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§ 10001. Allocations

(a) Outlying areas

From the amount appropriated to carry out this chapter, the Secretary of Education shall first allocate up to one-half of 1 percent to the outlying areas on the basis of their respective needs, as determined by the Secretary, in consultation with the Secretary of the Interior, for activities consistent with this chapter under such terms and conditions as the Secretary may determine.

(b) Administration and oversight

The Secretary may, in addition, reserve up to \$14,000,000 for administration and oversight of this chapter, including for program evaluation.

(c) Reservation for additional programs

After reserving funds under subsections (a) and (b), the Secretary shall reserve \$5,000,000,000 for grants under sections 10006 and 10007 of this title.

(d) State allocations

After carrying out subsections (a), (b), and (c), the Secretary shall allocate the remaining funds made available to carry out this chapter to the States as follows:

- (1) 61 percent on the basis of their relative population of individuals aged 5 through 24.
- (2) 39 percent on the basis of their relative total population.

(e) State grants

From funds allocated under subsection (d), the Secretary shall make grants to the Governor of each State.

(f) Reallocation

The Governor shall return to the Secretary any funds received under subsection (e) that the Governor does not award as subgrants or otherwise commit within two years of receiving such funds, and the Secretary shall reallocate such funds to the remaining States in accordance with subsection (d).

(Pub. L. 111–5, div. A, title XIV, §14001, Feb. 17, 2009, 123 Stat. 279.)

§ 10002. State uses of funds

(a) Education fund

(1) In general

For each fiscal year, the Governor shall use 81.8 percent of the State's allocation under section 10001(d) of this title for the support of elementary, secondary, and postsecondary education and, as applicable, early childhood education programs and services.

(2) Restoring State support for education

(A) In general

The Governor shall first use the funds described in paragraph (1)—

- (i) to provide the amount of funds, through the State's primary elementary and secondary education funding formulae, that is needed—

(I) to restore, in each of fiscal years 2009, 2010, and 2011, the level of State support provided through such formulae to the greater of the fiscal year 2008 or fiscal year 2009 level; and

(II) where applicable, to allow existing State formulae increases to support elementary and secondary education for fiscal years 2010 and 2011 to be implemented and allow funding for phasing in State equity and adequacy adjustments, if such increases were enacted pursuant to State law prior to October 1, 2008.

(ii) to provide, in each of fiscal years 2009, 2010, and 2011, the amount of funds to public institutions of higher education in the State that is needed to restore State support for such institutions (excluding tuition and fees paid by students) to the greater of the fiscal year 2008 or fiscal year 2009 level.

(B) Shortfall

If the Governor determines that the amount of funds available under paragraph (1) is insufficient to support, in each of fiscal years 2009, 2010, and 2011, public elementary, secondary, and higher education at the levels described in clauses (i) and (ii) of subparagraph (A), the Governor shall allocate those funds between those clauses in proportion to the relative shortfall in State support for the education sectors described in those clauses.

(C) Fiscal year

For purposes of this paragraph, the term “fiscal year” shall have the meaning given such term under State law.

(3) Subgrants to improve basic programs operated by local educational agencies

After carrying out paragraph (2), the Governor shall use any funds remaining under paragraph (1) to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the most recent year for which data are available.

(b) Other government services

(1) In general

The Governor shall use 18.2 percent of the State's allocation under section 10001(d) of this title for public safety and other government services, which may include assistance for elementary and secondary education and public institutions of higher education, and for modernization, renovation, or repair of public school facilities and institutions of higher education facilities, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

(2) Availability to all institutions of higher education

A Governor shall not consider the type or mission of an institution of higher education, and shall consider any institution for funding