES.—Section 101(a)(15) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(15)) is amended— (1) in subparagraph (A)(i)— (A) in subclause		

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significant disabilities; ! minority individuals with disabilities who are unserved or underserved; and ! individuals identified by the workforce investment system. Strategies to Address Achievement of Goals. Section 101(a)(15) (D) requires the state plan to describe strategies to address needs identified in the state's assessment of its achievement of goals and priorities.	(II), by striking "and" at the end; (B) in subclause (III), by adding "and" at the end; and (C) by adding at the end the following: "(IV) in a transition services expansion year, students with disabilities, including their need for transition services;"; and (2) in subparagraph (D)— (A) by redesignating clauses (iii), (iv), and (v) as clauses (iv), (v), and (vi), respectively; and (B) by inserting after clause (ii) the following: "(iii) in a transition services expansion year, the methods to be used to improve and expand vocational rehabilitation services for students with disabilities, including the coordination of services designed to facilitate the transition of	Section 204(a) would add a new provision to require the state plan to assess the needs of students with disabilities, including their need for transition services.
no comparable provision	such students from the receipt of educational services in school to the receipt of vocational rehabilitation services under this title or to postsecondary education or employment.". (b) SERVICES FOR STUDENTS WITH DISABILITIES.— Section 101(a) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)) is amended by adding at the end the following: (25) SERVICES FOR STUDENTS WITH DISABILITIES.—The State plan for a transition services expansion year shall provide an assurance satisfactory to the Secretary that the State— (A) has developed and implemented strategies	S. 1248 would add a new provision to require the state plan to assure that the state has developed and implemented strategies to address transition needs of students with disabilities, achieve the goals and priorities identified by the state, and improve and expand VR services for students with disabilities on a statewide basis.
	to address the needs identified in the assessment described in paragraph (15), and achieve the goals and priorities identified by the State, to improve and expand vocational	It also would require that

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	rehabilitation services for students with disabilities on a statewide basis in accordance with paragraph (15); and (B) from funds reserved under section 110A, shall to carry out programs or activities designed to improve and expand vocational rehabilitation services for students with disabilities that— (i) facilitate the transition of the students with disabilities from the receipt of educational services in school, to the receipt of vocational rehabilitation services under this title, including, at a minimum, those services specified in the interagency agreement required in paragraph (11)(D); (ii) improve the achievement of postschool goals of students with disabilities, including improving the achievement through participation in meetings regarding individualized education programs developed under section 614 of the Individuals with Disabilities Education Act (20 U.S.C. 1414); (iii) provide vocational guidance, career exploration services, and job search skills and strategies and technical assistance to students with disabilities; (iv) support the provision of training and technical assistance to State and local educational agency and designated State agency personnel responsible for the planning and provision of services to students with disabilities; and (v) support outreach activities to students with disabilities who are eligible for, and need,	appropriated under the new authorization of appropriations to improve and expand VR services for students with

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	services under this title.	
Vocational Rehabilitation for Individuals. Section 103(a) describes the VR services to be provided under Title I of the Act. These services include transition services for students with disabilities to achievement of employment outcomes identified in individual plans for employment (IPEs). Vocational Rehabilitation for Groups of Individuals. Section 103(b) describes VR services to include consultation and technical assistance to educational agencies in planning for transition of students with disabilities.	SEC. 204. SCOPE OF SERVICES. Section 103 of the Rehabilitation Act of 1973 (29 U.S.C. 723) is amended— (1) in subsection (a), by striking paragraph (15) and inserting the following: "(15) transition services for students with disabilities, that facilitate the achievement of the employment outcome identified in the individualized plan for employment, including, in a transition services expansion year, services described in clauses (i) through (iii) of section 101(a)(25)(B);" and (2) in subsection (b), by striking paragraph (6) and inserting the following: "(6)(A)(i) Consultation and technical assistance services to assist State and local educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment. (ii) In a transition services expansion year, training and technical assistance described in section 101(a)(25)(B)(iv). (B) In a transition services expansion year, services for groups of individuals with disabilities who meet the requirements of clauses (i) and (iii) of section 7(35)(A), including services described in clauses (i), (ii), (iii), and (v) of section 101(a)(25)(B), to assist in the transition from school to post-school activities.	Act to specify that transition services include services identified under the bill. S. 1248 would specify that consultation and technical assistance
Section 106 requires the Commissioner to establish and publish standards and	SEC. 205. STANDARDS AND INDICATORS. Section 106(a) of the	

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performance indicators for Title I of the Act. It requires that effective July 1, 1999, standards and indicators be consistent with the core indicators under the Workforce Investment Act (WIA).	Rehabilitation Act of 1973 (29 U.S.C. 726(a)) is amended by striking paragraph (1)(C) and all that follows through paragraph (2) and inserting the following: (2) MEASURES.—The standards and indicators shall include outcome and related measures of program performance that— (A) facilitate the accomplishment of the purpose and policy of this title;	date. It would also add that the measures be consistent with the corresponding state-adjusted levels of performance under WIA.
No provision.	(B) to the maximum extent practicable, are consistent with the core indicators of performance, and corresponding State adjusted levels of performance, established under section 136(b) of the Workforce Investment Act of 1998 (29 U.S.C. 2871(b)); and (C) include measures of the program's performance with respect to the transition to post-school activities, and achievement of the post-school goals, of students with disabilities served under the program.	The bill adds a new provision that measures of performance include the program's performance on transition to post-school activities and achievement of post-school goals of students served under the program.
	SEC. 206 RESERVATION FOR EXPANDED TRANSITION SERVICES "The Rehabilitation Act of 1973 is amended by inserting after section 110 (29 U.S.C. 730) the following: 'Section 110A. Reservation for expanded transition services. '(a) ReservationFrom the State allotment under section 110 in a transition services expansion year, each State shall reserve an amount calculated by the Commissioner under subsection (b) to carry out programs and	

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	activities under sections 101(a)(25)(B) an 103(b)(6). '(b) CalculationThe Commissioner shall calculate the amount to be reserved for such programs and activities for a fiscal year beach State by multiplying \$50,000,000 by the percentage determined by dividing— '(1) the amount allotted to that State under section 110 for the prior fiscal year; by '(2) the total amount allotted to all State under section 110 for that prior fiscal year.	l h y e	
	SEC. 207 CONFORMING AMENDMENT. Section 1(b) of the Rehabilitation Act of 197 is amended by inserting after the item relating to section 110 the following: "Sec. 110A. Reservation for expanded transition services."	3 g	
	TITLE III—NATIONAL CENTER FOI SPECIAL EDUCATION RESEARCH SEC. 301. NATIONAL CENTER FOI SPECIAL EDUCATION RESEARCH.		
	(a) AMENDMENT.—The Education Science Reform Act of 2002 (20 U.S.C. 9501 et seq.) is amended— (1) by redesignating part E as part F; and (2 by inserting after part D the following:	S Part E to the Education Sciences Reform Act of	
	PART E—NATIONAL CENTER FOI SPECIAL EDUCATION RESEARCH SEC. 175. ESTABLISHMENT. (a) ESTABLISHMENT.—There is establishe		

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	in the Institute a National Center for Special Education Research. (b) MISSION.—The mission of the National Center for Special Education Research (in this part referred to as the 'Special Education Research Center') is— (1) to sponsor research to expand knowledge and understanding of the needs of infants, toddlers, and children with disabilities in order to improve the developmental, educational, and transitional results of such individuals; (2) to sponsor research to improve services provided under, and support the implementation of, the Individuals with Disabilities Education Act; and (3) to evaluate the implementation and effectiveness of the Individuals with Disabilities Education Act in coordination with the National Center for Education Evaluation and Regional Assistance. (c) APPLICABILITY OF EDUCATION SCIENCES REFORM ACT OF 2002.—Parts A and F, and the standards for peer review of applications and for the conduct and evaluation of research under sections 133(a) and 134, respectively, shall apply to the Secretary, the Director, and the Commissioner in carrying out this part.	
	SEC. 176. COMMISSIONER FOR SPECIAL EDUCATION RESEARCH. The Center shall be headed by a Commissioner for Special Education Research (in this part referred to as 'the Special Education Research	

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	Commissioner') who shall have substantiknowledge of the Special Education Research Center's activities, including a high level expertise in the fields of research, research management, and the education of children with disabilities.	ch of ch
	SEC. 177. DUTIES. (a) GENERAL DUTIES.—The Specific Education Research Center shall carry of research activities under this part consists with the mission described in section 175(blue such as activities that— (1) improve services provided under the Individuals with Disabilities Education Act order to improve— (A) academic achievement, function outcomes, and educational results for children with disabilities; and (B) developmental outcomes for infants and toddlers; (2) identify scientifically based education practices that support learning and improvacademic achievement, functional outcome and educational results for all students with disabilities; (3) examine the special needs of preschoaged children, infants, and toddlers with disabilities, including factors that may result developmental delays; (4) identify scientifically based related service and interventions that promote participation and progress in the general education settings;	out ent o), he in all en all en es on es on

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	(5) improve the alignment, compatibility, and			
	development of valid and reliable assessments,			
	including alternate assessments, as required by			
	section 1111(b) of the Elementary and			
	Secondary Education Act of 1965;			
	(6) examine State content standards and			
	alternate assessments for students with			
	significant cognitive impairment in terms of			
	academic achievement, individualized			
	instructional need, appropriate education			
	settings, and improved post-school results;			
	(7) examine the educational, developmental,			
	and transitional needs of children with high			
	incidence and low incidence disabilities;			
	(8) examine the extent to which			
	overidentification and underidentification of			
	children with disabilities occurs, and the			
	causes thereof;			
	(9) improve reading and literacy skills of			
	children with disabilities;			
	(10) examine and improve secondary and			
	postsecondary education and transitional			
	outcomes and results for children with			
	disabilities;			
	(11) examine methods of early intervention for			
	children with disabilities, including children			
	with multiple or complex developmental			
	delays;			
	(12) examine and incorporate universal design			
	concepts in the development of standards,			
	assessments, curricula, and instructional			
	methods as a method to improve educational			
	and transitional results for children with			
	disabilities;			

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	(13) improve the preparation of person including early intervention personnel, provide educational and related service children with disabilities to increase academic achievement and function performance of students with disabilities; (14) examine the excess costs of educational child with a disability and expenses associate with high cost special education and reservices; (15) help parents improve educational refor their children, particularly related transition issues; and (16) address the unique needs of children significant cognitive disabilities.	who es to the ional a iated lated esults d to
	(b) STANDARDS.—The Commissioner Special Education Research shall ensure activities assisted under this section— (1) conform to high standards of quaintegrity, accuracy, validity, and reliability (2) are carried out in conjunction with standards for the conduct and evaluation or research and development established by National Center for Education Research; and (3) are objective, secular, neutral, nonideological, and are free of par political influence, and racial, cultural, generations.	that ality, ; the of all the ond and tisan
	(c) PLAN.—The Commissioner of Sp Education Research shall propose to Director a research plan, developed collaboration with the Assistant Secretary Special Education and Rehabilitative Serv	the l in y for

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	that— (1) is consistent with the priorities and mission of the Institute and the mission of the Special Education Research Center; (2) is carried out, updated, and modified, as appropriate; (3) is consistent with the purpose of the Individuals with Disabilities Education Act; (4) contains an appropriate balance across all age ranges and types of children with disabilities; (5) provides for research that is objective and uses measurable indicators to assess its progress and results; (6) is coordinated with the comprehensive plan developed under section 661 of the Individuals with Disabilities Education Act; and (7) provides that the research conducted under part D of the Individuals with Disabilities Education Act is relevant to special education practice and policy.		
	(d) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—In carrying out the duties under this section, the Director may award grants to, or enter into contracts or cooperative agreements with, eligible entities. (e) APPLICATIONS.—An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this part shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.		

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	(f) DISSEMINATION.—The Sp Education Research Center shall— (1) synthesize and disseminate, through National Center for Education Evaluation Regional Assistance, the findings and re of special education research conducte supported by the Special Education Research Center; and (2) assist the Director in the preparation biennial report, as described in section 119 (g) AUTHORIZATION APPROPRIATIONS.—There are author to be appropriated to carry out this part sums as may be necessary for each of the years 2004 through 2009.	on and esults ed or earch of a OF orized such
	(b) CONFORMING AMENDMENTS.— (1) EDUCATION SCIENCES REFORM OF 2002.—The Education Sciences Re Act of 2002 (20 U.S.C. 9501 et seq amended— (C) in section 111(b)(1)(A) U.S.C. 9511(b)(1)(A)), by inserting special education" after "early child education". (B) in section 111(c)(3) U.S.C. 9511(c)(3))— (i) in subparagraph by striking "and" after the semicolon; (subparagraph (C), by striking the period inserting "; and"; and (iii) by adding a end the following: (D) the National Center for Special Educ Research (as described in part E)."; (C) section 115(a) (20 U.S.C. 9515(a)), by strictly including those" and all that follows thr "such as" and inserting "including the	eform [a.) is [b.] (20 "and hood (20 [a. (B), ii) in l and out the eation [b.] in iking rough

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	associated with the goals and requirements the Elementary and Secondary Education A of 1965 (20 U.S.C. 6301 et seq.), the Individuals with Disabilities Education Act (2 U.S.C. 1400 et seq.), and the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), such as "; and (D) in section 116(c)(4)(A)(ii) (2 U.S.C. 9516(c)(4)(A)(ii) is amended the inserting "special education experts," aftically childhood experts,	ct he 20 con ch 20 coy
	(2) ELEMENTARY AND SECONDAR EDUCATION ACT OF 1965.—Section 1117(a)(3) of the Elementary and Secondar Education Act of 1965 (20 U.S.C. 6317(a)(3) is amended by striking "part E" and inserting "part D" and in	on ry S))
	(c) TRANSITION PROVISIONS.— (ORDERLY TRANSITION.—Notwithstanding any other provision of law, the Secretary Education shall take such steps as a necessary to provide for the orderly transition to, and implementation of, part E of the Education Science Reform Act of 2002, senacted by subsection (a), from research activities carried out under section 672 of the Individuals with Disabilities Education Act (such section was in effect on the day before the date of enactment of this Act). (2) CONTINUATION OF AWARDS.—The Secretary of Education shall continue research awards made under section 672 of the Individuals with Disabilities Education Act (such section was in effect on the day before the such section was in effect on the day before the	ng of re on he as ch he as he he he as

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	date of enactment of this Act) that are in effect on the day before the date of enactment of the Act in accordance with the terms of the awards. (d) EFFECTIVE DATES.—Notwithstanding any other provision of law— (1) the amendments made by subsections (and (b) of this section shall take effect October 1, 2004; and (2) section 672 of the Individuals with Disabilities Education Act (as such section with in effect on the day before the date enactment of this Act) shall remain in effect through September 30, 2004	a) on th as of
	UNIVERSAL DESIGN AND TH ACCESSIBILITY OF CURRICULU AND INSTRUCTIONAL MATERIAL	Design and Accessibility. S N E
	(a) ESTABLISHMENT AND PURPOSE.— (1) ESTABLISHMENT.—There is establish a Commission (hereafter in this section referred to as the "Commission") to stude evaluate, and make appropriate recommendations to the Congress and to the Secretary on universal design and accessibility of curriculum and instructional materials of the use by all children, with a particular focus of children with disabilities, in elementation of the congress and the secondary schools.	on y, tte ne tty or on

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	(2) PURPOSE.—The purpose of the	Changes		
	Commission is—			
	(A) to survey the issues related to improving			
	access to curriculum and instructional			
	materials for children with disabilities, with			
	and without assistive technologies;			
	(B) to study the benefits, current or potential			
	costs, and challenges of developing and			
	implementing a standard definition of the term			
	universal design as a means to achieve			
	accessibility of curriculum and instructional			
	materials, and as the Commission determines			
	necessary, to recommend a definition for the			
	term universal design, or other terms, taking			
	into consideration educational objectives,			
	investment of resources, state of technology,			
	and effect on development of curriculum and instructional materials;			
	(C) to examine issues related to the need for			
	and current availability and accessibility of			
	curriculum and instructional materials for use			
	in elementary schools and secondary schools			
	by children with disabilities, gaps in or			
	conflicts among relevant technical standards,			
	educational quality, availability of instructional			
	materials, technical standards, intellectual			
	property rights, and the economic and			
	technical feasibility of implementing any			
	recommended definitions; and			
	(D) to provide the Congress and the Secretary,			
	not later than 24 months after the date of			
	enactment of this Act, the report described in			
	subsection (d).			

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	(b) MEMBERSHIP.—		<u> </u>
	(1) COMPOSITION.—The Commission shall		
	be composed of 21 members, of which—		
	(A) 3 members shall be appointed by the		
	Majority Leader of the Senate;		
	(B) 2 members shall be appointed by the		
	Minority Leader of the Senate;		
	(C) 3 members shall be appointed by the	;	
	Speaker of the House of Representatives; (D) 2		
	members shall be appointed by the Minority	7	
	Leader of the House;		
	(E) 8 members shall be appointed by the		
	Secretary including representatives of States		
	local educational agencies, publishers of		
	instructional material, individuals with		
	disabilities, technical standard setting bodies,		
	and authorized entities as defined in section	1	
	121(c)(1) of title 17, United States Code; and		
	(F) 3 members shall be appointed by the		
	Registrar of Copyrights.		
	(2) EXPERTISE OF COMMISSIONERS.—		
	All members of the Commission shall be		
	individuals who have been appointed on the		
	basis of technical qualifications, professional		
	expertise, and demonstrated knowledge and		
	shall include at least 4 representatives of each	1	
	of the following:		
	(A) publishers of instructional materials		
	including of textbooks, software, and other	I I	
	print, electronic, or digital curricular materials;	I I	
	(B) elementary and secondary education		
	including teachers, special educators, and State		
	and local education officials or administrators;		
	(C) researchers in the fields of disabilities.		

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	technology, and accessible media;		
	(D) experts in intellectual property rights; and		
	(E) advocates of children with disabilities,		
	including parents of blind, visually impaired,		
	deaf, hearing impaired, physically challenged,		
	cognitively impaired, or learning disabled, or		
	representatives of organizations that advocate		
	for such children.		
	(3) DATE.—The appointment of the members		
	of the Commission shall be made not later than		
	60 days after the date of enactment of this Act.		
	(4) PERIOD OF APPOINTMENT AND		
	VACANCIES.—Members shall be appointed		
	for the life of the Commission. Any vacancy in		
	the Commission		
	shall not affect its powers, but shall be filled in		
	the same manner as the original appointment.		
	(5) INITIAL MEETING.—Not later than 45		
	days after the date on which all members of the		
	Commission have been appointed, the		
	Commission shall hold the Commission's first		
	meeting.		
	(6) MEETINGS.—The Commission shall meet		
	at the call of the Chairperson.		
	(7) QUORUM.—A majority of the members		
	of the Commission shall constitute a quorum,		
	but a lesser number of members may hold		
	hearings.		
	(8) CHAIRPERSON AND VICE		
	CHAIRPERSON.— The Commission shall		
	select a chairperson and vice chairperson from		
	among the members of the Commission.		
	(c) DUTIES OF THE COMMISSION The		
	Commission shall study and make		

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	recommendations to Congress and the	e
	Secretary regarding	
	(1) the purposes of the Commission described	1
	in subsection (a)(2);	
	(2) priority topics for additional research;	
	(3) the availability and accessibility o	f
	curricula and instructional materials, including	3
	print, software, CD-ROM, video, Internet, fo	r
	use in elementary and secondary schools by	y
	students with disabilities, including-	
	(A) the numbers of affected students, by	y
	grade, age, and type of disability;	
	(B) the technical and other means by which	n
	such materials are made accessible, such a	s
	assistive technologies, electronic versions	,
	large print, closed captioning, video	
	description, and Braille, and any conflict	s
	between relevant technical standards by which	
	instructional materials are made accessible;	
	(C) the steps taken by State and loca	1
	educational agencies to support accessibility	,
	including through State adoption and	
	procurement policies, the acquisition and	d l
	integration of assistive technology, and any	
	State and local requirements or standards;	
	(D) timeliness of receipt of such materials by	v I
	disabled students; and	
	(E) continued barriers to access; and	
	(4) the potential and likely effects of providing	2
	accessible or universally designed materials fo	- 1
	all students in elementary and secondary	
	schools, with a particular focus on student	
	with disabilities, including	
	(A) an analysis of the current and potentia	1

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	costs to develop and provide accessiinstructional materials, with and with specialized formats, to publishers, States, lo educational agencies, schools, and other broken down by - (i) type of disability, including physic sensory, and cognitive disability; (ii) type of instructional materials, including grade and by basal and supplemental material (iii) type of media, including print, electror software, web-based, audio, and video; and (B) an analysis of the effects of a recommended definitions on - (i) the availability and quality of instruction materials for non-disabled students, a innovation in the development and delivery these materials; (ii) State learning content standards that media-, skill- or pedagogically-based and materials and impact on State and local budgets; and (iv) intellectual property rights in connecti with the development, distribution, and use curriculum and instructional materials. (d) PUBLIC HEARINGS.—As part of study conducted under this subsection, Commission shall hold public hearin including through the use of the Internet other technologies, for the purposes referred in subsection (a).	ole out cal ars, al, by ls; ic, my hal had of are hay the on of the che gs, or
	(e) REPORT.— (1) INTERIM REPORT.—Not later than	12

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	months after the establishment of the			
	Commission, the Commission shall provide to			
	the Secretary and Congress an interim report			
	on the Commission's activities during the			
	Commission's first year and any preliminary			
	findings.			
	(2) FINAL REPORT.—Not later than 24			
	months after the establishment of the			
	Commission, the Commission shall submit a			
	report to the Secretary and Congress that shall			
	contain—			
	(A) recommendations determined necessary			
	regarding definitions of the terms described in			
	subsection (a)(2)(B);			
	(B) recommendations for additional research;			
	and			
	(C) a detailed statement of the findings and			
	conclusions of the Commission resulting from			
	the study of the issues identified in subsection			
	(a)(2)(C). (e) POWERS OF THE			
	COMMISSION.—			
	(1) AUTHORITY OF COMMISSION.—The			
	Commission may hold such hearings, convene			
	and act at such times and places, take such			
	testimony, and receive such evidence, as the			
	Commission considers necessary to carry out			
	the responsibilities of the Commission.			
	(2) USE OF MAIL.—The Commission may use the United States mails in the same manner			
	and under the same conditions as other			
	departments and agencies of the Federal			
	Government.			
	(3) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of			
	use, and dispose of gifts of donations of			

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	services or property.	
	(4) COMPENSATION.—Except as provided	
	in paragraph (5), each member of the	
	Commission who is not an officer or employee	
	of the Federal Government shall serve without	
	compensation. All members of the	
	Commission who are officers or employees of	
	the United States shall serve without	
	compensation in addition to that received for	
	their services as officers or employees of the	
	United States.	
	(5) PER DIEM.—The members of the	
	Commission shall be allowed travel expenses,	
	including per diem in lieu of subsistence, at	
	rates authorized for employees of agencies	
	under subchapter I of chapter 57 of title 5,	
	United States Code, while away from their	
	homes or regular places of business in the	
	performance of services for the Commission.	
	(6)EMPLOYMENT AND COMPENSATION	
	OF EMPLOYEESExcept as otherwise	
	provided in this section and consistent with	
	section 3161 of title 5, United States Code, the	
	Chairperson of the Commission may appoint,	
	fix the compensation of, and terminate an	
	executive director and such additional	
	employees as may be necessary to enable the	
	Commission to perform its duties."	
	(B) CONFIRMATION BY COMMISSION.—	
	The employment of an executive director shall	
	be subject to confirmation by the Commission.	
	(C) COMPENSATION.—The Chairperson of	`
	the Commission may fix the compensation of	`
	the executive director and other personnel	

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	without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title. (7) DETAILING OF FEDERAL EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege. (8) TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.	
	(f) TERMINATION OF THE COMMISSION.—The Commission shall terminate on the date that is 90 days after the date on which the Commission submits its final report under subsection (d)(2). (g) AUTHORIZATION OF APPROPRIATIONS.— (1) AUTHORIZATION.—There are authorized to be appropriated \$750,000 for fiscal year 2004, and such sums as necessary	

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	for fiscal year 2005 to carry out the provisions of this section. (2) AVAILABILITY.—Any sums appropriated under the authorization contained in this subsection shall remain available, without fiscal year limitation, until expended.	