

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

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

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

<b>AMENDMENT N<sup>o</sup> 2219</b>	
To re	By <u>Burr</u> Act
	To: <u>Amdt. No. 2089</u>
Refe	and
<u>22</u>	
<b>Page(s)</b>	
GPO: 2014 91-623 (mac)	

AMENDMENT intended to be proposed by Mr. BURR (for himself and Mr. BENNET) to the amendment (No. 2089) proposed by Mr. ALEXANDER

Viz:

- 1 Strike sections 1009, 1010, and 1011 and insert the
- 2 following:
- 3 **SEC. 1009. ALLOCATIONS.**
- 4 (a) IN GENERAL.—Subpart 2 of part A of title I (20
- 5 U.S.C. 6331 et seq.) is amended—
- 6 (1) by striking sections 1122, 1124A, 1125,
- 7 1125AA, and 1125A;
- 8 (2) by redesignating section 1121 as section
- 9 1122;

1           (3) by redesignating section 1124 as section  
2           1121, and transferring such section so as to precede  
3           section 1122 (as redesignated by paragraph (2));

4           (4) in section 1121, as redesignated and trans-  
5           ferred by paragraph (3)—

6           (A) by striking the section heading and all  
7           that follows through “(c) CHILDREN TO BE  
8           COUNTED.—” and inserting the following:

9           **“SEC. 1121. DEFINITIONS; CHILDREN TO BE COUNTED.**

10          “(a) DEFINITIONS.—In this subpart:

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

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

22           “(b) CHILDREN TO BE COUNTED.—For purposes of  
23           section 1123, the number of children to be counted shall  
24           be determined in accordance with the following:”; and

25           (B) by striking subsection (d);

1           (5) in section 1122(b)(3)(C)(ii), as redesignated  
2           by paragraph (2), by striking “challenging State  
3           academic content standards” and inserting “chal-  
4           lenging State academic standards”;

5           (6) by inserting after section 1122, as redesign-  
6           nated by paragraph (2), the following:

7   **“SEC. 1123. EQUITY GRANTS.**

8           “(a) AUTHORIZATION.—From funds appropriated  
9           under section 1002(a) for a fiscal year and not reserved  
10          under section 1122, the Secretary is authorized to make  
11          grants to States, from allotments under subsection (b), to  
12          carry out the programs and activities of this part.

13          “(b) DISTRIBUTION BASED UPON CONCENTRATIONS  
14          OF POVERTY.—

15                 “(1) IN GENERAL.—

16                         “(A) IN GENERAL.—Except as provided in  
17                         subparagraphs (B) and (C), funds appropriated  
18                         pursuant to subsection (a) for a fiscal year shall  
19                         be allotted to each State based upon the num-  
20                         ber of children counted under section 1121(b)  
21                         in such State multiplied by the product of—

22                                 “(i) 40 percent of the average per-  
23                                 pupil expenditure in the United States  
24                                 (other than the Commonwealth of Puerto  
25                                 Rico); multiplied by



1                   “(II) 150 percent of the national  
2                   average grant under this section per  
3                   child described in section 1121(b),  
4                   without application of a weighting fac-  
5                   tor, multiplied by the State’s total  
6                   number of children described in sec-  
7                   tion 1121(b), without application of a  
8                   weighting factor.

9                   “(2) EQUITY FACTOR.—

10                   “(A) DETERMINATION.—

11                   “(i) IN GENERAL.—Except as pro-  
12                   vided in subparagraph (B), the Secretary  
13                   shall determine the equity factor under  
14                   this section for each State in accordance  
15                   with clause (ii).

16                   “(ii) COMPUTATION.—

17                   “(I) IN GENERAL.—For each  
18                   State, the Secretary shall compute a  
19                   weighted coefficient of variation for  
20                   the per-pupil expenditures of local  
21                   educational agencies in accordance  
22                   with subclauses (II), (III), and (IV).

23                   “(II) VARIATION.—In computing  
24                   coefficients of variation, the Secretary  
25                   shall weigh the variation between per-

1 pupil expenditures in each local edu-  
2 cational agency and the average per-  
3 pupil expenditures in the State ac-  
4 cording to the number of pupils  
5 served by the local educational agency.

6 “(III) NUMBER OF PUPILS.—In  
7 determining the number of pupils  
8 under this paragraph served by each  
9 local educational agency and in each  
10 State, the Secretary shall multiply the  
11 number of children counted under sec-  
12 tion 1121(b) by a factor of 1.4.

13 “(IV) ENROLLMENT REQUIRE-  
14 MENT.—In computing coefficients of  
15 variation, the Secretary shall include  
16 only those local educational agencies  
17 with an enrollment of more than 200  
18 students.

19 “(B) SPECIAL RULE.—The equity factor  
20 for a State that meets the disparity standard  
21 described in section 222.162 of title 34, Code of  
22 Federal Regulations (as such section was in ef-  
23 fect on the day preceding the date of enactment  
24 of the No Child Left Behind Act of 2001) or

1           a State with only one local educational agency  
2           shall be not greater than 0.10.

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

7           “(1) DISTRIBUTION WITHIN LOCAL EDU-  
8           CATIONAL AGENCIES.—Within local educational  
9           agencies, funds allocated under this section shall be  
10          distributed to schools on a basis consistent with sec-  
11          tion 1113, and may only be used to carry out activi-  
12          ties under this part.

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

16                 “(A) the number of children in the local  
17                 educational agency counted under section  
18                 1121(b), before application of the weighted  
19                 child count described in subsection (d), is at  
20                 least 10; and

21                 “(B) if the number of children counted for  
22                 grants under section 1121(b), before application  
23                 of the weighted child count described in sub-  
24                 section (d), is at least 5 percent of the total  
25                 number of children aged 5 to 17 years, inclu-

1           sive, in the school district of the local edu-  
2           cational agency.

3           “(d) ALLOCATION OF FUNDS TO ELIGIBLE LOCAL  
4 EDUCATIONAL AGENCIES.—

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

11          “(2) STATES WITH AN EQUITY FACTOR LESS  
12          THAN .10.—

13           “(A) IN GENERAL.—In States with an equ-  
14           uity factor less than .10, the weighted child  
15           counts referred to in paragraph (1) for a fiscal  
16           year shall be the larger of the two amounts de-  
17           termined under subparagraphs (B) and (C).

18           “(B) BY PERCENTAGE OF CHILDREN.—  
19           The amount referred to in subparagraph (A) is  
20           determined by adding—

21           “(i) the number of children deter-  
22           mined under section 1121(b) for that local  
23           educational agency who constitute not  
24           more than 17.27 percent, inclusive, of the

1 agency's total population aged 5 to 17, in-  
2 clusive, multiplied by 1.0;

3 “(ii) the number of such children who  
4 constitute more than 17.27 percent, but  
5 not more than 23.48 percent, of such pop-  
6 ulation, multiplied by 1.75;

7 “(iii) the number of such children who  
8 constitute more than 23.48 percent, but  
9 not more than 29.11 percent, of such pop-  
10 ulation, multiplied by 2.5;

11 “(iv) the number of such children who  
12 constitute more than 29.11 percent, but  
13 not more than 36.10 percent, of such pop-  
14 ulation, multiplied by 3.25; and

15 “(v) the number of such children who  
16 constitute more than 36.10 percent of such  
17 population, multiplied by 4.0.

18 “(C) BY NUMBER OF CHILDREN.—The  
19 amount referred to in subparagraph (A) is de-  
20 termined by adding—

21 “(i) the number of children deter-  
22 mined under section 1121(b) who con-  
23 stitute not more than 834, inclusive, of the  
24 agency's total population aged 5 to 17, in-  
25 clusive, multiplied by 1.0;

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

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

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

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

14                         “(aa) the number of such chil-  
15                         dren between 7,669 and 26,412, inclu-  
16                         sive, in such population, multiplied by  
17                         2.5; and

18                         “(bb) the number of such chil-  
19                         dren in excess of 26,412 in such pop-  
20                         ulation, multiplied by 3.0.

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

23                         “(A) IN GENERAL.—In States with an eq-  
24                         uity factor greater than or equal to .10 and less  
25                         than .20, the weighted child counts referred to

1 in paragraph (1) for a fiscal year shall be the  
2 larger of the two amounts determined under  
3 subparagraphs (B) and (C).

4 “(B) BY PERCENTAGE OF CHILDREN.—  
5 The amount referred to in subparagraph (A) is  
6 determined by adding—

7 “(i) the number of children deter-  
8 mined under section 1121(b) for that local  
9 educational agency who constitute not  
10 more than 17.27 percent, inclusive, of the  
11 agency’s total population aged 5 to 17, in-  
12 clusive, multiplied by 1.0;

13 “(ii) the number of such children who  
14 constitute more than 17.27 percent, but  
15 not more than 23.48 percent, of such pop-  
16 ulation, multiplied by 1.5;

17 “(iii) the number of such children who  
18 constitute more than 23.48 percent, but  
19 not more than 29.11 percent, of such pop-  
20 ulation, multiplied by 3.0;

21 “(iv) the number of such children who  
22 constitute more than 29.11 percent, but  
23 not more than 36.10 percent, of such pop-  
24 ulation, multiplied by 4.5; and

1                   “(v) the number of such children who  
2                   constitute more than 36.10 percent of such  
3                   population, multiplied by 6.0.

4                   “(C) BY NUMBER OF CHILDREN.—The  
5                   amount referred to in subparagraph (A) is de-  
6                   termined by adding—

7                   “(i) the number of children deter-  
8                   mined under section 1121(b) who con-  
9                   stitute not more than 834, inclusive, of the  
10                  agency’s total population aged 5 to 17, in-  
11                  clusive, multiplied by 1.0;

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

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

18                  “(iv)(I) in the case of an agency that  
19                  is not a high poverty percentage local edu-  
20                  cational agency, the number of such chil-  
21                  dren in excess of 7,668 in such population,  
22                  multiplied by 2.25; or

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

1                   “(aa) the number of such chil-  
2                   dren between 7,669 and 26,412, inclu-  
3                   sive, in such population, multiplied by  
4                   3.375; and

5                   “(bb) the number of such chil-  
6                   dren in excess of 26,412 in such pop-  
7                   ulation, multiplied by 4.5.

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

10                   “(A) IN GENERAL.—In States with an eq-  
11                   uity factor greater than or equal to .20, the  
12                   weighted child counts referred to in paragraph  
13                   (1) for a fiscal year shall be the larger of the  
14                   two amounts determined under subparagraphs  
15                   (B) and (C).

16                   “(B) BY PERCENTAGE OF CHILDREN.—  
17                   The amount referred to in subparagraph (A) is  
18                   determined by adding—

19                   “(i) the number of children deter-  
20                   mined under section 1121(b) for that local  
21                   educational agency who constitute not  
22                   more than 17.27 percent, inclusive, of the  
23                   agency’s total population aged 5 to 17, in-  
24                   clusive, multiplied by 1.0;

1           “(ii) the number of such children who  
2           constitute more than 17.27 percent, but  
3           not more than 23.48 percent, of such pop-  
4           ulation, multiplied by 2.0;

5           “(iii) the number of such children who  
6           constitute more than 23.48 percent, but  
7           not more than 29.11 percent, of such pop-  
8           ulation, multiplied by 4.0;

9           “(iv) the number of such children who  
10          constitute more than 29.11 percent, but  
11          not more than 36.10 percent, of such pop-  
12          ulation, multiplied by 6.0; and

13          “(v) the number of such children who  
14          constitute more than 36.10 percent of such  
15          population, multiplied by 8.0.

16          “(C) BY NUMBER OF CHILDREN.—The  
17          amount referred to in subparagraph (A) is de-  
18          termined by adding—

19               “(i) the number of children deter-  
20               mined under section 1121(b) who con-  
21               stitute not more than 834, inclusive, of the  
22               agency’s total population aged 5 to 17, in-  
23               clusive, multiplied by 1.0;

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

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

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

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

14                         “(aa) the number of such chil-  
15                         dren between 7,669 and 26,412, inclu-  
16                         sive, in such population, multiplied by  
17                         4.5; and

18                         “(bb) the number of such chil-  
19                         dren in excess of 26,412 in such pop-  
20                         ulation, multiplied by 6.0.

21                  “(e) MAINTENANCE OF EFFORT.—

22                         “(1) IN GENERAL.—A State is entitled to re-  
23                         ceive its full allotment of funds under this section  
24                         for any fiscal year if the Secretary finds that the  
25                         State’s fiscal effort per student or the aggregate ex-

1       penditures of the State with respect to the provision  
2       of free public education by the State for the pre-  
3       ceding fiscal year was not less than 90 percent of  
4       the fiscal effort or aggregate expenditures for the  
5       second preceding fiscal year, subject to the require-  
6       ments of paragraph (2).

7           “(2) REDUCTION IN CASE OF FAILURE TO  
8       MEET.—

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

21           “(B) SPECIAL RULE.—No such lesser  
22       amount shall be used for computing the effort  
23       required under paragraph (1) for subsequent  
24       years.

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

4                   “(A) exceptional or uncontrollable cir-  
5 cumstances, such as a natural disaster or a  
6 change in the organizational structure of the  
7 State; or

8                   “(B) a precipitous decline in the financial  
9 resources of the State.

10           “(f) ADJUSTMENTS WHERE NECESSITATED BY AP-  
11 PROPRIATIONS.—

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

19                   “(2) ADDITIONAL FUNDS.—If additional funds  
20 become available for making payments under this  
21 section for such fiscal year, allocations that were re-  
22 duced under paragraph (1) shall be increased on the  
23 same basis as they were reduced.

24                   “(3) HOLD HARMLESS AMOUNTS.—

1           “(A) IN GENERAL.—For each fiscal year,  
2           if sufficient funds are available, the amount  
3           made available to each local educational agency  
4           under this section shall be—

5                   “(i) not less than 95 percent of the  
6                   amount made available for the preceding  
7                   fiscal year if the number of children count-  
8                   ed under section 1121(b) is equal to or  
9                   more than 30 percent of the total number  
10                  of children aged 5 to 17 years, inclusive, in  
11                  the local educational agency;

12                  “(ii) not less than 90 percent of the  
13                  amount made available for the preceding  
14                  fiscal year if the percentage described in  
15                  clause (i) is less than 30 percent and equal  
16                  to or more than 15 percent; and

17                  “(iii) not less than 85 percent of the  
18                  amount made available for the preceding  
19                  fiscal year if the percentage described in  
20                  clause (i) is less than 15 percent.

21           “(B) SPECIAL TRANSITION RULE.—Not-  
22           withstanding any other provision of this sub-  
23           section, for the first fiscal year after the date  
24           of enactment of the Every Child Achieves Act  
25           of 2015, subparagraph (A) shall apply based on

1 the amounts received under sections 1124,  
2 1124A, 1125, and 1125A, as in effect on the  
3 day before the date of enactment of the Every  
4 Child Achieves Act of 2015.

5 “(C) ADDITIONAL FLEXIBILITY.—Notwith-  
6 standing subparagraph (A) or subsection (d),  
7 for each fiscal year, a State may elect to make  
8 allocations for all local educational agencies in  
9 the State in accordance with 1 of the following:

10 “(i) ALLOCATIONS BASED ON 2015  
11 FUNDING.—If, for a fiscal year, the State  
12 receives an allotment under this section in  
13 an amount that exceeds the sum of the al-  
14 locations for all local educational agencies  
15 in the State under this subpart for fiscal  
16 year 2015, as such subpart was in effect  
17 on the day before the date of enactment of  
18 the Every Child Achieves Act of 2015, the  
19 State may elect to make an allocation to  
20 each local educational agency in the State  
21 that would otherwise receive an allocation  
22 that is less than the allocation received  
23 under this subpart by the local educational  
24 agency for 2015 (including each local edu-  
25 cational agency not otherwise eligible for

1 such allocation under subsection (c) or (d))  
2 in an amount that—

3 “(I) exceeds the allocation the  
4 local educational agency would receive  
5 under subsection (d); and

6 “(II) is not more than the  
7 amount of the allocation for the local  
8 educational agency under this subpart  
9 for fiscal year 2015.

10 “(ii) ALLOCATIONS BASED ON FUNDS  
11 FOR SECTIONS 1122, 1124, 1124A, 1125, AND  
12 1125A.—If, for a fiscal year, a State re-  
13 ceives an allotment under this section in an  
14 amount that exceeds the sum of the alloca-  
15 tions that all local educational agencies in  
16 the State would have received for such fis-  
17 cal year under sections 1122, 1124,  
18 1124A, 1125, and 1125A, as such sections  
19 were in effect on the day before the date  
20 of enactment of the Every Child Achieves  
21 Act of 2015, the State may elect to make  
22 allocations to each local educational agency  
23 in the State (including any local edu-  
24 cational agency not otherwise eligible for  
25 such allocation under subsection (c) or

1 (d)), in an amount that equals the amount  
2 of the allocation that the local educational  
3 agency would have received for such year  
4 in accordance with sections 1122, 1124,  
5 1124A, 1125, and 1125A, as in effect on  
6 the day before the date of enactment of the  
7 Every Child Achieves Act of 2015.

8 “(D) DISTRIBUTION OF ADDITIONAL  
9 FUNDS.—In any case where a State elects to al-  
10 locate funds under this subpart for a fiscal year  
11 in accordance with clause (i) or (ii) of subpara-  
12 graph (C), the State shall allocate, in accord-  
13 ance with subsection (d), all funds in excess of  
14 the amounts necessary to carry out such clause  
15 to the local educational agencies in the State  
16 that would receive a greater amount of such  
17 funds under subsection (d) than received under  
18 such clause.

19 “(4) APPLICABILITY.—Notwithstanding any  
20 other provision of law, the Secretary shall not take  
21 into consideration the hold-harmless provisions of  
22 this subsection for any fiscal year for purposes of  
23 calculating State or local allocations for the fiscal  
24 year under any program administered by the Sec-

1       retary other than a program authorized under this  
2       part.”;

3               (7) by redesignating sections 1126 and 1127 as  
4       sections 1124 and 1125, respectively;

5               (8) in section 1124, as redesignated by para-  
6       graph (7)—

7                       (A) by striking “sections 1124, 1124A,  
8                       1125, and 1125A” each place the term appears  
9                       and inserting “section 1123”; and

10                      (B) in subsection (a)(1), by striking “sec-  
11                      tion 1124(c)(1)(B)” and inserting “section  
12                      1121(b)(1)(B)”.